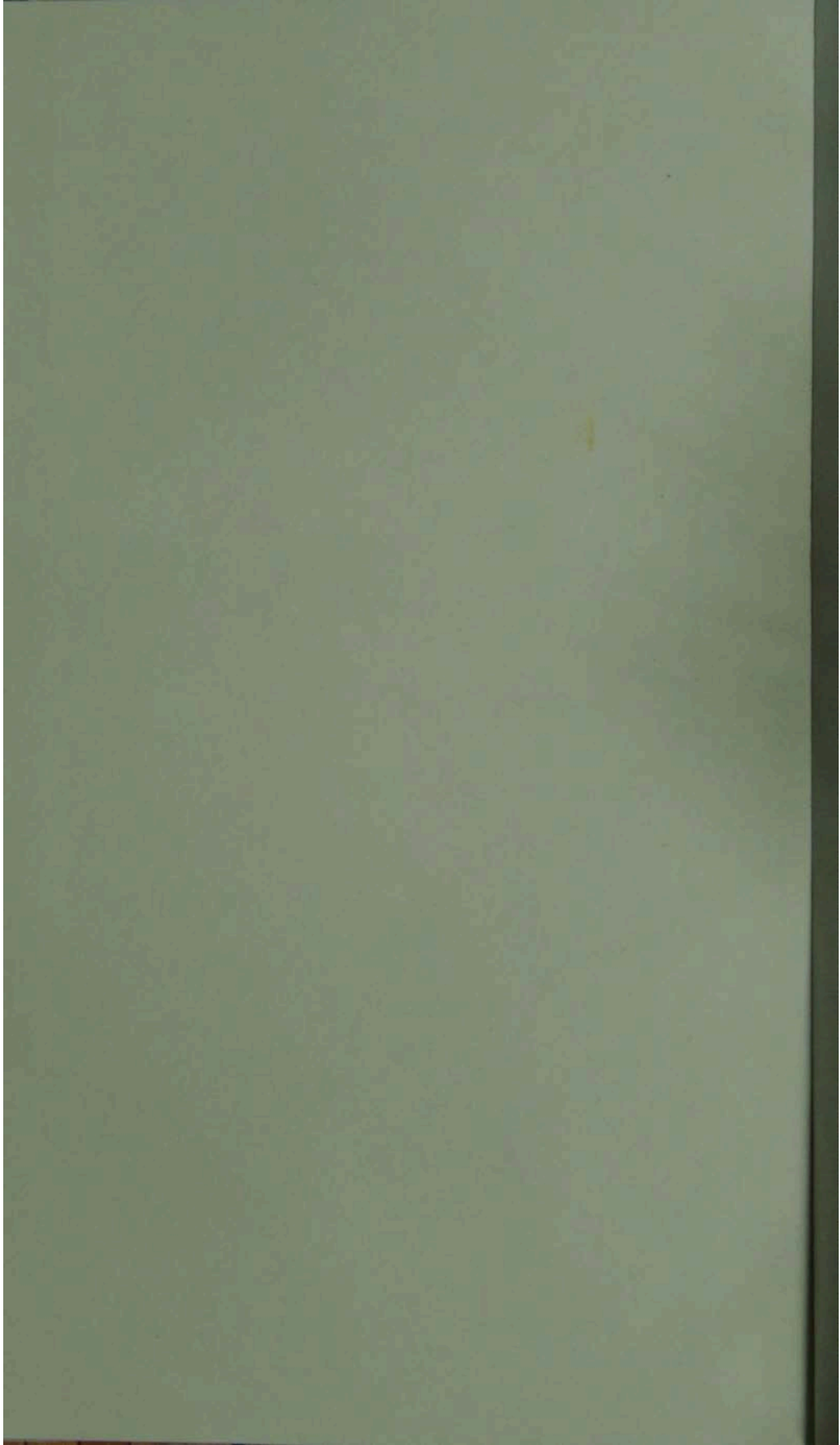


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A young girl in a pink dress is balancing a stack of bricks on her head. She is standing in front of a wall made of bricks. The bricks are arranged in a grid pattern. The girl is looking directly at the camera with a serious expression. The background is a wall of bricks, some of which have the letters 'TSP' or 'SIA' embossed on them. The girl is standing on a small platform made of bricks.

India's Unfree Workforce
Of Bondage Old and New

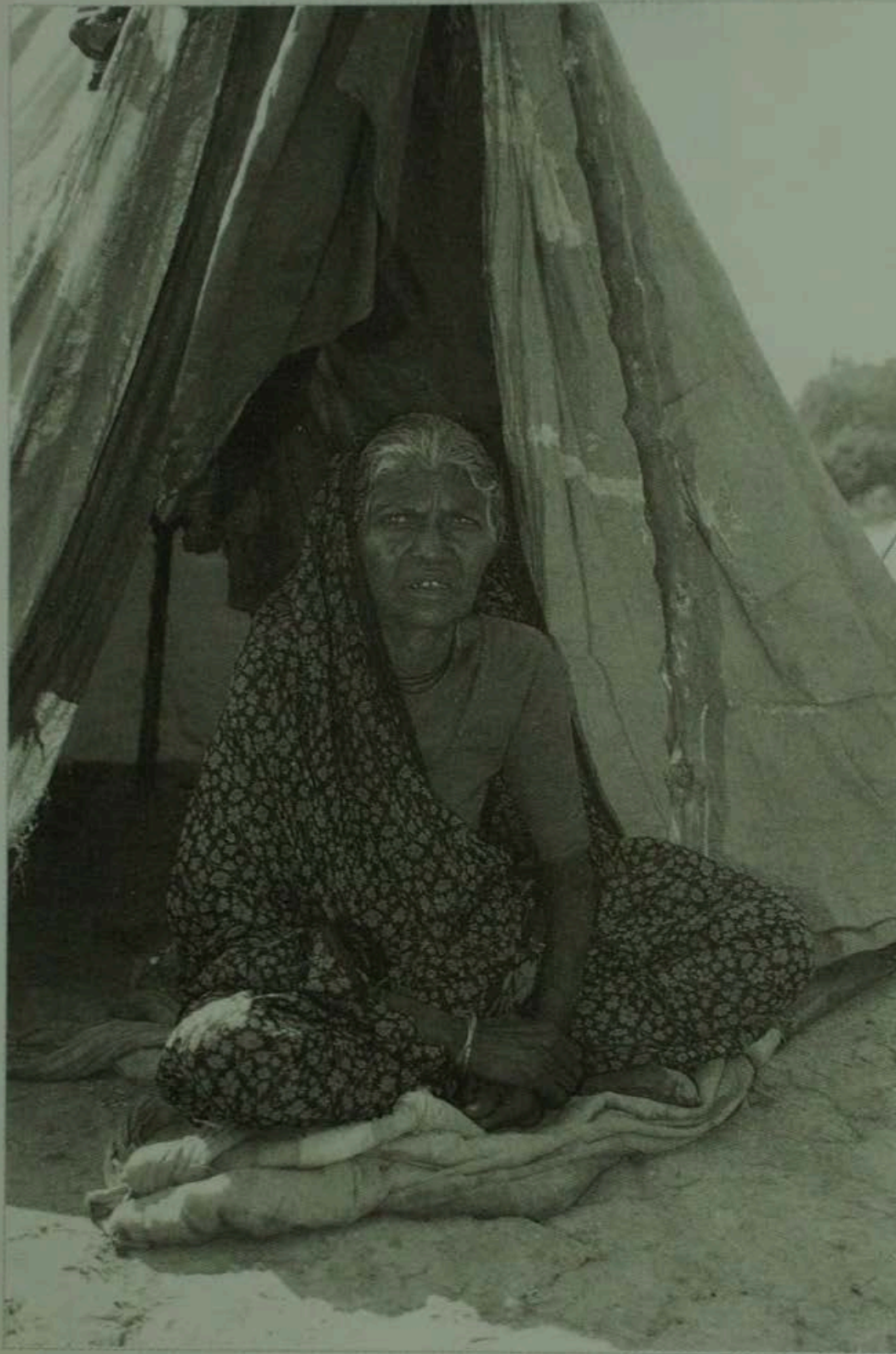
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INDIA'S UNFREE WORKFORCE



Old age brings no redemption from bondage.
*The woman in the picture is contracted in debt as a seasonal
migrant cutting sugar cane*

Source: Lankesh Chakravarty

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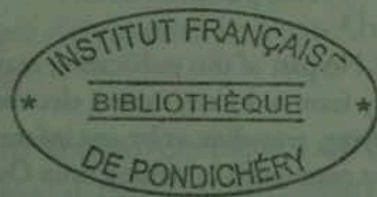
INDIA'S UNFREE WORKFORCE

Of Bondage Old and New

(A)

edited by

JAN BREMAN
ISABELLE GUÉRIN
ASEEM PRAKASH



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Contents

<i>Acknowledgements</i>	vii
<i>List of Figures</i>	viii
<i>List of Tables</i>	ix
Introduction:	1
On Bondage: Old and New JAN BREMAN and ISABELLE GUÉRIN	
PART 1: AGRARIAN BONDAGE IN HISTORICAL PERSPECTIVE	
1. After Slavery: Unfree Rural Labour in Post-1843 Eastern India JACQUES POUCHEPADASS	21
2. Entrapped between Bondage and Freedom: Paraiyans and the Changing Fortunes of Agrestic Servitude in Colonial and Post-Colonial Tamil Nadu RAJ SEKHAR BASU	44
3. Modern Bondage: Atiyaayma in Post-Abolition Malabar K.T. RAMMOHAN	69
4. From Contract to Status? Or How Law Shaped Labour Relations in Colonial India, 1780–1880 PRABHU P. MOHAPATRA	96
PART 2: CONTEMPORARY FORMS OF BONDAGE	
5. Conceptualizing Continuity and Change in Emerging Forms of Labour Bondage in India RAVI S. SRIVASTAVA	129
6. Bondage in India: Representing the Past or the Present? The Case of the Dhanbad Coal Belt during the 1980s DJALLAL HEUZÉ	147

7. Corridors of Migration and Chains of Dependence: Brick Kiln Moulders in Tamil Nadu ISABELLE GUÉRIN, in collaboration with G. Venkatasubramanian	170
8. How (Un)free are the Workers in the Labour Market? A Case Study of Brick Kilns ASEEM PRAKASH	198
9. Neo-bondage, Seasonal Migration, and Job Brokers: Cane Cutters in Tamil Nadu ISABELLE GUÉRIN, AUGENDRA BHUKHUT, KAMALA MARIUS-GNANOU, AND G. VENKATASUBRAMANIAN	233
10. 'Workers, Trust Us!' Labour Middlemen and the Rise of the Lower Castes in Andhra Pradesh DAVID PICHERIT	259
11. Bonded Labour in the Rice Mills: Fate or Opportunity? MARC ROESCH, G. VENKATASUBRAMANIAN, AND ISABELLE GUÉRIN	284
12. Unfree Labour in the Plantation System SHARIT K. BHOWMIK	312
PART 3: THE URGENT NEED FOR LEGAL AND GLOBAL ACTION	
13. Bonded Labour and the Courts KAMALA SANKARAN	335
14. A Global Alliance against Forced Labour? Unfree Labour, Neo-liberal Globalization, and the International Labour Organization JENS LERCHE	352
<i>Notes on Contributors</i>	386
<i>Index</i>	388

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Figures

7.1: Evolution of the balance at the end of the season	175
7.2: How is the advance used?	185
8.1: Gender composition of surveyed brick kilns	203
8.2: Total brick kiln workforce (surveyed) in % as per their original residence	204
8.3: Caste/ethnic location	205
8.4: Brick workers' (% of total) landholdings	206
8.5: Ownership/possession of type of house by brick kiln workers	206
8.6: Magnitude of the indebtedness of brick kiln workers	209
8.7: Magnitude of indebtedness by social group	210
9.1: Maistry's commission in Madurai area, case study 1	241
9.2: Maistry's commission in Madurai area, case study 2	241
9.3: Wage differential between local labour (Villupuram/ Cuddalore) and migrant labour (Madurai)	242
11.1: Description of the production process	287
11.2: Extract from a workers' booklet	296
11.3: An example of the evolution of the balance	297
11.4: From paddy to rice: The commodity chain	301

Tables

On Bondage, Old and New

JENNIFER MAN AND ISABELLE CURBIN

8.1: Landholding by social groups (in absolute numbers) of brick kiln workers	205
8.2: Type of housing by social groups (in absolute numbers) of brick kiln workers	207
8.3: Sources of credit according to social group	210
8.4: Migrant workers with their family—women and children	214
9.1: Extract from a maistry's account book	249
11.1: Comparison of the working hours and wages between the three types of nerkalams/rice mills	290
11.2: Terms of the agreement	294
14.1: ILO minimum estimate of forced labour in the world, by form and region	355
14.2: ILO estimate of regional distribution of trafficked forced labourers, by region of destination	355
14.3: Bonded labour in South Asia	364

217	1.1.1. Comparison of the working hours and wages between the three types of industrial/mill
218	1.1.2. Factors from a worker's working hours
219	1.1.3. Adjusted workers with their families—wages and children
220	1.1.4. Sources of extra working in total family
221	1.1.5. Type of housing in rural areas for the workers
222	1.1.6. In each mill workers
223	1.1.7. Landholding in rural areas in the industrial
224	1.2.1. The rural areas in the industrial
225	1.2.2. The rural areas in the industrial
226	1.2.3. The rural areas in the industrial
227	1.2.4. The rural areas in the industrial
228	1.2.5. The rural areas in the industrial
229	1.2.6. The rural areas in the industrial
230	1.2.7. The rural areas in the industrial
231	1.2.8. The rural areas in the industrial
232	1.2.9. The rural areas in the industrial
233	1.2.10. The rural areas in the industrial
234	1.2.11. The rural areas in the industrial
235	1.2.12. The rural areas in the industrial
236	1.2.13. The rural areas in the industrial
237	1.2.14. The rural areas in the industrial
238	1.2.15. The rural areas in the industrial
239	1.2.16. The rural areas in the industrial
240	1.2.17. The rural areas in the industrial
241	1.2.18. The rural areas in the industrial
242	1.2.19. The rural areas in the industrial
243	1.2.20. The rural areas in the industrial
244	1.2.21. The rural areas in the industrial
245	1.2.22. The rural areas in the industrial
246	1.2.23. The rural areas in the industrial
247	1.2.24. The rural areas in the industrial
248	1.2.25. The rural areas in the industrial
249	1.2.26. The rural areas in the industrial
250	1.2.27. The rural areas in the industrial
251	1.2.28. The rural areas in the industrial
252	1.2.29. The rural areas in the industrial
253	1.2.30. The rural areas in the industrial
254	1.2.31. The rural areas in the industrial
255	1.2.32. The rural areas in the industrial
256	1.2.33. The rural areas in the industrial
257	1.2.34. The rural areas in the industrial
258	1.2.35. The rural areas in the industrial
259	1.2.36. The rural areas in the industrial
260	1.2.37. The rural areas in the industrial
261	1.2.38. The rural areas in the industrial
262	1.2.39. The rural areas in the industrial
263	1.2.40. The rural areas in the industrial
264	1.2.41. The rural areas in the industrial
265	1.2.42. The rural areas in the industrial
266	1.2.43. The rural areas in the industrial
267	1.2.44. The rural areas in the industrial
268	1.2.45. The rural areas in the industrial
269	1.2.46. The rural areas in the industrial
270	1.2.47. The rural areas in the industrial
271	1.2.48. The rural areas in the industrial
272	1.2.49. The rural areas in the industrial
273	1.2.50. The rural areas in the industrial
274	1.2.51. The rural areas in the industrial
275	1.2.52. The rural areas in the industrial
276	1.2.53. The rural areas in the industrial
277	1.2.54. The rural areas in the industrial
278	1.2.55. The rural areas in the industrial
279	1.2.56. The rural areas in the industrial
280	1.2.57. The rural areas in the industrial
281	1.2.58. The rural areas in the industrial
282	1.2.59. The rural areas in the industrial
283	1.2.60. The rural areas in the industrial
284	1.2.61. The rural areas in the industrial
285	1.2.62. The rural areas in the industrial
286	1.2.63. The rural areas in the industrial
287	1.2.64. The rural areas in the industrial
288	1.2.65. The rural areas in the industrial
289	1.2.66. The rural areas in the industrial
290	1.2.67. The rural areas in the industrial
291	1.2.68. The rural areas in the industrial
292	1.2.69. The rural areas in the industrial
293	1.2.70. The rural areas in the industrial
294	1.2.71. The rural areas in the industrial
295	1.2.72. The rural areas in the industrial
296	1.2.73. The rural areas in the industrial
297	1.2.74. The rural areas in the industrial
298	1.2.75. The rural areas in the industrial
299	1.2.76. The rural areas in the industrial
300	1.2.77. The rural areas in the industrial
301	1.2.78. The rural areas in the industrial
302	1.2.79. The rural areas in the industrial
303	1.2.80. The rural areas in the industrial
304	1.2.81. The rural areas in the industrial
305	1.2.82. The rural areas in the industrial
306	1.2.83. The rural areas in the industrial
307	1.2.84. The rural areas in the industrial
308	1.2.85. The rural areas in the industrial
309	1.2.86. The rural areas in the industrial
310	1.2.87. The rural areas in the industrial
311	1.2.88. The rural areas in the industrial
312	1.2.89. The rural areas in the industrial
313	1.2.90. The rural areas in the industrial
314	1.2.91. The rural areas in the industrial
315	1.2.92. The rural areas in the industrial
316	1.2.93. The rural areas in the industrial
317	1.2.94. The rural areas in the industrial
318	1.2.95. The rural areas in the industrial
319	1.2.96. The rural areas in the industrial
320	1.2.97. The rural areas in the industrial
321	1.2.98. The rural areas in the industrial
322	1.2.99. The rural areas in the industrial
323	1.2.100. The rural areas in the industrial

Introduction

On Bondage: Old and New

JAN BREMAN and ISABELLE GUÉRIN

According to the dominant view labour bondage in India belongs to the past. There may still be pockets, mainly rural ones, in which traditional forms of subordinating labour linger on and remnants of former attachments can be found back in agrarian relationships. But all said and done labour has become a factor of production which is free to move around and makes its own choices on what to do and where to go. So, why should bonded labour still concern us?

Labour bondage used to be quite prevalent in different parts of the South Asian subcontinent. Most of the time, it took the form of servitude in an agrarian and village based economy in which the master was the landlord and the servant a landless labourer. A rural underclass essentially living and working in a state of dispossession was the main feature of agrarian bondage. In the absence of free access to arable land, these people had no alternative but to bond themselves in order to survive. The relationship which arose should be contextualized in a time perspective. The appropriation of labour power was a major instrument in the gradual transition from shifting cultivation to sedentary agriculture. A captive labour force was required to open up new land and then to make it more productive by intensive cropping and a lengthening of the agrarian cycle. Expansion of the economic frontier went together with a process of detribalization which took the shape of Hinduization. In different parts of South Asia, tribal communities were incorporated in the caste order, invariably at the bottom of the peasant stratification which emerged. From this subaltern milieu came the farm servants who were bonded to major landowners. The landlords conspicuously demonstrated their superiority by abstaining to the extent possible from working in the fields and being engaged in other forms of physical labour. But the economic-cum-ritual rationale, a taboo on handling the plough in particular, was not the only reason for the subjugation of a landless segment. Such people were more than just labourers; they became clients in the search for prestige and

power of their master. Keeping servants in the non-monetized economy was a strategy for social capital formation of the main landowning class. The labour relation was embedded in an arrangement of mutual interdependence and took place in a whole set of rights and obligations between the patrons and their clients, highly asymmetric and exploitative of course but giving the latter some rights, in terms of daily survival and also sometimes in terms of informalized property rights (Breman 1974; Prakash 1990).

In the ongoing process of transformation the patronage dimension faded away in the relationship between landowners and landless, basically as a consequence of increased market production and a concomitant monetization and commercialization of the agricultural economy. Under colonial domination, state intervention did not play a prominent role in the changing nature of the hierarchical relationship between the opposite ends of the peasant order. Once the colonial government came to know about labour bondage in agriculture, the authorities abstained from interference in such practices. Paradoxically, and as described by Pouchepadass and Mohapatra in this volume, the notions of individual property, equity and contract embodied in British colonial law not only carried on bondage: they gave it a codified legitimacy, while denying the mutual interdependence which used to bound the masters and their dependants. As Prakash (1990) has also argued, bondage was now construed as a relationship based on the indebtedness of an employee to his employer, since in the legal mindset the acceptance of a 'loan' implied that the labourer contractually agreed to make his labour power available to his creditor. The disappearance of patronage basically meant that in the transition from a pre-capitalist to a capitalist mode of production the attached workforce lost the social benefits and protection, which used to give the vast class of agricultural labourers the right to a minimum livelihood security albeit in a framework of domination and exploitation.

While the dimension of patronage in the relationship slowly disappeared, roughly during the second half of the nineteenth and the first half of the twentieth century, the exploitation continued. The wage level remained fixed at an extremely low level—not enough to live on as a decent human being. Payment was increasingly converted from kind into cash, while major changes also occurred in the modality of agrarian employment. Instead of attachment as the dominant labour contract, workers were increasingly hired on a daily basis. Elsewhere we

have described and analysed the casualization and contractualization of agrarian labour in the second half of the twentieth century (Breman 1996, 2003, 2007). After Independence the state failed to substitute for the disappearance of the features of patronage by introducing public schemes providing protection and livelihood security to waged labour working in agriculture. By the middle of the twentieth century, bondage of labour in the primary sector of the economy had faded away in most parts of the country, in a process of slow or more rapid change dependent on the degree of modernization of agriculture and the intensity of social movements. The landowners switched to a lifestyle with other priorities than spending part of their growing cash income on attached labour. In the new economy, engaging labourers on a permanent footing had become too costly, not least because farm servants refused to consider themselves bonded any longer. It has to be emphasized that the changing agrarian relationship was to a large extent due to the social-political pressure building up from below. Social movements in various parts of the country were instrumental in the quest for equality and dignity, releasing the bottom segment of the rural workforce from a state of captivity which under colonial rule had become defined as caused by debt bondage. Both historical case studies in this volume (Basu on Tamil Nadu and Rammohan on Kerala) highlight the role of social movements in the progressive eradication of agrarian forms of bondage.

Low wages and lack of regular employment have remained prominent features of the landpoor and landless segments in the rural economy after Independence. This proletariat constitutes a huge reserve army of labour hired and fired according to the need of the moment, in agriculture but increasingly also in other economic sectors. The extension in scale of the rural labour market gave rise to new patterns of both intra-rural and rural-to-urban wage labour circulation. Men, women and children became footloose, going off but also coming back again while in many cases their temporary exodus to other destinations was accompanied by an influx of migrants from the more remote hinterland contracted for work for which local labour used to be hired. The capitalist mode of production with which we are concerned here is considered to be based on free labour. However, labour mobility over short and long distances gave rise to new forms of labour bondage in a wide variety of seasonal work sites such as: brick kilns, saltpans, stone quarries, construction (irrigation canals, dams, road building) as well as in agri-business (for example, harvesting of sugar cane). But the new forms of labour bondage can also be found in rural

or urban-based industries (rice mills, small-scale carpet workshops, gem processing ateliers, etc.). In all these cases, labour bondage is a feature of employment arrangements of vulnerable segments of the workforce in the informal sector of the economy.

Are the current practices of bondage really new? Although there is reason for doubt it is still possible to find striking differences with the bonding of farm servants in the past. First, in most cases, attachment is nowadays time-bound and not the beginning of a relationship which goes on indefinitely or is even perpetuated in the next generation. This is most clearly demonstrated in the case of seasonal migration. Recruitment for work in brick kilns, stone quarries or saltpans takes place in the off season when workers are offered an advance payment for making their labour power available later on. Agreeing to this arrangement means that the workers accept the terms and conditions of employment. For the duration of the contract they have forfeited all agency to negotiate and their wages are often only settled at the end of the contract. Both advance and postponed wage payment seem to be characteristic for this form of bondage.

Second, the contract is exclusively economic and not social in nature. To be more specific, the dimension of patronage which was inherent to the old form of bondage is missing. The employers are only interested in maximizing their material profit, which they do by paying low and piece-rated wages without accepting any responsibility for the basic security let alone for maintaining the well-being of their temporary workforce.

Third, the labour contract is often mediated by a jobber who is commissioned by the employer to recruit workers and, in most cases, also to supervise them at the worksite. As David Picherit has shown in his contribution to this volume, the jobber (most of them are men) tends to belong to the same social milieu as the contracted workers and may actually have been one of them earlier on. Promoted to his role as a go-between, the jobber (called maistry, mukadam, thekedar, sirdar, etc.) is held accountable for the punctual and good performance of the members of his gang who have to make themselves available in accordance with the instructions of the employer. The jobber is a crucial figure in a widening but highly fluid and erratic labour market, sourcing reserve armies of workers in remote hinterlands and operating his catch on the hire-fire mechanism.

Fourth, a large part of bonded labourers nowadays are seasonal migrants. Even though unfree migration has a long history in India,

its widespread nature is undoubtedly a feature of contemporary labour markets.

Was the traditional form of agrarian bondage more humane than the neo-bondage prevalent at the bottom of the informal sector economy where labour gets mobilized in a state of immobility? Here we would like to warn against exaggerating the protection and security of landless labour in the pre-capitalist mode of production. Cederlöf (1997) in her study on south Tamil Nadu, Raj Sekhar Basu's article on the same community, and Rammohan's contribution to this volume on south Kerala provide ample evidence that the erstwhile landlords while maximizing their power and prestige rather than mere income, did not only subordinate their clients but also fell short of showing the benevolence required of patrons. Apart from differences, it is also possible to point out similarities between the 'old' and 'new' forms of bondage. In both cases the unfree labour relationship does not result from the use of extra-economic force. The contract is entered into voluntarily to the extent that the labourers are supposed to work off the advance given and until then have lost their room for manoeuvre. This is indeed the second similarity between past and present: the prevalence of indebtedness. But while in the past, it was one component among others within a multi-dimensional relation, neo-bondage can be considered as the consequence of indebtedness. Then as well as now labourers are held captive to foreclose alternative options for selling their labour power on more attractive terms and conditions. Adding to the economic vulnerability of bonded labour is their social identity which invariably positions them in the lowest layers of the caste order. As the agrestic serfs in the past, the men, women and children prone to practices of neo-bondage mainly belong to communities ranked as scheduled castes or scheduled tribes. Thus, multiple asymmetries and high exit costs, as Ravi S. Srivastava argues in his contribution, continue to be the organizing principle of old and new forms of unfree labour.

In all the cases studies presented in this volume, bonded labourers belong to marginalized communities while employers operate from higher echelons in society, as documented by numerous studies.¹ This skewed distribution is partly due to the fact that scheduled castes and scheduled tribes are also over-represented among the poor, the under-employed and the landless. But the social gap which divides employers from workers also comes into play. Even if the working relation is mainly of an economic nature, bondage arises only in communities where the verticalized ties of subordination, historically and socially rooted both in employers and

workers' consciousness, are still sufficiently strong to make subordination acceptable (Servet 2007). The hierarchical dimension also occurs indirectly. Empirical investigations show that the advance is mainly used for daily survival (food and health expenses) but also for social and ritual expenses, especially marriages. While the latter costs are usually qualified as 'wasteful' and therefore strongly condemned (by employers, officials and sometimes activists), these demonstrations of conspicuous consumption, which boils down to the adoption of 'respectable' social and cultural practices of the upper classes and castes, should be understood in the light of social relations and social dynamics. No doubt, such styles and practices reflect partly the increasing consumerism of the Indian society, and from which the poor are not and do not want to be excluded. But they also represent a search for dignity, a form of assertion of individual and collective identity and to some extent, a form of political action confronting a hierarchical order from which the marginalized feel excluded. The advance is also used to spend on drinking, particularly by males. Not only is alcohol addiction a means to bear extremely hard-working conditions (for example, in rice mills and coal mines, as described in this volume) but as pointed by Heuzé in this volume, it is also intentionally encouraged by jobbers or employers: such practices should be understood as a key component of a global system of oppression which is both economical (of course, buying alcohol adds to the workers' debt trap) and social (that workers consume alcohol in order to articulate the hierarchical distance with their jobber or their employer).

In other words, we suggest that the analysis of bonded labour cannot be dissociated from a broader analysis related to the whole landscape of labour but also to a more general perspective in which dependency and exclusion from civil rights are foregrounded. The emergence of neo-bondage is strongly connected to the reinforcement of the casualization and the informalization of labour relationships, as well as the intensification of circulation and seasonal migration. Neo-bondage is an indication of the increased monetization of commodity exchanges and of social relationships, as well as the development of mass consumption. In a context of very high rates of unemployment and sharp fluctuations in the demand for labour, a setting in which the great majority of the poor remain excluded from any institutionalized form of social protection and credit system, dependence to a single employer or job broker might be experienced by workers as a safeguard and job security. Furthermore, in a climate of very great uncertainty, of violence and in the absence of

formal institutions guaranteeing everyone's basic rights, dependence and eventually bondage might appear as the best means of ensuring the fragile safety of the most vulnerable, even if in practice, as already said, the protective role of the masters has disappeared.

Are all indebted labourers bonded? No, the system of advance payment is widely practiced all over India and in most of the sectors, and does not necessarily lead to bondage. But it seems that most bonded workers are indebted. To have no other option than to sell your labour power in advance is a major reason why the price of labour is fixed at a level which only allows for bare survival. Basic needs, however defined, are not fulfilled and debt becomes a trap difficult to escape from.

Having discussed similarities as well as dissimilarities between 'old' and 'new' forms of bondage, one should also underscore the huge diversity of bonded labour situations, both past and present. Let us focus here on the present scenario. First of all, the severity of bonded labour is very heterogeneous, with a continuum of situations from relatively 'mild' forms to practices which are much more brutal. Mild forms are rather short in duration, workers are relatively free to move, and physical violence remains exceptional, as is, for instance, the case in brick kilns, construction sites, and sugar cane harvesting described in the volume. Harsher regimes are characterized by a total absence of freedom. This is the case in some rice mill units described here, where the establishments are locked and bondage is inter-generational. It also happens in tea plantations, on which Bhowmik has elaborated in this volume. Outside labour has been settled to live and work in this branch of agro-industry which emerged in the late colonial economy. After so much time of spatial and social isolation, the climate of dependence as experienced by the coolie workforce is total and any alternative is hardly conceivable.

How can we account for the diversity of bondage situations and scenarios? Without being exhaustive and on the basis of the cases studies presented here, let us mention a few explanatory factors. The social and historical construction of labour 'markets' is a first one, given the fact that any 'market'—labour market, money market, commodity market, etc.—as defined in economics, is an intellectual abstraction. As pointed out by Jens Lerche in his contribution, the need for historical and contextualized analysis of bondage has long been lost sight of by academic debates focused on ahistorical models. And yet our understanding of bonded ground realities cannot be dissociated from a dynamic and a long-term perspective. Social networks and institutions play a key role in the social and historical

fabric of those 'markets' which are both fragmented and segmented in nature. Sector-based constraints should also be taken into account. By this we mean the intensity of competition, technological factors which lead to highly labour-intensive processes of production, seasonal fluctuations which require specific employment modalities to ensure the loyalty of the labour force, but also the role of capital. Bondage is an integral part of Indian capitalism, based on cheap, flexible and unskilled labour and the ongoing restructuring of capital does not solve the problem, quite the opposite. In the primary sector of the economy (as in the coal mines or agro-industries such as rice and sugar), vertical integration and subcontracting allow the preservation and even sometimes the intensification of bondage practices within the so-called 'formal' sector.

