

INDIA

Tainted Stones: Bonded Labor and Child Labor in the India-U.S. Sandstone Supply Chain

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AMERICANBARASSOCIATION

Center for Human Rights



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ABOUT

the American Bar Association
Center for Human Rights

The ABA Center for Human Rights promotes and protects human rights worldwide by defending human rights advocates facing retaliation; rallying thought leaders on crucial issues; and holding abusive governments accountable.

ACKNOWLEDGMENTS

This report was prepared by staff and consultants of the American Bar Association Center for Human Rights and reflects their views. It has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and therefore should not be construed as representing the policy of the American Bar Association as a whole. Further, nothing in this report should be considered as legal advice in a specific case. The ABA Center for Human Rights would like to thank Bhoomika Choudhry for drafting this report and Janelle Diller for her comments. It would also like to thank the Ethical Certification for Trading, LLP, for conducting a survey of individuals working in the mines. Finally, it would like to thank Waris Husain, staff attorney for the Center, for managing the drafting and review of the report.

Front Cover: Adolescent children working at a mining site in Rajasthan, India.
Photo credit: Mahitosh Bagoria, HEDCON

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TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	1
II. INTRODUCTION	3
A. BACKGROUND	3
B. METHODOLOGY	4
III. ABOUT THE RAJASTHAN SANDSTONE INDUSTRY	7
A. SANDSTONE SUPPLY CHAIN	8
B. INDUSTRY ISSUES	10
1. Poor Implementation of Existing Laws and Regulations.....	10
2. Lack of Mine-Owner Liability.....	11
3. Environmental Degradation.....	12
4. District Mineral Foundation.....	12
5. Workers' Rights Awareness.....	12
IV. WORKER CONDITIONS	14
A. BONDED LABOR	14
B. BONDED CHILD LABOR	17
C. HAZARDOUS CONDITIONS FOR CHILD LABOR	18
D. LACK OF FORMAL EMPLOYMENT	19
E. OCCUPATIONAL HEALTH AND SAFETY RISKS	21
1. Silicosis.....	21
2. Occupational Injuries and Accidents.....	22
3. Condition of Widows and Women.....	24
4. Housing Patterns.....	25
V. LEGAL AND POLICY STEPS TAKEN BY THE GOVERNMENT	26
A. GOVERNMENT RESPONSE TO BONDED LABOR	26
B. GOVERNMENT RESPONSE TO CHILD LABOR	27
C. GOVERNMENT RESPONSE TO SILICOSIS	29
VI. CONCLUSIONS AND RECOMMENDATIONS	32
Recommendations for the Government of India.....	34
Recommendations for the U.S. Government.....	35
Recommendations for U.S and Indian Companies.....	36
Recommendations for Civil Society Organizations, Unions, and Lawyers' Associations.....	37

I. EXECUTIVE SUMMARY

Three million workers are employed in India's sandstone mining industry on a seasonal basis, with nearly 90% of India's sandstone produced in the state of Rajasthan. Although the Government of Rajasthan has issued thousands of mining licenses and leases, there is a thriving unregulated and unlicensed market. The United States is the fourth largest importer of Indian sandstone, with a total import of 97 million pounds valued at US\$ 16.7 million.

Evidence-based research has shown serious human rights violations committed in the sandstone industry in Rajasthan. Workers, particularly those mining at quarry sites, are subjected to bonded labor, child labor, low wages, and inhumane working conditions. The lack of occupational health and safety safeguards remains a serious concern in this industry, with mining workers suffering diseases including the incurable and fatal silicosis. These violations are exacerbated by the entrenched gender discrimination and social inequalities found in India's society. As such, vulnerable groups, like women and Dalits, are more prone to exploitation and harassment in the industry.

The supply chain in Rajasthan's sandstone industry is often complicated, unregulated, and non-transparent. The stone goes through several stages of cutting, splitting, polishing, washing, and sale—all through multiple intermediaries—before the product reaches its final destination. This, compounded by the fact that many mines are unregistered and unlicensed, has led to abuses in an opaque and secretive supply chain. Human rights violations are concentrated in the quarry level, often due to the unregulated nature of the work. The lack of an established formal relationship between employer and employee and ineffective implementation of existing protective legislation has impeded accountability for mine owners and other actors in the supply chain. In addition to violating Indian law, the import of products derived from forced or child labor into the United States is prohibited by U.S. law.

Considering this complex landscape, the American Bar Association Center for Human Rights undertook a comprehensive study to examine the Indian sandstone mining industry in the state of Rajasthan. The study examined potential human rights violations in the U.S. supply chain. Through literature review, a survey, and in-person interviews, this report documents serious human rights violations committed in the sandstones supply chain. The Center examined the national legal framework, protection mechanisms, and their compliance with international human rights law and international labor standards. The first part of the report details the multifaceted supply chain of the sandstone mining industry. It then explores whether the issues affecting the industry alleged in other reports also exist in the case of stone imported into the United States.

The study found that stones which the United States imports can likely be traced to a supply chain that is marred by serious human rights violations. In the context of the United States' importation, the unregistered—and thus legally unprotected—workers are subjected to bonded labor, child bonded labor, child labor, low wages, occupational health and safety hazards.

The report recommends that all stakeholders, including the Government of India, and the U.S. Government, as well as business enterprises involved in exporting, importing, mining, and processing should ensure protection of human rights through due diligence and best practices in

the sandstone mining industry's supply chain. The recommendations propose a holistic approach that governments, companies, civil society organizations, and trade unions should undertake to eradicate serious human rights violations from Rajasthan's sandstone mining industry.

To ensure compliance with its international obligations, the Government of India should strengthen its national legal protection framework by introducing legal reforms, strengthening its inspection mechanisms, and effectively enforcing the registration of workers with the mining companies and quarries. It should undertake a robust evidence-based approach to determine the prevalence of bonded labor and child bonded labor in the industry by publishing new studies while also examining existing state-level surveys of bonded labor.

The U.S. Government should closely monitor the presence of forced labor in the mining, processing, and importation of sandstones from India. It is also essential for the U.S. Government to make it mandatory for U.S. companies to report on bonded labor and child labor in their supply chain and conduct other due diligence measures in line with U.S. law, along with U.N. and OECD guidelines and ILO principles.

It is imperative for U.S. and Indian companies to exercise due diligence to ensure that all business partners follow internationally-recognized guidelines to respect human and worker rights. Enterprises should prioritize developing an industry-wide code of conduct based on internationally-recognized standards and codes of practice, to be implemented throughout the company's supply chain in order to fulfil their human rights due diligence.

Finally, civil society organizations and trade unions have a critical role to play in promoting and protecting the rights of mining workers by advocating for their rights to freedom of association and collective bargaining. They should also support further development of workers' cooperatives to promote decent work conditions in the industry. Furthermore, civil society actors should provide workers with legal assistance in order to guarantee legal redress of workers' human rights grievances. Such a comprehensive approach will ensure accountability in the sandstone mining industry.

II. INTRODUCTION¹

“ All that we wish for is that someday our kids do not have to work in the mines and our employers be held accountable for the expenses we incur in fighting occupational injuries and diseases.”

A Dalit miner² of sandstone quarries from the Sukhpura village, Bijolia district in Rajasthan made this statement when asked about his knowledge of the supply chain of sandstones mined in Rajasthan.³ Published reports reveal that the sandstone industry in Rajasthan, India is marred by serious issues including bonded labor; fatal diseases like silicosis; high injury rates; inconsistent pay; structural discrimination of women, ethnic minorities, and caste groups; and environmental degradation.⁴ There has been little to no accountability for enterprises that export and/or import sandstone produced in

violation of human and worker rights due to the opaque nature of the industry’s supply chain. Several recent reports have attempted to clarify the issues in the supply chain of sandstone industry in the context of importation to the European countries including the Netherlands and the United Kingdom.⁵

A. Background

This report specifically studies the Indian sandstone supply chain in reference to the United States and investigates whether stones

- 1 This report was prepared by staff and consultants of the American Bar Association, Center for Human Rights and reflects their views. It has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and therefore should not be construed as representing the policy of the American Bar Association as a whole. Further, nothing in this report should be considered as legal advice in a specific case. The ABA Center for Human Rights would like to thank Bhoomika Choudhry for drafting this report and Janelle Diller for her comments. It would also like to thank the Ethical Certification for Trading, LLP, for conducting a survey of individuals working in the mines. Finally, it would like to thank Waris Husain, staff attorney for the Center, for managing the drafting and review of the report.
- 2 In this report, the term mine is used interchangeably with quarry.
- 3 Interview conducted by ABA consultant, Karauli, Rajasthan (Oct. 10, 2019) (unofficial translation). Names of interviewees were kept anonymous for the protection of the interviewees.
- 4 See Dr. Shelly Marshall, Kate Taylor, & Dr. Samantha Balaton-Chrimes, *Rajasthan Stone Quarries: Promoting Human Rights Due Diligence and Access to Redress in Complex Supply chains*, NON JUDICIAL REDRESS MECHANISM REPORT SERIES 11 (2016), <https://ssrn.com/abstract=2878214> [hereinafter “Rajasthan Stone Quarries”]; S. Gunasekaran, *Debt Bondage in the Sandstone Quarries of Rajasthan*, 49 ECON. & POL. WKLY. (2014), https://www.academia.edu/29787513/Debt_Bondage_in_the_Sandstone_Quarries_of_Rajasthan_Economic_and_Political_Weekly_Vol._49_Issue_No._30_26_Jul_2014; P. MADHAVAN & DR. SANJAY RAJ, BUDHPURA ‘GROUND ZERO’ SANDSTONE QUARRYING IN INDIA, INDIA COMM. OF THE NETHERLANDS (2005), <http://www.indianet.nl/budhpura.pdf> [hereinafter “Budhpura Ground Zero”]; Ravi S. Srivastava, *Bonded Labor in India: Its Incidence and Pattern* (ILO Working Paper No. 43, 2005), <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1017&context=forcedlabor>.
- 5 Arisa, *Between a rock and a hard place: Social and labor conditions in sandstone production in Rajasthan, India*, ARISA FOUNDATION (June 2020), <https://arisa.nl/wp-content/uploads/BetweenARockAndAHardPlace.pdf>; *Feasibility of a Code of Conduct for the natural stone sector: Growing insights through a pilot project with RMP Grafmonumenten and engagement of Indian stakeholders*, INDIA COMMITTEE OF THE NETHERLANDS (July 2007), <http://www.indianet.nl/pdf/feasibility.pdf>; Ethical Trading Initiative, *A guide for the ethical sourcing of natural stone from Rajasthan, India*, ETHICAL TRADING INITIATIVE, https://www.ethicaltrade.org/sites/default/files/shared_resources/rajasthan_sandstone_ethical_sourcing_guide_aw.pdf

being sold in the U.S. are tarnished by human rights violations. The first part of the report lays out the supply chain of the sandstone mining industry. Thereafter, the supply chain is traced in the context of U.S. importation. The report then explores whether the issues affecting the industry alleged in other reports also exist in the case of the United States.

According to 2018-19 data, the United States was the fourth largest importer of Indian sandstone,

with a total import of 97,685,815 pounds valued at US\$ 16.7 million (see Table 1 *infra*).⁶ India accounts for 27% of natural sandstone produced in the world.⁷ Under the internationally-recognized responsibility of business enterprises to respect human rights,⁸ such large-scale import obligates U.S. enterprises to investigate their supply chain and ascertain if there are any potential violations and take correcting measures in line with due diligence standards.

Description	2014-15	2015-16	2016-17	2017-2018	2018-19
Value (in US\$ million)	7.35	10.72	10.01	13.92	16.78
Percent of total Indian sandstone export (in US\$ million)	5.26	6.89	7.39	7.27	8.62
Total export to U.S. (in lbs)	60,478,531	90,438,360	87,043,043	81,196,516	97,685,815

B. Methodology

The preparation of this report involved a review of relevant literature, involved government and private data. Researchers held preliminary interviews in 2018 and 2019 with interested stakeholders and conducted an analysis of the supply chain to identify three primary regions in Rajasthan which cater to the U.S. market. These regions were identified as the Karauli, Bundi and Kota districts of Rajasthan.

Trade data on sandstone importation to the United States indicates the names and addresses of export and import companies, color type and quantity of sandstone traded, amount in U.S. dollars paid for each consignment, and the export and import ports used.¹⁰ Below is an excerpt of the names of exporters and importers who have traded in sandstone with U.S. enterprises in August 2019 (see Table 2 *below*).

6 DEP'T OF COMMERCE, *Export Import Data Bank*, GOV'T OF INDIA, <https://commerce-app.gov.in/eidb/> (last visited Feb. 20, 2020) (navigate to "Commodity-wise all Countries" under "Exports", then enter "2516200" the sandstone product number in the commodity text box, and click "search").

7 P. MADHAVAN & RAJ SANJAY, *supra* note 4, at 7.

8 "Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved." Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporation and Other Business Enterprises, U.N. Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, U.N. Doc. HR/PUB/11/04, art. 11, *adopted by* G.A. Res. 17/4 (June 16, 2011), https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

9 DEP'T OF COMMERCE, *supra* note 6.

10 A TO Z DATA SOLUTIONS, *Global Export Import Data Intelligence Database* (information taken on Indian sandstone export for the period August 2019) (data available on file with author).

Table 2: An Excerpt of Trade Data on U.S. Import of Indian Sandstone for August 2019¹¹

Date of Export	Item	Port of Import	Port of Export	Exporter	Exporter Address	Importer
02/08/2019	Ebony Black-Machine Cut 12x24x1 1/4 Inch	Tacoma, United States	Kanakpura - Jaipur lcd, India	Galaxy Impex	Pradhan Marg,45 Gem Enclave,Malviya Nagar, Jaipur	Stone Universe Inc.
02/08/2019	Indian Natural Stone-Sandstone	Los Angeles, United States	Khatuwas lcd, India	Somany Impex	B-1722, Vasant Kunj, Delhi	M/S Natural Stone Resources Inc.
03/08/2019	Sandstone Tiles Parallels Gd-Cl2gds 168 X 290 X 10mm	Oakland, United States	Kanakpura - Jaipur lcd	Singhania Marbles Pvt.Ltd.	A -334 -A Road No. 17,V.K.I., Jaipur	Island Stone N.A. Inc. / Ocenia
03/08/2019	Sand Stone Basalt-Machine Cut 12x12x1 1/4 Inch	Tacoma, United States	Kanakpura - Jaipur lcd	Galaxy Impex,	Pradhan Marg,45 Gem Enclave,Malviya Nagar, Jaipur	Stone Universe Inc.
03/08/2019	Dholpur Chocolate Sandstonefinish Sawn Finish-Size Random Slabs 9.2cm Thick	Chicago, United States	Kanakpura - Jaipur lcd	Omkar Stone Impex	609, Crown Square Gandhi Path Vaishali Nagar, Jaipur	Quarra Stone Company Llc
06/08/2019	Mint Fossil Sandstone Size: 12x24x1.5 Inch	Long Beach, United States	Mundra	Omkar Stone Impex	609, Crown Square Gandhi Path Vaishali Nagar , Jaipur	Five Star Quarries, Inc.
07/08/2019	Autumn Mist-Hand Cut 16x48x6 Inch	Oakland, United States	Kanakpura - Jaipur lcd	Galaxy Impex	Pradhan Marg,45 Gem Enclave,Malviya Nagar	Stone Universe Inc.

Because sandstone colors are characteristic of the place or district they are mined, they are a strong indicator of the stone's origin. To pinpoint sandstone's origin, the color of the sandstone on the trade data was traced to the state in which that color is found (see Figure 3, *infra*, for a chart of colors and origins).¹²

Sandstone deposits in Rajasthan are confined to an area of 16,000 square kilometers, 10,000 of which lie in eastern and south-eastern Rajasthan and 6,000 are in western Rajasthan.¹³ Every area has a characteristic color that is crucial to placing a purchase order. Data shows that the type of sandstone exported to the U.S. is primarily found in the Kota, Bijolia, Bundi, and Dholpur districts.

¹¹ *Id.*

¹² *Id.* at 22. For more information, see this guide to different colored sandstone, their origins, and characteristic features. STONE OASIS, *Natural Stones, Stone Artifacts at Your Doorstep* (Brochure) (year unknown), <http://online.pubhtml5.com/avcb/egyv/egyv.pdf>.

¹³ Indian Minerals Yearbook 2018, 30.21 Slate, Sandstone & Other Dimension Stones, Part III, https://ibm.gov.in/writereaddata/files/03222019152014Slate_Sandstone.pdf

Different Type of Sandstone Colours, Matrix & Location Wise Different Names



Figure 1: Examples of different sandstone colors.¹⁴

Interviewers visited Karauli, Bundi, and Kota districts with the help of local NGOs that had been working with local communities, having gradually earned their trust over years of interaction. Interviewers drafted a questionnaire with the help of these local civil society organizations and a total of 120 mine workers in the three districts were interviewed.

Additionally, five mine owners, two labor inspectors, six lawyers, and two judges were interviewed. Safeguards to ensure protection of vulnerable groups were applied during the research, including anonymizing interview sources in the report.¹⁵

¹⁴ For more information, see this guide to different colored sandstone, their origins, and characteristic features. STONE OASIS, *Natural Stones, Stone Artifacts at Your Doorstep* (Brochure) (year unknown), <http://online.pubhtml5.com/avcb/egyv/egyv.pdf>.

¹⁵ Any research conducted on the subject should take into account the security concerns of participants and take measures to mitigate those concerns.

III. ABOUT THE

RAJASTHAN SANDSTONE INDUSTRY

Sandstone is a sedimentary rock composed of sand grains of varying sizes.¹⁶ Its color is determined by the composition of sand particles and cementing material, while the thickness of the stone is determined by the modes of formation.¹⁷ The different colors of sandstone sold in the U.S. market are Mint Fossil, Ebony Black, Pearl Grey, Autumn Mist, Autumn brown, Kandla grey, Desert yellow, Dholpur Chocolate, etc.¹⁸ Sandstone sells in the form of polished or unpolished slabs, tiles, blocks, steps, paving stone/flagstone, cobbles, and garden accessories which are then used by U.S. buyers in lobbies, kitchens (countertops), gardens, pathways, terraces, and entrances in commercial and residential buildings.¹⁹

Rajasthan alone accounts for 90% of the total natural stone production in India.²⁰ The state government has issued 3,403 mining leases for major minerals, 11,861 mining leases for minor minerals, as well as 18,249 quarry licenses.²¹ While there is a common practice of unregulated and unlicensed mining, there is no definitive data comparing regulated and unregulated mining. Within Rajasthan, sandstone is quarried in 13 districts²² and an estimated 900 million tons of sandstone are spread over 34,000 square kilometers.²³

**Rajasthan alone
accounts for
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stone production
in India.**

16 Department of Geology & Planetary Science, *Sandstone*, UNIVERSITY OF PITTSBURGH, <https://www.pitt.edu/~cejones/Geolimages/5SedimentaryRocks/ClasticSedRocks/Sandstones.html> (last visited July 31, 2020).

17 MINISTRY OF MINES, *Indian Minerals Yearbook 2017 (56th ed.) – Slate, Sandstone and Other Dimension Stones*, GOV'T OF INDIA, https://ibm.gov.in/writereaddata/files/12102018131542Slate_%20S_st%20and%20Other%20Dimension%202017.pdf.

18 A TO Z DATA SOLUTIONS, *supra* note 10.

19 P. MADHAVAN & RAJ SANJAY, *supra* note 4, at 7.

20 GOV'T OF RAJASTHAN, *Draft Mineral Policy 2015*, 20, <http://www.indiaenvironmentportal.org.in/files/file/Draft%20Mineral%20Policy%202015.pdf>.

21 Resurgent Rajasthan, Minerals and Ceramics (17 September 2016) <https://web.archive.org/web/20150813033044/http://resurgent.rajasthan.gov.in/focus-sectors/minerals-ceramics>; Marshall, Taylor & Balaton-Chrimes, *supra* note 4.

22 Particularly Bharatpur, Dholpur, Jodhpur, Karauli, Bundi, Sawai Madhopur, Jhalawar, Kota, Baran, Bhilwara, Chittaurgarh, Nagaur, and Bikaner districts. GOV'T OF RAJASTHAN, *supra* note 20, at 20.

23 CENT. FOR DEV. OF STONE, *Nerve Center – Rajasthan*, available to view at <https://web.archive.org/web/20140701053016/http://old.cdos-india.com/NerveCenters/Rajasthan.html> (last visited June 8, 2020) (original link no longer valid, but web archive is available).

A. Sandstone Supply Chain

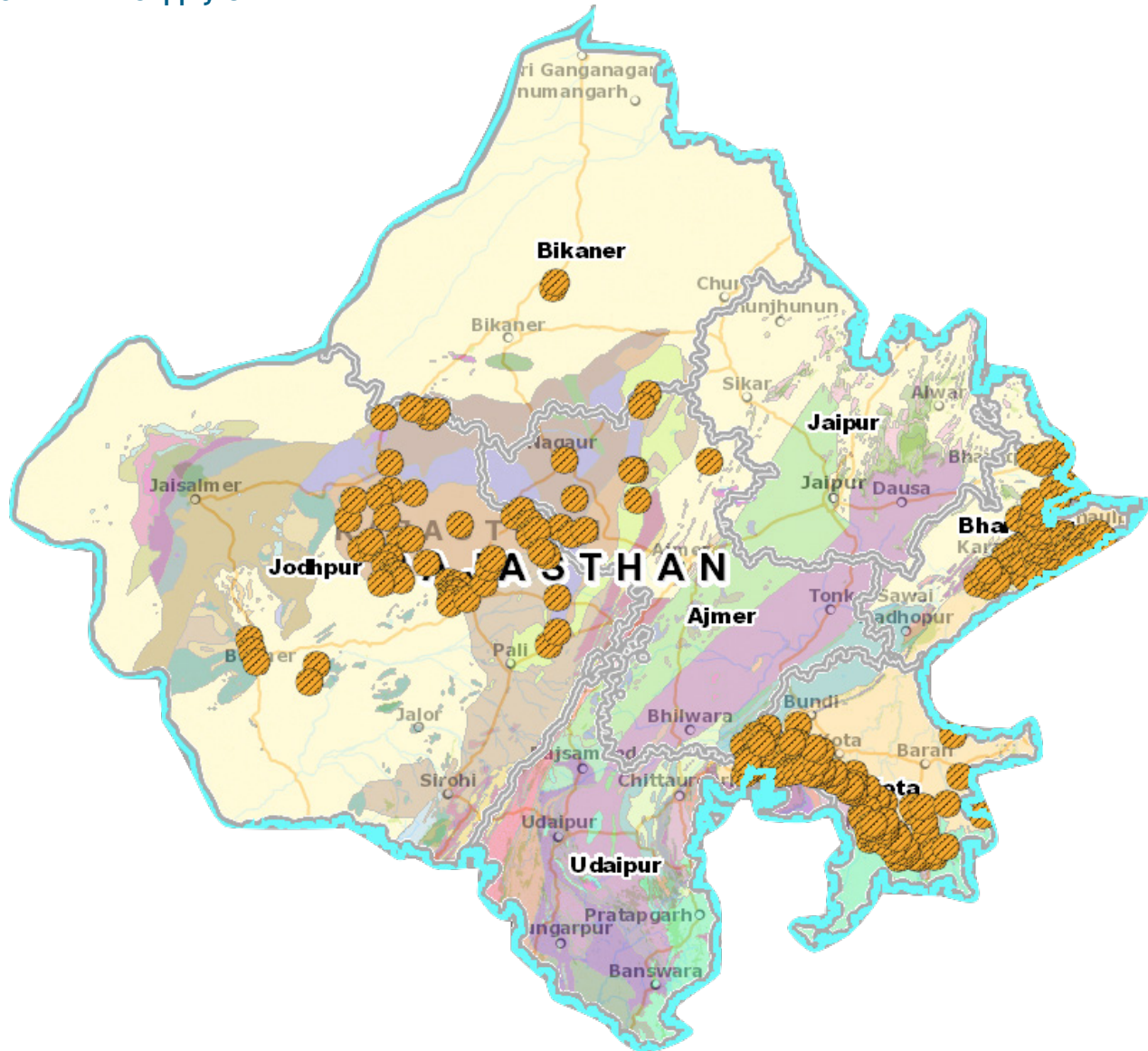


Figure 2: Map showing the distribution of sandstone in Rajasthan.²⁴

The sandstone mining process begins by obtaining a lease license from the central government for quarrying. Different government agencies involved include the Department of Mines and Geology, the Department of Forests and Environment, the Revenue Department, and local rural government bodies like Panchayat Samiti.²⁵

In the process of sandstone extraction, stones are extracted in the form of big blocks using either a conventional, manual method or by modern methods, which are a combination of machines and manual work.²⁶ After removing the soil on top, the hard non-splittable sandstone is blasted to expose the splittable sandstone.²⁷

²⁴ Map of Rajasthan, DEP'T OF MINES & GEOLOGY, GOV'T OF RAJASTHAN, <http://www.mines.rajasthan.gov.in/dmgcms/page?menuName=/q/rwh/KECGBTz5dXJKcuA==>.

²⁵ MADHAVAN & SANJAY, *supra* note 4, at 9.

²⁶ Marshall, Taylor & Balaton-Chrimes, *supra* note 4.

²⁷ Gurumayum Premeshwari Devi, *Impact of sandstone quarry on physico chemical Characteristics of Tlawng river and vegetation in catchment area in vicinity of Aizawl city Mizoram*, MIZORAM UNIVERSITY (2015), 7, [https://shodhganga.inflibnet.ac.in/bitstream/10603/235270/5/g.%20premeshwari%20devi%20\(evs\)_3.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/235270/5/g.%20premeshwari%20devi%20(evs)_3.pdf)

Since these stones are long and continuous, eye shaped holes are created by hammering and the stone is cracked open along the holes. Long slabs are then measured and removed from the stone bed.

After extraction, stones are sent to processing units for drilling, channeling, cutting or sawing, surface grinding, polishing, edge trimming, sorting, and packaging.²⁸ In recent years, some mines have upgraded to modern methods by using mining machinery such as compressors, machines for drilling and blasting, cranes for lifting large blocks, and dampers and trucks for transport.²⁹

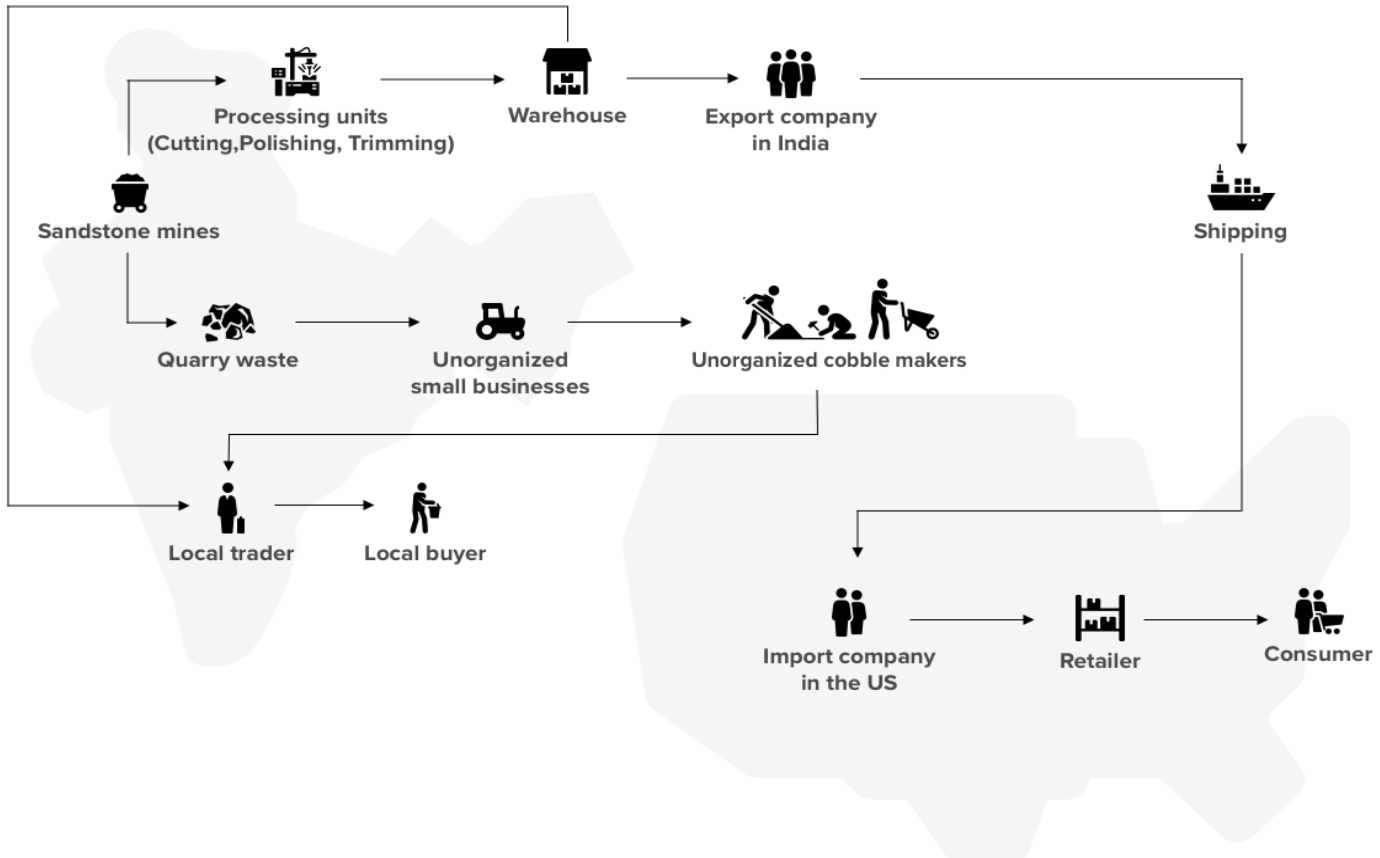


Figure 3: Graphic illustrating the supply chain of the sandstone industry.³⁰
“Unorganized” refers to unregistered business enterprises in the informal economy.