Political factors can be decisive, and take various forms. One is the diversity of alliances and collusions between employers, public authorities, political parties and sometimes trade unions (see, for instance, Heuzé's contribution). Another one is the performance of the so-called 'civil society', and especially the way those who are vulnerable to bondage manage to assert themselves and to offer resistance to their lack of freedom. The political organization of the workers can lead to the denunciation of oppression—see for instance the role of trade unionism in the brick kiln sector described by Prakash and in tea plantations as explained by Bhowmik—but also simply to a better positioning of some of them within the commodity chain, at the expense of not the employers but of those who remain at the bottom of the chain (see the description of the jobbers in the construction sector given by Picherit). As suggested by various contributions in this volume, the strong heterogeneity of the so-called civil society but also its differentiated and hierarchical nature should be underscored. Whatever the size of the population we are talking about, the lowest echelons are always those for whom lobbying and protests appear to be the most difficult. The specific case of unionism and its ambiguity should also be noticed. Here again discriminations of a hierarchical nature can lead to the invisibility of the so-called 'lowest' categories (see the case of the tea plantations discussed by Bhowmik where the workers hail from highly marginalized tribes and fail to be represented). Elsewhere it is the unions' leaders themselves—through paternalistic behaviour combining protection and dependence—who perpetuate bondage situations. The coal mines case study in the Dhanbad region shows to what extent bondage can be fully compatible with collective bargaining.

The social, economic, political, and technical fabric of bondage systems is also shaped by spatial factors, with a high diversity of regional patterns. Regional diversity occurs at various levels. Notwithstanding employers' strategies and the specific organization of commodity chains, regional patterns take the form of channels of migration: seasonal migrants hardly have the choice of their destination since each community has its own 'circuits' and remains ignorant of other ones. Social and political activism is also characterized by wide regional variation. As described by Aseem Prakash in the brick kiln sector, trade unionism has been effective in raising wages, but in a very unequal manner between different regions and/or states.

The inertia of institutions (channels of migration often lead to lock-in effects, the brick kiln sector is one example given in this volume) should not hide the dynamic character or heterogeneity of practices and behaviour. As regards employers for instance, we observe that an increasing competition (following deregulation and liberalization measures) can have contrasting effects on bondage within the same sector and within the same geographic area. The rice mill sector in Tamil Nadu is an example. Some employers opt for the reinforcement of informal practices and social pressures in order to maintain or even reinforce the docility and the mobility of the labour force, while others choose the 'modernization' and a contractualization of the labour force, often at the price of a substitution of capital for labour.

Another source of diversity is the identity of the workforce. How do they understand and experience their mode of employment? Some of the contributions to this volume focus on the workers' perspective and give evidence of the heterogeneity of strategies, trajectories, daily lives and actual experiences of the workers. Some are trapped for several years, sometimes generations (even though this is probably very uncommon nowadays) while others manage to rotate along jobbers and/or employers. Some (few) manage not to spend the advance handed to them immediately while others (the majority) hardly survive on a daily basis. Some define themselves as bonded while others denounce the term. Obviously, the only ones who benefit from the situation are the jobbers: for those who succeed in the job, their role of intermediary and in-between can be a springboard for social but also political mobility (see Picherit's contribution). Apart from family trajectories, the distinction between men, women and children should be underscored. The plight of all the

workers is miserable, but undoubtedly, women and children are the worst victims, 'bondage within bondage' being a prevalent phenomenon (Bremner 1996). As argued by Prakash in this volume on the brick kiln sector, women and children not only represent a large part of the labour force, but remain highly invisible, not only for the authorities but also for the trade unions.

Why must bonded labour be eradicated? The moral argument comes at the top of the list. Tolerating such modalities of employment is the denial of basic human rights insisting that people should be free to choose where, when and for whom to work. In that light the removal of unfree labour should be seen as an important step forward in the long and winding trajectory towards social emancipation. Next comes the argument that labour bondage is a drain on the economy since it puts a premium on low productivity (see the contributions by Lerche and Srivastava). The inferior technology it implies adds to the degraded condition to which working adults and children are exposed. Finally, since labour bondage is prohibited both at the national and transnational level, its persistence by the kind of practices described and analysed in this volume supports an illegal process of capital accumulation which sustains and reinforces rather than mitigates poverty.

So far action taken by the state to end labour bondage, if at all, has remained ineffective. Certainly, the Abolition of Bonded Labour Act (1976) was introduced to fight strictures on the freedom to work as a legal right. The enactment failed to realize this objective because it did not go beyond addressing forms of agrarian bondage which still lingered on in different parts of India. It was part of the 18-point programme promulgated by Indira Gandhi in an effort to justify the state of emergency which she had declared shortly before. The executive power which she brought to bear should have sufficed to implement the law but in the absence of a feasible plan of action the legal ban on bondage had hardly any impact.²

As pointed out by Kamala Sankaran in her contribution, in the decades that have passed since the legal abolition, the fight against bondage lost the urgency and priority it had when the policy was proclaimed. While the overlapping between forced labour, contract labour and migrant labour had been officially recognized by an amendment of the bonded labour act in the mid-1980s, allowing a much more realistic approach than focusing on agrarian bondage only, the amendment has unfortunately never been put into practice. Whatever public action took place was based on the

assumption that the bondage was imposed by the use of extra-economic coercion. The premise that labourers were forced to enter a contract against their will resulted in raids on worksites which took the shape of Release-and-Rehabilitation operations. Often these raids remained limited to the release part, that is, freeing men, women, and children from the state of captivity in which they were put to work. And indeed, there have been cases in which the raiding party found victims of bondage literally in chains. Such is also the condition practised in the rice mills of Tamil Nadu described in this volume. What should be a concern as important as the release is the need to follow up the action taken with a scheme for rehabilitation of the labourers set free. These programmes may exist on paper but it is rare to find them practised other than in a token form. How to explain the lack of meaningful results? Inadequate and ineffective governance as well as a judiciary not held accountable for seeing justice done are undoubtedly very important reasons. The vigilance committees established at the district level in bondage-prone regions to promote the fight for eradication seldom or never meet to discuss the progress made. It is a dismal combination of administrative indifference and an absence of political will. One might find here and there progressive officials. However, as long as the problem is denied at the national level (more or less according to the governments in place, but the denial remains systematic), initiatives at the state level or at the district level are bound to fail. Still, exercising pressure can be helpful to bring to surface what has remained hidden for so long. In 1996, the Supreme Court of Tamil Nadu ultimately acknowledged the existence of one million labourers held in bondage in the state alone, of which 10 per cent were children. Other government agencies at the central level, however, went on to insist that bondage belonged to the past. The Director-General of Labour Welfare of the Ministry of Labour was willing to concede in 1997 that 6,000 cases of bondage had been identified. In other words, there was no need to talk about such a minuscule problem, and even less so in 2005–6 when their number had further dwindled to a mere 304. Another agency of the same ministry owed up to 286,245 instances of labour bondage—practised in Punjab, Haryana, Delhi, Uttar Pradesh, Madhya Pradesh, Andhra Pradesh, Tamil Nadu, Karnataka, and Rajasthan—but was happy to report that 266,283 of them were released and rehabilitated between 1996 and 2005. The pretension of active and effective governance was thus carefully kept intact. This is why the Government of India delegation to the annual International Labour Organization (ILO) meeting is so upset when the

issue is back on the agenda with the request to abide by the convention prohibiting forms of labour bondage. All this information can be found in a report published in August 2007 culminating in a harsh verdict on the record of state action against bondage: 'official apathy and absence of any concerted effort'.³ The mission of the National Commission on Enterprises in the Unorganized Sector (NCEUS) is to improve labour standards, to fix (once again) a minimum legal wage rate and to raise the quality of livelihood for the multitude of people dependent on this work regime. As for the segment kept in bondage at the tail end of the economy, whether rural or urban and irrespective of gender and age, the political will to do all this seems to be determined more by reluctance than eagerness to atone for past failures.

Intervention has not remained the business of state agencies only. A host of non-government organizations have spoken up on behalf of civil society in campaigns launched in different parts of India against practices of bondage. Their activities have certainly helped to make the predicament of labourers bereft of their basic freedom to move around in search of a better deal more visible to the public eye (through empirical investigation and data collection, activating the media but also of the Supreme Court). Again, however, their emphasis has been more on release than on rehabilitation. Liberation by media exposure is how Isabelle Guérin labelled such vain attempts at remedial action. On visiting a brick kiln, she heard workers comment to each other sarcastically: 'ah, another one who has come to liberate us!' (see the brick kiln case study by Guérin and Venkatasubramanian). So much for the idea that the labourers do not realize the consequences of the contract in which they remain entrapped. More is needed than social activists telling them that they have every right to walk out and be free. By and large the record of the various factions of the civil rights movement is anything but impressive. Their initiatives may have made a difference here and there but their spread is too thin, their means too limited, and their impact too localized to tilt the balance in favour of the social forces fighting for the freedom of labour.

What can be said as regards the role of international organizations? Repeated and continuous efforts of the ILO have certainly helped in maintaining the bonded labour issue on the agenda of the Indian government, and this should be underlined.⁴ Simultaneously, some concrete interventions at the ground level, based on economical and political measures, give positive results.⁵ Such efforts, however, have limited significance. On the one hand, the indifference of the Indian

government is such that the lobbying role of the ILO, as intensive as it might be, often ends in disappointing results. On the other hand, and as pointed out by Jens Lerche in his contribution, the ILO itself limits its own scope of action due to a very narrow understanding of bondage. By adopting a definition which is de-linked from a general analysis of globalization and capitalist development, the ILO tends to divert attention from the root problem. Actions at the international level also include activist movements, such as fair trade, and pressures exerted by the corporate business sector in the spirit of so-called 'social responsibility'. Apart from the tea plantation case study, no contribution in this volume has paid attention to such actions, insofar as they are limited to export markets, while most of our cases studies focus on domestic markets. Additional work would be needed to assess the scope and the relevance of these forms of actions.

Having come to these not very optimistic conclusions, it is now time to turn our attention to the most important stakeholders, respectively employers and workers. As for as the dominating partner in the bonded relationship, factual evidence from many branches of industry informs us that it would be wise not to put our hopes on the employers in giving labour at the bottom of the informal sector economy a free and fair deal. Their resistance to end bondage is not caused by hanging on to outdated, pre-capitalist work contracts for the sake of tradition, but by having at their disposal as cheap and compliant a workforce as possible, unable to bargain for higher wages and more dignified employment opportunities. Some rice mill owners in Tamil Nadu reacted to outside intervention by keeping an even tighter control than before over their captive workforce while others opted for mechanization. The sugar barons of the agro-industry in south Gujarat blocked efforts to raise wages for the army of seasonal migrants cutting sugar cane with the threat to switch over to mechanized harvesting. This leads us to the following question: Is working in bondage still preferable to remaining unemployed?

All along we have assumed that bonded labour lacks agency to undo the restrictions on the free choice of work. In that interpretation indebtedness leading to bondage took away the space needed to articulate grievances and to claim more favourable terms of work. This perception was given a legal shape under colonial rule. However, what in the official mind should be read as a debt can from a reverse perspective be looked at not as an expression of vulnerability but as bargaining from a position of strength: the right to livelihood and in return for that minimal but

basic guarantee, ratified with advance wages, the reciprocal concession to pledge one's labour power. Prabhu P. Mohapatra's article argues along these lines and his analysis on how the colonial assessment codified as bondage what used to be an assertion of labour rights resonates with the protest of today's employers that rather than their workers they are the ones who are bonded by adhering to the practice of giving an advance for work to be done at a later date. The colonial misapprehension of this custom was instrumental in turning the tide and became crucial in weakening rather than underscoring the interests of labour vis-à-vis their employers. While earlier the advance was a manifestation of the willingness to work on prior payment of a livelihood allowance, its new legal standing as indebtedness made it into an obligation to work in bondage.

How many people are deprived from their basic human right to work in freedom? What are the numbers we are talking about? Frankly, we have no idea and this in itself is indicative of the posture of official denial (see Heuzé's and Lerche's contributions as regards the challenges of quantification). The case studies included in this volume should demonstrate that labour bondage is widely prevalent. The government is unwilling to acknowledge the captivity in onerous contracts of a sizable segment of the workforce in the lower echelons of the informal sector economy. It would be misconceived to suggest that since servitude of farm servants has lost much of its former significance in agriculture, at least in the prime economic sector the days of bondage are gone. That conclusion is not warranted if we take stock of work contracts of temporary attachments of migrants which we have earlier typified as neo-bondage in the heartland of capitalist agricultural production in Punjab and Haryana. A review of rural labour relations edited by Terence Byres, Karin Kapadia, and Jens Lerche (1999) included articles elaborating on both old and new forms of unfree labour. 'While bonded labour in agriculture was considered a thing of the past, it has been found that new forms of attachment have been rising in developed agriculture', thus is the ominous verdict of the NCEUS in its latest report on conditions of work (NCEUS 2007: 129).

We do not accept the proposition that labour bondage is likely to disappear when economic growth is sustained at its current rate of increase. A drastic reappraisal of public intervention is required for the eradication of employment modalities which denigrate rather than dignify the large segment of the workforce which has no voice and is kept in a state of invisibility. It is quite clear that the Government of India does not intend

to waver from its strategy to take the low route to capitalist development, that is on the basis of cheap labour. There is a direct relationship between the increasing wealth of employers who make use of unfree labour and the immense poverty of their victims. Labour charges do not constitute much more than 15 per cent of the cost of production in the informal sector enterprises which we have identified in this volume, while according to our calculations the profits reaped by its owners amount to 40 to 60 per cent. Moreover, the process of rapid capital accumulation this entails remains for a very large part beyond the purview of the state. This phenomenon helps to explain why not less than half of the total cash flow in the economy takes place in the hidden circuit of 'black' money. A correction of the extremely skewed balance between capital and labour is required to put an end to work contracts which perpetuate the exploitation and oppression of the most vulnerable segment in the labour market.

Bondage is the result of the lack of access to credit which underpaid and underemployed labourers need for daily provisions and for life cycle events. Because of lack of assets and because a large part of them are migrants, they do not qualify for the microcredit schemes so popular these days for solving the liquidity problems of the not-so-poor. Even if they could benefit from it, there is little chance that microcredit could help them to build sustainable livelihood. In the best cases, microfinance services enable people to manage better risks by smoothing income and expenses. But microfinance services hardly succeed in transforming the 'poor' into successful self-employed. This is because most of them do not have either the skills or the wish to become petty entrepreneurs, but also and above all because local markets and potential buyers are missing.

We suggest that the problem of bondage should be contextualized in the discussion to improve labour standards: the urgent need to provide basic protection and security to the most vulnerable segment of the informal sector workforce hired in temporary attachment and fired when they have become redundant again. In addition to regularizing employment the payment modality should be changed from piece rate to what Mahatma Gandhi defined as a fair wage, that is, the right to an income which allows for more than bare survival. These are ambitious targets which will not be realized without building up institutionalized and organized pressure from below. A precondition for this to happen is the creation of a political space for the articulation of interests which until now have been inadequately or not at all represented. We should not feel unduly sombre about the outcome of that struggle because it will

be backed by the agency of the workers kept in bondage. Their insistence on living as decent human beings is the outcome of a long process of emancipation that has been going on and their assertion for equality is reflected in social movements going on in different parts of the country. Rejecting subservience, the labourers refuse to accept the condition of bondage imposed on them. They perceive the debt which is meant to tie them down as an advance wage for their labour power and, much to the chagrin of the employer, walk out of the attachment the moment a better alternative comes their way.

NOTES

1. For a literature review, see Srivastava (2005).
2. A few senior civil servants in the immediate entourage of Indira Gandhi, committed to her cause for strong public action, had come to know about the plight of attached labour in agriculture. Yugandar was one of them and having read Breman's study on the system of halipratha in Gujarat, as he later told the author, his proposal was accepted to formulate a draft for the abolition of such practices of unfree labour. To a certain extent this legal intervention was misdirected since it took no cognizance of 'new' forms of bondage which were probably already then more prevalent than the 'old' ones.
3. *Report on Conditions and Promotion of Livelihoods in the Unorganised Sector*, New Delhi, August 2007, published by the National Commission on Enterprises in the Unorganized Sector, Government of India.
4. This includes support on research activities. Besides, this book is partly due to the ILO support: three case studies are based on research projects supported by the ILO and the ILO had also supported the launching seminar of this book.
5. For an example in Tamil Nadu, see the evaluation done by a research team of the French Institute of Pondicherry (Roesch et al. 2007).

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Part 1

Agrarian Bondage in Historical Perspective

In a stroke of irony, labour bondage was abolished in India under the state of emergency proclaimed by Indira Gandhi in the mid-1970s to remain in power. One of the articles in the 18 points' programme drawn up as a handle for her anti-poverty policies under the extra-parliamentary regime that came about concerned the demise of unfree labour in agriculture. Although much lower in size than reported in the First (1950–1) and Second (1955–6) Agricultural Labour Enquiries, attachment had lingered on as a feature of agricultural production in different parts of the country. The Abolition of Bonded Labour Act (1976) was promoted by a few top-ranking civil servants, who belonged to the immediate entourage of the supreme leader. Known as bureaucrats committed to the cause of public action, they were eager to push reforms for the benefit of vulnerable segments of the workforce which had not benefited much, if at all, from the planned process of economic growth.

One of us was a member of an International Labour Organization (ILO) mission which came to India in 1977 to monitor the implementation of the new act. District authorities throughout the country became alerted to the phenomenon of unfree labour, which had remained beyond their horizon until then, and were instructed to take strong action against employers who continued to keep their farm servants in a state of captivity. We did not become much wiser in discussing this issue with officials in the Ministry of Labour at the central or state level. It appeared that the regular administration neither collected data nor was any information available within the government machinery on what was being done, and by whom, to put an end to bondage.

However, the National Labour Institute (NLI), which had recently been established in Delhi, had sent out its staff to investigate practices of agrarian bondage in several states. They published their findings in the Institute's bulletin and followed up these case studies by conducting camps to which a few dozens of bonded labourers from nearby villages were invited to talk about their ordeal. This small beginning would then replicate over a much wider area since liberation could not but arouse many more to follow suit. Our ILO team was allowed to join a few of these camps, currently being held in Purnea district (Bihar) and Ratlam district (Madhya Pradesh). The NLI

staff had prepared a manual for training debt-bonded agricultural labourers on how to seek their redemption. They were told just to walk off, not to feel burdened by any loans they had accepted for their livelihood and which had tied them down to the landlord, sometimes in a relationship which went on from generation to generation. Then what? Well, the newly gained freedom to move around and decide how, when, and where to use their own labour power basically implied that they would get a better deal, in or outside agriculture, and also increase their bargaining power by negotiating collectively for higher wages. The intervention did not add up to much and soon fizzled out. The activists were not backed up by the power of the state to achieve what it had set out to do. The action taken was well meant but naïve in more than one respect. In the first place, because of the idea that the landless labourers were attached under duress. In the second place, because of the simplicity of the intervention, basically a release-and-rehabilitation style of operation, which failed to emancipate the target group. In the third place, because bondage was thought to be a form of employment prevalent only in agriculture.

The end of emergency, paradoxically, also saw the fading away of attempts to change the balance of power at the bottom of the rural economy. Although now more than ever before as a casualized and uprooted workforce, landless labour remained what it always had been: exploited and subordinated.

1 After Slavery

Unfree Rural Labour in Post-1843 Eastern India

JACQUES POUCHEPADASS*

To the student of the forms of servile dependence across history, India poses a particular problem. Whoever wishes to describe the occurrences, modalities, and transformations of unfree labour in Indian society, which is generally viewed as the most representative example of a hierarchical (caste) society, is at once confronted with the following question: is servile dependence a distinct status in such a society, or is its existence, so to say, inherent in the hierarchical organization of the caste system, the latter being by definition and from top to bottom a system of economic exploitation and social oppression?

My conviction is that there is a specificity to servile dependence in India within the caste society. Yet it is interesting to note that the historiography of slavery and other forms of servile dependence is far from abundant in the Indian context. We have a certain number of studies concerning slavery in ancient India, often annotated compilations of extracts of juridical and speculative Brahmanical treatises in Sanskrit. And there are many militant studies on the exploitation of labour in contemporary India, of which a few include historical overviews. But historians and anthropologists have seldom dealt with the specific question of servile dependence.¹ The reason is probably that the subject has usually been diluted in the general problematic of the caste society, and in particular of the hierarchical relationship which binds the higher castes to the 'Untouchables', a relationship under which one tends indistinctly to subsume both ritual relationships and all forms and practical degrees of dependence. Slavery may have existed at all times in India in one form or another, but it remains to be proven that the ownership of and trafficking in slaves constituted a

* An earlier and shorter French version of this paper has appeared in Cottias et al. 2006. My sincere thanks to Jan Breman for his close reading of the text and insightful remarks. All remaining errors are of course mine.

necessary correlate of the Hindu social organization. Untouchability, in principle, was a primarily ritual concept, and although it did imply an inferiority of status, hereditary specialization in polluting tasks, and the performance (not without reciprocal compensations) of various ritual services required by the higher castes, it did not assume in a universal and systematic fashion the distinctive politico-economic characteristics of servile dependence. Moreover, the occurrence of slavery in India during the comparatively recent periods on which sufficient documentation is available was subject to regional variations, whereas untouchability was present everywhere in the Hindu context.

There is no slave or serf without a master, and servile dependence, whatever the precise form it takes, is in a fundamental way a matter of power. But the institutional existence and durable functioning of a system of slavery or servile labour on a significant scale also necessarily implies a legitimizing ideology, that is, a more or less consensual social construction of the 'otherness' of the slave or serf. Slavery certainly does not need caste to exist, nor is the caste principle inherently conducive to the emergence of slavery or servile labour: social determinism, here as elsewhere, can only be, at best, one part of the story. Yet wherever socio-political conditions in the Indian subcontinent have allowed the prevalence of such radical forms of exploitation of human labour,² the status and condition of the servile dependents concerned have been easily legitimized within the overall hierarchical framework of the caste view of society. In concrete terms, however, the caste principle is embodied in a wide variety of local societies fashioned over time by different historical trajectories and regimes of power. The resulting regional specificities in the organization and social distribution of power may go some way to explain why British colonial sources presented servile dependence as a defining characteristic of whole castes in certain regions such as parts of south India, while its social occurrence appeared more unsystematic and the stigma of slavery less indelible in others. Moreover, it should never be forgotten that the reports of British colonial administrators on social life in their constituencies were often influenced by the social views of their high-caste informants.

The practice of slavery in colonial India is rather well documented right from the second half of the eighteenth century, especially in the two regions of the subcontinent where the British occupation first began, namely Eastern India (Bengal and Bihar mainly) and the southern end

of the peninsula (Tamil Nadu and Malabar). These early European testimonies were less constrained than later colonial reports by the consciousness of the baffling complexity of Indian society. They were plainly descriptive in a somewhat Manichaean fashion under the influence of the ideology of the Enlightenment and the rise of abolitionist ideas. Their authors thus accumulated an abundance of observations on social practices and facts of social behaviour which fitted with the then current European representations of slavery, without bothering much to find out how these practices related to the dominant social ideology.

SERVILE LABOUR IN EASTERN INDIA BEFORE 1843

The existence of the slave trade in Eastern India in the second half of the eighteenth century, at the time when the British took control of Bengal, is largely supported by colonial administrative reports. This 'infernal trade of human blood', wrote a European magistrate in 1794, 'goes on briskly and openly without the least apprehension of being called to account' (quoted in Ghosal 1966: 250). Calcutta was the hub of the slave trade in that part of India, and most of the traffic was in the hands of Arab merchants. As in the pre-British period, these merchants brought African 'coffrees' from Mozambique, Madagascar, Zanzibar, Mombassa, and Muscat. Coffrees were traditionally employed as household slaves in the high urban and princely society (including the Abyssinian eunuchs serving in the harems), and now also figured in the new European elite households, mainly because they were one of the symbolic components of the aristocratic lifestyle. The Arab ships also brought Indian slaves from other regions of the subcontinent, particularly south India. After the installation of the British power in Bengal in 1765, European traders (English, French, and Dutch) soon entered this highly profitable business. The same Arab and European merchants exported Indian slaves overseas, in particular women bound for Arabia and kidnapped children (Ahmad 1966: 79). From 1794 onwards, the Calcutta government periodically tried to prohibit the trafficking in imported slaves in the Bengal Presidency, but the evidence shows that this business was still extremely active in the 1820s, to the great scandal of a part of metropolitan British opinion (Banaji 1933: 5–8).

To put a stop to the slave trade in Calcutta was bound to be difficult as long as slavery itself was not abolished, the overseas slave trade, overt or clandestine, remaining very lucrative. Moreover, it appeared to the

British that slavery was normally practised everywhere in Bengal, and that to attack a tradition obviously so deeply entrenched in the local society would entail the risk of social upheavals with unforeseeable consequences. The fact was that besides the luxury slavery, which had always existed in the royal courts and among the nobility, there were more widespread forms of slavery involving servile labourers of purely local origin (Sarkar 1985). On the one hand, slaves were commonly used as domestic servants in private households of Hindu and Muslim notables, both in the cities and in the countryside, where they constituted one of the outward signs of social respectability.³ According to the reports of the time, there was no market, strictly speaking, for this domestic servile labour, although the masters of such servants theoretically enjoyed the absolute right to buy and sell them as they pleased. This form of slavery was an outcome of extreme poverty. It consisted of destitutes who had had no option but to sell themselves or to sell their children into bondage in order to escape starvation, particularly in times of famine; of poor women and children who had been kidnapped only to be sold as slaves; and occasionally of free people who had chosen to share the life of an enslaved person. These slaves formed an integral part of the rich households which employed them, sometimes from father to son. They often hailed from the lower castes, but a minority among them belonged to respectable castes, in which case the tasks they were called to perform were compatible with their ritual status (for example, cooking or looking after the children).

The other widespread form of slavery was agrestic slavery, usually associated with the untouchable caste status. Agrestic slaves were a captive agricultural labour force remunerated in kind at the lowest rate, who lived in the dependence of the dominant (high or middle-caste) families of their villages. This cheap reserve of permanent labour represented an invaluable asset for the landowners in regions where agriculture was mainly subsistence-oriented and wholly dependent on the rhythms of the climate. All agricultural operations had to be performed everywhere at the same time and at short notice, and these peak labour-demand periods generated temporary labour scarcities against which the availability of a body of permanent servile labourers provided the most effective guarantee. This form of slavery was particularly well established in south India, where servile labour, according to colonial reports, was the ascribed avocation of specific castes, a fact which most informants would present as a necessary correlate of the ritual prohibition of manual work observed by the higher castes (to which they themselves belonged) (Hjejle 1967; Kumar 1965;

Saradmoni 1973). These labourers were regarded as forming an integral part of the land they cultivated, and could in theory be freely bought, sold, rented, and mortgaged by their owners as the land itself. But it seems that such transfers were a rare occurrence in actual practice, the land itself being seldom bought and sold before the end of the nineteenth century. The bonds of attachment between the peasant masters and their servile labourers were generally of long duration and founded on a principle of hierarchical reciprocity (labour and ritual services against security and protection).⁴

The difficulty with this category of agricultural labour in Eastern India is that the dividing line between actual slavery and more attenuated forms of dependence was far from clear. The difference with household slavery was no less dubious in many cases. Francis Buchanan, while inquiring on behalf of the East India Company on the social and economic condition of Bihar around 1810, lamented in his account of Purnea district over the 'most perplexing variety of local regulations and interpretations of the same phrases' which he encountered, and added: 'Although I have long been convinced of the circumstance, and endeavour constantly to guard against it, yet I confess that I often fail, and that I have not succeeded in distinguishing these classes of slaves with proper accuracy' (Buchanan 1928: 161). At any rate, agrestic slavery in Eastern India at the time was not an ascribed status bearing on whole castes as was possibly the case in south India, but only an individual social condition. Moreover, it seems to have been much less widespread in Bengal proper than in Bihar, and was often associated with situations of inextricable indebtedness, which explains why historians have tended to label it as bonded labour rather than slavery, notwithstanding the fact that the status of the debtor was not personal but transmissible from father to son (Chaudhuri 1983: 165–6). Certain features of the condition of these labourers did nevertheless evoke slavery in the strict sense of the word. Children born to agrestic slaves were slaves by birth, and could be sold by their master as soon as they reached marriageable age. The masters of nubile child slaves, however, were seldom willing to sell them, but two masters could arrange for the marriage of their nubile slaves and share their offspring among themselves (Buchanan 1928: 162–4). Agrestic slaves in some districts (such as Sylhet) were sold with the estates on which they worked (Ahmad 1966: 82; Ghosal 1966: 251). On the other hand, it seems that servile status, unlike caste status, was not indelible. It was the relationship of material and contractual dependence on the master, inaugurated by a voluntary agreement, which

created the condition of hereditary bondage, and the slave could always theoretically free himself by repaying the debt he had contracted.⁵

SLAVERY ABOLITION (1843): DETERMINANTS AND LIMITATIONS

Until the first decades of the nineteenth century, the British authorities in India pursued a general policy of non-interference in Indian social life and customs. Each community, in such matters as property, inheritance, or contract, continued to be ruled by its own personal law, which was administered through the colonial courts. Thus the British judges generally upheld the complaints lodged by masters who prosecuted their slaves for breach of customary duties. The government of Bengal nevertheless repeatedly issued proclamations and regulations (in 1774, 1789, 1811, and 1832) to put a stop to the slave trade (Banaji 1933: 293–301). The very reiteration of these decisions shows that they were to a large extent ineffectual. Another government measure prohibited defaulting landowners from selling slaves to settle their arrears of revenue. Yet the government was reluctant to put a ban on slavery itself, a practice which seemed integral to the caste system, and on which agriculture and the yield of the land revenue, it was believed, to some extent depended. This reluctance was particularly strong before 1815, while the Napoleonic wars were still raging in Europe, as Britain was not prepared at the time to face the risk of serious difficulties on such distant fronts as India for the sake of social reform. The only option was thus to rely on the wisdom and liberal spirit of the judges rather than on direct government intervention to gradually improve the condition of slaves. Abolitionist ideas, however, were present in the colony, particularly among the ranks of the legal profession. Court decisions, from the early years of the nineteenth century onwards, were less systematically favourable to the masters than had been the case earlier, in spite of the usually more conservative opinions given by the Indian experts in local law who advised the judges. Talented colonial lawyers pleaded the cause of slavery reform with the government in Calcutta, with constancy but to no avail (Banaji 1933: 241–67; Kumar 1965: 68–73).