The mine owners may or may not run a processing unit. All mines studied in this report were owned by Indian nationals rather than international corporations. In the case the mine owners do not own a processing unit, they mine the stones and transport to another company for processing. After the stones are processed, they are sent to a warehouse or purchasing office to be stored until

they are exported or transported for domestic consumption. Sandstone exporters from India will establish specifications for stones requested or required by international importers and then commission their purchasing offices in different mining districts to package and send the stones to ports for exporting.³¹

28 *Id* at 2.

29 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 17.

30 Graphic created for this report by Chayan Deb, UX Design Manager, DU, Dubai (UAE).

31 MADHAVAN & SANJAY, *supra* note 4, at 9.

Quarry waste and broken stones are turned into cobbles by laborers. Thousands of local small business enterprises collect quarry waste in tractors and deliver it to informally-employed³² men, women, and children who hand-mine the stone to turn it into cobbles or smaller-sized

sandstone.³³ These laborers work outside their homes or at abandoned mines and receive low wages in exchange for their work.³⁴ These cobbles then travel along the supply chain to local traders or exporters.

“ We have lot of laws for the protection of workers, but the implementation is very weak.”³⁵

B. Industry Issues

1. Poor Implementation of Existing Laws and Regulations

The mining sector suffers from overlapping and often confusing government regulations which are exacerbated by understaffing in the relevant government departments. In India, different constitutional lists govern who has the authority to create laws and regulations of different sectors. Mine regulation falls under the Union and State Lists, whereas the regulation of labor and safety in the mines is subject to the Union List, meaning mineworkers fall under the purview of Central legislations, while mines fall under the domain of the State governments.³⁶

Under the Constitution of India, the Central government regulates the safety, welfare, and health of mine workers³⁷ through two arms: the Director General of Mines Safety (DGMS) and the Indian Bureau of Mines.³⁸ DGMS is the regulatory authority under the Ministry of Labor and Employment in charge of occupational safety,

health, and welfare of mine workers. The Central Government has passed the Mines Act 1952 and various regulations and orders for the protection of mineworkers.³⁹

Further, minerals are classified as either major or minor under the Mines and Minerals Regulation and Development Act 1957 [MMRDA]. Major minerals are administered by the Central Government and minor minerals like sandstone and limestone are administered by the state government.⁴⁰ In the case of sandstone, the government of Rajasthan has the authority to prescribe laws and regulations, collect royalties and taxes, and prohibit illegal mining. The State also has the responsibility to provide requisite environmental clearances.

Despite having many laws and regulations of the industry for the protection of workers and the environment, poor coordination in implementation of these laws is an obstacle for the full realization of these laws. This gets worse because of the difficulty of identifying the employment relationship between mine owners and workers.

32 “All remunerative work (i.e. both self-employment and wage employment) that is not registered, regulated or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise. Informal workers do not have secure employment contracts, workers’ benefits, social protection or workers’ representation.” ILO, MINIMUM WAGE POLICY GUIDE 40 (2016), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_508566.pdf.

33 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 5.

34 See MADHAVAN & SANJAY, *supra* note 4.

35 Interview with Labor Enforcement Officer, Ministry of Labor, in Kota, Rajasthan (Nov. 11, 2019) (unofficial translation). Name kept anonymous for security purposes.

36 See INDIA CONST., Articles 55–56, List I: Union List, Seventh Schedule; 23, List II: State List, Seventh Schedule.

37 *Id.* at Article 246, Union List Entry 55.

38 MADHAVAN & SANJAY, *supra* note 4, at 6.

39 The Mines Act, 1952, No. 35, Acts of Parliament, 1952, (India).

40 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 17.

It is essential that the officers are equipped with the right knowledge and protective mechanisms to implement the laws. A government officer indicated that:

“As officers we constantly feel the need for periodical and practical training to identify and tackle the issues on the ground. [The] government should also provide appropriate mechanisms to ensure our protection so that we can work fearlessly to report violations. We are threatened with death if we try to report any major violation by a mine owner or if we try to assist the workers.”⁴¹

2. Lack of Mine-Owner Liability

Many mines are unregistered or unlicensed, as such they escape inspections and compliance measures contemplated under Mines Act and meant to ensure occupational health and safety standards.

There are a substantial number of unlicensed quarries operating in the state of Rajasthan: many mines operate after the expiration of their leases, while other mines are unregistered and fall outside the purview of the law due to their small scale.⁴² A study carried out by Corporate Accountability Research in 2016 found that the continued existence of unlicensed mines is prevalent, causing the supply chain to be more unregulated.⁴³ Another widespread practice is that of running a mine in partnership with village-owners. Business enterprises enter into partnership with villagers who own the land and run mines with or without appropriate licenses from the government. A number of leases are held in the name of villagers but are actually operated by powerful people of that area.

Moreover, the supply chain for mined sandstone is highly opaque as it goes through several stages of cutting, splitting, polishing, washing, and sale—all through different agents—before reaching its final destination. It is also difficult to establish employer-employee relationships in the absence of any formal contracts. Thus, the mine owners, importers, and high-profile buyers are often immune from any liability for human rights violations occurring at the quarry sites. Research conducted through this study found no case that has been registered under the Employers Compensation Act, which is meant to provide compensation from the employer if an employee is injured in a workplace accident.⁴⁴

Rana Sengupta, Director of the Mine Labor Protection Campaign⁴⁵ said this when asked about the lack of cases registered in this sector:

“...[to] date not a single case has been registered under the Workmen’s Compensation Act for compensation nor in any [of] the lower courts. The answer to this is that no employer maintains any records nor is any [in] compliance...[with] the Mines Act. It is not impossible to establish this, but the present system does not empower the worker nor are there effective trade unions in the unorganized sector. Moreover, the enforcement of labor laws in the mining sector is with the Central Government and the mine owners are of the State Government, who contributes to the State’s revenue. This complexity is very exclusive to only the mining industry and is a grey area. Unfortunately, we did not come across any lawyer who had any interest to address for necessary amendments. This will not only help to resolve the issue at Rajasthan but will be applicable for the entire country.”⁴⁶

41 Interview with Labor Enforcement Officer, *supra* note 35.

42 *Id.* at 5.

43 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 46.

44 This research was carried out by visiting two district courts in Rajasthan, Kota District Court and Jaipur District Court. Twelve lawyers and two court clerks were interviewed on Nov. 11–12, 2019. Additionally, electronic court records were searched to check orders passed by court.

45 Mine Labor Protection Campaign is a grassroots organization working in the area of mining, labor rights of the unorganized sector, and promoting environmentally sustainable mining.

46 Interview with Rana Sengupta, Director of the Mine Labor Protection Campaign, via e-mail (Dec. 4, 2019).

3. Environmental Degradation

Environmental degradation due to sandstone mining is very rapid, leading to the degradation of top-soil affecting the surrounding flora and fauna of the area.⁴⁷ Quarry waste is very often dumped at the nearest available area surrounding the mining areas. This waste causes environmental pollution because it reduces the porosity of the land and prevents growth of any vegetation.⁴⁸ The production of sandstone also creates crystalline silica, a dangerous dust that is detrimental to human, plant, and animal life in the surrounding areas; this silica can cause a lethal lung disease called silicosis which will be discussed later in this report.

4. District Mineral Foundation

The District Mineral Foundation (DMF) was instituted under the MMRDA with the purpose to “work for the interest and benefit of persons, and areas affected by mining-related operations” as a trust.⁴⁹ The fund seeks to remove social and financial disparity between workers and mine owners and ensure socio-economic justice by tying the rights of the people to the benefits of the natural resources. If implemented effectively, this fund has the potential to improve the lives and livelihood of the marginalized mining communities.

The total cumulative accrual in the DMF in 33 Rajasthani districts stands at Rs. 1782 crore (US \$288 Million) as of April 2018.⁵⁰ Only Rs. 129.5 crore (US \$17 Million) has been spent.⁵¹ A recent evaluation of the DMF by the Centre for Science and Environment reveals that the implementation

has failed its mandate so far because it has not sufficiently met its goals.⁵² The study evaluated the fund on two aspects: i) whether the DMF has been developed in a manner that will enable it to realize its objectives and guiding principles; and ii) if the DMF services and finances are being used in a manner that assists the beneficiaries of the fund.

The study concluded that the results are not “encouraging”⁵³ as the fund has failed to properly identify its beneficiaries. The DMF has concentrated on area development at mine sites, but it is necessary to also cover those who have lost their livelihood or have been displaced due to mining activities.⁵⁴ With proper implementation, the DMF can become a model for inclusive governance and equitable development.

5. Workers’ Rights Awareness

Several civil society organizations have worked to educate laborers about the effects of health complications surrounding silicosis and government programs available for families harmed by working in the mining sector. There are also limited programs offered for the awareness and eradication of child labor. There remains an urgent need for training regarding workers’ basic rights and entitlements, including information on minimum wages, compensation for occupational hazards or diseases, regulation of working hours, sexual harassment laws, and maternity benefits. Survey research indicates that more than 50% of mineworkers interviewed are unaware of the minimum wage that they are entitled to and more than 54% are unaware of the law requiring labor

47 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 34.

48 Premeshwari Devi, *supra* note 27, at 10.

49 The Mines and Minerals (Development and Regulation) Amendment Act, 2015, No. 10, Acts of Parliament, 2015, Article 9, (India).

50 Press Release, Centre for Science and Environment, Rajasthan has used only 12 percent of its district mineral foundation (DMF) allocation says CSE’s latest analysis (New Delhi, July 31, 2018). <https://www.cseindia.org/rajasthan-has-used-only-12-percent-of-its-district-mineral-foundation-dmf-allocation-says-cse-s-latest-analysis-8892>.

51 *Id.*

52 SRESTHA BANERJEE, CHINMAYI SHALYA, SIVA KARTHIK VALAPARLA, RAJEEV RANJAN, AARUSHI DHINGRA AND ANINDYA SARANGI, PEOPLE FIRST: DISTRICT MINERAL FOUNDATION (DMF) STATUS REPORT 2018, CENT. FOR SCI. & ENV’T (2018), https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewisuPCg4vTpAhWuQjABHWdYANcQFjAAegQIAhAB&url=https%3A%2F%2Fwww.cseindia.org%2Fcontent%2Fdownloadreports%2F8893&usq=AOvVaw3uoffG90qF4nMTva_pRXMK.

53 *Id.* at 5.

54 *Id.*

registration.⁵⁵ When it comes to women, less than 13% were aware of the existence of laws protecting them against sexual harassment.⁵⁶

Outside of the formal and legal mining sector, there are millions of informal quarry workers in Rajasthan who face daily injustices without the opportunity to access local or transnational redress mechanisms. Barriers include absence of documentary evidence of employment, opaque supply chains, lack of resources, aggravated vulnerability, and weak regulatory systems instituted by government departments. In addition, some workers are not provided sufficient financial training which can lead them into a cycle of debt and eventually a bonded labor relationship between themselves and their lender.⁵⁷ Research indicates that 90% of mine-workers believe that trainings on basic human rights will be effective in creating awareness and help them understand and exercise their rights.⁵⁸

55 ETHICAL CERTIFICATION FOR TRADING LLP, RAJASTHAN STONE MINING INDUSTRY BASELINE (2019) (unpublished report) (available on file with the Center). This non-academic survey was produced by Ethical Certification for Trading, LLP, Jodhpur, a human rights due diligence implementation service provider, and was financially supported by the American Bar Association Center for Human Rights, Washington D.C. The findings listed in this report were derived from face-to-face interviews with one hundred and twenty respondents from six villages in the mining-heavy districts of Jodhpur and Baleswar in 2018–19. The focus of the project was to analyse the current human rights due diligence ecosystem in the Rajasthan natural stone industry while identifying challenges and opportunities for improvement of conditions.

56 *Id.*

57 *Id.*

58 *Id.*

IV. WORKER CONDITIONS

The sandstone industry employs more than three million people on a seasonal basis.⁵⁹ While the demand for sandstones has consistently risen over the previous years, the challenging conditions for workers in the industry has not been improved. In a survey conducted by the Association for Rural Advancement through Voluntary Action and Local Involvement (ARAVALI), 92% of respondents said they do not want their children to work in the mines if there is an alternative source of livelihood.⁶⁰ Their fear is attributed to the constant risk of accidents, respiratory diseases, hard physical labor without adequate rest, inadequate income, and persistent heavy debt to their employer.⁶¹

Rights violations are concentrated in the quarry level, primarily due to the unregulated nature of the work. Workers in this industry face multiple barriers to accessing decent terms and conditions

of work, including occupational health and safety and social protection benefits.⁶²

Human rights violations requiring specific mention include bonded adult and child labor, hazardous child labor, lack of formal contracts, and a high risk of occupational and safety hazards inherent in the work.

A. Bonded Labor

The National Commission on Rural Labor created a study group on bonded labor three decades ago which reported a high incidence of bonded labor in stone quarries in Rajasthan, Madhya Pradesh, and Karnataka.⁶³ Unfortunately, the system of debt bondage⁶⁴—a specific form of forced labor⁶⁵ in which the element of compulsion is derived from debt—is reportedly still rampant in Rajasthan’s stone quarries.⁶⁶

59 Srivastava, *supra* note 4. (Sandstone work is done in the dry season.)

60 ARAVALI, *supra* note 8, at 15. The Association for Rural Advancement through Voluntary Action and Local Involvement (ARAVALI) is a semi-autonomous organization established by the government of Rajasthan to promote innovations in development and act as an interface between government and voluntary organizations. ARAVALI, <https://aravali.org.in> (last visited June 4, 2020).

61 *Id.*

62 *Id.*

63 Ravi S. Srivastava, *supra* note 4.

64 Under international law, “Debt bondage” is defined as “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.” See United Nations, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), art. 1(a). Both the United States and India have [ratified this Convention](#). This definition is used in U.S. regulations prohibiting public procurement from contractors who engage in severe forms of trafficking in persons. 48 CFR 52 (10-1-09 Edition), Federal Acquisition Regulations System 52.222-50.