It is the growing momentum of the anti-slavery movement in Britain during the 1820s and its final victory in the early 1830s which eventually forced the colonial government to legislate on this matter. India, however, was exempted from the operation of the Slavery Abolition Act passed by the British Parliament in 1833, which gave freedom to all slaves in the British Empire, on the grounds that the kind of slavery practised by

the Indians vis-à-vis their own countrymen was part of the caste system, and was not true slavery of the kind which disgraced the Caribbean plantation system or the Cape Colony. Moreover, it was essential to the agricultural prosperity of the country. When Parliament renewed the East India Company's charter later in the year, it simply issued a rather non-committal directive to the Governor-General to see to the improvement of the condition of Indian slaves, and to propose measures for the abolition of the status of slavery in the colony when such a step would appear practicable.⁶ But the Evangelicals exerted a great deal of influence on the Court of Directors of the East India Company in London, and the Calcutta government was forced after a few years to reconcile itself to the idea of passing an anti-slavery legislation. Yet it did its utmost, all along the very long debates which preceded and accompanied the drafting of the bill, to minimize the scope and significance of the measures under discussion.⁷

These efforts paid in the sense that the Ordinance ultimately passed in 1843 opted for a very cautious, indirect, and gradual method of abolition. It allowed slaves to assert their rights and claim their freedom, but without imposing on their masters any immediate obligation to emancipate them. It consisted of four provisions: no government official could request anyone to sell a slave for the payment of arrears of rent or revenue; the civil courts could no longer take cognizance of claims to slaves; no one could be deprived of goods or prevented from acquiring goods because he/she is a slave or because those goods have been procured from a slave; any act qualified as a punishable offence when perpetrated against a free person will be similarly punishable if committed against a free person under the pretext that he/she is a slave.⁸ As the law failed to make immediate emancipation compulsory, the possession of a slave could not in itself be qualified as illicit. However, no court would any longer recognize the rights claimed by a master over his slave, and a master would no longer obtain legal support to prevent his slave from behaving like a free person. A serious drawback of the text was that it employed the word 'slave' without defining it, thus leaving intact the problem posed by forms of servitude resting on technically contractual bases, and preparing the way for varieties of legal bondage which were from then on to acquire increasing importance. This undoubtedly explains why, almost twenty years later, when the Ordinance was incorporated into the Penal Code of 1861, which for the first time explicitly prohibited all trade in and possession of slaves without any compensation for the 'dispossessed' slave-

owners, no protest whatsoever arose, contrary to the alarmist forebodings of the former opponents of abolition.⁹

While the slave trafficking was by then dying out, the servile condition survived under the mask of caste relations and formally legal contractual devices. This was most obviously the case with domestic slavery, which was left virtually untouched by the abolition, as Indrani Chatterjee (1999: 183, 231) has shown. As regards agrestic slavery, the lot of the labourers concerned could only improve insofar as they were informed of the law and able to make use of it, a condition which was rarely fulfilled. Moreover, the law of contract in British India was then being gradually codified and rigidified in a way which could only be detrimental to servile labourers, most of whom were illiterate destitutes. The possibility open to any person to mortgage her labour in return for a small loan was officially ratified by colonial law, and the means of judicial constraint placed at the disposal of employers to enforce the fulfilment of such labour contracts were reinforced. The penalties inflicted on defaulting debtors were defined with a new rigour.¹⁰ The middle of the nineteenth century was also the time when the indentured labour system, mainly designed for the export of 'coolie' labour to British colonies in the Caribbean, Africa, Asia, and the Pacific islands, was developed with the sanction of the government. The contractual status of the migrants in fact amounted to quasi-slavery, with the sole difference that those who survived at least had the option of going home when their contracts expired.¹¹

Whatever the defects of the Ordinance of 1843, nothing very effective was done for its publicity. Few district magistrates cared to take strong steps to bring its provisions orally and in the vernacular to the notice of the widely dispersed and illiterate population of servile labourers whom it was designed to emancipate. Only the well to do, educated, and generally high caste Indians, who were most likely to come across this kind of information, and many of who were employers of servile labour, were reached by the news of its promulgation. This allowed them full latitude to devise the best means to maintain their hold on their slaves before the latter had a chance to hear of the new rules. The slaves were unlikely to possess the minimum of education necessary to become aware of their new rights, and even where the stipulations of the law happened to be known to them, they lacked the necessary support to take advantage of it. Given their depressed social status, it was extremely difficult for most of them to assert their rights and claim their freedom, all the more so as they were deeply involved in debt, and as both their geographical mobility

and the availability of alternative opportunities of stable employment were often limited (Hjejle 1967: 98–9, 113). Last but not least, the status of personal dependence, in the context of hierarchical reciprocity generated by the caste system, afforded the slaves a degree of security in daily life which proved particularly invaluable in case of disease, in old age, and in periods of calamity, and which they were logically reluctant to forsake (it seems that slaves were on the whole better treated by their employers than free casual labourers). It is thus no matter for surprise that agrestic slavery persisted in its previous form in certain parts of Bengal until the end of the nineteenth century, and that agricultural slaves were still being bought and sold in some places with the land on which they worked, at the beginning of the twentieth century.¹² To fully eradicate the plague of slavery obviously required much more than such formal legislative remedies which did not strike at the root of social inequality. But the outbreak of the Mutiny in 1857 proved fatal to whatever propensity for radical social reform that may have existed in the minds of the British colonizers in the 1830s and 1840s. In the resolutely conservative ideological set-up of the post-Mutiny Indian Empire, any attempt to regulate in an authoritarian manner the relations between master and unfree worker was irretrievably ruled out as potentially injurious to the caste system, and hence impracticable and politically dangerous.

FROM SLAVERY TO DEBT BONDAGE

When the last remnants of the slave trade finally disappeared towards the end of the nineteenth century, hereditary debt bondage, which represented a legal means to keep a permanent hold on dependent workers, was already ubiquitous. The bond between master and slave in former times had always been a multi-dimensional (often lifelong) relationship encompassing all aspects of existence (economic activity, family matters, ritual services, relations with the outside world, protection against hardships, etc.). It usually included credit relations among other things. In the new legal order, it was the outwardly contractual credit relationship that was singled out as the originary foundation and legal justification of labour attachment. This recasting of the relations between master and dependent as a single-interest economic relationship was not without traditional precedents (certain forms of debt slavery also existed in the past). See, for example, as regards Bengal, Sarkar (1985: 109–10). However that may be, the modern liberal notions of property, equity and contract embodied in British colonial law were soon understood

and assimilated by the dominant strata of Indian rural society. A person who formerly would have been called a slave was now a man or woman who has mortgaged his/her labour in return for a loan. Such a transaction was recognized by law, and the master/creditor, in the event of breach of contract on the part of the debtor, was entitled to refer to the Workman's Breach of Contract Act of 1859 to assert his right before the courts. This piece of legislation was of course exceptionally well suited to the *de facto* perpetuation of quasi-slavery in a country such as India, where the burden of debt was commonly conceived of as hereditary.¹³ In other words, servitude had not disappeared; it had only become formally monetized. This formal difference apart, the same dependents continued to work under the same masters, and their conditions of existence, work, and remuneration remained identical. Even the sale and mortgage of dependent labourers went on under the legal artifice of debt transfer.¹⁴ The frequent connivance between the rural elite and local court and police officials further aggravated the vulnerability of these dependents in the event of conflicts, and the all-round precariousness of their condition. In a sense, the colonial situation not only perpetuated the existence of personal servitude under a new garb, but it gave it the inflexible rigidity of modern law and a new kind of legitimacy, independent from the personal relation of reciprocal exchange which bound master and dependent within the caste system.

In the second half of the nineteenth century, debt servitude was prevalent throughout Eastern India.¹⁵ It was the unhappy lot of both the farm labourer who had bound himself for life to a master in return for a loan which he would never be able to repay, and the small artisan hopelessly indebted to a capitalist, who was forced by contract to hand over the totality of his manufactured articles to his creditor in mere payment of the interest on his loan (GoI 1928: 434–5). In 1888, a Bihar government report estimated that about half of the agricultural labour force was unfree in the Patna Division, which then included all the seven districts of the heavily populated western half of the Gangetic north and south Bihar. The detailed modalities of employment of these labourers were very diverse, but the principle was everywhere the same. The legal starting point of the relationship was a loan contracted by the dependent, sometimes for a family ceremony such as marriage or funeral, sometimes to pay his rent or other dues, sometimes simply to feed his family in a time of scarcity. The deal was generally concluded between people who knew each other well in the context of the face-to-face village society. The

debtor committed himself to work for his creditor until repayment of the debt, interest included. He was to remain all year round at the call of his master, and could not seek employment elsewhere unless his services were not required on the farm. He was commonly allotted a small plot of land on which to build his hut. He received food and his stipulated remuneration in kind for each day worked. His master might also grant him a small piece of arable land on a sharecropping basis, a system which further locked the trap of dependence in which he was caught. His working day was often longer than that of the casual free worker, and his master often called on him for additional tasks such as domestic chores or running errands. He was employed on an average two days out of three. His wife and children were remunerated (at a lower rate) if they gave a hand when needed. All things considered, it was impossible for him, as for anyone living permanently on the verge of subsistence, to save enough money to repay his initial loan, even supposing that he never ran into further financial difficulties in the course of his life.¹⁶

One of the best descriptions of this type of servile dependence is the noteworthy study of the *kamiauti* system of colonial south Bihar published by Gyan Prakash in 1990 (Prakash 1990). Obviously influenced by the postmodernist critique of the Enlightenment, Prakash demystifies the British abolition of slavery in India as an illustration of the intrinsic ambivalence of the bourgeois ideology of freedom. In pre-modern Bihar, he says, *kamias* (dependent workers) belonged exclusively to the untouchable Bhuinya caste, and *kamiauti* was understood as inherent in the hierarchical nature of a social order governed by status and rank. In this context, the very notion of unfreedom as a direct correlate of financial indebtedness was totally irrelevant. In their oral epics and myths of origin, *kamias* appear not as unfree labourers of local farmers, but as dependent servants of the lords of the land. Under British domination, however, Indian society became gradually commercialized, land and labour turned into saleable commodities, and the state devised a body of laws based on the modern liberal conception of the autonomy of the individual subject, of which the Slavery Abolition Act of 1843 was a representative example. The practical effects of this piece of legislation, according to Prakash, have proved totally at variance with its declared emancipatory intentions. Whereas the *kamias* of Bihar were formerly subjects or clients of dominant caste families within the general framework of interdependence of the caste system, the new law defined them as unfree labourers whose relationship with their employer was founded on money alone, and who

had freely sold themselves into bondage by contracting a debt. In other words, they were actually classed as unfree by the law with the sanction of modern state institutions. Before 1843, the relationship between a *kamia* and his master was a relationship of hierarchical reciprocity, each party giving and receiving according to his status: the master supplied land, employment, grain, money (on occasion) and protection while the dependent provided his labour and services, none of these constituent elements considered in isolation being the foundation of the total social relationship. It is the colonial legislator who, having singled out the monetary transaction between creditor and debtor as the essence of the whole relationship, redefined it in economic terms while legitimizing it as a particular instance of contractual law. Prakash observes that the *kamiauti* system, from this time onwards, being thus severed from its hierarchical social context and reconstituted as debt-bondage, became generalized as a mode of recruitment of cheap captive labour, and gradually spread to the whole of rural society. Rich low caste peasants began hiring *kamias*, while *kamias* were now recruited among castes other than the outcaste *Bhuinyas*. This evolution contributed to economic stagnation, as rich peasants found it easier to accumulate land and enforce bondage than invest money in agricultural improvements.

RECENT MUTATIONS OF UNFREE LABOUR

Prakash rightly rejects the common evolutionist view of the slow but inexorable evolution of work in human societies from servile dependence to free labour, but he does not entirely escape the symmetrical tendency to implicitly idealize the 'traditional' hierarchical society. He means to deconstruct the standard description of pre-colonial society as backward and oppressive by showing that this representation goes together with the invention the indigenous 'other' fabricated by colonial discourse so as to make colonial modernity stand out as inaugural and liberating. He thus denounces as potentially perverse the universalist theory of progress generated and popularized by the Enlightenment and the economic ideology that goes with it. This critical stance has now become part of the commonplace doxa of postcolonial theory, so that there is no need to rehearse the terms of the debate here.¹⁷ It cannot be denied that, as far as 'concrete' liberties are concerned, the act of 1843 failed to a large extent in its object, in Eastern India as everywhere else in the subcontinent. Debt servitude in general (and the *kamiauti* system in particular) have survived up to this day, as the unending series of laws passed by the central and local

governments before and after Independence in the vain hope of amending it or doing away with it suffice to show. However, the modalities of unfree labour now under attack are not strictly comparable to the forms of servile dependence which prevailed in early British India.

The main body of colonial legislation directed against debt servitude dates from the inter-war period, a time when the Indian nationalist movement was gathering momentum and when the participation of Indians in the government of the country was increasing. As regards Eastern India, the most important piece of legislation was the Bihar-and-Orissa Kamiauti Agreements Act of 1920. It stipulated that any kamiauti agreement which did not provide for the extinction of all liability in respect of any advance or debt after the expiry of a period of one year was void. All new agreements were to be drafted in written form and duly registered, and to provide for a fair and equitable rate of remuneration. Moreover, any existing kamiauti agreement was to become extinct on the death of the kamia. Thus the aim of the act was not to abolish the kamiauti system, but to regulate it. It proved ineffective for several reasons. It made no provision for sanctions against masters who violated it, or for compensations for abused kamias. The latter lacked in any case the material means, education, assistance and freedom of action necessary to barely set the law in motion. The precariousness of their situation was such that the least manifestation of resistance was likely to jeopardize their strategy of survival (Das 1983: 56; GoI 1928: 434–5; HMSO, *Report of the Royal Commission on Labour in India* 1931: 362).

The Bonded Labour System Abolition Act (1976) passed by the Indira Gandhi government for the whole of India during the Emergency of 1975–7 was designed to give the death blow to this social evil. It was an instance of the strong-arm tactics with populist connotations which was the hallmark of that government, but it also carried the implicit design to break one of the obstacles to the development of capitalism in agriculture (it was as a matter of fact mainly directed against agricultural bondage; Breman 1993: 301). It abolished all forms of unfree labour consequent on indebtedness, as well as all debts incurred under the shape of tied labour agreements. In addition, employers were prohibited to dismiss any of their formerly unfree employees thus emancipated by it, and became liable to fines or prison sentences in the future if they happened to hire labourers under any of the abolished contractual modalities. The administration was empowered to appoint officers in each district to help in the implementation of the law, and special committees

were to be installed at the district and subdivisional levels to see to the identification, emancipation and rehabilitation of bonded labourers.¹⁸ This act was much more radical than any preceding legislative effort to eradicate debt bondage, and yet proved equally ineffective. The reason was that the agreements passed between masters and labourers were mostly oral, and the labourers, being poor and fearful of their masters and lacking realistic alternatives to their existing condition, did not dare to reveal under which regimes of constraint they were employed. Moreover, the state governments, to whom it fell to implement these directives, failed to devote the requisite resources and attention to the task, partly because the provisions of the law ran counter to the interests of politically powerful social strata. Thus the follow-up of the enforcement of the act was loose or non-existent, and where committees of surveillance were set up, which was not the case everywhere, they were mostly ineffective.¹⁹ In Bihar, it is the grass-roots organizations working for social justice and development who gradually took up the task of identifying the unfree labourers liable to be selected for assistance under the provisions of the law, and of supporting their claims to redress and rehabilitation before the local administration (who often tended to side with the employers) (Bharti 1990; Mundle 1979, chapter 6).

That debt servitude is now illegal in India is beyond question. According to late twentieth century published enquiries, it would seem to have largely disappeared in Bengal, whereas it is still rampant in Bihar.²⁰ But custom dies hard, and unfree labour does in fact linger on almost everywhere, either under varieties not cognizable under the law, or because the existing law is simply not enforced. Thus while the outlawing of debt servitude indisputably represented a great juridical advance, it did not radically transform the unhappy lot of the mass of dependent labourers subjected to this form of unfreedom. Although a master/creditor can no longer bind an indebted labourer to work for him for life in lieu of the interest due on his loan, most agricultural labourers continue to work under all sorts of constraints. They live under fear of recall of loans by their employer, or of being thrown out from their house site or from the homestead plot conceded to them on a sharecropping basis on condition that they do not seek employment outside, or again they may be uncertain about the payment of their grain wages which the master defers until harvest time so as to keep them at his beck and call, etc. True, the law now gives them a theoretical right and juridical ways to escape from their bonded condition, but the practical means to avail themselves of these

legal tools of emancipation too often remain beyond their reach (Rudra 1992: 262–72; Shankar 1996: 2215–17).

Nevertheless, all in all, the prevalence and rigour of unfree agricultural labour does appear to be decreasing. The degrees and forms of bondage vary considerably from place to place and according to individual situations.²¹ Isolated cases of full-fledged slavery are still met with in remote, mostly tribal, areas.²² Everywhere else, relations of inequality and dependence run across a continuum from free capitalist wage labour to quasi-slavery, and there are no hard-and-fast boundaries between categories or social groups in this regard, not even a clear-cut demarcation between unimpaired freedom and relative unfreedom. Most of the literature on rural labour and employment since the Agricultural Labour Enquiry of 1950–1 uses the distinction between free (generally temporary) casual labour and unfree attached labour. An attached labourer is bound to his employer by more or less permanent contractual obligations. Bonded labour is a sub-category of attached labour and refers to unfree labourers indebted to their employers who are bound to serve on a full-time year-round basis in return for their loan.²³ Such grossly delineated categories are necessary tools for the statistician, but they hardly reflect the wide range of forms and fine gradations of unfreedom of real life. This diversity, as we have seen, already existed at the beginning of the colonial period.²⁴ Two centuries later, however, the situation has clearly changed at the two ends of the spectrum. While cases of outright servitude are still occasionally met with, they are few and far between and usually clandestine. Free labour of the capitalist type, on the other hand, although the labour market admittedly remains largely imperfect, has become the legal norm of reference, and is more or less the rule in the modern sectors of the economy. What remains of the earlier forms of servitude, especially in the agricultural sector, is a consequence of extreme poverty. The changing aspect of the caste system or, to be more precise, of the traditional relations of opposition and complementarity between dominant castes and menial castes, now works towards the perpetuation of such forms of unfreedom, because the ritual element in the interrelationship between castes tends to be gradually superseded by its economic dimension. The result is that differences in ritual status now merely function as aggravating circumstances of conflicts of interest, thus rendering socio-economic exploitation more inexpiable.²⁵

It is on this terrain of socio-economic reform that further progress towards the eradication of unfree labour can now be expected in the

wake of land reform, agricultural modernization and rural development policies. The immense efforts expended by NGOs and social workers to raise the consciousness of the oppressed are indispensable at the local level, but they cannot by themselves undo the overall economic logic and ideological legitimations of dependence. Unfree workers, on their part, often remain understandably difficult to persuade to take the risk of open resistance and confrontation, as such a move may imperil their vulnerable and dearly bought strategies of subsistence. It seems that the regions where unfree labour is receding most markedly are the advanced agricultural areas where the green revolution was first initiated. Agricultural employers in these regions seem increasingly convinced that temporary employment of casual labourers when and where needed is better suited to their requirements than permanent attached labour, the cost of which is rising while its social acceptability is receding. The gradual move towards more mechanized and labour-saving farming methods also plays a role, as does the development of alternative non-agricultural employment opportunities consequent on urban and industrial growth. Lastly, the continuing trend towards commercialization of agriculture and rural modernization, along with the interplay of ideas and values resulting from growing interlinkages and mobility between village and city, tend to lessen the influence of non-economic personal considerations in the dealings between employers and labourers.²⁶ True, agricultural labourers still hypothecate their labour when taking money loans from well-off farmers even in regions such as Punjab and Haryana where the green revolution has been most successful: informal money-lending of this kind has survived in those areas in spite of all policy measures.²⁷ Yet these are regions where the ideological justifications of labour servitude have been much eroded, where labour disputes are common, and where more diverse avenues of employment are now available to most labourers thanks to the continuing advances of capitalist agriculture and urbanization, a fact which tends to improve their bargaining power. To speak of servile labour in such a context may thus seem henceforth inappropriate (although abuses still exist, as shown by a recent study of the poor migrant labourers from Bihar who are lured into Punjab by labour contractors and left mortgaged to the local farmers) (Singh 1997).

This rather optimistic (some would say teleological) reading of the present situation, however, is contested by neo-Marxist analysts who make little of the distinction between voluntary labour mortgage and personal servitude, and who label the forms of tied labour prevalent in

those advanced agricultural areas as 'neo-servitude' or 'neo-bondage', that is, a type of bondage perfectly compatible with the capitalist mode of production, which is likely to spread throughout India in the wake of modernization and liberalization.²⁸ Behind this interpretation lies a critique of the classical Marxist claim that the capitalist mode is by essence dependent on free wage labour (from which it logically follows that the working class under capitalism can only consist of such free workers). The neo-Marxists are both critical of linear (including standard Marxist) theories of modernization and desirous to adapt Marx's class theory to fit the realities of advanced global capitalism. While admitting that the relative importance of 'free' wage labour is gradually increasing, they insist on the fact that capitalism has always accommodated a variety of modes of labour control, ranging from self-employment to forced labour, indentured labour and outright slavery, and that unfree labour, far from being necessarily a pre-capitalist relic, has actually often been produced by capitalist relations. The main point is that while labour in capitalism is by definition commodified, this commodification may take on many different forms and a working class comprising slaves or forced labourers as well as wage-earners and other free workers is not necessarily inconsistent with the rational capitalist division of labour (Brass & Van der Linden 1997, contributions in part I; Corrigan 1977; Miles 1987). This view owes much to Immanuel Wallerstein's writings on the genesis of the 'modern world system' since the sixteenth century, and to the subsequent spate of historical research on labour relationships in colonial countries, which show that unfree labour of all types and grades has proved historically not only well adapted to the capitalist mode of production but essential to its expansion until the present day (an idea now set for a promising career in the growing field of globalization studies, for example, Hardt & Negri 2000: 122). Of course, when a researcher is confronted with the ground reality of labour relations, and tries to see his/her way through a maze of local differences and the intricate interweaving of factors involved in each particular case, he/she may well find such general theoretical controversies unhelpful and in any case impossible to decide. But these debates cannot be put aside, because they are unquestionably of political relevance. These conflicting interpretations of the contemporary evolution of unfree labour would logically seem to tie in with divergent (reformist *vs.* radical) emancipation strategies. Whether the intellectual's armchair is an effective political location is, of course, another question.

NOTES

1. A very enlightening anthropological study has nevertheless been published in 1986 (Stern 1998). Useful general considerations on the relationship between caste and slavery are also found in Kumar (1993), and in Chatterjee (1999, chapter 1).
2. As, for example, on the tribal frontier of an expanding sedentary agriculture as highlighted in the case of western India in Breman (2007, chapters 1 and 2), or in the south Malabar rice-lands studied by K.T. Rammohan elsewhere in the present volume.
3. For a rich and thoughtful study of domestic slavery in the princely society of colonial Bengal, see Chatterjee (1999). Chatterjee rightly stresses the ambiguities inherent in the classic distinction between 'unproductive' luxury or domestic slavery and 'productive' (including agrestic) slavery. See also Caplan (1979).
4. On the *adimais* (agrestic serfs) of South India and their relations of 'mutual obligations' with their masters in the eighteenth century, see Cederlöf (1997) and Washbrook (1993).
5. In the Madras Presidency, a hereditary slave recovered his freedom when his master's family became extinct (Kumar 1965: 68–73; Mukherjee 1962: 301). Both authors however point out that this eventuality was more theoretical than practical, the emancipated slave being generally so poor that he had no option but to sell himself to another master.
6. Section 88 of the Charter Act of 1833.
7. These debates form the subject of part III of Banaji (1933: 333–403). For a brief overview, see Dingwaney (1985: 299–311).
8. Original text in Banaji (1933: 403–4). On the process of slavery abolition, see Chatterjee (1999: 215–23).
9. Majumdar (1967: 9). In the course of the discussions which preceded the drafting of the Abolition Bill of 1843, some petitions were submitted to the government by representatives of the landlord party in Bengal and in other provinces. This was a classic reaction on the part of the landlord class, which was organized from very early on in regional landholders' associations, whenever a proposed government decision had a bearing on its vested interests (cf. Dingwaney 1985: 311).
10. Workman's Breach of Contract Act of 1859 (eventually abolished in 1925); Section 200 of the Civil Procedure Code of 1859 (attenuated in 1879, after the anti-moneylender Deccan Riots of 1875). Cf. Dingwaney (1985: 313).
11. The standard book on this subject remains Tinker (1974).
12. See Ghosal (1966: 251); Hjejle (1967: 102); Kumar (1976). On the comparative leniency of the treatment meted out to slaves see, for example, Buchanan (1928: 162–3). B. Hjejle however remarks that this overall impression of leniency given by official reports is strongly contradicted by the generally damning testimony of the missionary archives (Hjejle 1967: 96).
13. The notion of the transmissibility of debts is linked to the Brahmanical idea that man is by birth indebted to the gods, and figures in the most ancient Hindu

- juridical tradition. See Malamoud (1983); also Malamoud (1988), especially p. 14. On the permanence and generality of this conception in India until the twentieth century, in spite of the contrary provisions of modern law which rules that no personal liability is transmitted, see GoI (1928: 435).
14. That is to say, the slave was sold by his master for the estimated amount of the total sum which he owed him. The practice was apparently still widespread, for example, in the Hazaribagh district of south Bihar at the beginning of the twentieth century (Sifton 1917).
 15. For Bengal, see Chaudhuri (1969: 243–5). As regards Bihar, references are found in Pouchepadass (2000: 462–3).
 16. This 'standard' scenario has been described *ad infinitum* in the literature relative to agricultural labour from the colonial period to date. A brief overview of its variants across the districts of eastern India in the early twentieth century can be found, for instance, under the heading 'Rents, Wages and Prices' in the *Bengal District Gazetteers* series published under the editorship of L.S.S. O'Malley in the 1900s and 1910s.
 17. An interesting Marxist critique of the book has been published by Tom Brass (Brass 1993). Brass also denounces the colonial repression of slavery in British India as purely formal, but he rehabilitates the advent of bourgeois liberties as a historic advance, before criticising them as abstract and truncated.
 18. The full text of the law is reproduced in Mundle (1979: 150–61).
 19. Such were the conclusions of an enquiry carried out by the Ministry of Labour in 1979; Dingwaney (1985: 336–7). A case study of the Palamau district of Chota Nagpur is available in Mundle (1979, chapter 6).
 20. Concerning Bengal, see Rudra (1992: 262). The persistence of the *kamiauti* system in Bihar and Chota Nagpur is documented, for instance, in A.K. Lal's monographic study of a village in Gaya district (Lal 1977, especially chapter 3); in Mundle (1979), Palamau district; in Tiwary (1985). According to a sample survey conducted in six Bihar districts in 1990, the percentage of attached labourers in the total number of agricultural labourers amounted to 33 per cent (Bharti 1990: 2124).
 21. On the variety of types and degrees of servitude in post-Independence India, see 'Employer-Labourer Relationships in Agriculture', in Thorner & Thorner (2005); Nagesh (1981).
 22. These occurrences are mentioned, for instance, in the annual *Report of the Commissioner for Scheduled Castes and Scheduled Tribes* published by the Government of India.
 23. According to the Agricultural Labour Enquiry, the percentage of attached labour families to the total number of agricultural labour families in eastern India was 23.9 per cent (Chaudhuri 1983: 166). But the Thorners have shown these labour categories to be 'mutually non-exclusive catch-alls for non-homogeneous groups', which of course detracts from their credibility (see 'The Agricultural Labour Enquiry: Reflections on Concepts and Methods', in Thorner & Thorner 2005).

24. Late eighteenth-century Tamil society, for instance, according to Ravi Ahuja, exhibited 'a startling diversity and coexistence of seemingly incoherent labour relations. [...] Petty commodity producer, 'free wage labourer', debt servant and slave were social roles that could be assumed by a single household of the labouring classes at a single moment or within a short time-span' (2002: 825).
25. Gunnel Cederlöf has documented in her thesis the case of the Madharis of the Kongu country of Tamil Nadu, formerly permanent labourers of the local Gounder farmers, who were dismissed by their employers in the 1950s when the latter converted to electrified irrigation. They became free to move and seek casual employment as they could, but they lost the rights and security that went together with their status of servitude (Cederlöf 1997).
26. These evolutions are excellently analyzed in Breman (1993).
27. Anita Gill, for instance, has recently found that landless borrowers in Patiala district still go in for tied credit transactions, partly because the supply of formal credit is inadequate and entails cumbersome procedures, but also because they cannot offer collaterals acceptable to formal institutions (land or immoveable assets). Their only option is to turn to informal lenders who readily accept such non-conventional collaterals as labour service or sale of a crop. These lenders are thus placed in a strong bargaining position which enables them to charge high rates of interest (Gill 2004).
28. For an overview of this debate, see the following articles in *Economic and Political Weekly*: Jodhka (1994, 1995, 1996); Brass (1995, 1996a, 1996b); Singh (1995).

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2 Entrapped between Bondage and Freedom

Paraiyans and the Changing Fortunes of Agrestic Servitude in Colonial and Post-Colonial Tamil Nadu

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In recent times, there has been a growing opinion that pre-colonial Indian villages had a sizeable community of agricultural labourers, who were not wholly landless, but depended exclusively for their subsistence on the income accrued from their labour on other people's lands. Such ideas tend to counter the earlier assumptions which had repeatedly emphasized that the typical village was composed mainly of small peasants who tilled their own lands. At the same time, it is also fairly well known that there were wide variations with regard to the social composition of the agricultural labourers and the condition of their employment, such as the duration of their modes of labour utilization and payment of labour (Chaudhuri 1996: 87). This article is essentially concerned with only one group of such labourers who were variously called as attached labourers, bonded labourers, and agrestic serfs. In the course of this narrative, there would be attempts to unravel the factors responsible for the weaknesses of bondage as an institution in the later decades of colonial rule.

Jan Breman has very recently argued that the relationship between the master and the servant underwent significant changes in course of the nineteenth and early twentieth centuries. In contrast to the assertions of scholars influenced by the nationalist literature, Breman opined that servitude of depressed social groups to the landowning elite was 'based not on collective but on individual arrangements' (Breman 2007: 59) in the pre-colonial era. Nonetheless, colonialism radically changed the scenario and the way the depressed groups were subjugated was quite different to the situation that had prevailed centuries before. This changed scenario was the product of a multiple set of factors working together. In consequence, a large group of impoverished people came to depend on a small number

of privileged people for their livelihood. The bonded individuals as clients displayed loyalty and gratitude towards their masters, and this deference and docility was often employed to entice their benefactors to extend greater bouts of privileges (*ibid.*: 67–8). Nevertheless, what actually made this system of bondage 'durable' remains a matter of controversy. There is also a point of controversy as to whether the process of agrarian pauperization lent strength to the institution. In fact, there can only be some conjectures about the decline of this institution. The reasons for this may not have been the same in many parts of the subcontinent. But, certainly some issues like migration, changes in agrarian production, changes in government policies, and diverse forms of political protest and mobilization may have been responsible for its decline.

In the case of Tamil Nadu, researchers like Gunnel Cederlöf had pointed out that industrial and economic development at the beginning of the twentieth century had a serious impact on the labour supply, which had already been depleted by emigration. In the Kongunad region, unlike the valley region of Tamil Nadu, there was a direct correlation between development and bondage. Cederlöf argued that labour supply, which had only been a minor problem in the early nineteenth century, assumed serious proportions in the later years, particularly with the introduction of cash crops. The migration of labour from the villages to the estates further worsened the situation. In Cederlöf's opinion, all these developments combined to strengthen the bondage of the Madhari labourers to their masters belonging to the Gounder caste (Cederlöf 1997, chapters 2 & 3). But then, while this may have been the picture for Kongunad, the institution of bondage was seriously facing a challenge both in the plains as well as the valleys of Tamil Nadu in the early decades of the twentieth century. In fact, till date, there is hardly any comprehensive account of this decline.

Indeed, there had been a general trend of decline in the later decades of colonial rule and this was often reflected in the gradual weakening of the ties that bound the labourers to their masters. In this context, two sets of developments were noticeable. In the first place, the dependence of the labourers on the landowners for their livelihood and sustenance tended to diminish in the context of an expanding market in village produces and labour. Second, the increased demand for labour resulting from an increasing export orientation of agricultural production might have also led to an intensification of the labour process. This might have prolonged the hours of work for the bonded labourers in their master's

lands, where the farming techniques continued to be traditional. The doldrums in the market for agricultural produce, however, might have temporarily provided a reprieve to the landowners. Landowners rarely surrendered their control over labour without voicing protest. The use of caste sanctions, only marginally helped them in recovering their lost grounds of dominance. The increased mediation of the colonial state apparatus weakened much of the rigidities of the old caste sanctions. In fact, the landowners found it increasingly difficult to ignore the interplay of market forces. In the last decades of the nineteenth century and also in the early decades of the twentieth century, this was reflected in the initiatives of the dominant rural groups to favour alternative modes of land management, such as tenancy and sharecropping.

THE COMPLEXITIES OF LANDOWNERSHIP AND LANDLESSNESS IN LATE NINETEENTH-CENTURY TAMIL NADU

By the late 1880s, when the debate relating to obliteration of the 'slave Paraiyan' had reached a point of climax, ideas on sedentarization of 'lowly' communities gained in parlance in both official and non-official circles. Eugene F. Irschik has tried to link this development in the context of the Utopian movements that had influenced British and Indian intellectuals of the period. He argued that this utopian upsurge inspired a section of the English educated classes, including some influential members of the colonial bureaucracy, to explore the reasons behind the pauperization of the lower classes in India as well as in England.¹ In the context of colonial south India, this sort of intellectualism had wide implications. It has been pointed out that British commentators specializing on the indigence of certain social groups felt that Paraiyan bonded labourers (particularly in the different *taluks* of Chingleput district), despite being labelled as 'untouchables' could perform a more productive role, if restrictions could be imposed on their mobility. Such ideas definitely shaped the entire dialogic construction of the 'sedentary Paraiyan' in this period (Irschik 1994: 153). While such developments were taking place, the debate on the 'slave Paraiyan' brought some more important issues to the forefront.

In the first place, it opened up a debate within the bureaucracy over the rights and privileges enjoyed by the *mirasidars* (a group vested with a privileged right to the possession of land) in terms of land ownership. Secondly, it brought the issues of indebtedness and bondage in Tamil Nadu before the most important policy-making institutions of the colonial government. Thirdly, it unfurled before the bureaucracy as to how issues

such as emigration had brought about changes in the traditional system of dominance and control within the rural society. All these issues, taken together generated some very important questions relating to *mirasi* (employed as a general term to define privileged right to land) and the institution of bondage and the possible signs of its decline. Indeed, much of these questions acquired prominence in the context of the debates which took place in the House of Commons over the depressed conditions prevailing in the Chingleput district.² But, the government's serious involvement would not have come, had the Madras Missionary Conference not presented a memorial to His Excellency the Governor of Madras. The missionaries strongly asserted that despite the government's decision to declare slavery as an illegal and punishable offence under the special provisions of the Indian Penal Code, the attitude of the official classes vis-à-vis the Paraiyans had hardly undergone any significant change. They highlighted the oppressive nature of the *mirasi* system, which they believed had denied the *parakudis* (non-resident cultivators) of the opportunities to establish themselves as independent landowners. The judiciary was blamed for its failure to secure house sites for the Paraiyan sub-tenants, who had regularly met their economic obligations such as the *kist* (revenue instalments) and *swatantram* (certain fees levied by the mirasidars). The missionaries also alleged that lower level village officials such as the *karnams* (village accountants) often conspired with the mirasidars to gain control over the vacant sites and *gramanattams* (lands reserved for common use on the part of the villagers) (Goudie 1892: 137).

In the years following the famine of 1876–7, missionary endeavour in imparting prompt relief had led to considerable conversion from these classes to Christianity. The large-scale conversion of the Paraiyans and the other 'untouchable' communities to Christianity influenced the missionaries to adopt a more radical attitude to the Hindu institution of caste (Balasundaram 1982: 5). The London Missionary Society (LMS) and the Wesleyan Methodist Mission (WMM) emphatically voiced the opinion that the caste system had brought great sufferings to a vast humanity and had actually negated the aspects of social cohesion and integration (Oddie 1969: 278). In the last decades of the nineteenth century, the missionary zeal for the uplift of the 'untouchable' communities led to a backlash from the conservative sections of the Hindu society. Hindu landlords as patrons of sectarian organizations like the Hindu Tract Society (HTS) bitterly opposed the missionary propaganda. In most cases, they tried to prevent

their Paraiyan labourers from reaping the benefits from the programmes launched by the missionaries. They also spread false rumours to malign the missionary organizations. Such a situation might have influenced a large section of the missionaries to propound the view that mirasidari hegemony had not declined in the rural areas in the late nineteenth century. Interestingly, Rev. Adam Andrews of the Church of Scotland undertook a trip to London to convince the colonial bureaucracy of the need to undertake some ameliorative programmes for the suffering humanity. By then, however, violence and oppression on the part of the upper caste landed families had convinced the missionaries of the need to set up *Panchama* Settlements. Subsequently, agricultural settlements were established by the missionaries to protect their new converts from the harassment and insults unleashed by the Hindu mirasidars.³

The opinions of the missionaries received a great deal of support when J.H.A. Tremenheere, the Collector of Chingleput district published a report entitled *Note on the Pariahs of Chingleput District* in 1891. In this report, the Collector argued that the conditions in the district actually resembled that of a famine and the conditions of the lower classes were really deplorable in the rural localities. He proposed a series of measures for removing the difficulties which prevented the Paraiyans from becoming independent landholders. In short, it was argued that the poverty of the Paraiyans and the other lower caste agricultural labouring groups resulted from the prevalence of the mirasi system. Mirasi was defined as a land system in which land was held jointly or in shares by *ryots* or mirasidars, who were jointly responsible to the government regarding the payment of land tax. The *ryotwari* system (a revenue settlement directly with the peasants), which had replaced this communal system of landholdings, was criticized for its failure to improve the condition of the agricultural labourers, the most wretched among the rural groups in Tamil Nadu.⁴

Tremenheere relied on his own historical narrative to explicate the links between mirasi and agrestic servitude in the region. He began by arguing that when the British began their rule in south India, the mirasi system was in a more or less disintegrated form in most parts of the peninsula. In the subsequent decades, mirasi disappeared 'except in Tanjore and Chingleput'.⁵ Subsequently, in the early decades of the nineteenth century, mirasi as an institution faced stiff opposition from the officials of the Board of Revenue. This sort of situation continued well into the 1840s and 1850s, lending the impression that mirasi would die a natural death. Contrary to such expectations there was a dramatic change in the

fortune of the mirasi system towards the latter part of the century. In the 1880s, Tremenheere argued that the Government of Madras implemented certain policies based on the Hindu Common Law and the mirasidars took advantage of them to make their exclusive claims over the wastelands.⁶

The Collector's opinions regarding the condition of the Paraiyans found support from Rev. William Goudie, a Wesleyan missionary. Rev. Goudie observed in 1894 that the Paraiyans were 'the disinherited children of the soil and to give them again some small possession in it, is only to restore them to a position which their fathers held with honour long ago when their race saw better days.' The leading English dailies like *The Hindu* had much earlier published reports endorsing Tremenheere's opinion on the social and economic conditions of the Paraiyans in Tamil Nadu. In one of its reports published as early as 3 June 1891, *The Hindu* had observed,

We are told for instance that in the Chingleput district a system prevails of agrestic slavery by means of written documents. In former times, the Pariahs used to be transferred along with the fields to which they were attached as labourers from owner to owner. That system probably still survives in Chingleput. But we believe it is prohibited by law and the Pariah is at full liberty to repudiate any such contract. These restraints and others that may be proved to exist might be removed. But it will be obviously opposed to public policy to do anything in favour of the Pariahs in violation of vested interest. He has been accustomed for ages to be domineered over by his Hindu masters. (*The Hindu*, 3 June 1891, cited in G. O. No. 1010-1010A, Revenue Department, Tamil Nadu Archives, p. 30).

Subsequently *The Hindu* published a report titled 'The Disabilities of the Pariah' on 1 October 1891, wherein it was observed,

The present state of the law either upholds the *mirasidar* in excluding him (Paraiyan) from all occupancy of the soil or fails to take cognizance of illegal influences used to that end. The Pariah has at present little or no chance of justice. He is too poor to resort to our courts; and even if he manages to do so by mortgaging his personal property, if he has any, or his personal freedom, the caste *mirasidar* by his superior resources wins over the Pariah's witnesses and his vakil. It is also quite true, as Mr. Goudie says, that the Pariah suitor can be so badgered owing to his ignorance and simplicity as to fall into self-contradictions which lead to the ruin of his case ...⁷

The mirasi system, despite such criticisms, continued to exist. The reformist English officials did not favour a radical transformation that would pave the way for an egalitarian order. Though, Tremenheere's proposals on paper seemed to be epoch-making, there was a clear indication that only certain changes would be preferred vis-à-vis the socio-economic

amelioration of the agricultural labouring classes.⁸ Tremenheere himself was well aware of the developments that would take place following the implementation of his proposals. His cautious approach was reflected in one of his observations: 'I am not unprepared to hear my proposals spoken of as revolutionary and as involving the abolition of mirasi right. In one form at least they can hardly be revolutionary in any bad sense, unless the Chief Justice of Madras can be supposed to have recommended revolution. Nor have I proposed to abolish mirasi right.'⁹ Thus, he recognized the mirasidars' claim to the wastelands and only protested against its exercise for the purpose of obstruction. For all purposes, he never aimed towards a radical land reform that would transform the landless labourers into independent landholding farmers.

The Board of Revenue objected to almost all the proposals submitted by the Collector of Chingleput district. The Board felt that the rural scenario in the district was not as oppressive as the collector had presented in his report. The Board argued that hundred years of British domination in south India had brought about significant changes in the lives of the agricultural labouring classes. It stated that prior to the British rule, the conditions of the Paraiyans had been deplorable. The researches of English officials like Lionel Place had established the point that the Paraiyan labourers had started commanding a bit of respect in the last years of the eighteenth century. The Board cited the report of Lionel Place dated 6 October 1795, wherein he had observed,

There is a peculiarity in the mutual conduct of cultivators (*mirasidars*) and their servants (*padiyals*) partaking with regard to the latter both of bondage and freedom, which deserves to be noticed. The servant engages in the service of a cultivator at the beginning of the year, on the customary terms of the village to which he is conciliated and binds himself by the acceptance of betel, unless in those cases ...as inducing one party to demand and the other to grant exorbitant terms, and his servitude expires with the year, during which it seldom happens that he is guilty of desertion if those terms are faithfully observed towards him.¹⁰

Thus, the Board opined that the story of exploitation of the 'untouchable' agricultural labourers was essentially a piece of exaggeration. The Board stated that the mirasi system did not lead to full-scale exploitation, instead it promised some freedom as well as privileges to the former 'slave castes'.¹¹

The officials of the Board highlighted the difficulties faced in converting the Paraiyans into independent landowners. The Board felt that in districts like Chingleput, where the total extent of available waste was small and

the soil content poor, there could hardly be any expectations about its utilization. The Board stated that in view of the poor soil, large expenditure of money and labour could never prove to be profitable.¹² The Board contradicted its earlier position by stating that the Paraiyans were groaning under a 'dead weight of pauperism' and devoid of any sort of resources. It clarified that any attempt to bolster the Paraiyan on the lines proposed by Tremenheere would lead to an increase in pauper holdings.¹³

The Board also opposed the view that the mirasidars often conspired to get the village sites entered in the *adangal* (revenue settlements concerning common lands) accounts in their own names as owners and in the names of their tenants and servants occupying them. The Board argued that though in some cases the mirasidars' right to the site was supported by entries in the *paimash* (original survey) and *tarapadi* (original settlements) accounts, such double entries needed to be sanctified by the village karnams. The Board recommended that this practice of double entry be discontinued and the names of the present occupants only be shown in the accounts. It also felt that local officers could stall the possibilities of conflicts between the mirasidars and the Paraiyans.¹⁴ They were suggesting that there should be least possible governmental interference regarding the village sites and that there was no need for legislative action. The Board favoured assignment lands to the Paraiyans out of lands reserved for public purposes or bought in by the government.¹⁵ It also recommended that the government needed to implement special measures for improving the educational standards of the Paraiyans.¹⁶

Nonetheless, the Board's opinions relating to Tremenheere's report influenced the decisions of the Revenue Department. The Revenue Department issued a Government Order in 1892, in which it supported the Board's opinions on some issues, while differing with it on some others. The government did not admit the absolute right of the mirasidars to all the lands in their villages and also did not accept the Board's opinion that this right had been established by the High Court judgement. At the same time, it was also declared that the state had the absolute right to appropriate 'immemorial' wasteland in mirasi villages for its own purposes without any preference to the mirasidars. As regard to the provision of village sites for the Paraiyans, where they had been expelled from their houses by the mirasidars and rendered homeless, the government declared that it would direct the collectors to provide them with housing plots either by assigning them the *purambokkus* (lands which had been lying unutilized) or through the distribution of lands acquired through

purchase. The department opinion that the officials should be prepared to give opportunities to the Paraiyans and the non-mirasidars to obtain land for cultivation by making small allotments available to them out of areas which had been freed from preferential right through purchase as sales for arrears of revenue or which were at the absolute disposal of the government.¹⁷

THE WEAKENING SIGNS OF AGRESTIC SERVITUDE IN EARLY TWENTIETH-CENTURY TAMIL NADU

Signs of the weakening of mirasi authority appeared some time in the nineteenth century and became more visible in the early decades of the twentieth century. The decline of mirasi power primarily resulted from the expansion of the labour market within the village as well as outside its boundaries. Some of the government policies such as grants of house sites to the 'outcaste' groups in the early years of the twentieth century also accounted for its steady decline.

The gradual weakening of the corporate status of mirasi right had much to do with the propensity on the part of the colonial state to hold individual mirasidars responsible for the payment of revenue. Initially, the mirasi right related just to a share in the produce of the lands included within the mirasi unit. But this later tended to change into a right over a specified area of land. A spate of agrarian changes, namely the rising income from agriculture resulting from the expanding rice trade, prompted individual mirasidars to break free from the corporate mirasi organizations and to make use of the market forces in organizing the cultivation on their individual holdings. This intensified the internal differentiation within the old corporate mirasi organizations. Furthermore, this decline in the collective status of the mirasi right had an impact on the organization of the supply of bonded labour, which in the past had also been a part of the corporate arrangement.

Significantly, the more important factor in the weakening of the mirasidars' control over bonded labour was the upper caste migration from the rural areas to the cities. Haruka Yanagisawa has made the following observation with regard to higher-caste migration to the cities: 'The higher caste landowning communities, especially Brahmins, grew interested in urban employment, and a considerable number of people migrated to urban areas to take jobs and obtain a better education for their sons, consequently losing their commitment to agricultural management' (Yanagisawa 1996: 110).

This urban migration of the mirasidars was far from a purely cultural phenomenon. Indeed, this had much to do with the reverses the valley agriculture had suffered since the beginning of the twentieth century (Baker 1984: 175–9). By this time, the expansive trend in agriculture in the valley had started dwindling. The factors which had earlier been responsible for agricultural growth—‘good prices’ and the demand for the Cauveri delta rice, both within Tamil Nadu as well as Ceylon and some parts of Southeast Asia—ceased to be active, largely because of the stiff competition from the produce which had been grown in Burma, Thailand, and Indo-China. Consequently, the Cauveri delta rice lost much of its export market and there were also signs of a shrinking home market. All these resulted in a sharp fall in the price of rice compared to the other crops in the early decades of the twentieth century. This depressed trend could hardly be reversed later. Willem van Schendel has observed, ‘It was impossible for the Kaveri traders to stage a come-back in the late 1920s as rice prices all over Asia had begun a long downward slide, resulting in fierce competition between Asian exporters. The Kaveri delta rice exports had gone into definite decline well before the crash of 1930’ (Schendel 1991: 120–2).

The mirasidars tried to confront the situation, not by adopting competitive strategies but by opting for other means of stabilizing their finances. This was reflected in the creation of fixed rent tenancies. The more common strategy was to invest heavily in securing non-agricultural occupations. Willem van Schendel has argued that the mirasidari elite not only had gained a strong foothold in urban jobs but had also started investing in better education for their new generation. The Depression of the 1930s lent strength to the mirasidars’ urban orientation. B.B. Chaudhuri has pointed out that this shift away from the land was initially hampered by the tightness in the credit market as well as by the slowness of the land market (Chaudhuri 1996: 110). But, the end of the Depression and the outbreak of the war witnessed the rise in the credit supply and wealth garnered from urban business as well as from black marketing of crops—all of which came to be invested in lands. The mirasi groups who had moved into an urban life had few alternatives other than allowing others to take control of their lands (Baker 1984: 190–1).

This absence from the village naturally prevented the emigrant mirasidars from rigidly enforcing the old kind of supervision and control over the bonded labourers. The mirasidars tended to avoid direct land

management and instead favoured tenancy as a mode of management. In most places, there was a change from *varam* (crop sharing) to *kuthagai* (fixed grain-rent). Indeed, this instability in the rural power relations along with the apprehension on the part of the dominant landowning groups that agriculture was a risky occupation, did lead to disturbances in the old arrangements of labour supply. The shrinkage of rural employments and the growing economic distress of the labouring population forced a large number of labourers to leave their old villages in search of new means of livelihood.

But a far more decisive factor in the decline of the system of bonded labour was the increase in the demand for labour that had resulted in the wake of intensification of cultivation and the expansion of labour market outside the village. The increase in the number of wells, the increase in the area under double cropping, and the increasing application of manure amply testified to this process of intensification. B.B. Chaudhuri has pointed out that this agricultural expansion, particularly in the regions watered by the new irrigation works, was achieved not by the incorporation of new lands but through the practice of double cropping on the existing irrigated fields (Chaudhuri 1996: 111). The valley heartlands where this expansion largely took place were densely settled and the expansion of agriculture was based essentially on the intensification of cultivation practices rather than extension of the area of cultivation (Baker 1984: 78). Undoubtedly, this called for a reorganization of labour, since the age old dependence on bonded labour seemed to have outlived its purpose. Haruka Yanagisawa has observed, 'The advantage enjoyed by a larger farm over a small peasant farm tended to lessen in this period. As a general rule, a large farm depending upon non family labourers required very strict supervision of labourers by the farm manager to make them work as industriously as farm labour' (Yanagisawa 1996: 106–7, 109). It needs to be asserted that the imperatives of intensive cultivation did not lead to a change from large farms, wholly or largely dependent on non-family labour to small peasant-run farms. In some places, where the farm managers could not do without their dependence on hired labour, there was dependence on casual labour employed or on resourceful tenants. This resulted in the weakening of the ties of bondage, especially since the mirasidars preferred to do without bonded labour in matters relating to cultivation.

The emigration of bonded labourers, particularly in the last decades of the nineteenth century, to the coffee, tea, and rubber estates situated in south India as well as overseas, directly affected the system of bondage

(Yanagisawa 1996: 60–4). While it exposed the slackening of mirasi control over a sizeable labour force, the shortfall in the labour availability could hardly be met by the population growth of the time. This situation tended to create conditions favourable to the labourers.

The landlords strongly asserted that emigration was unwarranted from the point of view of both legal and social considerations and adopted various strategies to put a check on it. This frequently pressurized the labourers to enter into fresh deed of contracts. The labourers foiled such attempts by escaping to the emigration depots. The labourers sometimes emigrated to Ceylon or to the Straits without even caring to repay the advances they had received from the landlords (Row 1883: 311). The relationship between the landlords and the 'outcaste' agricultural labourers was also affected by emigration. The new job opportunities, as well as the changes in the outlook of the labourers, transformed the relationships which for a long period had been based on subservience and dominance. In districts like Trichinopalli, the majority of the 'outcaste' coolies returning from the overseas preferred to invest their savings in land.¹⁸ Landownership instilled in them a sense of self-respect as well as an eagerness to break free from all forms of subordination. This explains the reluctance on their part to enter into fresh contracts for labour with the Reddiar landlords. The high wages offered to the labourers by the railway company also depleted the supply of agricultural labourers (Yanagisawa 1996: 101–2).

The situation in the other districts was no less different. In Tanjore, the landlords often complained about the declining labour supply and the increasing propensity on the part of their labourers to immigrate to the overseas plantations. The labourers also demanded greater economic benefits from the landlords. S. Srinivasa Raghavaiyengar had pointed out that though there had been a rise in the grain wages, there were complaints that labourers were reluctant to work on customary rates of wages, as before (Raghavaiyengar 1893: 151–2). There were also reports that decline in the labour force had led to the curtailment of working hours in the agricultural sector. The Collector of Tanjore reported that apart from the ordinary rates of wages amounting to 0.75 *marakkal* (standard measurement for grain) of paddy, landlords offered other economic benefits to maintain the supply of labour.¹⁹ Despite these measures the problems relating to labour shortage could not be tackled and there was growing competition over matters relating to the recruitment of labour.

The English officials, in their reports, repeatedly stressed that overseas employment opportunities had made the social groups conscious of the

importance of moral values and discipline. George Paddison, a highly placed English official, made an interesting observation, 'There are visible signs of growing self-respect, thrift and hopefulness in the community. Most of the *Panchamas* (meaning untouchable groups) in about twenty villages (in the Tanjore district) have given up drink. Not only have some Panchamas applied for house-sites, but also other Panchamas are anxious to become members of cooperative societies in their villages.'²⁰ In this sort of a situation, as Christopher Baker has pointed out, the landlords substituted the more personal control of *pannai* labour with more formal versions of debt bondage (Baker 1984: 173). In the real sense, *pannai* was a form of indenture. The *pannaiyal* (farm servants), in return for a low but secure wage, undertook to work as tied labourer to the plot. The mirasidars often made payments to the *pannaiyals* for meeting the expenses of marriage 'and many *pannaiyals* began their indenture when they wanted to get married' (ibid.). These were not really debt contracts but somehow or the other the contract had all the 'appearance of debt slavery' (ibid.). In Tanjore, the mirasidars tried to prevent the agricultural labourers from acquiring house sites, by putting forth arguments that their control existed over the entire territory of the village including the sites that had been claimed by the latter. The mirasidars also held out threats of evictions to prevent the agricultural labourers from being allured by the economic benefits of emigration.

By the early years of the twentieth century, despite the opposition of the landlords, the economic impact of emigration on rural labouring groups as well as the institution of bondage became much more pronounced. In some of the Tamil districts, landlords tried to counter the problem of labour shortage by leasing out parts of their land to 'outcaste' agricultural labourers, who had previously performed the services of a *pannaiyal*. In Chingleput and Tinneveli districts, subletting of land to 'untouchable' communities became a standard practice.²¹ In some other regions of Tamil Nadu, as has been argued earlier, labourers returning from the overseas settlements acquired lands. The efforts on the part of the 'outcaste' labourers to set themselves up as landholding peasants did achieve some measure of success in the Tondai and the Tambraparni regions. In the Tondai region of Tamil Nadu, the weakness of the mirasi system as compared to the other regions enabled 'untouchable' communities such as the Paraiyans to acquire lands (Baker 1984: 182-3).

The most important influence of emigration was reflected in the efforts of the landowners to adjust to the changing forms of labour supply. There

is a lot of evidence to prove that the labour question deeply bothered them. They complained to the government citing their inability to obtain labourers at the due customary rates of wages, as well as their failure to make them work with 'zeal or fulltime as in the old days'. This shows that the custom was gradually giving way to competition (Yanagisawa 1996: 102). That the landlords were not exaggerating their difficulties was evident from their determined efforts to keep the labourers tied to them.

The upper caste landed groups often obtained court decrees to prevent the 'depressed classes' from gaining possession over the house sites.²² The depressed class leadership also highlighted the pernicious effect of the contract labour system. This system, which was a modified form of the old pannaial system, was alleged to have forced the 'depressed labouring groups into state servitude in some parts of Tanjore and south Arcot districts. There were also allegations that controversial legislations like the Whipping Act were also being utilized by the upper caste landed groups to maintain their dominance over the 'untouchable' agricultural labouring groups (Basu 2004: 252).

Significantly, the measures adopted by the landlords did not at all include the so-called traditional caste sanctions. In other words, it proved in no uncertain terms 'the utter ineffectiveness of cultural hegemony of Brahmin and other high caste landowners as an instrument of control over bonded labour' (Chaudhuri 1996: 114). Therefore, even if caste ever had any role in the landowners, dominance over bonded labour, it was 'now mostly supplanted by their power derived from their control over land, credit supply and more from their adroit manoeuvring of the institutions of the colonial state, particularly the ones connected with law and justice' (ibid.). However, the landed groups did try out a strategy of moral persuasion. They tried to influence the bonded labourers that it was always honourable for them never to leave their master, but even then most of the measures to keep the labourers tied to them were coercive in nature.

The landowners operated with different sets of strategies vis-à-vis emigrants (who had previously been agricultural labourers) returning home with some savings and keen on investing them on land in order to become independent farmers and those staying on in the village but trying to uphold their independence through demands of increased wages and better conditions of work. The landowners in most cases tried to prevent the returned emigrants from having any independent

access to the village lands, fearing a threat to their social and economic dominance in the village. For this, the landowners adopted a twin strategy: consolidation, through sanctions of courts of their claim over the whole of the village lands, and establishment in a similar way of their proprietary right to the part of the village, generally referred to as *paraicheri* (lands meant for housing the untouchable agricultural labourers) where only the bonded labourers were allowed to build their huts. Such claims of control over the village lands were not by any means the only source of their confidence in asserting their will. A more effective source was their association with the local apparatus of power of the colonial state. In this context, Baker observed, 'the mirasidars manipulated their role as government's intermediaries in the village to limit the labourers' ability to acquire land. The mirasidars controlled the land records of the village and thus could make it difficult for an upstart to secure a title deed' (Baker 1984: 183).

However, the claims of the mirasidars over the village lands had considerably weakened towards the end of the nineteenth century, when the district officials were instructed to reserve lands for assignment to the 'untouchable' communities, generally known as Panchamas. Lands were assigned to the Panchamas for cultivation and for building purposes and for establishing schools and for forming small *Pariah* (the terms used by officials to refer to the Paraiyans) settlements. On some occasions, the district officials made land grants to the missionary bodies. The collectors issued notifications that land in such cases had to be parcelled out in small plots of 5 acres and granted to each Panchama family. The missionary organizations vested with such land grants were also instructed to help the Panchama families in building houses and provide them with cattle for ploughing and implements for husbandry (Moses 2004: 124-5).

In the early years of the twentieth century, the government undertook a series of land acquisition schemes. These schemes gained in popularity in the late 1910s and land distribution slowly spread from Tanjore to the other districts. But, the government's land acquisition policy did face certain hurdles. In many places, civil suits were filed by the mirasidars to prevent the government from going on with its land acquisition policy. But the courts generally passed orders favouring the government. Despite these obstacles, the Paraiyans in all ryotwari villages during these years enjoyed the benefits of land assignments. Brindavan Moses has pointed out that wastelands were measured and a fair proportion of them was reserved for the 'untouchable' agricultural labouring

groups, who, by now, had come to be referred to as the depressed classes (ibid. : 126).

All through the 1920s, the Labour Department, despite all criticisms, assigned semi-arable lands for house sites to the depressed classes. The officials of the department frequently met with opposition from the mirasidars. In Chingleput, Tanjore, and North Arcot districts the mirasidars expressed their displeasure over the Labour Department's decision to encourage depressed class emigration to Ceylon and Malaya. There was also a feeling amongst them that the grant of house sites would result in their loss of control over the rural servile groups. Thus, they sometimes colluded with the village officials to prevent their labourers from acquiring *pattas*, for purposes of cultivation and housing.²³

By the early 1930s, the activities of the Labour Department stretched to the other Tamil-speaking districts like Coimbatore, Salem, and Tinneveli. There was an increase in the acquisition of land for assignment to the depressed classes. However, the inability on the part of these officials to distinguish the 'touchable' from the 'untouchable' generated serious problems. The concessions that had been set aside for the depressed classes were very often given over to the privileged groups (Basu 2004: 270). This sort of indecision on the part of the officials aroused bitter controversies in the rural areas.

While the land assignment policy of the government met with limited success, the Great Depression had a severe effect on the rural society. The sense of power, which the expanding labour market had recently generated amongst the labourers, was transformed to a mode of insecurity. The landowners faced with a sharp fall in their incomes from agriculture, displayed reluctance in maintaining the old labour force in the manner they had done earlier. But far more decisive was the growing estrangement of the labourers from their masters. In the context of a sharply diminishing labour market, the labourers had no other option other than to work for their masters; but they questioned, far more boldly than ever before, the landowners, authority, both political and ritual.

The 1930s witnessed shrinkage of the labour market, both at home and abroad. The diminishing income from agriculture reduced much of the demand for labour in cultivation. The declining employment opportunities abroad also led to a near closure of emigration. As Baker has observed, 'the migrants began to flock back to the Kaveri delta in large numbers, and they did so at a time when the local economy had fallen on bad times'.²⁴ Indeed, most wages seemed to be 'stuck at customary levels'

(Baker 1984: 189). Willem van Schendel argued that there was an increase in unemployment and that the resultant underemployment of labourers led to a substantial fall in the total income of their families.

THE FINAL SIGNS OF COLLAPSE

Significantly, the glut in the labour force impacted on the mode of utilization of bonded labour by the masters. The traditional long-term servitude of labourers seemed to be waning and it was being increasingly substituted through the deployment of casual labour. However, the growing incidents of estrangement between the labourers and their masters possibly had a greater role in the weakening of the system of bondage. As has been argued earlier, the labourers were keen in questioning the ritual and political authority of their masters. B.B. Chaudhuri has argued that the important reason behind the labourers' acceptance of the masters' authority in earlier times had been their role in ensuring the former's livelihood throughout the year, and in providing credit when he needed it most (Chaudhuri 1996: 116). But the manner in which the masters dispensed with the labour force and deployed casual labour weakened their moral authority in the eyes of the labourers. The extent to which the bonded labourers succeeded in resisting this intrusion of casual labour is not precisely known. But the labourers also defied the ritual authority of their masters. Till the Depression, their defiance was not perhaps collectively organized and it took the shape of usual forms: 'theft, sexual relations along caste lines, walking on Brahman streets (which were out of bounds for lower caste individuals), refusal to hand over property to a mirasidars or to perform a service for him' (Schendel 1991: 116). Subsequently, the conditions created by the Depression and the emergence of nationalist and other social and political movements (nationalist, left wing and anti-Brahmin movements) eroded the moral authority of the landowners over the bonded labourers. Gandhi's tour of Tamil Nadu in early 1934 was important in more ways than one. At this time, the Paraiyans and other 'untouchable' communities who preferred to identify themselves with the new nomenclature '*Adi Dravida*' were involved in a fierce battle with the *Kallar* (intermediary caste group) landlords in the southern part of Tamil Nadu. Such conflicts primarily resulted from the efforts on the part of the *Adi Dravidas* to gain social dignity. The resistance by the Hindu landlords only intensified these conflicts. Soon, they assumed alarming proportions and spread to the neighbouring districts of Tinneveli and Madurai.²⁵ Gandhi made hurried visits to

these trouble-prone areas, apprehending that inaction on the part of the reformist Hindus would encourage the 'untouchables' to undertake a mass conversion to Christianity. Gandhi's ploy to utilize the All India Harijan Sevak Sangh for such purposes failed to yield many results. Nevertheless, there was a distinct public support for the programmes launched by Gandhi. In parts of Tamil Nadu, Gandhi gained popularity as a messianic leader. Eugene F. Irschik has argued that this image of Gandhi continued to cast a spell over the Adi Dravida masses and this possibly brought them closer to the Congress' ideology and politics (Irschik 1986: 170). The Tamil Congress politicians gave this undeclared alliance a political form by nominating depressed class members as official Congress candidates in the provincial elections of 1937. Following the Congress' electoral success, C. Rajagopalachari, as the Premier of the Madras Presidency, announced some ameliorative schemes for the Adi Dravida agricultural labourers. The Rajagopalachari ministry was not in favour of conditional grant of house sites to the depressed classes. It insisted that only in some cases house sites could be assigned free of initial payment, and in the other cases assignments could be done against a token sum. Despite bureaucratic opposition, the ministry insisted that there be no undue official pressure for the recovery of the instalments. Subsequently, the ministry, under the recommendations of the Viraraghavacharaya Committee, took measures for the improved functioning of the depressed class credit societies (Basu 2004: 284). Despite such propaganda, the landowners unleashed ferocious counter-attacks to prevent the spread of egalitarian ideas (*ibid.*). In most cases, the landlords retaliated by claiming their rights over the house sites of the pannaiyals and by instituting false cases of non-payment of debts against them.²⁶ Such acts met with a defiant spirit on the part of the landlords. The increasing defiance on the part of the labourers also resulted from several other factors. In the first place, the decline in the economic and political power of the mirasidars had infused a greater deal of strength to the labourers who now became more interested in asserting their demands. Secondly, the growing absenteeism among a section of the mirasidars had greatly undermined their control over the rural society. The corporate organizations like the panchayats, which had helped the mirasidars in maintaining their social control over the less privileged rural groups, also showed signs of decline. In such a situation, the mirasidars encountered a recalcitrant labour force bound by ties of solidarity. The labourers were not only an economically homogenous group, but their size, centralization, social standing, and history of collectivity also reinforced

their presence greatly. Indeed, the weakening of the mirasidari control in the 1930s allowed the 'untouchable' caste assemblies of the Tanjore deltaic region to develop into instruments of class politics (ibid.: 129).