65 “Forced labor” under international standards means all work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily, and includes indentured labor. Forced labor includes work provided or obtained by force, fraud, or coercion, including: (1) by threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process.” See U.S. Dep’t of Labor, Office of the Sec’y, Notice of Procedural Guidelines for the Development and Maintenance of the List of Goods From Countries Produced by Child Labor or Forced Labor; Request for Information, Fed. Reg., Vol. 72, No. 247, Dec.27th, 2007, at 73378, as quoted in National Research Council, *Approaches to Reducing the Use of Forced or Child Labor: Summary of a Workshop on Assessing Practice* (National Academies Press, 2009), p 3. The definition draws on the ILO Forced Labor Convention, 1930 (No. 29), art. 2(1), [which India has ratified](#).

66 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 27.

Researchers have described debt bondage as:

“A long-term relationship between an employee and employer which is cemented through a loan, by custom or by force, which denies the employee various freedoms including to choose his or her employer, to enter into a fresh contract with the same employer or to negotiate the terms and condition of her/his contract.”⁶⁷

Published field research in the sandstone quarries of Rajasthan reveals hundreds of stories of children and silicosis-affected fathers and grandfathers working in the sandstone mines to clear a family debt.⁶⁸ In particular, the system of *peshgi* (also known as the *sagri*) is highly prevalent and common among bonded laborers in Rajasthan.⁶⁹ Under this system, local mine owners pay the laborers an advance amount on wages of US\$ 700-1400 before they begin their employment.⁷⁰ Due to the seasonal nature of the work, laborers must often take on wage debt from employers to supplement their incomes, falling into a cycle of debt.⁷¹ The interest rate charged is close to 20% per annum, pushing a large section of the population towards work without pay and, ultimately, poverty.⁷² In a recent study that included interviews from 120 respondents from six villages, more than 84% of the mineworkers were currently indebted to their employer.⁷³

This system of debt bondage is not new to the industry. Feudal lords historically confiscated lands from poor tribal people in the region without proper compensation and forced them to become tenants and agricultural workers on their own land.⁷⁴ The system of *peshgi* was initiated to

ensure a consistent supply of laborers during the sandstone working season which coincides with agricultural work.⁷⁵

On the surface, this arrangement appears beneficial and voluntary in nature, but an understanding of the multiple asymmetries, high exit costs, and the circumstances surrounding it reveal that it is a form of bonded labor. Under this arrangement, workers receive no formal record of the debt they take and are compelled to accept the word of the mine owner regarding the outstanding debt amount. Moreover, the high-interest accruing debt is passed down to their children and family members if the laborer falls sick or passes away. A number of factors contribute to the persistence of this practice.

The presence of intermediaries (*Jamadars*) contributes to the practice of *peshgi*. As far back as the colonial period, intermediaries were used to hire bonded labor.⁷⁶ Since the work is seasonal, owners compete to secure laborers at the beginning of each season⁷⁷ by using the services of *jamadars*. *Jamadars* secure informal labor contracts and mine owners pay them a portion of the worker's *peshgi* as compensation.⁷⁸ Arguably, it is not a lack of labor that drives this system, but it is used as a means of discipline and to minimize labor costs.⁷⁹ Excessive disciplinary fines for employees imposed by mine owners are also common in the industry and that worsens the indebtedness of the workers as they can continue accumulating debt through the disciplinary fines.⁸⁰

The debt bondage is exacerbated by the interplay of the Indian caste system as a close link between caste, social structure, and bondage is present

67 Srivastava, *supra* note 4.

68 Gunasekaran, *supra* note 4.

69 *Id.* at 20.

70 *Id.*

71 *Id.*

72 Ethical Certification for Trading, LLP, *supra* note 55.

73 *Id.*

74 Gunasekaran, *supra* note 4

75 Srivastava, *supra* note 4, at 10.

76 *Id.*

77 *Id.*

78 *Id.*

79 *Id.* at 11.

80 *Id.*

in labor dynamics.⁸¹ Most bonded labor systems are founded on a bedrock of social hierarchy; out of that hierarchy the lowest rung is occupied by Scheduled Castes and Scheduled Tribes who face economic and social discrimination.⁸² This group includes disenfranchised castes like the Dalits (or Untouchables) along with tribal orders who have faced historical discrimination from state and non-state actors alike.⁸³ Studies indicate that across the South Asia region, 90% of bonded laborers belong to a scheduled caste or scheduled tribes.⁸⁴ Specifically, in Rajasthani mines, 95% of workers belong to Scheduled Caste and Scheduled Tribes. Around 37% of the total Scheduled Caste and Scheduled Tribes are women and 15% are children.⁸⁵ Researchers have found that workers' low social position is one of the primary causes for violations of labor and human rights.⁸⁶ Workers belonging to marginalized and lower castes, such as Dalits, are more prone to exploitation and often face issues of bonded labor and child bonded labor.⁸⁷

Prolonged illnesses like silicosis and tuberculosis also compel mineworkers to take on more debt from the mine owners for treatment, despite the

legal right to receive benefits for such illnesses.⁸⁸ According to one survey, almost 75% laborers had to take a debt for health-related reasons that pushed them into the debt cycle.⁸⁹

Status and resource barriers prevent workers from absconding without paying the debt.⁹⁰ The industry is characterized by migrant workers where landlessness is a major cause of migration. These migrant laborers abandoned their native land and moved to quarry areas, and are third or fourth generation workers.⁹¹ Workers receive access to temporary housing areas by employers where they build makeshift shelters lacking sanitation or potable water.⁹² Workers have debts ranging from US\$ 700-3,000.⁹³ When they moved, they travelled with large families that grew over time, meaning that to abandon their debt and leave would force the entire extended family to move or the mine owners will go after these families to recover the debt.⁹⁴ Laborers who retain land in native villages work in agricultural fields during the monsoon season when there is no mine work and labor in quarries for the rest of the year.⁹⁵ These laborers are also often third or fourth generation stone workers and bear a debt passed down by their

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- 81 Kumar Dharma, *Land and Caste in South India: Agricultural Labor in the Madras Presidency During the Nineteenth Century*, 72 THE AM. HIST. REV. 267 (1966). As noted by the Government of India: "The (bonded labor) system is much more intricate than mere economic or labor relations; it reflects the stratified social structure where one or more social groups work without consideration of minimum wages or other rights-based labor standards just for the sake of honouring social custom or for fear of possible reprisal in case of non-conformity, which more often than not are characterised by physical violence, ostracisation, etc." See Central Sector Scheme for Rehabilitation of Bonded Laborer – 2016, and Office Memorandum of May 18, 2016 by Government of India Ministry of Labor & Employment. See also ILO, Committee of Experts on the Application of Conventions and Recommendations, *Direct Request* and *Observation* adopted 2019, published 109th ILC session (2020), on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) - India (ratification: 1960) in relation to enforcement against discrimination on the basis of social origin (untouchability).
- 82 Srivastava, *supra* note 4.
- 83 Vishnu Gopinath, *Who Are the Scheduled Castes, Schedules Tribes, OBCs and EBCs?*, THE QUINT (Jun. 12, 2018, 2:46 AM), <https://www.thequint.com/explainers/scheduled-caste-scheduled-tribe-obc-ebc-sc-st-prevention-of-atrocities-act-explainer>.
- 84 Krishna Prasad Upadhyaya, *Poverty, discrimination and slavery: The reality of bonded labour in India, Nepal, and Pakistan*, ANTI-SLAVERY INTERNATIONAL (2008) <https://www.antislavery.org/wp-content/uploads/2017/01/1-poverty-discrimination-slavery-final.pdf>.
- 85 Bahar Dutt, *Organizing the Unorganized*, MINE LABOUR PROTECTION CAMPAIGN (2005), http://asmasiapacific.com/wp-content/uploads/2014/07/BaharDutt2005_OrganisingTheUno.pdf.
- 86 Upadhyaya, *supra* note 84.
- 87 Srivastava, *supra* note 4, at 23.
- 88 Legal right to receive benefits for such illnesses can be found in The Employee's Compensation Act, Acts of Parliament, 1923, Amended 2017, Chapter 3: Employer's liability for compensation (India).
- 89 ARAVALI, *supra* note 8, at 16.
- 90 Gunasekaran, *supra* note 4.
- 91 *Id.*
- 92 P. Madhavan & Dr. Sanjay Raj, *Budhpura 'Ground Zero' Sandstone quarrying in India*, INDIA COMMITTEE OF THE NETHERLANDS (Dec. 2005), 22, <http://www.indianet.nl/budhpura.pdf>.
- 93 Gunasekaran, *supra* note 4.
- 94 *Id.*
- 95 *Id.*

families.⁹⁶ Their debt ranges from US\$ 300-700.⁹⁷ The *jamadars* ensure the return of mine workers and mine owners know the villages and family members of these laborers, preventing them from abandoning the debt.⁹⁸ Temporary laborers are those who migrated from far and usually come to work at the quarries for a few years or for one season.⁹⁹ Their debt ranges between US\$ 100-150.¹⁰⁰ These laborers have the least liability and sometimes abscond without repaying the debt.¹⁰¹ When a worker moves to another mine, the new mine owner has to pay off the debt to the old mine owner in order to “buy” the worker.¹⁰² Between 8-10 mineworkers move in a span of ten years, drawing wives and children into the debt-trap with them.¹⁰³

B. Bonded Child Labor¹⁰⁴

As noted in the preceding section, laborers that lack the capacity to repay their advanced wage debt pass this debt along to their minor children, perpetuating inter-generational debt bondage. It is also common for the mine owners to seize lands, force minor children to assume the debt, or deduct money indiscriminately from the child-worker’s wages to cover the advanced money.¹⁰⁵ In an interview conducted in November 2019, a mineworker noted the difficulties he faced with respect to advanced wages:

“I contracted silicosis three years ago. I was paid advanced money by the mine-owner several years ago. My biggest worry now is that the responsibility of repaying this debt is on my wife and children now. We might also lose our farmland if my children don’t work enough to repay the debt. What makes it worse is that we have no *parcha* (formal account) of the debt that was advanced to us.”¹⁰⁶

The presence of the deadly disease caused by mining activities, silicosis, forces a worker to retire early, replacing him with immediate kin who then assumes his loan.¹⁰⁷ This transfer of loan obligation within a family ensures a perennial supply of cheap labor.¹⁰⁸

The indebtedness also prevents the workers from exercising their rights to freedom of association as it binds them to a certain employer or mine owner. Further, as mine owners can punish workers by increasing their debt through penalties and financial charges, workers are practically prevented from demanding any increase in their wages, improvements to working condition, or compensation for injuries and occupational hazards.¹⁰⁹

96 *Id.*

97 *Id.*

98 *Id.*

99 *Id.*

100 *Id.*

101 *Id.*

102 Srivastava, *supra* note 4, at 23.

103 Ethical Certification for Trading, LLP, *supra* note 55.

104 ILO Worst Forms of Child Labor Convention, 1999 (No. 182) C. 182, art. 1, 2, and 3(a). includes “debt bondage . . . and forced or compulsory labor” of all persons under the age of 18.

105 Srivastava, *supra* note 4; Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 29; Ethical Certification for Trading, LLP, *supra* note 55.

106 Interview with Anonymous, in Kota, Rajasthan (Oct. 11, 2019)(unofficial translation). Names of interviewees were kept anonymous for the protection of the interviewees.

107 ARISA <https://arisa.nl/wp-content/uploads/BetweenARockAndAHardPlace.pdf> at 15.

108 Gunasekaran, *supra* note 4.

109 *Id.*

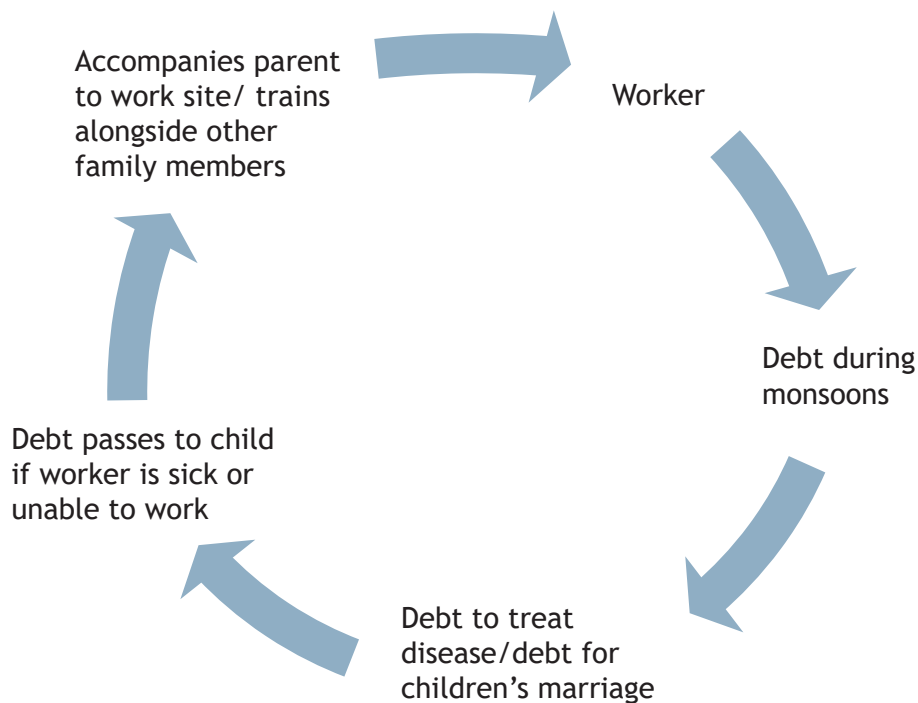


Figure 4: The cycle of debt, poverty, and child bonded labor.¹¹⁰

C. Hazardous Conditions for Child Labor¹¹¹

Despite India's international obligations to eliminate child labor,¹¹² thousands of child workers are found in the quarries of Rajasthan.¹¹³ Reports from 2009 and 2010 suggest that as many as 375,000 child laborers are employed in Rajasthan quarries¹¹⁴ A 2015 UNICEF study in Kota and Bundi

districts reveals that 38% of the sample 438 children work in stone quarries.¹¹⁵ In the quarries, children are continuously exposed to hazardous working conditions by carrying heavy stones in hot, dry, and dusty weather conditions. Even when children do not work directly in the mines, their proximity to the mine puts them in danger of health hazards. These health hazards may be

¹¹⁰ Graphic created by report author.

¹¹¹ Under international standards explained by the ILO, the term "child labor" refers to work that deprives children of their childhood, their potential and their dignity, and that is that is mentally, physically, socially or morally dangerous and harmful to children; and/or interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work. The worst forms of child labor involve children being enslaved or indebted, or exposed to serious hazards and illnesses. ILO, What is child labor, <https://www.ilo.org/ipec/facts/lang--en/index.htm>. According to the ILO Minimum **Age** Convention, 1973 (No. 138), **child labor** includes any work performed by **children** under the **age** of 12, non-light work done by **children** aged 12–14, and hazardous work done by **children** up to age 18. An initial exception for non-light work is permitted for age 14 in countries with insufficiently developed economies and educational systems under specific circumstances. C. 38, art. 2(4). For the Worst Forms of Labor Convention, 1999 (No. 182).

¹¹² Mining and quarrying are listed as branches of economic activity that cannot be exempted from minimum age regulation under the ILO Minimum Age Convention (No. 138), para 5 which India ratified in 2017.

¹¹³ Oliver Balch, *The Indian child labour behind our patio stones*, THE GUARDIAN (Oct. 16, 2015), <https://www.theguardian.com/sustainable-business/2015/oct/16/indian-child-labour-behind-patio-stones-sandstone-rajasthan>.

¹¹⁴ ETHICAL TRADING INITIATIVE, *Marshalls: Tackling Child Labor in India* (2009), <https://www.ethicaltrade.org/marshalls-tackling-child-labor-india>; INDIA COMM. OF THE NETH., *Mining and its effects on Children, Women, Adivasis and Dalits* 1 (2010), <http://www.indianet.nl/pdf/MiningAndItsEffectsOnChildren.pdf>.

¹¹⁵ UNICEF, CHILDREN'S LIVES CAST IN STONE: CHILD LABOR & THE SANDSTONE INDUSTRY (2015). Continuous efforts by government agencies and civil society organizations have resulted in reduction of the number of children but it is difficult to ascertain a current and precise number of child laborers.

due to the constant exposure of dust and silica, susceptibility to injuries from stone chips, and exposure to the heat and noise.¹¹⁶

Children in the mining areas can be classified into two categories: children accompanying their mothers and children accompanying their fathers.¹¹⁷ Children often accompany their mothers to the mines in the absence of creche or any alternate childcare facility. Women are mostly employed to clear debris, lift and load stones, or to cut waste into small stones or cobbles.¹¹⁸ Many children also work with their mothers at home cutting stones into smaller tiles.¹¹⁹ Adolescents usually accompany their fathers as apprentices to become trained in the work. These children join the workforce as early as 13-14 years old, often after the death of their fathers from occupational diseases like silicosis or an occupational injury, or to supplement the family income.¹²⁰ Children also work in mines to cover existing “family” debt, where the principal amount must be paid in full in order to release the child.¹²¹

For children, their mine life begins by accompanying their parents to work sites. The debt taken by their parents to cover exigencies or unemployment periods ensures the loss of a future away from

the mines, as children are compelled to join the workforce to bear the debt of their fathers. Their parents’ low wages also push children to earn for the family in the mines. Children growing up in the mines face the same cycle of debt and poverty that their parents had.

D. Lack of Formal Employment

The sandstone industry heavily relies on advanced loans to retain workers on a seasonal assignment basis in order to avoid providing workers with benefits.¹²² Typically, workers are hired without a formal contract of employment, are paid extremely low wages, and are offered no employment benefits.¹²³ One study found no interviewees who held formal written contracts with their employers, and found that many workers did not know the identity of their employer at all.¹²⁴ However, the circumstances of the work satisfy the internationally-recognized indicators of an employment relationship, including the “fact that the work: is carried out according to the instructions and under the control of another party, including in relation to working hours and specific workplace, and that the remuneration constitutes the worker’s sole or principal source of income.”¹²⁵

WORK	WAGE PER DAY (in US\$)
Work inside mines	5-6
Machine operator	5-6
Loading/unloading	Male: 3.5-4 Female: 2-3
Processing stones (chiseling or cobble-making)	Male: 3.5-4 Female: 2-3
Supervisor and accountant	Male: 8-10
Truck and tractor drivers	5-6

116 *Id.*

117 INTERNATIONAL LABOR ORGANIZATION, SAFETY AND HEALTH FOR SANDSTONE MINE WORKERS 24 (2016).

118 INDIA COMM. OF THE NETH., *supra* note 114.

119 *Id.*

120 *Id.*

121 HUMAN RIGHTS WATCH, THE SMALL HANDS OF SLAVERY: BONDED CHILD LABOR IN INDIA (1996), <https://www.hrw.org/legacy/reports/1996/India3.htm>.

122 Srivastava, *supra* note 4.

123 Srivastava, *supra* note 4; Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 30.

124 Anumeha Yadav, *Bijolia’s Harvest of Stone: Conditions of Work Among Quarrying Labor in Rajasthan* (Ctr. for Sustainable Emp. Working Paper 2018-13, 2018), https://cse.apu.edu.in/wp-content/uploads/2018/05/Yadav_Anumeha_Rajasthan_Mining-1.pdf.

125 ILO Employment Relationship Recommendation, 2006 (No. 198), para. 13.

126 ARAVALI, *supra* note 8, at 13.

The temporary nature of the labor force stems from the fact that mines remain shut during the monsoon season and so there is no work and no pay for 4-5 months in the year. Mines are remote and lack basic facilities like transport, drinking water, housing, medical centers, and schools.¹²⁷ Laborers receive less than minimum wage, which is often insufficient to cover all necessary expenses associated with working at the mines. Workers often contract silicosis at the age of 35-40 and are unable to cater to the demanding work at the mines.¹²⁸

The lack of formal contract or written terms prevents the workers from claiming a formal employment relationship that grants access to statutory benefits and social insurance under the law.¹²⁹ The uncertain and fluctuating wages and hours of work, lack of continuity of employment, and inability to exercise freedom of association and recognition of collective bargaining are also attributable to the lack of a formal contract of employment between mine owners and workers.¹³⁰ As one worker said,

“If it is a big company, like the one earlier, there is a possibility for organized functioning. Workers can demand assistance in the case of an accident or any other problem. But in this system, the work is segmented. The workers are divided. Workers under one contractor do not know what is happening under another. A huge chunk of stone for both national and international markets is produced by these methods. Contractors at the beginning give advances to retain workers. Once the borrowing reaches a certain point, they will

neither give advances nor allow the workers to leave. They have their guards everywhere for surveillance of the workers”¹³¹

Excepting certain positions such as supervisor, machine operators, and accountants, generally, workers are hired on a piecework or “casual” basis.¹³²

Indian law provides for strict requirements on wages, a violation of which leads to fines; for example, the Minimum Wages Act of 1948 provides a framework within which each state government is responsible for fixing and enforcing minimum wages for different industries.¹³³ Further, the Payment of Wages Act which applies to all factories and mines prescribes for the wage period to be set monthly or weekly.¹³⁴ This Act also prescribes penalties to be imposed on employers who fail to maintain records, or obstructs an inspector discharging his duty.¹³⁵ Rajasthan Minerals [Prevention of Illegal Mining, Transportation and Storage] Rules 2007 is relevant since it requires every mine owner to maintain a regular register of wages paid to employees.¹³⁶ Apart from these, the Payment of Gratuity Act 1972,¹³⁷ the Employees Provident Act 1952,¹³⁸ and the Payment of Bonus Act 1965 are applicable to mine workers.¹³⁹ Moreover, the Constitution of India provides for workers to receive living wages and conditions of work that ensure a decent standard of life and full employment of leisure and social and cultural opportunities.¹⁴⁰

Workers rarely get paid for rest days or legal holidays, bonuses and allowances, or in-kind benefits such as transportation costs, meals,

127 Julia Hawkins, *A tough existence for Rajasthan's stone workers*, ETHICAL TRADING INITIATIVE BLOG (Aug. 4, 2011), <https://www.ethicaltrade.org/blog/tough-existence-rajasthans-stone-workers>.

128 Gunasekaran, *supra* note 4.

129 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 48.

130 *Id.*

131 Gunasekaran, *supra* note 4.

132 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 31.

133 The Minimum Wages Act, No. 11 of 1948, INDIA CODE, <https://www.indiacode.nic.in>.

134 The Payment of Wages Act, No. 4 of 1936, INDIA CODE, <https://www.indiacode.nic.in>.

135 *Id.*

136 Rajasthan Mineral Prevention of Illegal Mining Transportation and Storage Rules, 2007, 41 Gen. S. R. & O. (India) <http://www.bareactslive.com/RAJ/rj012.htm>.

137 The Payment of Gratuity Act, 1972, No. 39, Acts of Parliament, 1972 (India).

138 The Employees' Provident Funds And Miscellaneous Provisions Act, 1952, No. 19, Acts of Parliament, 1952 (India).

139 The Payment of Bonus Act, 1965, No. 21, Acts of Parliament, 1965 (India).

140 INDIA CONST. art 43, *amended by* The Constitution (Eightieth Amendment) Act, 2000.

health benefits, etc.¹⁴¹ An average mine worker starts work early in the morning and works for 8-10 hours.¹⁴² A recent study indicated that 77% of men and 43% of women reported working more than eight hours a day.¹⁴³ Working hours also exceed the daily or weekly limit of 10 hours per day or 60 hours per week prescribed under the Mines Act 1952¹⁴⁴ and the Factories Act 1948.¹⁴⁵

Despite the robust domestic legal requirements concerning wages and working hours, most sandstone mines are unregistered, and thus do not come under the purview of law as a practical matter and are never inspected. Most mining companies transcribe hours and use manual methods to calculate wages and, where applicable, hours of work, which can lead to inaccuracies and discrepancies.¹⁴⁶

While organized trade unions in the country are able to negotiate better working conditions for their workers, the economy is still facing problems in this regard. As an informal sector, parts of the sandstone industry have failed to identify mine owners and workers, enforce formal contracts of employment, or better working conditions.¹⁴⁷ The absence of a state or nation-wide trade union¹⁴⁸ for stone workers has meant a lack of collective voice or central representation for workers.¹⁴⁹ In this particular sector, the workforce is seasonal in

nature, operates in individual units with various employers on a single site, and is geographically widely scattered.¹⁵⁰ All these factors act as barriers for the exercise of freedom of association in this sector which could otherwise help to develop effective trade unions that are recognized by employers for purposes of collective bargaining on the critical issues of wages, hours, and working conditions.

E. Occupational Health and Safety Risks

1. Silicosis

Silicosis is an incurable and fatal—but preventable—disease prevalent among mineworkers in Rajasthan.¹⁵¹ It occurs as a result of inhalation of dust containing crystalline silica during sandstone mining.¹⁵² While the total number of silicosis cases has not been assessed by governmental agencies, estimates range up to 26,000 patients currently dealing with the disease.¹⁵³ Studies indicate that close to 56% of laborers are affected by this disease.¹⁵⁴ The disease has reduced the life expectancy of a mine worker to 40 years with a 42% chance of contracting this disease in the worker's lifetime.¹⁵⁵ It is now established that Silicosis patients do not live more than 20 years from the onset of symptoms.¹⁵⁶ In line with internationally-recognized lists of occupational

141 Ethical Certification for Trading, LLP, *supra* note 55.

142 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 31.

143 Ethical Certification for Trading, LLP, *supra* note 55.

144 The Mines Act, 1952, No. 35, Acts of Parliament, 1983, Chapter VI Article 30 (India).

145 The Factories Act, 1948, No. 63, Acts of Parliament, 1948, Chapter VI Article 51 (India).

146 Ethical Trading Initiative, *supra* Note 5.

147 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 25.

148 See generally ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

149 Ethical Certification for Trading, LLP, *supra* note 55.

150 STIRLING SMITH, A REVIEW OF HUMAN RIGHTS AND LABOR LAW IN INDIA, WITH SPECIFIC REFERENCE TO SANDSTONE MINING AND PROCESSING WORKERS IN RAJASTHAN 54, ETHICAL TRADING INITIATIVE (2014), https://www.ethicaltrade.org/sites/default/files/shared_resources/legal_review_-_natural_stone_india.pdf.

151 Subroto Nandi et al., *Assessment of Silicosis Awareness among Stone Mine Workers of Rajasthan State* INDIAN J. OCCUP. ENVIRON. MED (2018) 100, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6176702/>.

152 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 25.

153 *Rajasthan: Debt-ridden silicosis patient on death bed*, The Times of India (Aug. 29, 2019), <https://timesofindia.indiatimes.com/city/jaipur/debt-ridden-silicosis-patient-on-death-bed/articleshow/70883995.cms>.

154 Pekham Basu, *Mine Workers of Rajasthan – Emerging Leaders in Veils*, 77 ASIAN LAB. UPDATE 20 (2010), https://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU%2077_1.pdf.

155 Ethical Certification for Trading, LLP, *supra* note 55.

156 Absar Ahmad, *Onset of Silicosis Among Sandstone Mine Workers in Rural Rajasthan*, India (2015) (unpublished report), https://www.researchgate.net/publication/275639080_Onset_of_Silicosis_among_Sandstone_Mine_Workers_in_Rural_Rajasthan_India.

diseases,¹⁵⁷ silicosis is flagged in list of occupational diseases recognized by the Factories Act 1948 and the Employees Compensation Act 1923, which mandate employers to provide compensation or access to health care to workers who contract it as an occupational disease.¹⁵⁸

However, the existing law has not been able to solve the problem for two primary reasons. First, workers in Rajasthan stone quarries do not have formal contracts of employment leaving them extremely vulnerable in the event of labor disputes and workplace injuries, including in demands for personal protective equipment (PPE).¹⁵⁹ Secondly, diagnosis takes a long time and is often confused with tuberculosis by doctors.¹⁶⁰ It can take 15-20 years for the nodules that collect to form a mass to be detected by an X-ray examination and become visible only when the patient has reached a critical stage.¹⁶¹ A worker from Budhpura of Bundi district, Rajasthan stated:

We work in the very same pathetic conditions as our ancestors did, carving and processing stone manually, with hammers and chisels. Our villages shift every year with movement of mining activity. We have no identity proof and cannot make a thumb impression on government documents since our fingerprints have faded. The only difference is, we now know that most of us will die by the time we are 40 because we are inhaling hazardous levels of silica, which corrodes lung tissue and

reduces immunity to respiratory ailments like asthma, tuberculosis and silicosis, commonly known as *pathar ki bimaari*. Our forefathers were ignorant of this reality.¹⁶²

2. Occupational Injuries and Accidents

Workers constantly face the threat of workplace injuries amidst unsafe working conditions and manual processes involving cutting, trimming, and polishing.¹⁶³ Hazardous working conditions and lack of proper safeguards, including PPE, put the workers at a risk of workplace injuries.¹⁶⁴ One study found that injury rates are high in the sandstone industry,¹⁶⁵ where many incidents are not fatal but both fatal and non-fatal injuries are underreported and undercompensated.¹⁶⁶

Workers in the sandstone industry cannot hold their employer responsible for accidents for the following reasons: i) an absence of a formal employer-employee relationship and proof of employment; ii) an absence of social security or health insurance coverage; iii) an absence of other means of employment; and iv) an absence of workers' organizations and health committees in the workplace to demand basic OSH protections, training, and reporting.¹⁶⁷

Although it is common for mine owners to blame workers for accidents, on closer scrutiny it becomes clear that accidents often occur because employers make minimal to no effort

157 See ILO List of Occupational Diseases Recommendation, 2002 (No. 194) Annex revised in 2010; ILO Employment Injury Benefits Convention, 1964 (Schedule I amended in 1980) (No. 121). (Both instruments recognize silicosis as an occupational disease which, if serving as an essential factor in the resultant incapacity or death, gives rise to employment injury benefits including allied treatment or, in case of death, death benefits to surviving dependents.)