By the late 1940s, the Communist strategy to rally the rural proletariat along class lines was definitely finding support amongst the agricultural labouring classes. The police reports of the 1940s clearly showed that the Kisan movement had been rapidly spreading in Tanjore district. The Communist-led Kisan Sabha was stated to have strengthened its hold over agricultural labourers in the Mannargudi and Tiruturaipondi taluks of the district. The agricultural labourers who were Adi Dravidas worked under the mirasidars on the basis of three systems of tenure—pannai (where the labourer is paid in terms of cash for his labour), *varam* (meaning the division of grain between the landlord and the labourer), and lease. The trouble started when the agricultural labourers demanded 50 per cent *varams* or share of the gross produce as well as a pro-rata bonus which had been ordered by the government in 1946.²⁷ The local level communists gained widespread popularity amongst the agricultural labourers because of their commitment in highlighting the oppression of the landed groups over the labouring masses. The growing popularity of the Communist-led Kisan Sabha agitations and the prospects of an electoral alliance between the Communist and the Dravida Munnetra Kazhagam (DMK) forced the Congress ministry to initiate legislations like the Minimum Wages Act and the Social Insurance Act—all of which intended to bring about an improvement of the scheduled caste (this term substituted the term depressed classes, following the Government of India Act, 1935) agricultural labourers. However, these legislative measures as well as the appointment of a Land Reforms Committee (Subramaniam Committee) generated a spate of rural tensions in Tamil Nadu. In Tanjore, tensions ran high since many of the pannaiyals, who belonged to the Paraiyan caste, were forced to accept the status of daily wage-earners. In some cases, the Paraiyans who had been serving as tenants were reduced to the status of agricultural labourers by the landlords. The landed group also frequently changed the *varamdars* (who cultivated the lands owned by the landlords and received a part of the produce) to prevent them from claiming customary rights over the lands (Beteille 1971: 118–23; Bouton 1985: 191–2; Gough 1981: 394).

In the midst of such resistance by the dominant rural groups, the government promulgated the Tanjore Pannaiyals Protection Ordinance

in August 1952. This act sought to oppose the bullying tactics on the part of the landlords vis-à-vis the pannaiyals. Within a few months, the legislation was passed to put a check on the exploitative designs of the landlords. The ordinance as well as the act increased the wages of the pannaiyals and provided them with a right to appeal in cases of dismissals. However, landowners owning less than 6.6 acres of land in any village were exempted from the purview of this act. The act also did not succeed in providing foolproof security to the pannaiyals against the threats of evictions that were issued by the landlords. Thus, the act hardly succeeded in bringing about a radical change in the power relations of the agrarian structure.

The weaknesses of the legislations encouraged the Communists to launch attacks on the institution of bondage, which by now had lost much of its earlier strength. The Communist-led Kisan Sabhas utilized the grievances of the rural labouring groups and instigated spontaneous agrarian protests which were directed against the exploitative caste structure and the prevalence of landlordial exactions. The Paraiyans and other scheduled caste agricultural labourers supported the Communists, since they felt that class struggle alone could eliminate their social and economic discriminations. In Tanjore, enjoying a great deal of support from the rural proletariat, the Communists launched campaigns against the state and the mirasidars for their failure to implement the provisions of the Tanjore Pannaiyals Protection Act. The Communist propaganda assumed serious overtones in the interiors of Tinneveli and Tiruchirapalli districts. In the Lalgudi taluk of Tiruchirapalli, small peasants and landless labourers, who for generations had been tied to the mirasidars, took part in protests against the landed groups for the release of arrear amounts that were due to them. In some cases, the struggle between the Communists and the mirasidars led to incidents of rioting and arson. Subsequently, the growing competition between the Communists and the Congress to gain the support of the rural proletariat influenced the mirasidars to extend some concessions to the agricultural labourers (Basu 2004: 440–2). The impending prospects of a radical solidarity might have induced a line of thinking on the part of the mirasidars and other landed groups that grant of concessions and temporary acts of compromise would ensure the survival of local power hierarchies, which had already been affected by the changes blowing across Tamil Nadu in the years immediately following the Indian Independence (Badrinath 1969: 35–8).

CONCLUSION

In the case of Tamil Nadu, the bonded labourers like those in other parts of India typically belonged to the lowest of the Hindu castes and were treated as 'untouchables', with no recognized position in the caste system. The crucial point of debate continues to revolve around the fact as to whether caste sanctions did have any role at all in the origins of their landlessness and bonded status. It is undeniable that stigma about touching the plough and doing hard manual labour in agriculture had to a large extent retarded the prospect of the participation of Brahmin landowners in agricultural operations. K. Saradamani has pointed out in her researches that in parts of south India the caste system, for various reasons, had hardened into an extremely rigid institution. The touch of the people regarded as 'outcastes' was considered to be defiling and their sight was also thought to be 'polluting' (Saradamani 1990, chapters 1 & 2). Undoubtedly, this necessitated the dependence of upper caste groups on hired labour. This dependence was even greater in cases of large-scale cultivation, especially in those places where it could not be sustained without elaborate irrigation or embankment devices. The other reason that might have been responsible for the bonded status of a section of agricultural labourers might have been the apprehensions in the minds of the dominant landed groups' vis-à-vis labour scarcity. As Jan Breman has pointed out, the prevalence of bondage may have resulted from desires of some dominant groups to gain greater social respectability and power in the rural society (Breman 1979, chapter 4).

Caste may have been just one of the factors behind the supply of bonded labour. For instance, in south Gujarat, the bonded labourers (*halis*), once semi-nomadic cultivators, were gradually drawn into the expanding settled agriculture organized by the *Anavil* Brahmins. It was the control over the village lands that accounted for the success of the *Anavil* Brahmins in exerting their dominance over the *halis*. The precise role of the caste system lay in relegating the dispossessed to a low ritual status (*ibid.*: 43–4). In south Bihar, a crucial factor in the rise of the bonded labour system was the control exercised by immigrant chieftains from the north over a region where agricultural developments had started much later (Prakash 1990: 58–75). In Kerala, the Pulayas, who had once been owner cultivators, were gradually driven out by the more enterprising Nambudri Brahmin settlers (Saradamani 1990, chapter 2). In Tamil Nadu, there was

almost a similar process of dispossession, though the social composition of the communities dispossessed varied in terms of localities.

Nonetheless, there has been an assertion that bondage should be treated as a voluntary choice. Labourers were reduced to a state of bondage to their landlords or employers when they failed to repay their debts. More recently, it has been argued that the intermediary agents in the course of their dual functions—of moneylender and of supplier of labour—were responsible for the continuance of bondage in contemporary Tamil Nadu (Bhukuth 2006: 65–7, 81–2). But in the case of late nineteenth- and early twentieth-century Tamil Nadu, apart from certain social considerations, some more important economic processes may have buttressed this system. The prospects of increase in terms of revenue resulting from the new cultivation may have brought the colonial state and the landowners on the same footing. This explains the reasons behind the moves on the part of the colonial official classes to stand in support of the landowners. The colonial bureaucracy turned out to be the advocates of social hierarchies, which for a long period of time had been the essential features of Tamil society. The colonial state adopted strong measures against desertions and favoured the return of the deserters to their original masters. Thus, the colonial state's attitude was frankly pro-landlord.

The process of the weakening of the bonded labour system, particularly in the later decades of the British rule, brings out far more convincingly the insignificance of the role of the so-called caste sanctions. The weakening resulted from a conscious choice on the part of the labourers to take advantages of an expanding labour market. The labourers' response to the expanding labour market generally took two forms. They either altogether moved out of the network of bondage by leaving their village or, even if they preferred to stay in the village, they defied bondage by demanding better conditions of work, including higher wages. This defiance assumed the form of confrontation during the Great Depression and reached a point of climax in the 1950s, when the Congress ministry fearing a radical backlash decided to initiate some measures for improving the conditions of the agricultural labourers.

NOTES

1. These debates were in no way linked to the intellectual discussions seeking to unravel the effects of colonialism and industrialization. For more details, see Irschik (1994: 153).

2. L/E/7/248, Revenue Statistics and Commerce Papers, 1891, Oriental and India Office Collections, British Library, London.
3. For more details, see Moses (1978: 60); Oddie (1985: 139).
4. G.O. No. 1010-1010A, dated 30.09.1892, Revenue Department, Tamil Nadu Archives (hereafter TNA), p. 7.
5. Ibid.: 20.
6. Ibid.
7. *The Hindu*, 1 October 1891, cited in G.O.No. 1010-1010A, dated 30.09.1892, Revenue Department, TNA, p. 30.
8. Ibid.: 25.
9. Ibid.: 24.
10. G.O. No. 1010-1010A, dated 30.09.1892, Revenue Department, TNA, p. 32.
11. Ibid.: 32-3.
12. Ibid.: 43.
13. See Ibid.
14. G.O. No. 1010-1010A, dated 30.09.1892, Revenue Department, TNA, p. 57.
15. Ibid.
16. Ibid.: 59-60.
17. Ibid.: 66-8.
18. Raghavaiyengar (1893: 152). See also Basu (2004: 206).
19. Board of Revenue Proceedings, No. 622 (Miscellaneous), dated 23.01.1886, TNA.
20. Madras Legislative Council Proceedings, Vol. 1B, March 1921, p. 1336.
21. *Report on the Settlement of Land Revenue of the Districts in the Madras Presidency for the Fasli Agricultural Season, 1332 (1922-23)*, Madras: Government Press, 1924, pp. 10 and 22.
22. For more details, see Basu (2004: 252).
23. G.O. No. 2494, Public Works and Labour Department, dated 26.10.1927, TNA.
24. For more details, see Schendel (1991: 126).
25. For more details, see Basu (2004: 379).
26. For more details, see Baker (1984: 173).
27. For more details, see G. O. No. 628, dated 26.02.1947, Public General- A, Department, TNA.

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3 Modern Bondage

Atiyaayma in Post-Abolition Malabar

K.T. RAMMOHAN

In most of South Asian historiography the relationship between caste and labour servitude is recognized for a moment and then forgotten. For one school of thought, the so-called Cambridge school, servile labourers are simply rural workers. 'Not in fact very different from the rural proletariat of today', as Dharma Kumar declares even after noting that 'agricultural servitude was a function of caste' (Kumar 1992: 189–90). The subaltern school, the other important agency in south Asian historiography, cloaks the link between caste and servitude in a different way. It views labour servitude characterized as slavery primarily as a construct of colonial discourse. There is the predictable self-denying caveat: 'Of course, the constitution of *kamias* ... was not only a textual matter' (Prakash 1990: 11). The non-textual, however, is economically essentialized as debt bondage thereby discounting the social and ideological milieu in which the debtor and the creditor are embedded and its implications for labour relations. A variant stream within the Subaltern school emphasizes the criticality of caste as a material fact and recognizes the pre-colonial aspect of servitude. The 'slave experience', however, is again explored primarily as a textual affair—a recall by modern, civilized neo-Christians and Anglican church-influenced movements of the savage days of pre-modern subordination (Mohan 2005).

This study explores *Atiyaayma*, the most common and the most severe form of labour servitude on the Malabar Coast, the region that corresponds to the present Kerala state. It examines how this specific institution of labour relations was organized and also how it changed over a long period of time. It shows that the changes that occurred owe to varied historical agencies—the state, missionaries, trade unions—and processes, like technological change, commercialization of agriculture, and economic integration of the local economy with the global.

Atiyaal or *atiyaar*, as the bonded workers were called in Malabar, were almost all from 'untouchable' castes, especially Pulayas and Parayas, and

were entirely landless. Their families were bonded to the upper caste *janmi*, the monopolist of land and therefore, the sole provider of employment. The terms of the relationship were therefore determined, right in the first instance, outside the confines of the secular labour market. A *janmi*, depending on the extent of land held and requirements of permanent labour held many labouring families in perennial bondage. The number of *atiyaal* possessed by a *janmi* varied according to the land held. A wealthy lord owned around forty and smaller lords and rich peasants, about ten. There were lords who owned hundreds of *atiyaal*, many of whom were leased out. Even some small tenants possessed an *atiyaal* or two, handed down from more prosperous ancestors. Considering the pittance allowed for survival, it was not difficult to maintain them.

Such bondage moved across generations of both the lord's and *atiyaal*'s family. Besides holding labouring families in perennial bondage, *janmi* recruited many more labouring families for the whole stretch of an agricultural year. The head of the labouring family offered a tribute of betel to the *janmi*, who in return offered him some wage goods, barely enough to survive till harvest. Working through several agricultural seasons for the same lord, often such contracts assumed permanence. If *atiyaal* were not available through inheritance or successive renewals of annual labour contracts they could be bought in the market.

By the late 1850s the provincial and princely governments of Malabar had abolished 'trafficking slaves'.¹ *Atiyaayma*, however, continued in its essential details for nearly the next hundred years. Being entirely landless, *atiyaal* families were forced to continue working for the *janmi*. Even the sale of *atiyaal* as a commodity independent of land—specifically banned under law—continued into the early twentieth century.² More common, however, in the post-Abolition years was the transfer of land along with its *atiyaal* to inheritors, and in the event of sale to outsiders.³ Abolition failed to contribute in any significant manner to improving their life and labouring conditions. The post-Abolition phase of *atiyaayma* may be seen as modern bondage. Rather than disappearing, the *atiyaayma* form of caste and occupational bondage was re-formed as a result of its engagement with new, capitalist material processes of production and exchange and legal system consequent to colonialism. The 1940s witnessed important changes in the social equations of power owing to the intervention of the caste-based social mobility movements and the Communist Party-led trade unions, but it was only by the early 1970s with the state promulgation of land reforms which assigned a residential plot to the bonded worker in

the lord's land that the atiyaal chains of bondage were loosened. He/she was thus freed of the threat of eviction and could freely participate in the labour market. The land assigned was 10 cents that could accommodate a hut and three or four coconut trees.⁴ Further enabled by affirmative action in education and government employment the atiyaal chains are non-existent now. These communities could not however partake of a critical factor of social and economic mobility in Kerala—migration to West Asia. Nor did the organizations that spearheaded their social advance movements become entrepreneurs in education and health sectors as the organizations of upper castes.

It is this long-run historical trajectory of atiyaayma that this article tries to address, but it does so with greater emphasis on the colonial period. Especially, it seeks to unfold the everyday life and labour of the atiyaal and changes therein from about the 1850s to 1950s. This 'historiography on ground' is realized through the methods of ethnography and political economy in combination (Breman 2003; Mintz 1985; Nash 1993). The study, therefore, draws as much on fieldwork as on archives and libraries. The labouring castes focused on are the 'untouchable' Pulayas and Parayas in the rice-lands of Kuttanad in the former princely state of Travancore. Besides ideological hegemony, economic dependence for employment and income on the lord forced the atiyaal to conform to the prescriptions of the caste system.

The article begins by highlighting the salient attributes of atiyaayma as a pre-capitalist form of labour relations on the Malabar Coast. Section II looks into how the emergent agrarian capitalism in Kuttanad tied up with pre-capitalist atiyaayma. It is seen that with the coming of agrarian capitalism the tiny section of independent Pulaya cultivators who were not atiyaal was also subordinated into servility. What is more, with the emergence of agrarian capitalism, besides janmis, tenants and even sub-tenants began holding labouring families in perennial and/or annual bondage. Atiyaayma was thus expanded and dovetailed to the emergent capitalist economy. Partly, janmi also was born anew. He was now a combination of three identities: master, lord, and capitalist. Many attributes of labour servitude in Kuttanad were linked—besides with the persistence of the earlier social order and the demands of the emerging new order—to the ecological specificities of land development and cultivation in the region. Section III therefore delineates the ecology/society/economy/technology milieu that fashioned the agrarian relations in the region. This is followed up in Section IV with a discussion of the

labouring and living conditions of the atiyaal. Section V traces the changes consequent to the introduction of new technology: the substitution of waterwheels with pump sets powered by producer gas/oil/kerosene. While this helped capital to reclaim vast stretches of the backwater, it was beneficial to the atiyaal too who were eased of the most demanding and most monotonous part of reclamation labour. The hegemony of caste that bounded the atiyaal was questioned from the 1920s with the caste movement for social equity, followed by the trade union movement from the early 1940s. This is the subject of examination in Section VI. The concluding Section VII summarizes the interconnections of capital, technology, servile labour, state action, and social movements.

ATIYAAYMA

Atiyaal or atiyar means the subordinated and atiyaayma the state of being so subordinated. Atiyaal was a common name for 'untouchable' castes like Pulayas and Cherumas and dependent agricultural labour of these castes. The use of the terms atiyaayma and atiyaal, however, was not confined to the 'untouchable' castes. Besides these castes, dependent agricultural labourer comprised a small share of low castes like Ezhavas. They too were called atiyaal. Atiyaal could also include upper castes, especially women, who were removed of caste honours. The use of the term atiyaayma was not confined to agricultural labour relations either. It could indicate, for instance, the maintenance of Nayar servants in a Nambudiri Brahmin household. Atiyaayma was socially embedded in a larger, hierarchical structure of *koima* (hegemony) (Gurukkal 1992). Whatever its form or level, atiyaayma was bounded by reciprocal rights (*kadama*) but these were highly asymmetrical (Varier & Gurukkal 2004). The lords' kadama was protecting the atiyaal in sickness and old age, but these were not adequately respected by the lords. Kadama was often reduced to meeting bare subsistence (Menon 1994: 31). Precise information on agricultural atiyaayma in early society is difficult to come by. It is not clear whether all agricultural atiyaal castes were bounded by similar norms and practices, how the norms and practices might have changed over time, and what changes occurred in the caste mix of the atiyaal population through centuries.

This article concerns with atiyaayma as a form of agricultural servitude involving primarily 'untouchable' caste labourers and upper caste and community lords. It includes both permanent and seasonal atiyaayma and corresponds to the form prevalent in the nineteenth century. The

nature of economic dependence and the hegemony of caste were similar for permanent and seasonal *atiyaal*. Across the Malabar Coast the lords were mostly upper caste Hindus—Nambudiris and Nayars—but in parts of Malabar district they were also Muslims and in the specific geographical site examined in this article, Kuttanad in Travancore, also Syrian Christians. The Syrian Christians were the ancient Christians of Malabar dating back to at least the fourth century. The community had a similar social standing as the Nayars, claiming as they did Nambudiri descent and observing distance pollution with ‘untouchable’ castes as the Nayars did.

The *atiyaayma* form of agricultural servitude was similar to Brahmin-centric forms of land and labour control prevalent elsewhere in the country:

[The Brahmin] is the centre of a well-defined system of predial servitude, his land being cultivated for him by hereditary serfs of undoubtedly Dasyu descent. This is the case of the Masthan of Orissa and Gujarat (i.e., the Anavils), and with the Haiga or Halvika of Kanara, and the Nambutiri of the Malabar Coast, all of whom have settled in very fertile country. (as cited in Breman 1992: 251)

Atiyaayma, it was noted, was shaped by factors economic and ideological. Many features of Pulaya *atiyaal* fit the conditions of *Bhandela Hali* in South Gujarat (Breman 1992) and similar forms elsewhere but there were important differences too. Pulaya *atiyaal* with his family was a permanent employee of his lord, the *janmi*. Along with himself, the *atiyaal* bounded his wife and children to the *janmi*. The entire family was at the beck and call of the lord’s family. Lords paid *atiyaal* mostly in kind—grain and clothing—and very rarely in small change. These were not conceived as wage in the sense of payment for work done, but as charity ‘to the “untouchable” poor things’ (*athungalkku vallathum kodukkanam*). Landless as the ‘untouchable’ castes were, and the monopoly of land resting with the lords, an *atiyaal* was forced to attach to the lord for survival. The lord was expected to provide assistance to the *atiyaal* for the marriage of children, and during sickness and old age. On the death of the lord, he/she would become servant and worker to the successor. The relationship could thus continue into generations.

Rules of pollution did not prevent upper-caste lords from consuming the rice produced by the *atiyaal* or from seeking the assistance of *atiyaal* as midwives and witchdoctors. Nor did pollution norms prevent lords from having physical relationships with *atiyaal* women—often against their

will. Alongside was the custom that allowed Pulaya and Paraya men the right to take as his wife an upper-caste Nayar woman whom he manages to pollute on a specified day of the year—the custom of *Pulappedi* and *Parappedi* (fear of the Pulaya/Paraya). It has been suggested that it was a custom engineered by Nayar males who conceived this as a ploy to get rid of rebellious women from the family. It could also have been a perennial threat to women and a deterrent to their rebellion (Sudhakaran 1994). An Anglican missionary saw the custom as a 'source of supply of slaves' (Mateer 1883: 298).

The Atiyaal were tradable. They were 'held precisely under the same tenures as the land itself' (as cited in Jayasree 2003: 211). Francis Buchanan, touring Malabar in the early nineteenth century, noted that atiyaal could be loaned, mortgaged, leased, or sold. Atiyaayma thus involved not merely transfer of the labourer along with land—a practice prevalent across southern India—but their sale independent of land.

Trade centres of the atiyaal were dotted all along the Malabar Coast. The history of atiyaal traffic on the Malabar Coast is traced to the medieval times: eleventh to fifteenth century (Ajith 2002: 30–40; Ganesh 1990: 77–86). Partly, this coincides with a major phase of agricultural expansion in the region—from ninth to twelfth century—when many coastal swamps were brought under rice cultivation. There is also evidence of global trade in atiyaal and of traders of atiyaal based in Malabar's port towns. Such trade dates back to the days of Arab trade and is said to have boomed during the Portuguese period beginning from the late fifteenth century. Port towns of Calicut, Cochin, and Alleppey were important coastal centres of atiyaal traffic. There were inland centres too. Changanacherry, on the fringe of the Kuttanad backwater, was one such. '[Atiyaal] could be sold on the coast to the agents of the vessels engaged in the trade sailing from the French settlement in Mahe and from the Dutch settlement in Cochin.' (Sarkar 1985: 99). 'These ships ... carried them to the French islands.' (Logan 1887: 149). Besides 'untouchable' castes, people of other castes debased by pollution were also traded.

Children could be separated from parents and sold. Men, women, and children were priced differently. They could be auctioned for outright sale, leased, and mortgaged. Transactions were legalized through written contracts. Besides regular markets in different centres, atiyaal were traded during festivals in shrines. There were markets for seasonal atiyaal too. The state was a lead player in the market. The princely governments of Travancore and Cochin and the British government of the Malabar district

owned many thousands who were settled on government lands and leased out to landlords (Bhaskaranunni 1988: 492). Besides receiving rent on state-atiyaal leased out, the government collected poll tax from private lords of atiyaal. For the princely governments, lease-revenue on state-atiyaal was an important source of income. In 1854, responding to the British Resident who compelled the princely governments to 'relinquish this odious source of revenue, for after all it is a mere trifle', the Dewan of Cochin stated: 'the revenue ... about 4,000 Rupees ... the Circar at present can ill afford to lose.' (Kusuman 1978: 104).

Figures relating to atiyaal are chaotic. The following are, therefore, only very crude indicators. For the Malabar district, census figures of 1835 put the figure at 1,44,000. In 1849, the 'slave-caste' population in Cochin was reported to be 40,000 of which over 9,000 or about one-fourth were state-atiyaal. Figures for 1854 cite 60,000 as slave-caste population. For Travancore, estimates of state-atiyaal vary from 10,000 to 15,000. The government admitted to own only 6,000 atiyaal. If the ratio in Cochin is taken as a rough guide—where one-fourth of the slave-caste population was state-atiyaal—the Travancore government might have owned over 30,000. *Census of Travancore, 1836* cites the total population as 1,28,06,686 and the shares of Pulayas and Parayas ('soil slaves') as 90,598 and 38,625 respectively. Together, at 129,223, they formed a little over 10 per cent of the population (Kusuman 1978: 78–9). The estimate for 1847 cites a slave-caste population of 160,000 in Travancore. *Census of Travancore, 1875* stated the population of Pulayas, Parayas, and Pallars—'soil slaves now freed'—at 258,401 out of a total population of 23,11,379, being a little over 11 per cent (Mateer 1883: 298). In 1841 a Pulaya man was priced at Rs eight and a half. In parts of Travancore, atiyaal women were priced twice as high as atiyaal men. This was on account of expectation of children (Mateer 1883: 58). At Wynad, by contrast, husbands were priced double their wives. Unmarried men and women received only half the price of the married.

There were markets, it was noted, for seasonal atiyaal too. Here forest communities offered their labouring bodies to janmis for use for a year. The following is an eye-witness account:

Festival in Valliyookkavu, near Mananthawady [in Wynad] begins on 1st of *Meenam*. The festival lasts a fortnight. During the festival, Paniyar men and women, from across Wynad, assemble before the Valliyookkavu goddess. Janmis of Wynad also would be present. As choosing cattle in the cattle market, janmis choose some for working his fields till the festival next year. The chief of the community is consulted and price

negotiated. The price is paid with the goddess as witness. (as cited in Bhaskaranunni 1988: 503)

The markets of rural *atiyaal* and of *atiyaal* for export often worked in conjunction. It was a flow of labouring bodies connecting inland, coast and overseas. The flow was steady, not being consequent to a random occurrence like famines. An English East India Company official noted in the eighteenth century: 'During my residence at Angengo there was no famine, nor any unnatural scarcity of rain, but during the rainy season many were weekly brought down from the mountains to be sold on the coast' (as cited in Mateer 1883: 300). Some of the inland markets traded entirely in rural *atiyaal*. *Atiyaal* for export were drawn from, besides markets in the port town, some inland markets. This renders the rigid taxonomy of urban and rural slavery (Sarkar 1985: 99) of relatively less value in the context of Malabar.

There was also an import market in servile labour. Part of it was coastal trade around peninsular India: 'the Malabars [the people of Malabar] carry rice and coconuts to them [the Coromandel], and return with their ships laden with slaves'. Besides, there was some 'luxury' import: African boys and girls (*Kaappiri* in Malayalam), who 'constituted a badge of social honour to their lords' (Sarkar 1985: 100). Their further circulation must have been limited. For a nineteenth century king of Cochin, owning a few Africans elevated him to the status of his lords, the whites, who were the 'rightful' owners (Bhaskaranunni 1988: 489).

Atiyaayma continued to exercise a critical role in the rice economy of the Malabar Coast in the post-Abolition period. *Atiyaal* were described as 'the pillars of agriculture oriented economy of the land' (Kusuman 1978: 31). Their undervalued labour was especially critical in the context of cheap imports of rice from Burma, Siam, and Bengal that undermined local prices and rice economy (Devi 1984). *Atiyaal* labour was crucial in both highland plateaus and coastal wetlands, which were the main centres of rice production on the Malabar Coast. In the highland rice fields, forest communities like *Atiyaars* and *Paniyas* were subordinated to labour, while on the coastal wetlands, 'untouchable' *Pulayas* and *Parayas* produced rice. Ward and Conner touring Travancore in the second decade of the nineteenth century noted:

The *Sherumakkal* [*Pulayas*] are attached to the Glebe, but real property, in absolute market value not much above cattle, united with them in the same bondage, and greatly below them in estimation. But though a slavery deserving commiseration, it

is by no means the most rigid form of that wretched state; they are treated with a capricious indifference or rather rigour, much of this arises from the prejudices of Nayars; the [Syrian] Christians have no such excuse, but though divided in caste, they agree in oppression. Personal chastisement is not often inflicted, but they experience little sympathy in sickness; they are wholly left to nature, perhaps dismissed to poverty and in age often abandoned. (Ward & Conner 1898: 160).

With abolition, while legally the *atiyaal* could not be transferred independently of land, traffic continued. As the Travancore government admitted in its administration report, 'the practice of buying and selling the right of servitude still prevails. But it is clandestinely carried on; and the buyer and seller are well aware that the right parted with, or acquired, cannot be enforced by law' (cited in Mateer 1883: 310). In many parts of Malabar, the *atiyaal* simply failed to know of Abolition. Even if they subsequently knew, possessing no land, they were forced to continue with former lords. The missionaries lamented in the 1870s: 'The fetters have been broken, but the emancipated labourer, from attachment, habit, or helplessness, chooses to continue where he was' (*ibid.*). They continued to be viewed as 'untouchables' with prescribed distances from upper caste and community lords. They were looked upon as mere extensions of land.

There was no substantial improvement in the living conditions of the *atiyaal* subsequent to Abolition. As a Cochin state official wrote in 1872:

The general condition of the slave castes now legally free is very much as it was before the state intervened on their behalf. It is a state of helpless dependence on the land owners for food, for lodging, and for all the relations and duties of life. Something more than the bare law of declaring slavery criminal is necessary to improve the social status and pecuniary circumstances of these miserable beings ... However resigned the freed slaves may be to their present lot for want of a better, it is, I must say, a pitiable one. The landowners having a monopoly of their labour give them nothing more than bare subsistence. They live in almost nude state, expose themselves to the hot sun and heavy rains and sleep in portable huts. They have no property except perhaps the rag they wear or the pot they cook *cunjee* [rice-gruel] in. (cited in Kusuman 1978: 133)

Their conditions in Malabar and Travancore were not different from that in Cochin. The collector of the British district of Malabar, writing towards the end of the nineteenth century—nearly four decades after Abolition—noted that 'the evils [of 'slavery'] were aggravated [in Malabar Coast] as compared with other portions of India' (Logan 1887: 151). A Travancore district official wrote to the Dewan in 1873: 'It is now

nearly 18 years since they have obtained their freedom; but they appear to continue still in the same condition' (cited in Kusuman 1978: 144). In 1882, missionaries noted that they knew that 'in the eastern districts of Travancore, slavery practically exists and that many are unaware of their emancipation'. Neither did payment for *atiyaal* rise after Abolition. *Atiyaal* was given three-fourth *edangazhi* of rice, by default, the bare daily minimum for subsistence prescribed by the Famine Commission. This they supplemented mostly with *taal* and *takara* (two plants that grow wild in the lords' homestead and commons) and wild yam, and occasionally, fish and crab. Salt and tobacco were the only commodities they bought.

Even many decades after Abolition, the *atiyaal* lacked access to public ways and markets; condemned to maintain prescribed distances from upper caste persons; driven to flee to the side by jungle on their approach; and compelled to place a twig as a mark while working fields close to the way to warn the high castes of their presence, who, on seeing it, shouted for them to retire till they pass. This goes to show how strongly servitude was linked with the caste system:

What rendered slave castes as slaves was caste. Caste was synonymous with slavery. Slavery was abolished, caste was not. Therefore there was no improvement in their lives. Pulayas and Parayas continued to be Pulayas and Parayas through generations; at least till conversion to Christianity, change in the composition of ruling classes, or new modes of livelihood became available. (Sudhakaran 1994: 505-6)

AGRARIAN CAPITALISM MEETS ATIYAAYMA

[Backwater reclamation] is not only highly romantic but from the point of view of economic development one of the most important things in Travancore history.