158 The Factories Act, NO. 63 of 1948, INDIA CODE, <https://indiacode.nic.in>; The Employees Compensation Act, 1923, Acts of Parliament, 2017, Chapter 3: Employer's liability for compensation (India).

159 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 26.

160 Shivam Saini, *Why Rajasthan's doctors misdiagnose silicosis, the incurable occupational disease of thousands*, SCROLL (Feb. 13, 2017, 2:30 PM), <https://scroll.in/pulse/827763/why-rajasthans-doctors-misdiagnose-silicosis-the-incurable-occupational-disease-of-thousands>.

161 Tarun Bahl, *Silicosis a Death Sentence for Mine Workers*, THE HINDU BUSINESS LINE (July 12, 2019), <https://www.thehindubusinessline.com/specials/india-interior/silicosis-a-death-sentence-for-mine-workers/article28414193.ece>.

162 *Id.*

163 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 26.

164 *Id.*

165 *Id.* at 11

166 Mohammad S., *Rehabilitation of Silicosis Victims of District Karauli, Rajasthan, India*, INDIAN J. OF COMMUNITY MED. (Sep. 30, 2019), <https://europepmc.org/article/pmc/pmc6881889>.

167 See generally INTERNATIONAL LABOR ORGANIZATION, Occupational Safety and Health Convention, 1981 (No. 155) and INTERNATIONAL LABOR ORGANIZATION Occupational Safety and Health Recommendation, 1981 (No. 164), and sector-specific INTERNATIONAL LABOR ORGANIZATION, Safety and Health in Mines Convention, 1995 (No. 176) and ILO Safety and Health in Mines Recommendation, 1995 (No. 183).

to prevent accidents.¹⁶⁸ Blasting, drilling, and chipping are hazardous activities which are often carried out without proper safety standards and in the absence of a trained supervisor.¹⁶⁹ The ILO

has given detailed recommendations in a report indicating the various precautions to be taken in a mining site.¹⁷⁰

Table 4: Occupational Health and Risks in Sandstone Processing¹⁷¹

HAZARD TYPE	HAZARD FACTORS	DESCRIPTION	RISKS
Physical Hazards	Silica dust	Repeated exposure to silica dust generated by production processes	Respiratory diseases, including silicosis
	Noise	Noise and vibration caused by machines used for calibrating, sawing, cutting, shaping, blasting and tumbling stone	Hearing damage or loss, hand-arm vibration syndrome
Accident Hazards	Dangerous tools	Risk of injury due to manual or mechanical cutting, sawing and shaping	Cuts or other injuries
	Chemicals and solvents	Exposure to chemicals during polishing process	Skin inflammation, eye injury, chemical poisoning from inhalation or ingestion
	Heavy loads	Carrying heavy loads when handling, packing, loading and transporting blocks of stone	Long-term health issues related to over-exertion and muscle strain, skeletal disorders
	Falling objects	Risk of stone slabs or blocks falling on workers during handling and transportation	Physical injury
	Stone debris	Exposure to stone debris and ricochets propelled by mechanical processes such as calibrating, cutting, sawing, shaping, blasting, polishing and tumbling	Eye injury
	Wet or uneven surfaces	Exposure to stone debris and ricochets propelled by mechanical processes such as calibrating, cutting, sawing, shaping, blasting, polishing and tumbling	Fall-related injury

168 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 11. "Injury rates are extremely high. As many of Rajasthan's quarries are small-scale and unregistered, the vast majority do not comply with the occupational health and safety standards contemplated by the National Mines Act 1952"

169 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 16.

170 INTERNATIONAL LABOR ORGANIZATION, *supra* note 167.

171 Ethical Trading Initiative, *supra* note 5, at 19.

3. Condition of Widows and Women

The estimated life term of a quarry worker is between 40-50 years with many workers dying of silicosis.¹⁷² The premature death of male laborers often pushes a large population of women towards poverty, making them more vulnerable to social and economic exploitation when left without the support of a male household member as women are compelled to support the entire household.¹⁷³ Some villages adjoining mines are known as “Villages of widows” because there is a high concentration of widows and very low number of males above the age of 35.¹⁷⁴ A study by Mine Labor Protection Campaign revealed that 48% of the women mineworkers included in the study are widows.¹⁷⁵

Women are allotted semi-skilled or unskilled jobs in the industry, such as hand picking waste, loading stones to trucks, and chiseling quarry waste to smaller tiles or cobbles.¹⁷⁶ It is common for small scale businessmen to collect quarry waste and dump it in one place or distribute it to several women outside their homes in villages, where it is then chiseled by hand.¹⁷⁷

Women are employed both on piece rate and daily wage basis. In a daily wage system, women earn

between US\$ 2-3 for work from dawn to dusk.¹⁷⁸ This option is exercised less often because of the limited number of jobs available.¹⁷⁹ It is more common for women to get work on a piecemeal basis and earn a monthly wage.¹⁸⁰

Women are also subject to rape and sexual harassment by employers.¹⁸¹ Also, female mine workers face sexual violence committed by their colleagues. It is manifested in the form of verbal harassment, touching, gesturing, and exposed obscene materials.¹⁸² Research shows that women are most susceptible to harassment by their colleagues and co-workers, followed by agents and sub-contractors who can influence their chances of employment.¹⁸³ Despite the prevalence of harassment at workplace, women seldom approach law enforcement or any protective mechanism due to fear of shame, social stigma, and retaliation.¹⁸⁴

In the absence of an appropriate system for childcare or maternity leave, women are forced to carry their children to mines, thus exposing them to the hazardous working conditions.¹⁸⁵ The unregulated nature of the work also prevents women from demanding healthcare benefits such as maternity leave, creche, toilets, or compensation after an occupational injury.¹⁸⁶

172 MADHAVAN & SANJAY, *supra* note 4, at 23.

173 Sunaina Kumar, *Curse of silicosis haunts ‘village of widows’ in India*, AL JAZEERA (Nov. 11, 2017), <https://www.aljazeera.com/indepth/features/2017/11/curse-silicosis-haunts-village-widows-india-171110095509607.html#:~:text=India-Curse%20of%20silicosis%20haunts%20village%20of%20widows%20in%20India,by%20dust%2C%20raising%20safety%20concerns.&text=Radha%20and%20Hira%20are%20from,middle%20of%20huge%20sandstone%20mines>.

174 *Id.* See also Dr. M. K. Devarajan, Former Member, Rajasthan State Human Rights Commission, *Sensitizing Government Agencies of Rajasthan about Silicosis: A Case Study* (2017).

175 Kuntala Lahiri-Dutt, *Marble Quarry Workers of Makrana*, MINE LABOUR PROTECTION CAMPAIGN and AUSTRALIAN NATIONAL UNIVERSITY (Aug. 2014), 17, <http://asmasiapacific.com/wp-content/uploads/2015/01/MLPC-Study-Report.pdf>.

176 *Id.*

177 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 22.

178 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 31. “The daily wages for women and children are also lower, reflecting entrenched patterns of gender inequality and exploitation. an adult male worker only receives RS 70–120 (USD1.46–2.50) per day, depending upon his skill, after 8-10 hours of gruelling work. comparatively, the daily wage for a woman is Rs 45–55 (USD 0.94–1.14), and a child receives Rs 30–40 (USD 0.62–0.83) a day.” See also, International Labour Organization, *India Wage Report: Wage policies for decent work and inclusive growth*, INTERNATIONAL LABOUR ORGANIZATION (2018), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_638305.pdf.

179 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 30.

180 See generally, Lahiri-Dutt *supra* note 175; and Ethical Certification for Trading, LLP, *supra* note 55.

181 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, citing to INTERNATIONAL DALIT SOLIDARITY NETWORK, *The Situation of Southeast Asia’s Dalits in the Mining Sector* (2011).

182 Ethical Certification for Trading, LLP, *supra* note 55.

183 *Id.*

184 *Id.*

185 *Id.*

186 *Id.*

Indian law under the Maternity Benefit Act provides that every woman is entitled to the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day.¹⁸⁷ To be eligible, one must work at an establishment for at least 160 days in the twelve months prior to delivery.¹⁸⁸ Despite many spending decades in one particular mine, they cannot avail these benefits because of the unregistered and informal nature of the industry.¹⁸⁹

4. Housing Patterns

Poverty and landlessness prevents sandstone workers from being able to afford proper housing, toilets, and livestock. Most workers spend their entire lives in *kachha* houses,¹⁹⁰ which are semi-permanent structures constructed using stone slabs without any binding material, like cement or lime.¹⁹¹ The land for these houses is usually granted by the mine owners in the surrounding area of the mines to ensure easy availability.¹⁹² Workers are forced to vacate if they quit that particular mine.¹⁹³ Most people use dirty water from the quarries for bathing and washing clothes, often walking a minimum of 5-7 kilometers to fetch potable water.¹⁹⁴

187 The Maternity Benefit Act, No. 53 of 1961, India Code, <http://indiacode.nic.in>.

188 *Id.*

189 Ethical Certification for Trading, LLP, *supra* note 55.

190 Dutt, *supra* note 86, at 6.

191 ARAVALI, *supra* note 8, at 17.

192 Madhavan, *supra* note 92, at 22.

193 Centre for Responsible Business (CRB) (2015) Stoned Lives and Forgotten Children: The Case of Sandstone Industry in Kota & Bundi, at 28-30.

194 Arisa, *supra* note 5, at 15.

V. LEGAL AND POLICY STEPS TAKEN BY THE GOVERNMENT

A. Government Response to Bonded Labor

Article 23 of the Constitution of India prohibits bonded labor and other similar forms of forced labor and provides that any contravention shall be an offence punishable in accordance with law.¹⁹⁵ The abolition of bonded labor is within the concurrent jurisdiction of the central and state governments.¹⁹⁶ To give effect to the Constitution, the central government legislated the Bonded Labor System (Abolition) Act 1976 ('BLSA'), which formally abolished all forms of bonded labor and prohibited the act of compulsion into bonded labor, with prescribed criminal penalties including against companies, and measures to extinguish liability to repay bonded debt and to rehabilitate freed bonded laborers.¹⁹⁷ The BLSA obligates states to set up District and Sub-Divisional Magistrates and Vigilance Committees to ensure the implementation of the Act.¹⁹⁸

Pursuant to the BLSA, the Rajasthan government established the District Level Vigilance Committees and a Fund for rehabilitation of bonded laborers.¹⁹⁹ District Level Vigilance Committees set up under the Labor Department exist in each district of Rajasthan and are responsible for the identification, survey, rescue, rehabilitation, and monitoring of

bonded labor cases in the state.²⁰⁰ However, civil society organizations like Praxis Institute for Participatory Practices indicate that in Rajasthan, these mechanisms are practically dysfunctional and no bonded laborer was officially rehabilitated between 2004 and 2016.²⁰¹ In response to a question at the State Assembly meeting in 2013, the Labor Department replied that a special survey conducted in nine districts of Rajasthan concluded that no bonded labor was found between 2003 to 2013.²⁰² However, in 2018, the central Government reported that the State of Rajasthan submitted a proposal for enhanced assistance from the Central Government for surveys on bonded labor.²⁰³

To rehabilitate identified and released bonded laborers, the Central Government revamped the Centrally Sponsored Plan Scheme for Rehabilitation of Bonded Laborers (renamed the "Central Sector Scheme for Rehabilitation of Bonded Laborers"), effective since May 17, 2016.²⁰⁴ The Scheme provides financial assistance, including liquidation of debts, to rescued bonded laborers at increased levels, and a Bonded Labor Rehabilitation Fund at district level for each State which grants immediate aid to rescued bonded laborers, with a reported result of 292,355 freed bonded

195 INDIA CONST. art. 23.

196 *Id.* at Seventh Schedule: Concurrent List.

197 The Bonded Labor System (Abolition) Act, No. 19 of 1976, India Code, https://www.indiacode.nic.in/handle/123456789/1491?view_type=browse&sam_handle=123456789/1362.

198 *Id.*

199 PRAXIS & PARTNERS IN CHANGE, FEASIBILITY STUDY: COMBATING CHILD TRAFFICKING AND BONDED LABOR IN RAJASTHAN (2017) at 14.

200 *Id.*

201 *Id.* (citing to starred question no. 70.3244 by Shri Abishek Malviya in Legislative Assembly on March 3, 2016).

202 PRAXIS & PARTNERS IN CHANGE, *supra* note 199, at 14.

203 International Labour Organization, *Committee Notes and Observations*, (108th session 2018), (No. 29).

204 INDIAN MINISTRY OF LABOR AND EMPLOYMENT, Office Memorandum of May 18, 2016, https://labour.gov.in/sites/default/files/OM_CSS_Rehab_BL_2016_1.pdf (explaining process for revamping Central Sector Scheme for Rehabilitation of Bonded Laborer).

laborers rehabilitated.²⁰⁵ The salient features of the Scheme are as follows:²⁰⁶

- (i) Financial assistance to be provided for rehabilitation of a rescued bonded laborer at the following rates:
 - Adult male beneficiary: INR 100,000 (US\$ 1,400);
 - Women and special category beneficiaries, such as children including orphans or those rescued from other forms of forced child labor: INR 200,000 (US\$ 2,800);
 - Bonded or forced labor involving extreme cases of deprivation or marginalization such as transgender, women, or children rescued from ostensible sexual exploitation such as brothels, massage parlors, placement agencies, trafficking, in cases of differently-abled persons, or in situations where the District Magistrate deems fit: INR 300,000 (US\$ 4200)
- (ii) For the purpose of survey and study, the Scheme provides for financial assistance:
 - For each district conducting a survey of bonded laborers: Rs. 4.50 lakh (US\$ 6,300);
 - For evaluation studies: Rs. 1.00 Lakh (US\$ 1,400);
 - For awareness campaigns: Rs. 10 Lakhs (US\$ 14,000) per State per annum
- (iii) Although the Scheme links release of rehabilitation assistance to conviction of the accused, in cases where the District Magistrate has reached a *prima facie* finding and proof of bondage, cash assistance shall proceed with “final

disbursement of case assistance” upon juridical proof of bondage.²⁰⁷ In any case of need, immediate assistance up to Rs. 20,000/may be provided to the rescued bonded laborer by the District Administration irrespective of the status of conviction proceedings.

- (iv) The benefits prescribed above are in addition to other cash or non-cash benefits to which a beneficiary under this scheme is entitled, by or under any other scheme or law applicable for the time being in force, allowing for example, for occupational injury and other benefits where necessary.