Sirdar K.M. Panikkar⁵

Kuttanad, in and around the Vembanad backwater, had a random history of human settlement and reclamation of swamps and shallow waters through centuries. These were the settlements of tiny sections of Pulayas unattached to lords or only partly tied to them or not residing in their property or who had fled them. The sole recourse of the lordless Pulayas was to occupy small land masses formed by the river silt in the backwater and reclaim tiny stretches of river swamps and shallow backwater to produce rice. Fish caught from the backwater completed their

meal. Possibly, some Pulayas attached to lords also resorted to tiny, own cultivation to supplement their meagre food allowance. As the backwater and swamps were home to crocodiles, such settlement and cultivation were undertaken at the peril of death. The Pulayas developed techniques to drive away crocodiles without killing them but these were only partly successful. Enter the Anglican missionary with the gun and the danger subsided. A nineteenth-century missionary reported that when a shot crocodile was pierced open, iron ornaments of the kind worn by Pulaya women were found.⁶

From the mid-nineteenth century, with encircling and draining of deeper and much wider stretches of the backwater, reclamation entered a steady, new phase. The newly created land came to be called Lower Kuttanad, as distinct from Upper Kuttanad (old Kuttanad) that was a natural formation consequent to deposit of silt from the rivers flowing into the backwater. In Lower Kuttanad rice cultivation was done at below sea level. New reclamation involved technologies of regulated draining and flooding and the use of a large workforce, part of which was resident and permanent. On the coercive edge of caste and temptation of steady livelihood, the independent and pioneering Pulaya cultivators were turned into servile labour for reclamation. They were burdened with the entire range of operations—building dykes and draining the backwater, ploughing, weeding, harvesting, and stacking the hay. The technologies the Pulayas had innovated for livelihood, their new lords turned into tools of aggressive accumulation. Besides turning the Pulaya reclamation cultivators to servile labour, new reclamation invited permanent and seasonal settlement of Pulayas and Parayas and lower castes like Ezhavas from other regions. They were mostly drawn from the earlier, naturally formed lands of Upper Kuttanad and from midland. Labour was not easily available and capital sought to redress this through forced intensification of labour through servitude.

Kuttanad presents an interesting case of colonialism and capitalism tying up with players of the earlier social and economic order. The princely government was an active agent of reclamation cultivation. The government granted permits, loans, and tax concessions for reclamation cultivation. In doing so, the government was prompted by the growing scarcity of rice arising from shift to export-oriented non-food production beginning from the mid-nineteenth century in Travancore. The objective of the government was to cut down the mounting import of rice and keep

price under check. Only by checking food prices, wages could be kept low, and export produce remained price competitive in the world market (Rammohan 2003, 2006).

The major grantees were those close to governmental authority. Tamil Brahmins, advantaged by early advances in modern education, filled the higher-level bureaucracy, and an overwhelming rank of middle-level bureaucracy of Travancore. Part of the middle and most of the lower levels of bureaucracy comprised upper caste Nayars. The possibility of networking with the bureaucracy was thus available mostly to agriculturists and professionals from these communities. In sanctioning reclamation permits and agricultural loans, the bureaucracy was lenient to members of their own communities. Also, they were considerate to Syrian Christians—who enjoyed a similar social standing as the Nayars because they claimed Brahmin descent and observed rules of pollution with 'untouchable' castes as the upper caste Hindus did and were economically powerful.

How did capital organize production in the reclaimed lands of Kuttanad? New reclamation from the 1880s was undertaken on a large scale—the fields were vast, stretching over hundreds of acres. An owner needed at least 50 acres of land to cultivate economically. Some of the lords owned 3,000 acres or even more. Directly undertaking cultivation of all land was impossible. Of necessity, therefore, a combination of direct farming—but managed through overseers and worked by *atiyaal* foremen who controlled all *atiyaal*, permanent and seasonal—and lease and share farming—through a nexus of partners, partner-tenants, tenants and sub-tenants—therefore became the norm in Kuttanad. The vagaries of harvest in the fragile ecosystem and the consequent need to shift risk prompted landowners to seek partners and tenants. The fixing of rent in relation to land sown rather than yield also indicated shifting of risk. Set against a stratum of landowners who wanted to lease out land was the stratum of landowning peasants with an urge to accumulate by leasing in. There were tenants as wealthy as their lords. Many owned as much or even larger holding than what they leased in. Tenancy was hierarchical comprising big and less big tenants, as also sub-tenants; but the base unit of economic cultivation being 50 acres, a definitive stratum of very poor tenants was absent in Kuttanad.

Such techno-economic and ecological milieu of cultivation as socially embedded in a system of caste and gender-based division of labour occasioned the specific production organization of Kuttanad. There were

different kinds of absentee lords. Besides urban professionals (Nayars and Syrian Christians), there was a stratum of owners who were descendants of landlords (of various upper castes) from old Kuttanad; another who were engrossed in priestly tasks (Nambudiris); and a third section for whom lending to the lords and the tenants—own as well as others—was primary and cultivation secondary (Tamil Brahmins). All of them supplied land for leasing. The tenants were, almost all, Nayars or Syrian Christians; even the overseers were Nayars or Syrian Christians. Any other caste would have polluted the landlord-capitalists and tenants. Ezhavas were the overseers of water transport of *atiyaal* and material. A part of the labour force comprised Ezhavas but predominantly it comprised the slave caste Pulayas and Parayas. Most of them were attached to lords but many belonged to tenants, invariably of upper castes and communities.

KUTTANAD: ECOLOGY, ECONOMY, TECHNOLOGY

Reclamation was taken up during summer when water levels dipped. It involved two major operations: building a circular dyke to enclose the backwater area proposed to be reclaimed, and draining out water from the enclosed area. The outer dyke had to be built where water was 8 to 10 feet deep. The first sub-operation was to drive coconut trunks in two parallel rows, roughly circular, into the lakebed. The trunks were brought to site in canoes ready for piling: vertically split into two, three or four, and pointed at one end. Across each split trunk, around its middle, a bamboo-crossbar was fixed with a rope. As the trunk was immersed in water, two *atiyaal* lowered themselves into water. They positioned themselves on each side of the bamboo crossbar, held on to the trunk with their hands and pushed it down with their feet. The trunk was finally fixed by hammering with huge wooden hammers made of coconut trunk. The *atiyaal* hammered while standing in a canoe.

After the coconut piles were driven into the lakebed in two parallel rows, these were fenced with bamboo screens on either side. The space enclosed by the bamboo screens measured 10 feet wide at the base and 5 feet at the top. A few *atiyaal* descended into the coconut and bamboo corridor while others stood in the canoe and threw down clay, sand, leaves, and twigs. Upon each load of clay and other material thrown in, the *atiyaal* in the corridor stamped their feet to make it even and tight. A third set of *atiyaal* were busy gathering clay. The *Atiyaal* carrying the crowbar dived into the water to a depth of 10 to 12 feet, loosened the

clay with the crowbar, lifted it with bare hands, brought it to the surface and loaded it into a canoe. When the canoe was full it was brought to the dyke.

The coconut and bamboo corridor was first inlaid with sand 1 foot high. Sand was a binding agent and a bottom layer of sand also blocked water seeping into the dyke from below. The corridor was then tightly packed to a height of 4 feet with clay. Again, a foot of sand was laid. The space above this layer was packed with clay, leaves, and twigs (brushwood) to a height of 8 feet or more depending on the depth of the backwater reclaimed. It has been estimated that sixteen coconut trunks, eight bamboo poles, twenty canoes of clay (160 tonnes), 500 cuttings of brushwood, and eighty atiyaal were needed to construct one *dand* (10 to 12 feet) of the outer dyke. A dyke comprised thousands of *dand* (Kamalasanan 2005: 117–18).

Reclamation technologies employed by new agrarian capital also included 'pre-modern' human sacrifice. Human sacrifice was carried out at the behest of the upper caste landlord. The sacrificial victim was inevitably a Pulaya or Paraya atiyaal. Sacrifice was performed when even after repeated attempts a dyke could not be built. The sacrificial atiyaal was pushed into the unfinished bund and buried under a load of clay. It was often resorted to in the difficult, last stage of construction when the two ends of the dyke were joined. During this stage hundreds of men worked together in a concerted and quick operation, inebriated by coconut toddy liberally supplied by the lord. Also, human sacrifice was performed when a breach occurred in an existing dyke.

After the main dyke was built, the enclosed backwater was drained using waterwheels. The waterwheels were made of wood by the village carpenter. The wheel comprised two parts: the wheel proper and the base, the channel-trough on which the axle of the wheel rested. The tip of the channel-trough could be closed with a wooden shutter. The size of the wheel varied according to the number of leaves, but always in multiples of two. One person, sometimes two, operated an eight leaves' wheel; three persons were needed for a ten leaves' wheel; and ten for a twenty-four leaves' wheel. The wheels, when pedalled, pushed water through the channel-trough at the base. To drain large areas, an array of waterwheels was arranged in the descending order of size, one behind the other, reaching into the backwater intended to be reclaimed. For each block of backwater to be reclaimed, two or more arrays of waterwheels

had to be set up at different points. The wheels were set up vertically on a horizontal axle and a scaffolding of bamboo was erected for the *atiyaal* to sit or stand on.

Usually the princely government granted a reclamation permit to one person. He chose partners from his own kith and kin and community or from communities with similar social status. Entering into separate *formal* agreements with them, he would specify the share of reclaimed land each would be entitled. Following this, each partner was informed of the men and materials he had to contribute towards reclamation. 'Two big baggage-canoes, crowbars, and six Pulayas', a letter of 1914 written by a permit-holder to his partner notes (Kamalasanan 1993: 57). Sometimes, the partnership continued even after reclamation, being extended to joint cultivation of the fields reclaimed. During the initial decades of new reclamation beginning from the 1850s, the costs of all inputs, including labour, were paid in paddy (rice with husk).

To undertake cultivation in Kuttanad even big capital resorted to the assistance of finance capital. The fragile ecosystem that Kuttanad was, the incidence of crop failure was high. A breach in the dyke would cause the saline water of the backwater to rush in, thereby destroying the entire crop. The monsoons may over-flood the fields with similar consequences. The need for credit was therefore high and unpredictable. Further contributing to the need for credit were the specific procedures of rice cultivation in the reclaimed fields. Initially, the reclaimed fields were cultivated only once in two or three years allowing the interval for the rejuvenation of the soil. This fallowing practice—*pazhanila krishi*—meant that, unless other stretches were under cultivation, or there was income flowing in from alternative sources like professions, tenants and even lords were forced to borrow for sustenance during the intervening period (Rammohan 2006).

Specific to the ecology of Kuttanad were the nether economies of piracy and theft. Piracy was common in the backwater and rivers of Travancore prior to reclamation. Besides its economic utility, piracy was a political act of marking the geography of power in old Kuttanad. Individual operators aside, some of them social bandits, there were pirate families. Some of the Nayar landlord families of old Kuttanad engaged depressed caste Parayas as pirate labour. Piracy was born anew with new reclamation. In Lower Kuttanad, especially in the early phase of its development, it became a subset of the economy. Given the practice of intermittent cultivation, the risk of cultivation in a fragile ecosystem, and the consequent high

incidence of crop failure, for a landlord lacking alternative sources of income as from professions or moneylending, a stock of wealth was necessary to sustain and thrive in reclamation agriculture.

As waterways were the major mode of transport, merchandise and travel canoes continuously plied the backwaters. Landlords engaged Paraya atiyaal who would lie in wait in the canoes in the dark. As other canoes passed, the atiyaal in waiting jumped out with flaming torches and pounced on passengers depriving them of merchandise and valuables. The loot was brought to the lord who might offer them a goodie or two to express his pleasure over their performance. Occasionally, pirate bands looted households as well. Besides the threat of floods, this was one reason why the houses of Kuttanad landlords were built away from banks of the river, canal, and backwater (Kamalasanan 1993: 28).

While piracy was an elite act executed through the subaltern, theft was a self-inspired subaltern act of defiance. By the month of *Karkatakam* all stock of paddy—the meagre advance from the lord—with the atiyaal family would be exhausted. Because of incessant rain, agricultural work would cease. This was a time of extreme poverty for the atiyaal. Their only recourse then was to steal food. Cassava and vegetables of the lord's garden were the most prone to theft. Theft was also attendant with the pleasure of defying authority. Landlords knew of thefts occurring and occasionally punished the atiyaal. They, however, gave it moral sanction, as they knew that the pittance of the food-allowance given had made theft inevitable. Anyway, the labour that grew these was theirs and often it was unpaid too. May be there was a practical difficulty too with the incessant rain rendering monitoring difficult.

LABOURING LIVES

[T]he lowest and the most debased [of Pulayas] are now found on the strip of land between Alleppey and Cochin, where they are entirely isolated between the sea and the backwater.

Mateer 1883: 34

Building the outer dyke to enclose the backwater, pedalling the waterwheels to drain away the enclosed mass of water, ploughing the field newly created, transplanting rice, and threshing the harvested stalk were the most demanding operations of reclamation agriculture. While building the dyke, working the waterwheel, and ploughing were done exclusively by men, transplanting was exclusively women's work, and in threshing both

participated, but mostly women. Building the dyke, as noted, involved working in and under water for long hours. Pedalling the waterwheels was such hard labour that the *atiyaal* worked in four-hour shifts. Ploughing required steering cattle in the right direction and at the right pace in knee-deep mud and water. Women workers stood in the mud bent over the waist to transplant. The work was literally back-breaking. Standing in the mud for long turned their feet numb.

It has been noted that women engaged in rice cultivation sang during work to relax themselves during hard labour (den Uyl 1995: 225–6). This could very well be, but often it was not that ‘spontaneous’ and was as per the wish of the landholder. He paid a little extra wage to the woman who led the singing. One such lead-singer remembers that singing speeded up work. If there was *ethirpattu* (competition singing) work was speeded up even more. The lord could not however call the tune. There were songs that challenged ‘pollution’ practised by lords and ridiculed higher castes. Others were in the manner of friendly conversations with lower castes like Ezhavas, for instance, asking for good quality toddy: ‘Give us watered toddy; we pay up with rice mixed with chaff’ (Rammohan 2006: 46). To thresh stalk, a bamboo fence with the railing parallel to the ground was erected at the waist-level of workers. The workers held the fence and stamped the stalk with their feet. The edges of the stalk being sharp, it often bled the workers’ feet.

The living conditions of the permanent *atiyaal* were hard. *Maatam*, the huts of the *atiyaal*, could be located anywhere, to the dictates of the lord: in the lord’s homestead; in his gardenland; or on the dykes encircling the fields, although never too far from the lord’s house. If huts were allowed in the homestead, the lords took care that the dwellings were not built within the ‘polluting’ distance. Besides permanent *atiyaal* workers, there was another section, *onapanikkar*, who were, on contract for one agricultural season. They included both ‘untouchable’ and lower castes. These workers were settled on small patches of the lord’s land scattered across the backwater or commons. The landlord-entrepreneur gave the couple fifty coconut fronds and three bamboos to build the hut. The woman pleated the coconut frond for thatching and the whole family jointly built the hut. During harvest, they shifted residence to the dykes. The temporary residences, *pantha*, were long sheds, and were, like their huts, made of bamboo scaffold and thatched roof.

The shortening of the distance between the dwellings of the *atiyaal* and the *janmi*’s homestead and between their dwellings and the fields helped

to stretch the workday substantially, packed with a variety of tasks, many of which were unpaid. Settlement in the homestead ensured the services of the atiyaal anytime of the day and night. Besides working in the rice fields, atiyaal men worked in the lord's homestead. Paraya atiyaal women made screw-pine bags (for carrying wet or germinating seeds), baskets for various purposes, and mats for sun-drying paddy. Atiyaal children took care of children in the lord's household. They were also engaged in the field to drive away birds. All this was unpaid labour. Atiyaal settled on the dyke were required to keep vigil over any possible breach in the dyke, common during the monsoon. The dykes were planted with coconut trees to reinforce these and as a source of additional income for the lord. Atiyaal settled on the dyke attended to and kept watch over these trees. In return they were entitled to a few coconuts when these were plucked. It was known as *kaval tenga* (protection coconuts).

The huts of the atiyaal and onapanikkar were identical: made of bamboo and coconut fronds. No Pulaya or Paraya had a house built of baked bricks. Good quality clay from the field was dug up and mixed with soil by stamping with feet. This was shaped into a wall with bare hands. The wall was just about a feet and a half high. A floor was made within the enclosed area with a layer of soil from the garden-land and topped with dry clay evenly flattened. It was then thatched with plaited coconut-fronds spread over a bamboo scaffold.

During harvest, for weeks together, the workers' families stayed in the pantha on the dyke close to the threshing floor. Following is a description, although from a more recent period:

A pantha is a long improvised shed of width less than four metres and varying lengths made from locally available materials like bamboo and plaited coconut leaves. The shed is usually subdivided using thatched partitions and each family or group of atiyaal is allotted a compartment in the pantha ... there is no flooring... (Francis 1990: 13)

By harvest, the initial grain advance from the lord to the atiyaal would have been exhausted. The harvest wage in grain was just enough for a night's meal. During harvest, every evening, the wage received for the day was turned into a meal. The practice in upper-caste households was to boil paddy, sun dry and pound it. Boiling was time-consuming and sun drying was ruled out in the late evening which was the time the atiyaal got back to their pantha. To overcome these problems, the atiyaal fried the paddy and pounded it. A row of hearths was set up in the shed. Cooking was a difficult operation. No firewood was available in the vast expanse

of water and therefore hay was used as fuel. This caused choking smoke in the pantha. Cooking was rendered especially difficult because atiyaal woman did it after a long, tiring day in the field. They had no way of getting vegetables or provisions nor money to buy it. Nor did they have time to fish during harvest time. Unless there was a *vaniyappura* (literally trading house; a provision-cum-tea shop) around that extended credit or a 'shop-canoe' visited the site (in the early decades of new reclamation both these were very unlikely) their only recourse was to eat rice with a few red chillies to go as 'curry' (Kamalasanan 1993: 51).

Wage was paid in the field if the homestead of the landlord/tenant was away from the field. To receive their wages, the Pulaya and Paraya atiyaal laid down screw-pine baskets in a row and stepped behind them to avoid 'polluting' the landlord-entrepreneur/overseer who measured out the grain. Following is a scene from the courtyard of an Ezhava landholder and medium tenant of the late 1930s:

My father was a landholder. In childhood I have seen atiyaal coming to receive wage after they have finished the day's work. The men wore loin-cloth and a small, coarse, hand-woven towel. They would take off the leaf-cap and hold it in their hand as a mark of respect. At the edge of the courtyard of our house was a young coconut tree full of nuts. My father would stand under its shade and measure out rice. Women atiyaal wore a small cloth just reaching the knee and another across the breasts... After working in the fields from dawn to dusk they were also required to do miscellaneous work in and around the lord's household. After all these the atiyaal couple reached their hut with the help of coconut-frond torches. By then children would have slept under the coconut tree or the banana plant out of hunger and exhaustion. The wage-paddy was fried, pounded, and boiled to make gruel. Children would be then woken up and fed. This sums up their daily routine. (Kamalasanan 2005: 21)

While landlord-capitalists considered Ezhavas as lowly, and Pulayas and Parayas as untouchables, these castes also practised distance pollution among themselves and also within themselves. Ezhava harvest atiyaal kept away from Pulaya and Paraya atiyaal even while harvesting the same field. Clans of Parayas considered certain others inferior. Members of superior clans even denied inferior clans entry to their hut; they were offered food only in the frontyard where a hole was dug on the ground and a leaf placed inside. *Kanji* (rice-gruel) was poured into this. On finishing the meal they had to dispose the leaf themselves as the host being of superior status would not do it. This was exactly the way the higher castes served food to the Pulayas and Parayas.

To escape from the social disabilities of caste, many Pulayas and Parayas of Kuttanad, encouraged by missionaries, sought refuge in the Christian faith. But the 'ancient', local Syrian Christians would not spare them:

Converted Christians were not recognised as peers. Their names had merely a new, Christian prefix and referred to as Ouseph Pulayan, Chacko Pulayan, and Souri Pulayan. These Christians were not admitted inside the church. They prayed outside. On death, they were not buried in the church cemetery. Their bodies were buried outside, in the prodigal's grave—unattended by priest, unaccompanied by cross and ornamental-umbrella. Neo-Christians were not admitted to priesthood. They could not dine with or marry from other sections of Christians. (Kamalasanan 1993: 38)

ENTER THE 'ENGINE'

During the days of old reclamation and the early decades of new reclamation, waterwheels were used to drain water. Even with an array of wheels, worked for weeks together with immense human labour, deep backwater could not be reclaimed. The introduction of mechanical pump-sets that could drain deep and vast expanses of backwater in a short time, therefore, marked a critical change for capitalist accumulation. Even if not rapidly, over time, the new technology was widely taken up. Locally, pump-sets were called *pettiyum parayum* (box and cylinder) after their design, or simply, 'engine'. The cylinder was the inlet and the box the outlet. The cylinder was set up vertically and the axle of the propeller (*ilavettu*) inside the cylinder was connected with a belt to the motor. As the motor worked, the propeller rotated, drawing in water. The water was let out through the box. With the introduction of mechanical pump-sets, reclamation activity received a boost. While earlier, only small blocks of 40–60 acres were reclaimed, later on large blocks of hundreds of acres could be recovered. Draining with a pump-set was much faster than working with waterwheels. An area that required three to four weeks to drain with waterwheels could be drained in three to four days using a pump-set. The capital's logic of accumulation clearly approved technological change.

Until the late nineteenth century when pump-sets were introduced, only a little over 1,000 acres had been reclaimed. By the beginning of the twentieth century, with the introduction of mechanized pump-sets, about 5,500 acres were reclaimed. In 1903, however, the Travancore government was forced to ban reclamation upon pressure from the presidency government of Madras which feared that reclamation harmed the Cochin port by piling up sand at the port's mouth. The ban was lifted only in 1912. By 1931, another 13,000 acres were newly reclaimed.

The first pump-sets introduced during the late nineteenth century were worked by producer gas or steam generated by burning firewood. This gave way to pump-sets fuelled by kerosene/crude oil during the early decades of the twentieth century. A British engineering firm based in Cochin, Geo Brunton Company, who were importers, builders, and operators of steamboats, introduced the first pump-sets. These were used pump-sets imported from Great Britain. The first pump-set was tried out in the rice fields of Baker, an Anglican missionary and rice planter in old Kuttanad. Subsequently, the Bruntons opened a depot in Alleppey to hire these out to farmers in new Kuttanad. With an increase in the demand for pump-sets, new suppliers like Marshall Sons and Company of Edinburgh, operating through its branch at Madras, also entered the scene. Subsequently, the firms started manufacturing pump-sets locally, in Cochin and Madras, and began selling these to landlord-capitalists. Mostly, a small group of farmers jointly bought and shared a pump-set.

The substitution of waterwheels with pump-sets not only redefined the physical geography of reclamation but also the social geography of labour. While waterwheels were operated by the *atiyaal*, the pump-sets were operated by the company's men, mostly Anglo-Indians. They were called *maistries* (foreman). A local who witnessed the second-generation of pump-sets run by kerosene/crude oil remembered his first meeting with a maistry thus: 'I looked at him as if he were a strange creature. He wore a trousers reaching up to his feet and an undershirt, both soiled with oil and mud' (Pillai 1985: 47). This was a contrast from the *atiyaal* working the wheels: 'the luminous, dark bodies, clad with a small towel between waist and knee' (Kamalasanan 1993). The maistries were regarded as people with unique powers and treated with great respect. The pump-set hiring lords invited them over to their homes and served them excellent food and beverages. The hirer provided them accommodation and paid their wage. Besides, during the initial days, they were entitled to all the fish that came out through the outlet of the pump-set as also the fish that gathered around the inlet (Abraham 1980: 25). While pump-sets performed precisely the same task as waterwheels, the status of the maistry running the 'engine' thus widely diverged from *atiyaal* pedalling the wheels.

In 1902, a newspaper reported that with the arrival of mechanical pump-sets the waterwheels had completely disappeared. This, however, was not the case. Waterwheels were still in use, especially to drain water from small areas enclosed by inner dykes within a polder and small, individual plots. As earlier, the *atiyaal* worked these waterwheels. There

is evidence to indicate that even by the 1930s the mechanical pump-set had not ceased to be an object of curiosity. It instilled fear in the minds of the local people. Children were especially afraid to go near one. Even elderly people watched it from a distance and with suspicion. There was a real basis to the fear as the steam boilers of early pump-sets, used ones imported from Great Britain, sometimes exploded causing casualties. One of Brunton's pump-sets exploding in a rice field causing the death of six people became the theme of a popular song. *Vettikkari padam thannil, Brunton sayippu engine vache ...* (Rammohan 2006: 68).

GEOGRAPHIES OF DEFIANCE

The first-ever agricultural workers' strike in Travancore occurred during the last decade of the nineteenth century. This was initiated by the Pulaya atiyaal of southern Travancore. Interesting from the perspective of ongoing discussions on Kerala's high human development, the strike was not intended to raise any economic demand relating to employment or income but to exert pressure on the higher caste lords who prevented, despite the state directive, admission of Pulaya children to state schools. As the strike prolonged and spread, the fields lay waiting to be harvested, and the lords were forced to succumb to the workers' demand even if grudgingly. Whether the echoes of the strike reached Kuttanad is not clear. After the World War I period, a Pulaya atiyaal in Kuttanad, long subject to short-changing in wage, cried out: 'Lord, fill the grain measure to its full level' (Pillai 1985: 41–3).

Defiance steadily made inroads into the cultural geography of paternalism and loyalty. Possibly, the unrest among workers in the coir weaving factories in the adjoining port-town of Alleppey—where one of the early strikes date to the first decade of the twentieth century—influenced the ideological world of the Kuttanad atiyaal. In both Alleppey and Kuttanad, the lead to organizing workers was given by a lower caste resistance movement, the Narayana Guru movement. The movement aimed at redressing the social disabilities of the Ezhavas through spirituality, education, economic advance, and assertion of civil rights. Most of the coir factory workers were Ezhavas and the Sri Narayana Dharma Paripalana Yogam (1903) organized the first trade union in the industry during the 1920s. Roughly about the same time, the Yogam actively organized the Ezhavas in Kuttanad and began representing them. When a Christian lord molested an Ezhava worker, protests were organized in different parts of Kuttanad and the lord was forced to tender

a public apology at the instance of the Yogam. During the same time, the activities of the Sadhu Jana Paripalana Sangham (1907), vanguard of the Pulaya caste movement, gathered momentum in Kuttanad. While the two organizations were not formally linked, the activists of Yogam and Sangham often worked hand-in-hand and jointly addressed the question of social disabilities of the communities they represented.

Importantly, the emergence of agrarian radicalism in Kuttanad owed not merely to external dynamics: proximity to an urban, industrial working class movement, depression, war, weakening of state authority—a constellation of social and political forces and events in the wider region. The fostering of subjective awareness hinged as much on the internal dynamics of the agrarian society and the manner in which it tied up with the external dynamics (Bouton 1985). The role of landlessness and lords' exploitation of *atiyaal* is too obvious to elaborate. Equally important in shaping the geography of defiance was the status distinction based on caste and the attendant subjugation. The popular base of the communist party comprised two castes: low caste Ezhavas, mostly workers but some tenants and Pulayas, all *atiyaal*. Communism was not much to the liking of upper caste Nayers and Syrian Christians; most of them were lords and tenants. Some of them however played leadership roles.

The Depression seems to have brought economic issues to the forefront, prompting the *atiyaal* to seek the support of ideologies and organizations espousing the question of class. Further, by the late 1930s, some of the worst disabilities arising from caste had been reduced. In 1942, an agricultural workers' union was formed in Kuttanad at the initiative of the communist party. Although leadership of the union comprised prominently the Ezhavas and Christians, the Pulayas joined in large numbers, with the result that the public meetings of the communist party were referred to by upper-caste, anti-communists as 'Pulaya meeting' (possibly such branding was also aimed to dissuade non-Pulayas from joining the communist party and the union).

Yet, the linear social narrative of a movement from 'caste consciousness to class conscious' as advanced in the scholarly writings on industrial workers in Travancore (Isaac 1984) and in the general accounts of modern day historical processes in Kerala (Nambudiripad 1948) does not hold good in Kuttanad. Such readings disregard sections of people who sought identities other than class in an attempt to defy the oppressive social order. Communism was not the only path of 'liberation'. Many Pulayas and Parayas, for instance, sought to re-imagine themselves as slaves of

god (Mohan 2005) rather than as class-conscious rural proletariat and proclaimed 'it is lucky to be slave-children' (Pratyaksha Raksha Daiva Sabha [PRDS] 1996: 4). Slavery in this world was viewed as integral to the 'original' slavery in the other world as punishment by God for the sin of deviating from the 'fundamentals':

The reason behind slavery?
 Deviating from the fundamentals
 For over five thousand years
 Steeped in slavery!
 Because of defiance of God's dictate
 Caught in punishment
 So much time has passed since! (PRDS 1996: 5)

In suggesting that their slavery was a direct imposition of God, reminiscent of the ousting of Adam and Eve, the *atiyaal* were rejecting the upper-caste representation of their origins in the Hindu caste society.

TRAJECTORIES OF ATIIYAAYMA

This article examined, first, how emergent capital modernized the *atiyaayma* form of labour servitude and engaged it for agricultural accumulation, and second, its implications for the living and labouring conditions of *atiyaal*. The focus was on *atiyaayma* as it moved into the post-Abolition period. Especially, the article concentrated on the life and labouring conditions of *atiyaal* in the rice lands of the southern Malabar Coast—Kuttanad in the former princely state of Travancore. The inquiry distanced itself from the dominant views of the Cambridge and the Subaltern schools that de-caste servility by representing the *atiyaal* merely as agricultural workers or by portraying servility as a construct of colonial texts. In undertaking this 'historiography on the ground' the article drew inputs from political economy and ethnography.

While Abolition did not substantially contribute to improving the life and labouring conditions of the *atiyaal*, eventually improvement did come about. This owed first to conversion to Christian faith and hesitantly proactive princely state policy, and further, to the buoyant social movements—caste based and class based. Also, the new technology of draining with pump-sets played an important role in easing labour. Freedom in a more substantive way was realized only decades later through direct state action providing own residential land to the *atiyaal*. This was through the Kerala land reforms of the 1970s that directly owed to pressure built up by workers' struggles through many decades and the shock

impact of the late 1960s Maoist movement that hinged on annihilation of landlords as a strategy for revolution. The land reforms that came to effect on 1 January 1970 declared that atiyaal residing on lords' plots were entitled to 10 cents of land and that they would be its absolute owners. The atiyaal, thus freed of threat of eviction, gained freedom to work for other lords or to seek alternative employment. With affirmative action in education and government jobs, over time, children of former atiyaal could find employment in government, even if these were mostly low-level jobs—'subordinated inclusion', as it has been described (Pramod 2004). In the highlands of rice cultivation as Wynad, however, forest communities continued to be contracted as seasonal atiyaal even in the 1970s. Land reforms failed to provide land to these groups. Atiyaayma of these communities ceased only with the central legislative enactment specifically addressing the issue of bonded labour. Yet, landless even now, these communities are dependent on their employers in several ways and subject to varied kinds of exploitation. Weak every single way—numerically, politically, economically—the communities' demand for land failed to capture the attention of successive governments of the left and right-wing parties.

NOTES

1. 'Slavery' was officially abolished in the three political units that comprised the Malabar Coast from around the mid-nineteenth century; relatively earlier in the British-ruled Malabar district in 1843, and by 1855 in the princely states of Cochin and Travancore.
2. The life-story of Yirammyav is illustrative. See Kumar (2004).
3. Many scholars refer to this as 'attached labour' in the sense of labour attached to and inseparable from land. See Tharamangalam (1981) and George (1987). Some view this as a new labour institution that replaced the pre-Abolition form of extreme servitude. As discussed elsewhere in this article, this view may not be entirely correct—even in the pre-Abolition period a large extent of labour exchange was along with land. Further, labour exchange independent of land, even if substantially reduced and much less open, continued into the post-Abolition decades.
4. In the 1970s, this was a relatively tiny plot but would be viewed as at least 4 to 5 cents bigger than the residential plots even of the middle class in 2007.
5. As cited in Rammohan (2006: 15).
6. I am thankful to P. Sanal Mohan for this information.

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4 From Contract to Status? Or How Law Shaped Labour Relations in Colonial India, 1780–1880

PRABHU P. MOHAPATRA

A central issue in Indian labour history has been the extent to which the colonial state moulded labour relations in India. Did the colonial state and its imposition of rule of law effect a change, albeit gradual, from 'Indian status to British contract' (Cohn 1987)?