The Bonded Labor System (Abolition) Act 1976 has the potential to tackle the issue of bonded labor in Rajasthan if effectuated properly. In Rajasthan, the Sagri System Abolition Act 1961 was instrumental in recognizing debt bondage and made provisions for rehabilitating bonded laborers, but failed to have any effect on quarries or the agrarian sector which employs thousands of workers.²⁰⁸ The provision linking the rehabilitation assistance with the conviction of the accused has posed a significant hurdle in disbursement of funds, especially since there has been no official conviction in Rajasthan between 2004 to 2016.²⁰⁹ Responding to a question raised in the Legislative Assembly in 2013, the Rajasthan labor department mentioned that a special survey conducted in nine districts of the state revealed that there is no bonded laborer found in the last 10 years.²¹⁰ The Rajasthan Government is has taken no affirmative steps to counter this problem.

B. Government Response to Child Labor

Article 24 of the Constitution of India prohibits employment of children below the age of 14 in any

205 INTERNATIONAL LABOR ORGANIZATION, *supra* note 203 (The government reported a total of 292,355 freed bonded laborers rehabilitated under the scheme).

206 Press Release, Press Info. Bureau, Gov't of India, Ministry of Labor and Employment, Rehabilitation of Bonded Labor (Dec. 17, 2018), <https://pib.gov.in/newsite/PrintRelease.aspx?relid=186482>.

207 INDIAN MINISTRY OF LABOR AND EMPLOYMENT, *supra* note 204, at para 6.3.(The burden of proof that a debt is not a bonded debt lies with the creditor, not the debtor). See also Bonded Labor System (Abolition) Act, art. 15 (1976).

208 Utsa Patnaik & Manjari Dingwaney, *Chains of Servitude: Bondage and Slavery in India*, 25 THE INDIAN ECON. & SOC. HIST. REV. 258, 331 (1990).

209 PRAXIS & PARTNERS IN CHANGE, *supra* note 199, at 14. (Citing to starred question no. 70.3244 by Shri Abishek Malviya in Legislative Assembly on March 3, 2016.)

210 *Id.* (Citing to starred question, No. 816, asked by Sri Vasudev Devnani, http://rlaquest.raj.nic.in/QuestionsWeb/Que_Rep.aspx (2013)).

factory, mine, or hazardous industry.²¹¹ Further, the Child Labor (Prohibition and Regulation) Amendment Act 2016 (CLPRAA) amending the Child Labor (Prohibition and Regulation) Act 1986 (CLPRA) bans employment of any children below the age of 14, as well as employment of any children between 14-18 years in hazardous occupations and processes.²¹² The CLPRAA provides that all mines, not only those specified in 1986, constitute hazardous occupations.²¹³ Stone breaking and stone crushing are included in hazardous processes, thus children up to the age of 18 are prohibited from employment in sandstone mine and quarry work in India.²¹⁴

Among its relevant international obligations, India has ratified the International Labor Organization (ILO) Worst Forms of Child Labor Convention, 1999 (No. 182) under which it has committed to taking “immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency” which include “debt bondage . . . and forced or compulsory labor” of all persons under the age of 18.²¹⁵ India has also ratified the ILO Minimum Age Convention, 1973 (No. 138) which prescribes minimum age for admission to work, for which India specified an exceptional minimum age of 14 despite its higher compulsory age of completion of schooling.²¹⁶ The 2016 amendment to prohibit all children from work in mining and quarrying brings the domestic law into conformity with ILO’s C.138 Minimum Age Convention. India is also responsible for

Sustainable Development Goal Target 8.7 towards complete elimination of child labor by 2025.²¹⁷

Any child who is rescued from a child labor or child bonded labor situation is covered under the Juvenile Justice Act and is a beneficiary under the Integrated Child Protection Scheme.²¹⁸ The law mandates the creation of Child Welfare Committees (CWC) in each district for discharging the duties under the Juvenile Justice Act.²¹⁹ CWCs are active only in few districts due to lack of sufficient members to head the CWC.²²⁰ Moreover, CWC members need continuing training and education for better dispensation of their services. Separately there are Child Protection Units constituted at the state, district, and village level for effective implementation of laws and schemes. But these Child Protection Units only exist on paper and are dysfunctional.²²¹

In the State of Rajasthan, existing legislation and policies have remained largely ineffective in addressing the issue of bonded labor and child bonded labor. The State has failed to acknowledge the existence of bonded labor in districts where mining is rampant.²²² In 2017, the Government of India reported that implementation of the CLPRAA led to 266,891 inspections being carried out, 1,711 violations identified, 1,227 prosecutions, and 683 convictions made. In 2018, there were 125,429 inspections carried out, 139 violations registered, 73 prosecutions, and 174 convictions.²²³ While there were some inspections carried out, they

211 INDIA CONST., art. 23.

212 The Child Labour (Prohibition and Regulation) Amendment Act, 2016, No. 35, Acts of Parliament, 1986 (India).

213 *Id.* at paragraph 22.

214 *Id.* at 47.

215 ILO, Worst Forms of Child Labor Convention, 1999 (No. 182), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 at arts. 1, 2, and 3(a).

216 ILO, Minimum Age Convention, 1973 (No. 138), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138 (Article 2 and 4, under which countries with insufficiently developed economy and educational facilities, after consultation with worker and employer organizations concerned, may initially specify 14 years, despite the rule of fixing the minimum age of work at the age of completion of compulsory schooling and, in any case, not less than 15 years. Article 5(3) states that in addition, mining and quarrying cannot be among the initially exempted branches of economic activity).

217 International Labour Organization, *ILO Contributions to achieve Target 8.7*, ILO, <https://www.ilo.org/global/topics/sdg-2030/goal-8/target-8-7/lang-en/index.htm>.

218 Ministry of Women & Child Development, Government of India, Revised Integrated Child Protection Scheme (ICPS), 2014, <http://cara.nic.in/PDF/revised%20ICPS%20scheme.pdf>.

219 *Id.*

220 PRAXIS & PARTNERS IN CHANGE, *supra* note 199, at 18.

221 PRAXIS & PARTNERS IN CHANGE, *supra* note 199, at 16.

222 Gunasekaran, *supra* note 4.

223 International Labour Organization, *Committee Notes and Observations*, (109th session 2019), https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:3958308,en.

did not cover the unregulated and unlicensed mines that continue to operate. The Government detailed information on legislative, awareness-raising, monitoring, rescue, and rehabilitation measures taken by State governments (but not Rajasthan) to eliminate forced child labor, in particular in the cotton industry.²²⁴

C. Government Response to Silicosis

The recent movement by state authorities and others to provide relief to silicosis-affected persons, largely sandstone workers, started with a case filed by People's Rights and Social Research Centre (WP 110/2006) in the Supreme Court. The National Human Rights Commission [NHRC] intervened in the matter as an impleader.²²⁵ The Court in its interim order dated 5 March, 2009 directed that:

“NHRC may take up the specific and confirmed cases of persons who are suffering from silicosis and shall recommend to provide immediate medical relief to them through the concerned authorities and in case of those persons who died because of silicosis, may provide for compensation through the concerned authorities.”²²⁶

This order encouraged the government of Rajasthan to set up a process for payment of an *ex-gratia* amount to families of deceased person affected by silicosis.²²⁷

In 2011, the organization Daang Vikas Sansthan, conducted X-ray examinations of 101 mine workers from the Karauli district mines and sent it to the National Institute of Miners' Health (NIMH), Nagpur.²²⁸ On examination, NIMH found 73 cases of silicosis.²²⁹ On the basis of a report made by NIMH, Daang Vikas Sansthan made a complaint to the NHRC.²³⁰ In 2012, Dr. Devarajan, Former Member, Rajasthan State Human Rights Commission took up this issue.²³¹ He organized several consultations in Rajasthan, bringing together the relevant State and Central Government departments, civil society organizations, and mineworkers unions which ended in a Special Report.²³²

The increased level of awareness about silicosis created by the Special Report resulted in the Rajasthan High Court, Jaipur registering *D.B. Civil Writ Petition (PIL) No.9267/2015* on silicosis on July 10th, 2015 taking *suo moto* cognizance.²³³ The Court has been monitoring the action taken by the Central and State Government authorities on the 59 recommendations contained in the Special Report.²³⁴ Results of the intervention by Human Rights Commission and Rajasthan Court are as follows:²³⁵

224 *Id.*

225 National Human Rights Commission, *NHRC Interventions on Silicosis*, National Human Rights Commission (Dec. 10, 2016), https://nhrc.nic.in/sites/default/files/NHRC_Interventions_on_Silicosis_27122016.pdf.

226 *Id.* at page 8.

227 *Id.*

228 Interview with Mr. Vikas Bharadwaj, Chairperson of Daang Vikas Sansthan, in Karauli, Rajasthan (Oct. 10, 2019) (unofficial translation). Daang Vikas Sansthan is a grassroots-level organisation working in Karauli, Dholpur, Bharatpur and Dausa districts of Eastern Rajasthan since 2008. Daang Vikas Sansthan works to improve the living and working conditions of stone workers.

229 *Id.*

230 DR. P.K. SISODIYA, DR. S.S. NANDI & DR. S.V. DHATRAK, DETECTION OF SILICOSIS AMONG STONE MINE WORKERS FROM KARALI DISTRICT, NAT'L INST. OF MINERS' HEALTH (2014), <http://www.indianet.nl/pdf/DetectionOfSilicosisAmongStoneMineWorkersFromKaraliDistrict-Report-II.pdf>.

231 *Over 8,000 silicosis patients in Rajasthan: Former SHRC member*, Times of India (Mar. 8, 2017, 9:06 AM), <https://timesofindia.indiatimes.com/city/jaipur/over-8k-silicosis-patients-in-raj-former-shrc-member/articleshow/57525669.cms>.

232 RAJASTHAN ST. HUM. RTS. COMM'N, SPECIAL REPORT ON SILICOSIS (2014), https://rshrc.rajasthan.gov.in/includes/Special_Report_Silicosis.pdf.

233 *Suo Motu v. State of Rajasthan*, (2015) *Rajasthan High Court* (India), <https://www.casemine.com/judgement/in/5ac5e38b4a93261a1a7675ca>.

234 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 40.

235 RAJASTHAN ST. HUM. RTS. COMM'N, SPECIAL REPORT ON SILICOSIS (2014), https://rshrc.rajasthan.gov.in/includes/Special_Report_Silicosis.pdf.

Ex gratia payments and other equitable remedies:

- Silicosis- and asbestosis-affected mineworkers and their dependents who are not able to approach Labor Courts for compensation under the Workmen's Compensation Act 1923 due to innumerable legal hurdles can now receive an *ex gratia* payment of Rs. 1 lakh for the affected and an additional Rs. 3 lakhs for the deceased from REHAB through the District Collector without the intervention of NHRC/RSHRC. The District Collector disburses it on the basis of certificates issued by the Pneumoconiosis Board. In addition, the dependents of those who died of silicosis or asbestosis and to whom *ex gratia* payment has been made are included in the *Bhamashah Swasthya Yojana*, a state government digital platform for delivery of all government services to the beneficiaries. This makes them eligible for free treatment in certain listed hospitals in addition to free treatment already available in government hospitals.
- The Rajasthan Building and Other Construction Workers Welfare Board (BOCW) has also launched "Silicosis Peedit Hidadhikariyo Hetu Sahayata Yojna - 2015" under which similar benefits will be extended to construction and other workers registered with it and who suffer from silicosis or have died of it. It has started a special drive for registration of workers of target industries. It is organizing regular health screening camps for silicosis for beneficiaries.

Legal reform:

- Rajasthan Workmen's Compensation (Occupational Diseases) Rules 1965, part of the Workmen Compensation Act 1923, were amended to enable the government to set up more than one Pneumoconiosis Board. After amendment, a Pneumoconiosis Board has been set up in each of the 33 districts.
- On January 22, 2015, silicosis was declared a notified disease under the Rajasthan Epidemics Act 1957—the only State to do so.

Administrative action:

- After the intervention of RSHRC, over 5,300 silicosis and 44 asbestosis victims, including 331 decedents, have been certified by Pneumoconiosis Boards from 2013-2016 (June).
- After the intervention of RSHRC in 2013 until 31 December 2016, *ex gratia* payments of Rs. 93.82 crores have been sanctioned by the REHAB for silicosis-affected individuals and Rs. 8.5 crores has been sanctioned by the BOCW (total Rs. 102.32 crores).
- In addition to this, REHAB had sanctioned Rs. 100.16 crores between 2011-12 and 2014-15 for setting up medical infrastructure to detect silicosis. However, the Medical & Health Department has been able to utilize only 23.47 crores out of this.
- On September 15, 2015, the state's Health Department launched ten Mobile Medical Units exclusively for the medical examination of mineworkers. Regular camps are being organized in the mining areas for medical examination to detect silicosis as per a time bound schedule. Launching of more such MMUs is under consideration.
- At least one hospital in each district is now fully equipped to detect silicosis.
- The Health Department is in the process of procuring ILO International Classification of Chest Radiographs of Pneumoconioses Standard Sets for detection of silicosis cases. Training of the members of Pneumoconiosis Boards and doctors in district hospitals and others working in the silicosis affected areas will be done as per the ILO guidelines through National Institute for Occupational Health (NIOH), Ahmadabad or National Institute of Miners' Health (NIMH), Nagpur. Meanwhile, several sensitization programs have been organized for the doctors.

Monitoring and planning action:

- A State Level Monitoring Committee has been constituted under the Chief Secretary to review and assess the action taken on matters relating to silicosis and asbestosis from time to time.
- NIMH has started “Multi Centric Study of Dust-Related Diseases in Stone Mines and Development of Sustainable Preventive Programme”, a joint project of Ministry of Mines and Ministry of Labor and Employment, Government of India through National Institute of Miners’ Health and Directorate General of Mines Safety. The Rs. 4.684 crores study will inter alia include Jodhpur, Bundi, Dausa, Nagaur, Karauli, Dholpur and Bharatpur districts of Rajasthan, considering large scale mining of sandstone, silica, road-metal, and dimensioned stone being carried out therein.
- In addition to this, REHAB has approved the suggestion of RSHRC to conduct a detailed state-wide study regarding different problems of mineworkers, especially their health-related issues and rehabilitation.
- Rajasthan’s government will prepare an action plan for forming Self-Help Groups of women for the welfare of mineworkers and enrolment of one illiterate/semi-literate member from each family of mineworkers for skill development training with the purpose of self-employment. In the meanwhile, a few NGOs have already started forming Self Help Groups and training members of mineworkers’ families for alternate livelihood programs.