Or did colonial labour laws have but little effect on ground realities of indigenous labour relations which were marked by persistence of status relations based on caste and domination by the local magnates? Framed by the classic formulation of Henry Maine, the movement from status to contract has particular relevance for conceptualizing the transition from unfree to free labour under colonial aegis. While the earlier debates on the role of colonial state in this transition was framed around the issue of 'continuity and change', a major shift occurred with the rise of the 'colonial discourse' theory. Gyan Prakash's striking account of labour bondage in south Bihar locates the constitution of dependent *kamias* in south Bihar as 'bonded labourers' firmly in the realm of colonial discourse. Prakash argued that the construction of labour bondage arose from three interrelated effects of colonial discourse, namely, bondage resulting from a debt contract (law of contract), the otherness of 'India' and its 'tradition' (orientalism), and naturalization of the power of 'things'—land and money (classical political economy). This discursive reconstitution had a practical effect in reinforcing dependent labour relations and unleashing labour bondage among new groups in the agrarian landscape (Prakash 1990). Prakash's account invited a host of critics who saw in it a valorization of the pre-modern and a denial of the pre-modern institution of labour bondage (Breman 2007: 47). Others argued that the economy of 'gentleness and violence' instituted after power of money was naturalized, was a mythic process that greatly underplayed the role of domination and violence in structuring bondage. Neeladri Bhattacharya, in an incisive critique of Prakash's account, points out that Prakash's shift

from the idea of 'bondage' and 'un-freedom' to the notion of 'dependence' has the same conceptual problems that he seeks to criticize. Dependence can only be defined in opposition to the idea of independence, and the notion of the free individual subject. It is a notion firmly rooted within the liberal discourse of self.

Yet a central point of Prakash's thesis of labour bondage resulting from a profound, systematic, and deliberate misreading by colonialism of dependent relationships as 'bonded labour' created by debt remained somewhat uncontested. In this account, Prakash was giving effect to Partha Chatterjee's formulation of 'the rule of colonial difference'—by which the enlightenment discourse of equality and contractual relationship between free and autonomous individuals that dominated the metropole was deferred and deflected in the colonies—continually reproducing thereby the relationship of 'otherness' between the metropole and the colony. Prakash states:

They (kamias) appear as bonded labour because...the kamias were recorded as persons bound to labour because of their indebtedness to the masters. In colonial documents, therefore, we find a history already written, a text already in existence. The context for this text, however, was set by the Self-Other opposition articulated by British rule...the British encouraged the abolition of slavery while protecting the right of local religions to maintain and sanction servitude. (Prakash 1990: 142)

It was thus that the otherness of India inflected the British 'misreading' of the kamia-malik relationship as one of debt bondage, deferring indefinitely the emergence of juridically free labour. 'The expression of social relationship through the market exchange of commodities...*would have made the kamias into 'free' labourers*. But treated as loans, the things advanced to the labourers appeared permanently unrequited' (emphasis added) (Prakash 1990: 175).

The transition to 'juridical' freedom was thus permanently deferred and unfreedom could now be seen as an innate nature of the kamia labourer. I believe there are two major problems in this formulation. It assumes, for instance, that the juridical development of contractual relationships in the metropole was thwarted in the colonial context, rendering colonial difference as a major cause for the production of unfreedom in the colonies. If, on the other hand, metropolitan contractual relations were themselves premised on and produced unfree labour, the explanation for colonial 'unfree' labour relations cannot then be laid at the door of 'colonial difference' and similarity; rather the difference will

have to be acknowledged as the cause of 'unfree' labour relations. More importantly, however, the binary framework of 'similarity/difference', I believe, is profoundly ahistorical and analysis based on it is doomed to lurch from stressing Indian tradition (pre-modern continuities), on the one hand, to relying on radical discontinuities induced by colonialism, on the other. That this has been the fate of the major debates in Indian history and Indian labour history in particular does not need to be emphasized here.¹

In this article I intend to take up, specifically, the emergence of contract induced unfree labour relations to throw light on the issues of labour bondage. At the outset I might indicate the structure of my argument in the following manner. My argument will rest on demonstrating how 'British' status relations inherent in British contractarian ideology melded into and reproduced 'Indian' status relations. So that it was not a 'misconstruction' or misreading of Indian conditions by colonial discourse that was the crux of the paradox, rather it was the juridical construction of free labour relations in line with contractarian ideology that had the paradoxical effect of reproducing unfree labour relations or in other words Indian status.

In order to demonstrate this argument I take up an analysis of the colonial legal construction of freedom of contract as explicated in four groups of interrelated legislative action initiated by the colonial state to regulate labour relations in different contexts and different time periods. The first of these examples is drawn from the East India Company's attempts to regulate its relations with weavers producing textiles for exports during 1780 to 1820s in Bengal. While force and monopsony market powers have often been cited as the means of regulation, I focus instead on the much neglected areas of judicial and legislative intervention. The second group of regulatory initiatives of the colonial state focus on the indigo cultivators and their contractual relations with the European planters during 1820 to 1860 mainly in Bengal. Here I examine the official debates surrounding the question of specific performance of indigo contracts in Bengal. The reverberations of these debates lingered on till the 1880s. While these two cases involved, specifically, labour in export-oriented industries, the third group of legislative initiatives concerned a more generalized application of contract law to varieties of manual occupations ranging from domestic service to 'workmen, mechanics, artificers, railway labour' or general labour. A series of regulations governing these relations seem to have been initiated, first in the new colonial urban milieu in Calcutta,

Madras, and Bombay from the early nineteenth century, and which then spread all over the British Indian territories with the enactment of the Workmen's Breach of Contract Act XIII of 1859. It is in the context of the generalized application of criminal sanctions against the breach of contract that I look at the attempt of Henry Maine, as Law Member of the Governor General's council, to widen the scope of application of the principle of 'specific performance' to all breach of contracts with the caveat that all determinations of contract be solely a matter of civil action. The controversy over 'specific performance' delayed the adoption of the codification of the general law of contract in India by five years and led, ultimately, to the en masse resignation of the Law Commission in England. A parallel group of legislative initiatives beginning in the 1860s were specially enacted for the recruitment and deployment of long distance migrant labour for tea plantations with strong criminal breach of contract provisions. Since I have done a fuller analysis of the last group elsewhere, I exclude them from my analysis here (Behal & Mohapatra 1992).² As the drive for codification of Law ground to a halt in 1880s; for the next forty years, the employment relations with criminal sanctions attached to breach of contracts by servants and workmen remained in the shadowy underbelly of the legal system without being substantially incorporated into either of the great divisions of legal codes of India. These families of regulations and laws were finally abolished in 1926.

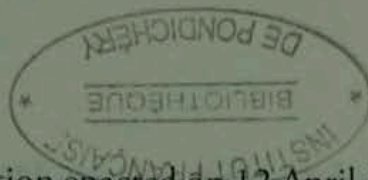
WEAVERS CONTRACT: BENGAL, 1770-1800

Weavers were perhaps the first and most prominent labouring group drawn into the web of regulations of contractual relations spun by the emergent colonial state in late-eighteenth century India. It is by investigating the peculiar nature of these contracts and their mode of deployment that we can find not only the main threads of an evolving contractarian regime of labour relations but also the many knots into which it got entangled. In these early contractarian regimes, even as we find key elements of a contract—voluntary entry, freedom of contract, 'specific performance', obligation to fulfil the contract—we also discover the contradictions of a contractarian regime, namely, those between 'civil' and 'criminal' breach and between 'contract and status'.

Prior to the East India Company's (EIC) ascendance to political power in Bengal, the dominant mode of organization of textiles production was procurement of export orders through disbursement of cash advances to the weavers at the beginning of the season.³ The export company did

not directly advance money to the weaver but contracted with native merchant intermediaries who received advances from the company in exchange of securities and contracted to deliver the cotton piece goods of required quality and quantity. The merchants in turn advanced money *dadni* to the weavers who bought the yarn and other raw material and also utilized it for subsistence. The advance tied the weaver to produce cloth at a pre-determined price for a specific buyer but there were several options which he could exercise. The weavers produced independently for the spot market known as 'ready money' or *khus khareed*. They could return the advance with interest if the price contracted for was much below the prevailing price. The relatively open competitive market allowed weavers to bargain for advances from several sources and intermediaries; the bargain could be on the amount of advance or even as to the strictness of appraisal of the quality of the product. Enforcement of contract on the part of the buyers was always a problem: any strict enforcement or use of force could lead to the typical response from the weavers, that is, both collective and individual desertion. Robert Orme an acute contemporary observer noted: 'If guards are placed upon the (weavers) villages, which is practically the only method of compulsion that can be used, the alarm would be taken and half the country, by retreat of these people (weavers) will be depopulated in a day's time.'⁴ Mobility, multiple buyers and multiple sources of advance, and lack of concentration of economic and political power (for example, Nawab vs. English EIC) had strengthened the weavers' position in an open and fluid market in the mid-1750s.⁵

Problems with the *dadni* system led to the Company opting for the agency system or direct advances to weavers without the intermediation of native merchants. Begun in 1753, but strengthened in the 1760s and 1770s, the agency system entailed the employment of native servants, such as *gomastas*, *mohurrirs*, and peons, to oversee the disbursement of advances and procurement of textiles under the overall direction of a commercial resident in the major production centres in Bengal. Legal regulations were for the first time utilized by the Company state to govern the contractual relations with the weavers. A major factor in the Company's dealing with the weavers was the constant pressure on the Company servants to procure goods at as low a price as possible. Secondly, the immediate and long-term impact of the disastrous famine of 1770, which, by wiping away one third of the population and many weaving households, temporarily strengthened the mobility and bargaining position of the weavers.



Ironically, the very first regulation enacted on 12 April 1773 espoused the general principle of free trade and freedom of contract by prohibiting use of force against the weavers. 'All weavers and manufacturers have full liberty to work for whom they please and shall on no pretence whatsoever be obliged to receive advance against their inclination either from the company or the private merchants' (Mitra 1978: 55). The regulation while espousing free trade and contractual freedom also hinted at the existing practice of forcing advances on weavers by the agents of the company. But by 1775, under tremendous pressure from the commercial residents who cited the 'freedom of trade' regulation to have encouraged weavers to abandon and default on their contract, a set of coercive regulations were now enacted to curb the mobility of weavers between different buyers. The regulation of 1775 compelled the weavers who had received advances to fulfil their delivery on pain of having a peon placed over their loom who had to be maintained by the weaver. Secondly, persistent non-fulfilment of delivery or clandestine sale of goods to other merchants subjected the weaver to judicial processes. Full-scale legal coercion of the weaver was now initiated under these regulations (Mitra 1978: 56). A regulation in 1782 interdicted 'interlopers', that is, it penalized those merchants or buyers who bought clothes from the Company's weavers thereby closing an important exit option for the weavers. Finally, in 1786 and 1787, a clutch of regulations, thirty in number, were enacted, which comprehensively transformed the relation of the weavers to the company (Mitra 1978: 66-7, 224-6; Hossein 1988: 114-15).

Now weavers who received advances from the Company were to be given a numbered ticket mentioning their names, addresses, and *aurangs* or *kothis* to which they were attached; delivery schedules and advances were specified. With this emerged the Khattaband (indentured) Company weavers and the Company as an employer of weavers rather than a buyer of cloth. The weavers technically were free to leave the employment of the Company by giving a fifteen-day notice but not as long as the balances against them were outstanding. Penalties involved fines and summary prosecution in the Diwani courts, and placement of peons on weaver's looms. Secondly, they were subject to strict quality control whereby 'ferreted' or rejected goods could now only be sold by the Company's public auction. The weavers had to immediately replace their rejected goods. By a supplementary regulation of 1789, the weavers had to pay 35 per cent of the cost of the goods as penalty which they clandestinely

sold; in addition they had to also fulfil their contractual engagement. A key element of the contractarian ideology prevalent in the equity courts of Britain, namely, specific performance, was thus imported into India. Similarly, weavers' breach of contract was now partially criminalized. While judicial processes against the weavers were largely under the Civil Diwani *adalats*, the Company had, since 1775, appointed special judicial officials *naibs* to adjudicate disputes involving weavers attached to the *aurangs* and *kothis* with powers to impose penalties and fines up to Rs 10 and to physically punish the weavers with 'up to ten stripes of rattan' (Hossein 1988: 121). Very often the commercial residents were also armed with magisterial powers and summons from the civil courts were issued by the Commercial Residents. Weavers were forced to attend the court by the *gomastas* and *peons* of the Company. Thus, alongside regulations governing Company weavers, a para-legal enforcement apparatus involving the hierarchy of officials such as *gomastas*, *muharirs*, *muqims*, *tagidadars*, and *peons* had come into being. Hereafter the Company insisted on the weavers entering into written contracts explicitly mentioning their voluntary entry, amount of advance, quality and delivery specifications, and the obligations under specific regulations of 1786, 1787, and 1789. The regulations governing weavers' employment were now revived by being fully incorporated into the Cornwallis code of 1793. The legal coercion and fuller legal subordination of the weavers led to steady and long-term deterioration of the weavers' earnings. Stricter enforcement of quality and delivery schedules, ban on clandestine sales, and the closing off of exit options vastly reduced the bargaining strength of the weavers. The advance system, the mainstay of the weaving industry, now became a terrible incubus on the weavers as they failed to comply with the obligations laid out in their contract and were forced to carry over their balances and not engage with other buyers and merchants. The problem was that the carrying over of advances from year to year kept the weavers tied to the Company. A settlement was not possible as long as balances remained and the policy of strict and unilateral determination by the Company of the quality of clothes delivered by the weavers meant that prices paid for work produced barely covered the cost of raw material; further advances then became a necessity. The bulk of the petitions that the weavers wrote in the 1790s complain of deliberate and fraudulent practices of *gomastas* and *jasandars*, and even commercial residents in the downgrading of delivered clothes to a lower quality and lower prices paid for them.⁶

Desertion from the Company's employment and abandonment of weaving now became frequent. However, the Company ruthlessly pursued the weavers with balances against their names. Hamida Hossein cites several cases in Dacca aurang where destitute Company weavers' looms, thatched huts, and utensils were sold off at pitiable prices against outstanding balances in the 1790s (Hossein 1988: 165–6). By the turn of the nineteenth century, evidence of mass petitions by weavers seeking to be discharged from the Company establishments and appeals to be excused from receiving advances became common. A petition in 1801 by weavers attached to the Dooarhata aurang of the Haripaul factory to the Board of Trade to Calcutta is indicative of this trend:

We are unwilling to weave cloths for the Hon'ble Company. The gomastahs have given us advances and put us to great expenses for peon charges and will not pay the balances due to us. He places peons over those who are in balance to the factory and collects the outstanding balance in this manner. We therefore pray that the Board will order Mr Philipot, the Resident at Dooarhata to receive whatever balances stand against us after giving us credit for what is due and excuse us from receiving advances (Mitra 1978: 235).

The legal coercion attendant on advances as signs of consideration of the contract transformed the way advances had been used by the weavers—the force of the advance was experienced by them as 'forced advances'. Thus wrote the weavers in a petition of 1813 (Mitra 1978: 239):

... the new gomastah of the Serbatee factory under Santipur... have brought advances and cause us to be seized in the high road by peons and confine us in the Godown at the Factory and beat and compel us to take advances. We have never woven pieces of cloth (piecegoods) but have maintained ourselves [by making] *Dhoties* and selling them at markets... We therefore pray that the Board will be pleased to grant us a perwannah to the gomostah directing him not to give us advances.⁷

It was not that the Board of Trade did not prohibit forcing of advances on weavers; in fact, it repeatedly did so since forced advances violated the voluntariness of the contract and thus rendered the legal hold over weavers void. Yet the problem was not of forced advances, that is, at the point of entry into contract but that of strict enforcement of the obligation of the contract which closed the exit options of the weavers.

The loss of independence and the transformation in the weavers' status had serious consequences for the quality and quantity of production—the Company found it increasingly difficult to sustain its level of investment and procurement difficulties persisted throughout the period. The contractarian regime based on advances which had been unleashed in the

period 1773–93 as a response to the emerging crisis in the cotton textiles export sector in turn became a potent cause for its terminal decline. By the 1820s, most of the factories, aurangs, and kothis in Bengal had been closed down as exports of piece goods dwindled to insignificance.

Some features of the weavers' contract which evolved during this period need to be reiterated as they acted as templates for the later constitution of the labour market and labour relations in colonial India. First is the emphasis on the 'voluntary' nature of entry, a sine qua non of legal validity and 'freedom of contract'. Receiving cash advances thus became an index of the voluntariness of the contract. Second, the entrenchment of the doctrine of specific performance or legal obligation to 'do or deliver a thing contracted for' justified legal coercion. Finally, the tendency for criminalization of breach of contract entailed an active presence of state power in enforcing private and mutual agreements between two equal parties, which in turn marked one of the parties with a marker of status. This indeed was not the status arising out of the kinship, family, or primordial ties but was a specific effect of the contract, a status conferred by the state and the law itself. Some of these features were present due to the peculiar position of the Company as both a trading concern and the reigning state power. Further, many of these features were only partially developed in the weavers' contract reflecting the transitional nature of the Company state and also the ambiguous nature of the transition in the status of weavers from independent price workers to full-scale wage workers. Finally, we find persistent tension between the principles of freedom of contract, on the one hand, and the legal coercion for enforcement of contract, on the other hand. These features of the contractarian regime as well and its persistent ambiguities are to be found in the peculiar contractual regime that succeeded in Bengal, namely, in the indigo contracts.

INDIGO CONTRACTS AND SPECIFIC PERFORMANCE IN BENGAL: 1820–60

Indigo became one of the major commodities of export that marked the transition of India from a manufacturing nation to a supplier of raw material to the metropole. In the last decade of the eighteenth century the Haitian revolution had pushed out the West Indies, hitherto the largest supplier in the world of indigo. As piece goods declined, indigo along with opium dominated the export trade of Bengal and later India. In the first half of the twentieth century, indigo remained a dominant commodity

regularly forming 20 to 30 per cent of the total value of commodity exports from India till 1850.⁸ The second half of the nineteenth century saw a precipitous decline in indigo exports as synthetic dyes quickly pushed it out of the world market. World prices of indigo were already depressed in the 1840s, reflecting fluctuations of demand of the cotton textiles industry.

Indigo cultivation increased rapidly under rising world demand fuelled by the influx of private European capitalists who set up manufactories in the interior of Bengal's districts.⁹ They induced the tenants (*raiya*t)s to cultivate indigo plants by supplying them interest free advances. In return, the *raiya*t bound himself usually through a written engagement, to cultivate a specified portion of land during the appropriate season, sow indigo seeds usually borrowed from the factories, and weed regularly and guard against damages by cattle; he also cut and delivered the indigo plants immediately upon maturing to the manufactories. Advances given to the *raiya*t)s were then deducted from the price of the indigo plant fixed beforehand. Balances were carried over and new advances made for the following season. This *raiya*t) system of cultivation based on advances contrasted with the *nij* system where the planters cultivated the land using hired labour. However, in Bengal, the predominant system was the *raiya*t) cultivation which in 1860 was estimated to be about five-sixth of the total cultivation. While the peculiar ecology of indigo and the dispersed nature of the holdings militated against *nij* cultivation, in reality the *raiya*t) system was preferred because the burden of fluctuation of outturn fell solely on the *raiya*t) while, due to the advanced contracting at fixed price, the *raiya*t) rarely could take advantage of a favourable upturn in the market. Or, as a planter admitted before the Indigo Commission in 1860, 'the risk is, no doubt, with the ryot'.¹⁰ Until 1833, Europeans were not allowed to own land outright; the planters often leased land from the *zamindars* and *talookdars* (landlords recognized by the Permanent Settlement of 1793) as tenure holders (Patni leases) or in the name of their native servants. From 1795 (under regulation 23 of 1795) Europeans were allowed to settle in India under licence and upon agreeing to be under the jurisdiction of the Company courts. The policy of granting ownership to European capitalists was pursued with some success after the 1813 Charter Act and in 1824 when Lord Amherst granted leasing of land to plantation capitalists. After 1829, when Bentinck allowed the planters to own land on perpetual leases and after the Charter Act of 1833, the '*ilaka* system' of cultivation of indigo expanded rapidly. Under this system the planters

combined zamindari rights (power to distrain raiyats for arrears of rent) with contractual rights for cultivation of indigo. The planters also could engage raiyats who were tenants of other zamindars (*beilaka*). After 1833, however, the bulk of the raiyati cultivation was carried out under the *ilaka* system.

The crux of the raiyati cultivation of indigo lay in the contract based on advances. It seems that in the initial period of high prices, rapid growth, and increased competition the raiyats found both the advance without interest and the price paid them quite favourable. Raiyats usually received their advance in October when rental instalments to the zamindars were due, which often coincided with the festival season of Durga pooja in Bengal. Buoyed by rising world demand and soaring exports there was rapid expansion of indigo cultivation. Competition led to the poaching of raiyats amongst rival factories and complaints of raiyats taking advances from more than one factory owner were frequent. The indigo mania also led to intense conflict between planters and the native zamindars over the rights over tenants' labour and land. Under pressure from the planting class the government enacted the Regulation VI of 1823 to regulate the relation between the planter and the raiyats.¹¹ Under the provision of this law, a planter who had advanced money and seeds for cultivation of indigo on a defined parcel of land, on apprehension of breach of contract by the raiyat, could seek summary processes from the civil court and get possession of the crop. The judge could also order the crop to be cut and delivered to the plaintiff pending enquiry. Planters were also allowed to sue third party instigators of breach and recover damages through summary procedure. However, these provisions were unable to stem the intense competition and violent affrays among the rival planters and those between the planters and zamindars. Indigo mania also led to the over-extension of credit to the planters by the new agency houses in Calcutta. Over production, extended credits, and slump in the world market led to the first major collapse of agency houses in 1829.¹² The planters demanded greater security for their advances and wanted that they be allowed the protection of criminal breach of contract provisions of the 1819 Regulation VII, which made breach of contract by workmen and domestic servants liable to imprisonment of up to three months (see next section). They argued in a petition to the government that the Regulation of 1823 was insufficient as '... it afforded them no means for enforcing specific performance of the contract entered into by the ryot'. A representation by one large planting concern, Messrs Alexander and

Co., stated that the expense and trouble of instituting a suit against every individual contractor, with the certainty that nothing could be recovered from a population so wretchedly poor as the raiyats of Bengal, made it a hopeless case for the planter to seek redressal through suits against them in the court. The planters freely admitted that in the absence of a law protecting their private property and capital they were compelled to use force and violence.¹³ Lord Bentinck, the Governor General obliged them by enacting the stringent Regulation X of 1830 which incorporated the criminal breach of contract clauses of Section V of the Regulation VII of 1819.¹⁴ The preamble stated that the Regulation of 1823 had been 'ineffectual' and the application of penal contract provisions were 'just and proper'. The Regulation made breach of contract by indigo cultivators a misdemeanour punishable summarily by the magistrates with imprisonment of one month, and on refusal to obey orders of specific performance by the magistrate, a further imprisonment of two months. In addition, third party inciters and the defaulting raiyats were to be held jointly responsible for pecuniary damages caused by the breach. The enactment of the Regulation seemed to have immediately soared up the creditworthiness of the planters and helped them tide over the crisis of 1829. As one official who was a fervent supporter of the Regulation wrote '... Lord William Bentinck saved indigo property in Bengal from utter destruction by passing the regulation in question.'¹⁵ However, the blatant exceptionalism of the regulation which gave inordinate powers to the planters to both recover civil damages and apply criminal sanctions against the indigo cultivators irked even the normally placid Court of Directors of the Company in London. In a lengthy letter in 1832, they directed the Governor General to rescind the regulation as it was iniquitous (punishing one party with criminal penalties while only allowing civil action against the other) and the contracts they enforced were entered into 'involuntarily' and were often for long terms of years. The planters, they argued, were not interested in merely getting back their advances in case of default by the raiyat but instead were interested in the specific performance of the contract to be enforced through the fear of imprisonment and with the aid of the police. They suggested registration of contracts and encouraging civil action rather than criminal sanctions and summary procedures. They also asked if outright landownership might not reduce the tendency of the planters to take the law into their own hands.¹⁶ Strong opposition by the Court of Directors, the lifting off of the bar on ownership of land by Europeans under the Charter Act of 1833, forced the government to

rescind the criminal sanctions portion of the Regulation of 1830 in 1835 Act XVI. A massive joint petition by the planters protested the proposal to rescind the criminal breach regulation arguing that criminal sanctions were made necessary by the fact that the peasantry in Bengal did not have the moral capacity for carrying out the contract they had voluntarily agreed to perform.¹⁷ Civil action against a default is utterly useless as what the planter wanted was not just return on the advances but the indigo plant itself in anticipation of which they had sunk enormous capital on credit at high rates of interest. The planters argued that the existence of the law sanctioning imprisonment for criminal breach of contract and the summary civil procedure were both helpful in reducing the incidence of violent affrays around indigo. The success of the regulations should also be measured by the moderate use made of it by the planters as evidenced in the number of cases brought in the *moffussil* courts. They prayed for the retention of the criminal breach of contract provisions for the 'better protection of property and advancement of moral condition of peasantry and people of India'. The repeal of the regulation in 1835 came about partly as a result of the altered condition of the indigo industry which had tided over the crisis of 1829–30 and when prices and production were once again on the upswing. In fact, even the planters in their memorial admitted that there was a looming possibility of over production in the near future. With the repeal of the criminal contract provisions the planters now increasingly used the still considerable power as zamindars or *putnidars* to summon and distrain raiyats for arrears of rent. There was also a rapid shift to ilaka cultivation (cultivation within estates owned by the planters). In addition, a considerable army of private enforcement of *lathials* (bludgeon men) raised during the 1820s was still in place.

Indigo prices were subject to the cyclical fluctuations of the world market and bouts of price depressions throughout the 1840s and 1850s. There were now signs of collective resistance to indigo cultivation with raiyats refusing to sow and plant indigo. Consequently, incidents of violence by planters against raiyats were becoming increasingly common. In 1851 alone twenty-eight cases of violent affrays were reported in the Nizamut Adalat including murders, robberies, kidnapping, and house burning. Official enquiries were initiated in 1854 when the District Judge of Nuddea, a major planting district, forwarded the complaints of the raiyats of the districts against the compulsory nature of indigo cultivation and the terror and violence visited on them by the planters and their private army of bludgeon men. Officials in Bengal were divided as to the

necessity of bringing back a criminal breach of contract law for indigo. A section of the Bengal officials sought the revival of the Criminal Breach of Contract provisions arguing that these would prevent the planters from taking the law into their own hands to enforce their contracts since civil action was both tedious and costly. As the Commissioner of Nuddea division wrote¹⁸:

The indigo planter is a man of energy, and, if the law will not protect him, he will protect himself by threats and violence and will continue to do so however stringent may be the provisions of law proscribing the use of *lattials*, etc. Under such circumstances it surely is not opposed to the general principles of law to afford, even by a special enactment, that protection to the planter which the nature of his calling renders necessary, and which is so essential that, if withheld, inevitably leads to breach of peace.

This extraordinary argument envisaged equivalence of state law and private violence mutually substitutable and in some senses reinforcing each other. Thus there was no reason, the same official argued, why Criminal Breach of Contract provisions applicable to workmen under the Regulation VII of 1819 could not be extended to indigo:¹⁹

If I make a contract with certain workmen to build a fence round my field, the breach of that contract on their part is a misdemeanour punishable by a month's imprisonment. Why should not a contract to raise a crop of indigo in the same field be entitled to the same protection, especially when the ordinary resources of law are so impotent to protect me that I am driven to break the law to obtain my just rights.

This reasoning was however opposed by a majority of officials consulted. They argued instead that the problem lay in the nature of the indigo contracts based on advances. Carried over from year to year, the advances made it a form of compulsory labour. Also, the indigo was universally hated by the raiyats as it was not profitable and to force the raiyats to cultivate an unprofitable crop under threat of criminal prosecution was against the principles of the contract.

Between 1855 and 1860, as the tide of peasant discontent against indigo contracts rose to new heights, the planters and their official supporters' clamour for the revival of the criminal breach of contract also became shriller. During 1859–60, the Bengal countryside was wrecked by collective protests by raiyats against indigo and the sharp rise in violent retaliation by planters. Calcutta's intelligentsia and the newspapers became fully involved in the controversy. This has been aptly termed 'Blue Mutiny' following as it did soon after the 1857 'Sepoy Mutiny'. Fear of mass

repudiation of contracts in the 1860 sowing season and under insistent demand of the planters and their official supporters, the government enacted the criminal breach provisions in Act XI of 1860 for the current season, with the caveat that the a commission of enquiry on all aspects of indigo cultivation would decide about the extension of the act. Act XI of 1860 specified that those cultivators who had received advances and failed to cultivate the land were, on complaint to a magistrate, to be ordered to pay damages amounting to five times the amount advanced. Further, if the cultivator had without reasonable cause failed to sow, plant, or cut the crop the magistrate could order him to perform the same; on refusal to obey the order, he could be imprisoned for one month. Under this temporary law a five-member commission to investigate all aspects of indigo cultivation was set up under president W. Seton Karr. It included a senior government official, a representative native landholder, a missionary, and a representative of the planters.

The exhaustive enquiry and its recommendations reflected, and in some senses hardened, the division between the two opposing views about indigo contracts (*Report of the Indigo Commission* 1861). The majority view in the commission, established with ample evidence, was that indigo contracts based on advances were inherently flawed because the raiyat, by the terms of the contract, could hardly exercise any free choice, being forced to cultivate under the burden of arrears of advances. Thus the bulk of the raiyats were found to have been compelled to cultivate for the arrears contracted by their forefathers—hardly any new raiyats were to be found who had entered into contracts. The commissioners wrote: 'It matters little whether the ryot took his advances with reluctance or cheerfulness, the result in either case is the same; he is never afterwards a free man. And no man has been brought before us who has cultivated, cleared himself and had not reengaged' (*Report of the Indigo Commission*, p. xxviii).

The fact that the planters were interested in not the repayment of advances but keeping the raiyat in perpetual arrears was also established from the evidence tendered by the planters themselves. The enquiry commission thus established that there was no voluntary entry into bulk of the indigo contract rendering them void at law. The universal reluctance to enter into indigo contract, the commission established, was primarily due to the unprofitability of the crop. As for the demand of a special legislation with criminal breach of contract provisions for indigo, the commission advanced a new line of argument against it. Those who

supported the special legislation pointed to the existence of the criminal breach provisions of the Regulation 7 of 1819, the Workmen's Breach of Contract Act XIII of 1859, and also English Masters and Servants statutes applied against workers, artificers, and domestic servants, and thus justified the use of similar provisions against defaulting indigo cultivators.²⁰ Against this the majority of the commissioners pointed out that the analogy drawn from Indian and English laws does not apply to indigo cultivators since they were not merely supplying labour but also capital in the form of their land and bullocks, etc. Thus the contract was not between a master and servant, or between a capitalist and a workman, it was, as J.P Grant the Lt Governor of Bengal noted, 'between one capitalists and another'.²¹ This shift in the line of argument had the paradoxical effect of at once normalizing the principle of criminal sanction against the 'propertyless' and those whose only property was 'labour'.