Inter-agency and civil society coordination:

- Mining Department has been asked to make plans to improve the mining techniques to reduce the adverse effects of mining on environment and health. It will procure an online management system for the control of environmental pollution in mining areas, to promote zero-waste and eco-friendly mining, mapping of mining areas, ensuring proper wages to mineworkers and protecting their rights.
- Medical & Health Department has been directed to organize IEC activities through experts/ expert agencies in the ‘hot spot areas’ for silicosis. IEC materials, including short videos, films...etc, will be developed for this purpose.
- Directorate of Mines and Geology has issued an order directing suspension/cancellation of leases of mine owners who do not (i) do wet drilling, (ii) register the mineworkers and (iii) submit Form 1 to DGMS for registration of their mines. More than 200 quarry licenses have been cancelled so far. The State Government has issued orders to involve field level functionaries of Revenue, Medical and Panchayati Raj Departments to check if mine owners are doing wet drilling.
- The Government of Rajasthan has notified ‘The District Mineral Foundation Trust Rules, 2016’ with the objective “to work for the interest and benefit of persons and areas affected by mining operations” in the districts. It is anticipated that the corpus set up under these rules will receive substantial funds from both major and minor minerals. Hence, it can be reasonably expected that there will be decentralization of decision making and no fund constraints for relief and rehabilitation of silicosis victims and for improving the environment.
- The improved awareness about silicosis has resulted in more NGOs in the state working for the welfare of the silicosis victims.

VI. CONCLUSIONS AND RECOMMENDATIONS

The United States is the fourth largest importer of sandstone from India (after the U.K., Belgium, and France). The stones it imports are sourced from a supply chain that relies on the informal economy and is affected by serious problems of bonded labor, child bonded labor, child labor, low wages, occupational health and safety hazards, and the presence of unregistered—and thus legally unprotected—workers. Stakeholders who are a part of this sandstone mining supply chain should address labor rights violations. As contracting in the supply chain is non-transparent, it is difficult to identify those involved in buyer-supplier relationships. It is likely that some actors in the supply chain have not been identified in this report.

The unlicensed and unregulated nature of the industry has driven thousands of laborers into poverty by keeping them outside the gambit of law. Lack of proper documentation and formal contracts of employment prevents them from being recognized as valuable contributors to the economy of the country. As a first step, the mines and mineworkers need to be registered so that they are covered under the Mines Act 1952 and Director General of Mines Safety, the apex body responsible for the well-being of the mine workers in the country.

It is imperative that the mineworkers are registered with the DGMS. Studies indicate that a meager 3,706 out of 30,000 mining leases and quarry licenses are registered with the DGMS,²³⁶ leaving almost 70% of the workers unprotected by the central government. Registration and

recognition will allow them to demand their rights from mine employers and partake in government entitlements. There are various central and state government schemes aimed at social security, housing, employment, and health, that workers are deprived of for lack of proof of employment.

The current sandstone industry includes violations of human and worker rights through the continuation of bonded labor, child bonded labor, and child labor. The industry is affected by the system of ‘debt bondage’, a form of modern-day slavery. The government and businesses have yet to recognize that the system of *peshgi* (extending advance money) amounts to a form of bonded labor.²³⁷ More than 84% workers in the industry are given advance money when they join work, which carry interest rates at 20% per annum.²³⁸ In Rajasthan, close to 95% workers in the industry owe a debt to the mine-owners and sometimes that debt is passed on to their children trapping them in an inter-generational debt bondage.²³⁹

Occupational health and safety are serious concerns, with mine workers suffering diseases including the incurable and fatal silicosis. Sandstone quarrying is a hazardous activity and the Child Labor (Prohibition and Regulation) Amendment Act 2016 prohibits the working of children under the age of 18 years in the industry.²⁴⁰ However, a report by UNICEF revealed that 38% out of sample size of 438 children work in stone quarries.²⁴¹ Children living in the mining regions are often compelled to work

236 MINE LAB. PROTECTION CAMPAIGN, MARBLE QUARRY WORKERS OF MAKRANA (2014), <http://asmasiapacific.com/wp-content/uploads/2015/01/MLPC-Study-Report.pdf>.

237 Marshall, Taylor & Balaton-Chrimes, *supra* note 4, at 51.

238 Ethical Certification for Trading, LLP, *supra* note 55.

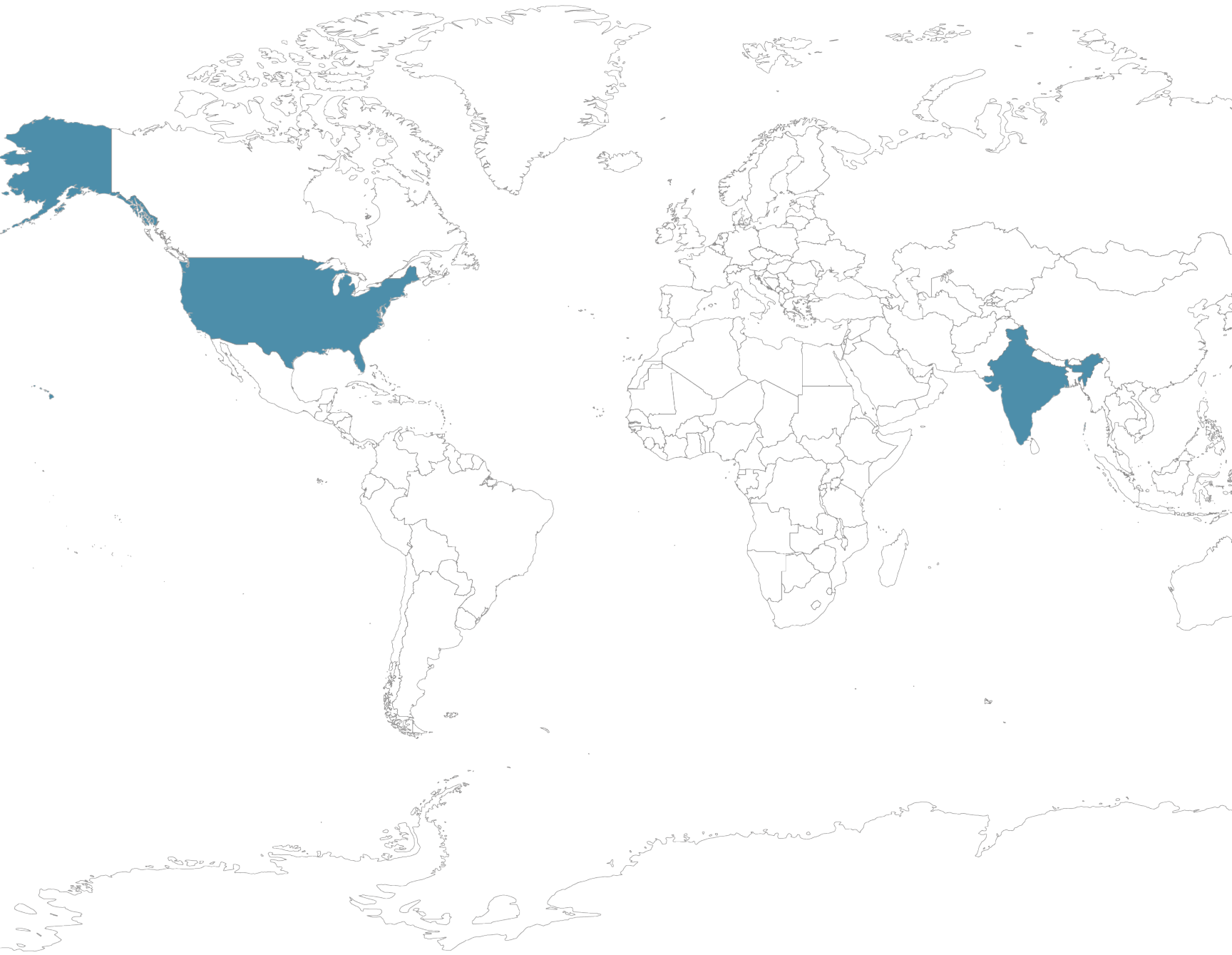
239 Dutt, *supra* note 86.

240 The Child Labour (Prohibition and Regulation) Amendment Act, 2016, No. 35, Acts of Parliament, 1986 (India).

241 Oliver Balch, *supra* note 113.

due to poverty and debt bondage²⁴² Vulnerable groups, like women and Dalits, are more prone to exploitation and harassment in the industry.

Against this backdrop, it is imperative that all the stakeholders including the Government of India and the U.S. Government, as well as those business enterprises involved in exporting, importing, mining, and processing, should jointly work to eradicate the numerous human rights violations in the industry.



242 HUMAN RIGHTS WATCH, THE SMALL HANDS OF SLAVERY: BONDED CHILD LABOR IN INDIA (1996), <https://www.hrw.org/legacy/reports/1996/India3.htm>.

RECOMMENDATIONS FOR THE GOVERNMENT OF INDIA

- Empower and fund labor inspectorates to make regular inspections without prior notice and to initiate legal proceedings without prior warning where required, without interference, and to strictly implement the registration of workers with the mining companies and quarry operators.²⁴³
- Conduct and publish a study to identify the presence of bonded labor and child bonded labor in the industry including by use of, as well as compiling and publishing, the existing state-level surveys of bonded labor.²⁴⁴
- Conduct a study to evaluate the current status of child labor and sexual harassment in the industry.
- Monitor and ensure effective implementation of relevant laws to reduce and criminally penalize bonded labor, child bonded labor, child labor, sexual harassment, caste discrimination in employment, and other labor rights violations in the industry.²⁴⁵
- Review the operations of the District Mineral Foundation and deploy the unutilized funds towards the welfare of workers and villagers living in the mining regions, like improving housing, healthcare, and education of quarry workers and their children.
- Establish Government-sponsored systems to enable workers to access low-interest credit and prevent themselves from falling into the trap of bonded labor.
- Review and improve, where necessary, the operations of Child Welfare Committees and Child Protection Units, including the use of the Child Labor Rehabilitation Fund, including through tripartite consultation.
- Establish a permanent employment injury fund for the payment of benefits to sandstone workers and their dependents for the treatment of Silicosis and occupational injuries, and lost income, in place of the *ex gratia* amount currently paid.
- Consider legal reforms necessary to address the plight of sandstone industry workers, including:
 - Increase the penalties for child labor violations (Child and Adolescent Labor (Prohibition and Regulation) Act, 2016);
 - Raise the minimum age for work to be greater than or equal to the compulsory education age (Right of Children to Free and Compulsory Education Act, 2009);
 - Ensure the surprise nature of labor inspections and guarantee the ability to initiate legal proceedings against mine owners (Code on Wages, Occupational Safety and Health and Working Conditions Bill);
 - Extend protection against sexual harassment to workplaces in the unorganized sector that have more than ten workers (Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013).

243 International Labour Organization, *Committee Notes and Observations*, (109th session 2020), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:4022258:NO.

244 International Labour Organization, *Committee Notes and Observations*, (108th session 2019), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3958308:NO.

245 *Id.*; International Labour Organization, *Committee Notes and Observations*, (109th session 2020), https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:P13100_COMMENT_ID,P13100_LANG_CODE:4017324,en:NO.

RECOMMENDATIONS FOR THE U.S. GOVERNMENT

- Require U.S. companies that procure stones from India to report on bonded labor and child labor in their supply chain and conduct other due diligence measures in line with U.S. law²⁴⁶ along with UN and OECD guidelines and ILO principles.
- Raise the issue of bonded labor, child bonded labor, and child labor with the government of India and collaborate on strategies to eliminate these practices in the supply chain in order to avoid prohibition of their importation under U.S. law.²⁴⁷
- The Department of Labor should maintain close monitoring of the presence of forced labor in the mining, processing, and importation of sandstones from Rajasthan. An understanding of these practices in the sandstone industry in India will be vital while reviewing the list of products produced by forced or indentured child labor published by the Bureau of International Labor Affairs, Department of Labor.
- Investigate and identify the specific manufacturers/exporters of merchandise produced or manufactured in whole or in part with forced or bonded labor, including (but not limited to) forced or indentured child labor.
- Support similar action by other importing countries while adopting corrective and preventive measures as called for by the International Labor Organization, the United Nations and other multinational institutions.

²⁴⁶ United States Customs and Border Protection, *Forced Labor – Importer Due Diligence*, US. Customs and Border Protection (Jan, 3, 2017), <https://www.cbp.gov/document/fact-sheets/forced-labor-importer-due-diligence>.

²⁴⁷ 19 U.S.C. § 1307 (1930).

RECOMMENDATIONS FOR U.S AND INDIAN COMPANIES

- Companies that source stones in or from India should exercise due diligence to ensure that all business partners follow internationally-recognized guidelines to respect human and worker rights.²⁴⁸ Such due diligence would include:
 - Conduct supply chain analysis to obtain information on sourcing quarries, processing units and other intermediaries.
 - Implement a comprehensive due diligence process to understand the adverse impact of mining activities and in particular investigate the presence of bonded labor, child bonded labor, and child labor and take steps to correct and prevent it.
 - Create an industry-wide Code of Conduct based on internationally-recognized standards and codes of practice, to be implemented throughout the sandstone supply chain to ensure that enterprises procure material only from those businesses in India which follow their rules on ethical sourcing. As recommended, mining companies should compensate the workers with a living wage if the minimum wage prescribed by the government does not reach up to the level of a living wage,²⁴⁹ respect freedom of association, and comply with national laws on working hours, and social benefits.
 - Conduct periodical training, capacity-building, and monitoring to ensure that working conditions and environmental factors meet the standards articulated in Code of Conduct.
 - Establish an operational grievance mechanism so that workers can raise their grievances, without reprisal, against violations and voice their concerns about issues.
 - Develop a mechanism where importing companies source their stones only from government-licensed and certified mines that are subject to labor inspection.
- U.S. importing companies should use their leverage to promote due diligence in the supply chain in India by working with trade unions, worker cooperatives, and NGOs in order to bring about positive developments.

248 United Nations, *Guiding Principles on Business and Human Rights*, U.N. Docs. (2011), https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf; OECD, *OECD Due Diligence Guidance for Responsible Business Conduct*, (2018), <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

249 ETHICAL TRADING INITIATIVE, *supra* note 5, at 26. (Ethical Trade Initiative describes living wage as “enough to meet basic needs and to provide some discretionary income”.)

RECOMMENDATIONS FOR CIVIL SOCIETY ORGANIZATIONS, UNIONS, AND LAWYERS' ASSOCIATIONS

- Collaborate with companies' human rights due diligence efforts and assist them with tracing the supply chain.
- Draft and monitor compliance with the model Code of Conduct.
- Pursue the exercise of freedom of association, collective bargaining, and the development of workers' cooperatives, to promote decent work in the industry.
- Assist workers to obtain registration and enter into formal contracts of employment.
- Support workers bringing claims to grievance mechanisms, courts and tribunals involving human and worker rights violations, including rape and sexual harassment.
- Assist workers and their families to access government benefits relating to employment injury, death, or sickness.
- Promote understanding, counseling, and action, including in cooperation with labor inspectorates, to eliminate child labor and debt bondage and to rehabilitate victims.



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