Richard Temple, the dissenting official member of the Commission, on the other hand, strongly advocated that a modified version of Act XI be made into a permanent law in order to encourage planters to share the risk of cultivation with the raiyats. The law, he argued, was very much in line with the accepted principle of applying criminal sanction to contracts whose non-performance caused loss or inconvenience. Further, with the improvement of the position of the raiyats, the law itself would seldom be enforced. 'The moral effect of such an enactment would suffice, in ordinary times, to induce ryots to fulfill their engagement...'. The belief that the criminal breach of contract laws are effective without being enforced and thus more efficacious than the civil law seems to have persisted till the end of the reign of Penal Contract Law in 1926.²² The majority view of the Indigo Commission was strongly supported by the Lt Governor of Bengal in his minute accompanying Lord Canning's despatch to the Secretary of State. The Viceroy Lord Canning's opinion, however, was ambiguous and left open the possibility of incorporating the dissenting view. Canning agreed that the indigo contract system was inherently flawed as it operated to provide the planters with indigo at a cost which was below the cost of production to the raiyats. In a significant sentence in his minute, Canning admitted to the failure of the government in protecting the raiyats 'against the proceeding of any planter who had bound him *by unreal obligations, and who had enforced these by unlawful means*'²³ (emphasis added). Obviously, this line of reasoning pointed towards the possibility of the planter enforcing 'real obligations' of the raiyats through 'lawful means', that is, with the aid of

the state. Canning then went on to argue that while no one class should be favoured with a special legislation (like those decried by the majority of indigo commissions) for making and enforcing contracts, planters could be legitimately assisted without departing from the principle. Here he pointed to the two recent enactments of Act XIII of 1859 and Act IX 1860 which made 'fraudulent' breaches of contract of workers, artificers, and workers in public works, cognizable by magistrates and punished with a fine and imprisonment. He held out the possibility of extending the same law to contracts of delivery of agricultural produce of all kinds (not indigo alone).²⁴

Soon after, the leeway opened up by Canning's line of reasoning was utilized in the Governor General's Council in 1861 to draft a new legislation making fraudulent breaches of contract of delivery of agricultural produce punishable by three months imprisonment on failure to obey the magistrate's order of specific performance.²⁵ Charles Wood, the Secretary of State, who had only very recently agreed with the Indigo Commission in not extending the special legislation of Act XI of 1860, refused permission for the proposed bill to be enacted as law and saw it as a thinly disguised demand for a specific performance to be used mainly by the indigo planters since no other agricultural producer had ever demanded this. Undaunted by this rebuff, the Governor General in Council in 1862 drafted a new, wider and all encompassing legislation entitled 'A Bill relating to Breaches of Contract Committed in Bad Faith'. Interestingly, some major conceptual shifts were signalled through this bill. First, contract relations of all kind were sought to be put in the civil jurisdiction but the process was to be a summary one. Secondly, it sought to make a distinction between contracts broken in 'bad faith' and other breaches seeking to make the former liable to stricter provisions than the latter. Breaches of the former kind were to be distinguished by the fact of receipt of a substantial amount of the consideration. Secondly, failure to obey the specific performance ordered by any civil court for the breach in bad faith would make the defendant liable to payment of full damages as determined by the court. But failure to pay the sums determined as damages would make the defendant liable to imprisonment for periods ranging from three months to two years, at his own cost; if it was to be at the government's cost then the imprisonment was to be with hard labour. The proposed law thus smuggled in the criminal breach provisions under the guise of civil suits for specific performance. This wide ranging law was once again refused permission to be enacted by Charles Wood, the

Secretary of State. He quite rightly saw through the bill as an attempt to revive special legislation for indigo planters but now with wide ranging implications for varieties of contracts including contracts for services. He feared large increase in litigation on specific performance and great costs to government in the upkeep of prisoners and also far greater possibility of abuse in the summary determination by civil courts. He ended his dispatch reiterating the principle of non-interference of state in ordinary transactions of private individuals.

The controversy over indigo contracts seemingly reflected two sets of incompatible principles: one upholding freedom of individuals to enter into contract to better their position independent of state interference, and the other seeking state aid to legally enforce obligations arising out of contracts which necessarily curtailed the freedom of the individual. Yet a closer analysis as attempted above shows that these contrasting principles arise out of a common ground and were embedded in the overarching structure of the contractarian philosophy. Thus the persistent tension between the essentially civil nature of the contract and having to resort to the criminal sanction to enforce the contract. Nothing illustrates this tension better than the debates over specific performance, which followed in the wake of the indigo controversy, in which paradoxically enough the main protagonist was Henry S. Maine who became Law member of Governor General's council in 1862 for seven long years.

HENRY MAINE AND THE SPECIFIC PERFORMANCE OF THE CONTRACT CONTROVERSY

Henry Maine's reputation as a brilliant jurist and legal historian was established with the path breaking *Ancient Law* in 1859 and his famous dictum of movement of progressive societies from Status to Contract. Immediately after, in 1860, he was offered the law membership of the Governor General's Council of India. After declining to take up the prestigious position due to ill health he was finally persuaded to join the council in November 1862. As it happened he stepped right into the controversy over the 'Breach of Contract' Bill of 1862 and Charles Wood's direction to the Council for its withdrawal. Maine's maiden speech in the Council on 17 December 1862 endorsed the withdrawal of the bill on grounds not dissimilar to those proposed by Charles Wood that the bill criminalized a civil transaction arguing that 'half the machinery of modern society seems to me hinges on the essentially civil nature of the contract'.²⁶ While Maine wanted to entrench the idea of 'completest

freedom of contract' on which the progress of modern society so much depended, he was also concerned about the problem of enforcement of the obligation to perform.²⁷ Opposed to the criminalization of contract breaches and yet loathe to let them go on freely merely with decrees for monetary damages, Maine sought a solution in a new construction of the doctrine of specific performance. Maine's attempt was to shift the doctrine and statutes of specific performance from their location in criminal jurisdictions and embed them firmly in civil law. In 1864, he along with Sir H. Harrington proposed an amendment to the Civil Procedure Code of 1859, which would have allowed the civil courts to order specific performance of contract on apprehension of a breach instead of decreeing monetary damages after the breach had been committed through a lengthy and costly suit. Maine had very quickly understood that the problem with indigo contracts was that the planters were more keen on ensuring specific performance than monetary compensation for their advances. He was in complete sympathy with this position and he argued that the poor peasant or labourer was better off performing the contracted task than being harassed constantly with an unexecuted money decree hanging over him—'the more scientific instrument will inflict the less deadly wound'. With this proposal Maine wanted, with one stroke, to bring in all contracts including those of contract of services under civil law by incorporating specific performance provisions which he believed would bolster the principles of contract without the need for state intervention. Maine's proposal for the amendment of Civil Procedure Code was however deferred because the Secretary of State was meanwhile contemplating the setting up of a Law Commission to draft a comprehensive Civil Code for India and thought the amendments of the civil procedure could be deferred till after that legislation. The real reason was of course that Charles Wood saw in Maine's proposal a major concession to the indigo planters' demand for a law of specific performance. Meanwhile, the position against the indigo planters had hardened considerably, both in England and in India. In 1866, the Law Commission headed by Lord Romilly sent out a first draft act for a comprehensive law of contract. The law in all respects having borrowed strongly from English cases and precedents and common law rules had also incorporated the specific performance provisions in the law but exempted agricultural operation. The commissioners argued that the specific performance by English precedents can be ordered in contracts for transfer of immovable property or delivery of movable property but not for services or processes which

involved a series of actions rather than a single act. Thus cultivation and delivery of agricultural products as also personal service would fall outside the purview of the specific performance provisions. Henry Maine reacted strongly to the exemption of indigo and agricultural contracts from Specific Performance and mounted a spirited challenge against it. The whole Council and the Governor General were arrayed against him in his defence of the indigo contracts. Maine's arguments revealed the inherent tension within contractarian ideology and are interesting for that account alone. He refused to include the specific performance clauses in the main body of the bill arguing that in principle they were not part of the substantive law but part of procedural law. Maine, unlike many officials both in India and England, did not think that criminal sanction and specific performance was in fundamental contradiction with the principles of English law; they were in fact a part and parcel of English equity court tradition but applied very narrowly to what Maine described as 'small contracts', that is, those involving the propertyless poor as one of the parties. India being largely a country of small contracts and if the principles of English law were to be universally applicable the case for general Penal Contract Law would be irrefutable. Pointing to the recently enacted Master and Servant Law in England in 1867, he wrote,

Nobody can doubt that the Master and Servant Act of 1867 is...a far reaching law of specific performance enforced by three months imprisonment in the house of correction... The English Parliament has never hesitated to compel Specific Performance of small contracts by criminal penalties where the public interest or interest of some powerful class required it... why should the Indian legislature be more squeamish?²⁸

Thus if English law cannot be the basis for the denial of specific performance law enforced by criminal sanctions then why were indigo planters to be exempted from civil remedy of specific performance? Maine now reiterated that his previous proposal—if the coarse remedy and incessant demand for a criminal breach of contract law is to be stopped—could only happen by strengthening the specific performance component of civil law, not by further narrowing it. He argued that India, though a land of small contracts, was also where, unlike England, much greater penetration and diffusion of civil courts existed. It 'is also a country in which there is reason to believe that the directions of the court, if express and specific are as a rule obeyed without demur'.²⁹ Given this, a strengthened specific performance provision firmly embedded in civil law with general application to all contracts had much greater chance of

success and would help in the greater diffusion of contract ideas (a sign of progressive society). It might be reiterated here that for Maine asymmetry of power and inequality of status between contracting parties was not an issue at all; what mattered was whether the parties were given the best chance to fulfil their agreements and deterred from defaulting on them. Criminal sanctions were anathema to Maine for another reason since they reeked of state intervention, either to protect or punish in matters of private mutual agreement. Maine's vigorous opposition to specific performance clauses in the Law of Contract and the Law Commissioners' refusal to budge from their position created a stalemate. The Law of Contract could not be enacted till 1872, three years after Maine had left India and after the Law Commissioners had resigned en masse in protest against the delay of enactment. In its final form then the Law of Contract, pillar of the the great Civil Code of India, did not contain explicit specific performance clauses but then neither was Henry Maine's effort to include labour related contracts under criminal sanctions included in the civil law also successful thus underlining the tension within the contractarian ideology as applied to employment relations. It might be pertinent here to cast a look at the evolution of the doctrine of criminal sanctions against breach of contract by workers in India, for a fuller understanding of the contradictions of contractarian doctrine.

CRIMINALIZING 'FREE' LABOUR

The central contradiction of the contractarian ideology was that theoretically there was nothing to prevent the most blatant form of servitude after one gave voluntary consent to a contract of service. Contractarian ideology based on the model of free labour had become the dominant model of the British attitude towards juridical free labour and provided one element of the 'legal culture of work' (a term I have borrowed from legal historian Chris Tomlins) that the British introduced in India. However, what is interesting is the other element of the legal culture of work that was simultaneously introduced into India, that which criminalized breach of contract by the workmen. Supported by a long-standing legal tradition by which masters regularly prosecuted servants for refusal to work before Justices of Peace in both industrial and rural counties of England, the Master and Servant laws formed very much a part of the legal cultural baggage that the British carried with them. It might be recalled that during the late eighteenth century a particularly strong draught of penal legislation was introduced in England

to govern the relations between masters and servants.³⁰ The application of these principles in India did not have to wait long. Ravi Ahuja has meticulously documented the series of municipal and police regulations that were enacted in Madras city from the late eighteenth century which criminalized breach of contracts by workers employed by European masters. Ahuja argues that the British statutes of master and servant laws provided an archive of regulation of employment relations which, when applied in India, gave employers formidable legal control over workers (Ahuja 1999: 44–8). In Bengal the earliest legislation that I have found dates to April 1814 as a Calcutta by-law. Enacted at the behest of sundry English manufacturers, coach makers, cabinet makers and furnishers, and other traders, the by-law sought to curb the persistent habit of the native labourers and their contractors of abandoning work after having agreed to perform them at a certain rate or wage.³¹ Worse still, they often took and demanded advance as is 'customary' and failed to complete the task. It was further alleged that they refused to begin work at the time required by the employers and took frequent holidays. 'The Hindus follow the Mussalmans to their festivals and the Mussalman the Hindus to theirs.'³² Since there was no redressal in the Petty Causes court and the Supreme Court being too expensive, the manufacturers of Calcutta demanded that Justices of Peace apprehend the defaulters, punishing them with two months' imprisonment on the model of the Merchant Seaman's Act, which was regularly used in Calcutta by the masters of the ships in apprehending deserting seamen. Unfortunately, we do not have enough information about the usage of this by-law, however, its replication in subsequent laws, sometime ad verbatim, indicates a fairly successful career.

The first Workman and Journeyman's by-law of April 1814 was followed by a special by-law on domestic servants which similarly punished recusant servants who left their masters' employ in November 1814. In 1816, another by-law explicitly punished workers and journeymen who came together to raise wages or even conspired to do so. While all these by-laws were applicable only within the limits of the Presidency town, in 1819 the Bengal Regulation VII was enacted which punished breach of contracts by workers and artificers in the rural areas of Bengal where by this time a fair number of European planters and landowners as well as merchants had settled. Imprisonment of one month, and of two months on repeating the offence, was prescribed for deserting workers. This also applied to domestic servants who deserted without giving notice. The magistrates were given summary powers of the Justices of

Peace. The Bengal initiative was followed in Bombay where a similar regulation—criminally punishing breach of contract—was promulgated in 1827. Interest from Madras and Malabar was also strong from where demands for regulation of domestic servants, workers on plantation, etc., came up regularly from European manufacturers and planters. With the setting up of the Indian Law Commission in 1833 under Macaulay, provisional penal regulation making was stopped pending the discussion and promulgation of the great Indian Penal Code.

The Draft Penal Code of 1837 dampened the fervour of the European population since Macaulay specially refused to support criminal prosecution of domestic servants as practised by the European households in the Presidency Towns.

It might be noted that in England, domestic servants were not criminally prosecuted for breach of contract and Macaulay was following the English precedent and was thus against legal innovation in this regard. As a result, we found several representations made by European officials as to the great difficulty they find in controlling breach of contract by their domestic servants. Among some of the most frequently committed misdemeanours were: leaving the employ of the master suddenly without arranging for substitutes, or leaving the master's food uncooked and clothes unwashed, or the coachmen tending to their own dogs rather than the master's horses, or wet nurses exposing children to danger, or the toilet cleaners (*Mehatars*) leaving their master's privy dirty, etc. A further misdemeanour regularly practised by the servants apparently was their joining forces to prevent other servants from taking up employment in their former masters' houses (from which they had been dismissed or had left on their own). The demand for bolstering the already extensive power of chastisement by legally curbing their servant's wilful behaviour (such as running away without informing) kept on coming up even after the colonial state, following Macaulay, hesitated and finally decided to not enact any special criminal breach act for domestic servants.

While the debates over the making of the Indian Penal Code carried on for best part of twenty-three years, it was often not possible to keep on hold the demand for specific acts to meet the needs of particular interest groups. The by-laws of Calcutta governing manufacturer and labourers' relations was suspended because of changes in municipal and policing functions of local bodies and Justices of Peace. The Police Act of 1852 took away the policing functions of the Justices of Peace. And in the absence of any new enactment it seems the relationship between

manufacturers and labourers was again thrown into some confusion. It is in this context that the Calcutta Tradesmen's Association, the premier body of European merchants and traders, sent a petition to the government's legislative council in July 1858 demanding that a simple criminal breach of contract law be enacted to prevent workers from deliberately breaking their contracts of engagement after receiving advances from employers as there was no law to prevent such an act and as the workers knew that under the civil procedure it would be impossible to recover advances. 'Knowing the inability of the masters the workers regularly abandon contract for higher wages and also combine to raise their wage demand, which they have to perform accept'.³³ The tradesmen demanded a simple summary procedure for prosecution so that the worker can be brought back to perform his work or repay his advances failing which he was imprisoned. The select committee of the legislative council readily accepted the argument that taking advances and failing to perform the contract could be seen as 'tinged with fraudulence' so while penal provision may not be applied to mere breach of contract, fraudulent intent reflected in the receipt of advances and subsequent renegeing on it qualified for its application. According to the law, on complaint by a master that a workman, journeyman, or artificer had taken advances and agreed to work on a contract on terms specified either orally or in written form and had failed to perform the contract, the worker would be ordered by a magistrate to perform the unfinished work, or repay the advance as required by the employer, the failure to comply either resulting in imprisonment of not more than three months. In the first instance the law was enacted for the Presidency Towns but could be extended to any part of the country by the orders of the government. The act was very quickly extended in 1863 to Assam and before that to all parts of Madras and by the 1870s to almost all parts of India. Till the time it was finally abolished in 1926, Act XIII of 1859 remained in a sense the master contract governing employment relations in colonial India. Before I discuss the extent to which Act XIII fulfilled the functions of regulating employment relations, let me recapitulate the major findings of this study of early labour legislation.

Certain features, which marked the process of introduction of this body of legislation and its impact, may be noted. First we must note the urban context and early manufacturing activities associated with private European merchants who were the main initiators of the legislative control of labour. They were very much steeped in the 'legal culture of work' of England where workers were regularly prosecuted and imprisoned

for breach of contract. I must repeat that to the British officials or manufacturers these were not at all contrary to their belief in the non-interference of state in matters of private regulation of the contract. The appeal to public authority was precisely to very clearly acknowledge the private nature of the contract and the absolute power the masters held in determining its terms. So these first set of initiatives in the formation of criminal breach of contract provisions of law were efforts in the direction of privatizing labour regulations based on the ultimate power of the state to criminally prosecute the 'offending' worker. In this regard at least this was a clear and startling legal innovation in the Indian context.

A second feature which makes its appearance in these legal enactments is the reference to the pervasive practice of taking of advances by the native labourers, which was often described as 'customary'. It seemed also that these customary advances were not so much a British imposition (to tie down labourers) as an absolute necessary compromise in the face of workers' demands. What the manufacturers often resented was that the workers could succeed in getting their terms and even then refuse to fulfil their contracts. It was the practice of free exit from the contract which the manufacturers wanted to curb with state help by criminalizing this practice. In the early period the legislations were again very clearly designed towards curbing customary and traditional power. By criminalizing a customary form of worker resistance to bad conditions of employment, the penal contract legislation also managed to change the signs that surrounded the advance system. Once signifying worker power and their ability to control their conditions of employment, advances quickly became employers' weapons to tie down workers to low wages or subnormal working conditions. In no small measure, criminalization of free labour initiated in 1814 was instrumental in this change of sign marking the advance system.

While the actual use of the act may have been limited in a number of prosecutions, etc., it is quite possible that its effectiveness was never really in the actual prosecutions under the act but rather in the threat of its use. Thus an interesting observation by a lawyer-employer of Simla: 'As an employer of labour on a small scale I have never really earnestly used the act directly against any one; however their existence in the statute book and a mere reference to the act often has considerably smoothed away difficulties and has acted wholesomely on the employed who are often tempted by outside elements'.³⁴

Irrespective of the extent of its use, as evidenced in its prosecution, there is no doubt that the central presumptions of the criminal breach of contract agreements seem to have pervaded the general work culture which gave the employer absolute power to set the terms of employment, and normalized state intervention on behalf of the employer to curb the mobility of labour. Its effect on the advance system is particularly important as the criminalization of advance helped in curbing and regulating one important customary power of the workers. We can only speculate as to the impact of the act on wage levels, but if the curbing of the advance system is anything to go by it is more than possible that the law acted to depress wage levels below the normal market clearing rates.

CONCLUSION

While differing in their application across different sectors and different groups of labourers and producers, a panoply of regulatory devices dominated and defined labour relations in India for a period of nearly 140 years, leaving their imprint and long shadow well into the future. Apart from their enduring presence across a long time period, there was a strong commonality between these groups of judicial regulations. They adopted, in common, the central feature of contractarian ideology having its roots in the common law legal tradition, on the one hand, and the explicit statutory tradition in Britain, on the other. The common origin of all these initiatives in India is to be found in the Masters and Servants legislative tradition in Britain which stretched across three centuries (1562–1875) and intensified particularly during the Industrial Revolution (1780–1830), finally being abolished in 1875. The central feature of this tradition imported into India has been aptly termed 'Criminalization of Free Labour', a process by which withdrawal from contract, especially by the labourer, entailed criminal prosecution. This was not in any way in contradiction to the reigning contractarian ideology of free labour; in fact it was explicitly based on it. What distinguished it however was that the labour relations under this legal regime were hived off into criminal jurisdiction. A breach of contract was thus not a civil matter between private individuals but a crime against the state and the body politic. It was thus that at the heart of liberal ideology of private contract and *laissez-faire* lay the invocation to the state power.

Two other features maybe noted here. First that these contractual relations were not conceived in any case as necessarily arising out of

a previous debt, that is, they were not primarily conceived as debt relations. The criminal character emerged rather from another important component of contractarian ideology, namely, 'specific performance' and 'obligation'. The advances which were often put as a the *raison d'être* of criminal breach were not just indices of the debt amount; rather they were conceptualized as 'considerations', an index of both voluntariness of contract and the concomitant 'obligation' to perform. To that extent the type of labour relations that I analyse in this article are different from the classical pattern of 'bonded labour' analysed in the literature; they are not necessarily a result of debt nor do they necessarily imply hereditary bondage (though both of these conditions may exist as we have seen). Secondly, in most cases, the labouring groups that I discuss do not necessarily bear any sign of 'pre-modern' or 'pre-colonial' dependent labour relations. These differences in my mind do not make my conclusions any less important, rather I hope they throw an interesting and illuminating light on the classical pattern of 'bonded labour' discussed in the literature. This essay demonstrates the paradoxical result of status being produced through contract in colonial India thereby apparently reversing Henry Maine's classic formulation and the ways in which ideas of contract were enforced with regards to both the Company weavers in late eighteenth-century Bengal and the indigo producers in Bengal, along with several Breach of Contract laws that deeply shaped labour relations in the nineteenth century.

NOTES

1. For arguments about continuities and persistence of 'traditional relations of productions across colonial divide shaping Indian labour relations albeit from opposed perspectives', see Chakrabarty (1989); Robb (1993). For critiques of these positions, see Chandavarkar (1989); Joshi (2003); Mohapatra (2005).
2. For a detailed analysis of the use of the criminal breach of contract provisions in Assam, see Mohapatra (2004).
3. The following account of weavers under the East India Company's state regime is drawn from the excellent monographs by Hossein (1988) and Mitra (1978).
4. Robert Orme cited in Mitra (1978: 38).
5. This is broadly similar to the account of the weavers' position in the mid-eighteenth century Coromandel coast that appears from Prasanna Parthasarathy's work (2001).
6. See, for instance, the petition by weavers in Mitra (1978: Appendix 3).
7. Petition of Tilluck Chandar Chund and other weavers of Sreenuggur Chakla to the Board of Trade, Proceedings of the Board of Trade (Commercial), 13 August 1813, Prog. No. 31, Vol. 284, Appendix 3K, in Mitra (1978: 238).

8. K.N. Chaudhury (1982) (see Table 10.10).
9. For an account of Indigo cultivation in Bengal, see Chaudhury (1982: 315–18); see also *Report of the Indigo Commission* (1861: VIII–XII).
10. *Report of Indigo Commission* (1861, Appendix, p. 11).
11. Regulation VI of 1823, in 'Regulations of Fort Williams, Bengal in the Year 1823', *House of Commons Parliamentary Papers*, 1824.
12. For an account of the Indigo credit crisis and the collapse of agency houses, see Tripathi (1956).
13. Cited in Letter of Court of Directors to the Governor General in Council No. 3 of 1832, *Report of the Indigo Commission*, 1861, Appendix 16, p. 330.
14. 'Regulations VII of the Fort Williams, Bengal for the Year 1830', in *House of Commons Parliamentary Papers*, 1831.
15. F. Beafort, Joint Magistrate and Deputy Collector of Pabna to Commissioner Rajshaye Division, dated 26 October 1854, in *Papers Relating to Indigo Cultivation in Bengal 1854–1860*, *House of Commons Parliamentary Papers*, No. 72–I, 1861, p. 17.
16. Letter of the Court of Directors to the Governor General in Council, March 1832, in *Report of the Indigo Commission*, 1861, Appendix 16, pp. 326–7.
17. 'Petition of the Merchants of Calcutta', 1835 in *Report of the Indigo Commission*, Appendix No. 13, pp. 319–22.
18. Letter A.C. Bidwell, Commissioner of Nuddea Division to the Secretary, Government of Bengal (GoB), dated 4 January 1855, in *Papers Relating to the Indigo Disturbances 1854–1860*, *House of Commons Parliamentary Papers*, No. 72, p. 21.
19. *Ibid.*
20. *Report of the Indigo Commission*, 1861, pp. xlvii–lvi, Minute by R. Temple and W. Fergusson.
21. Minute of the Lt. Governor of Bengal on the complaints by the indigo planters, 22 August 1860, in *Papers Relating to Indigo Cultivation in Bengal*, *House of Commons Parliamentary Papers*, No. 72–II, p. 11. The indigo commissioners pointed out in support of their assertion the fact that the raiyats who were assessed to pay damages for not sowing indigo under the Act XI of 1860 readily paid up to half the damages. In Jessore of an assessed damage of Rs 66,000, Rs 31,000 was paid up within few days (*Report of the Indigo Commission*, p. xlii).
22. For Assam planters' defence of the criminal breach of contract law on the ground of its moral effect, see Mohapatra (2004).
23. Canning to Secretary of State Charles Wood dated 29 December 1860 in *Papers Relating to Indigo Cultivation in Bengal*, *House of Commons Parliamentary Papers*, No. 72–II, p. 97.
24. *Ibid.*, p. 99.
25. The following account is taken from the 'Correspondence between Secretary of State and the Governor General on Breaches of Contract Bill', *House of Commons Parliamentary Papers*, No. 173, 1863.

26. *Proceedings of the Legislative Council of the Governor General for the Year 1862*, Calcutta: Superintendent of the Government Printing Press, p. 276.
27. Rankin (1946), Chapter V provides a synoptic account of Henry Maine's views on the Specific Performance controversy. A fuller account is provided in the documents contained in the *Papers Connected with the Law of Contract*, in Home (Legislative), A, No. 513–615, May 1872, National Archives of India.
28. Note of Henry Maine, 23 July 1867, in *Papers Connected with the Law of Contract*, in Home (Legislative), A, No. 513–615, May 1872, National Archives of India.
29. Ibid.
30. For a comprehensive account of the evolution of the Master and Servant Law in England, see Douglas Hay, 'England 1562–1875: The Law and Its Uses', in Hay & Craven (eds) (2004), pp. 59–116.
31. Bengal Judicial (Criminal) Consultation No. 36 of 14 April 1814 (West Bengal State Archives). For a fuller treatment of the issue of criminalization of free labour, see Prabhu P. Mahapatra 'Regulated Informality: Legal Construction of Labour Relations in Colonial India', in Bhattacharya and Lucassen (2005).
32. Bengal Judicial (Criminal) Consultation No. 26 of 14 April 1814 (West Bengal State Archives).
33. 'Petition of the Calcutta Tradesmen's Association', Papers connected with the Act XIII of 1859, Legislative Department 1959, National Archives of India.
34. Home (Judicial) File No. 326 of 1924, National Archives of India.

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Part 2

Contemporary Forms of Bondage

One of the defects of the act promulgated in 1976 to end labour bondage was the incorrect assumption that restrictions on the freedom of labour were a distinct feature only of agricultural employment. Already in those days there was no lack of factual evidence available describing recruitment practices resorted to by employers or their agents in the huge sector of the economy which was carefully kept in, or brought back to, a state of informality. The owners of enterprises, ranging from small to big, in different branches of activity managed to keep their permanent or temporary workforce entrapped in indebtedness which took away their basic freedom of movement as well as the fundamental right to articulate their interest and to shop around in search of a better deal. Since then a veritable flood of micro-studies has been produced detailing the presence of bonded labour, in agriculture: in addition to farm servants, seasonal migrants cutting sugar cane or picking fruit; in fish processing; in industry: handlooms and powerlooms, rice mills, manufacture of woollen carpets, silk weaving in artisanal workshops, gem cutting and polishing ateliers, brick kilns and stone quarries; in construction: building dams and roads, laying canals; as mine workers and plantation coolies, as domestic help. Part of this army is floating around; another part tends to stay put at their worksites. They may be rural or urban but can also have more fluid or even transient profiles which do not fit neatly within territorial boundaries.

It is on these people found at the bottom of the labour hierarchy that we focus the second part of our volume. What is their magnitude? Nobody has bothered to count them but this mass may add up to about 10 or 20 million people, say 5 per cent of the informal sector workforce, which according to the latest estimate is the label of around 90 per cent of the economically active population. To work in bondage is the plight of men, women, and children, who are sometimes put to work together but may also be torn apart from each other. This extremely vulnerable underclass, drawn from deprived communities, scheduled castes and tribes in particular, is brutally dealt with at the slightest attempt to protest. Their hours of work are excruciatingly long and part of their wages are paid in advance, and then written down as debt, while settling the other part is postponed in order to achieve their immobility.

Hired and fired at the discretion of the employer, these workers are made invisible in the registers and statistics kept by the government. In 1996 the High Court of Tamil Nadu ultimately acknowledged the existence of one

million labourers held in bondage in the state alone, of which 10 per cent were children. Other government agencies at the central level went on to insist that bondage belonged to the past. The Director-General of Labour Welfare of the Ministry of Labour was willing to concede in 1997 that 6,000 cases of bondage had been identified. In other words, there was no need to talk about such a minuscule problem, and even less so in 2005–6 when their numbers had further dwindled to a mere 304. Another agency of the same ministry owned up to 286,245 instances of labour bondage—practised in Punjab, Haryana, Delhi, Uttar Pradesh, Madhya Pradesh, Andhra Pradesh, Tamil Nadu, Karnataka, and Rajasthan—but was happy to report that 266,283 of them were released and rehabilitated between 1996 and 2005. The pretension of active and effective governance was thus carefully kept intact. This is why the Government of India delegation to the annual ILO meeting is so upset when the issue is back on the agenda with the request to abide by the convention prohibiting forms of labour bondage. All this information can be found in a document published in August 2007 culminating in a harsh verdict on the record of state action against bondage: 'official apathy and absence of any concerted effort'.¹ The mission of this National Commission is to improve labour standards in the informal sector of the economy, to fix (once again) a minimum legal wage rate and to raise the quality of livelihood for the multitude of people dependent on this work regime. As for the segment kept in bondage at the tail end of the economy, whether rural or urban, the political will to do all this seems to be determined more by reluctance than eagerness to atone for past failures.

NOTE

1. *Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector*, New Delhi, August 2007, pp. 205–7, published by the National Commission on Enterprises in the Unorganized Sector, Government of India.

5 Conceptualizing Continuity and Change in Emerging Forms of Labour Bondage in India

RAVI S. SRIVASTAVA

This article intends to provide a conceptual framework to emerging forms of labour bondage in India. It underscores elements of continuity and change in the current forms of labour bondage, and shows that these are a complex outcome of traditional social structure and division of labour; modes of extraction of labour surplus in colonial India and contemporary uneven development of a form of capitalism which has predominantly taken a 'low route' that has been further reinforced in the context of globalization. The last part of the article reviews some of the strategies to deal with labour bondage.

DEFINING LABOUR BONDAGE

The dominant strands in the literature on labour bondage, as well as international conventions such as ILO Convention 182 have identified the phenomenon with credit bondage (cf. Bardhan and Rudra 1978; also ILO 2001, 2005). At the same time, labour bondage is closely related to the concept of 'forced labour' which refers to *involuntary* restraints placed upon labourers, restricting their freedom to enter into alternative employment, or to exit from present employment, backed by penalties or sanctions. Such a concept of 'forced labour' is clearly defined in ILO Convention 29, ratified by India in 1951 and also held illegal by the Indian Constitution (Article 23(1)). While forced labour, including slave labour and servitude, is characterized by compulsion, whether customary or otherwise, debt-induced bonded labour is characterized by a creditor-debtor relationship between the employer and the employee in which the terms of repayment virtually preclude a termination of the relationship.¹

We have elsewhere referred to bonded labour as a long-term relationship between employee and employer which is cemented through a loan, custom, or by force, which denies the employee various freedoms

including the freedom to choose her employer, to enter into a fresh contract with the same employer, or to negotiate the terms and condition of her/his contract (Srivastava 2005b). We have thus viewed bondage in broader terms, as a kind of 'unfreedom' in long-term labour relationships, produced under varying contexts, the context of which could be diverse, but which carry certain adverse outcomes. This understanding of labour bondage, as we show ahead, is in conformity with both theoretical and legal interpretations of bonded labour in the Indian case.

The involuntary source of restraint on labour resulting in 'unfreedom' that we allude to, could be extra-economic (physical force, social practice, or custom) in many cases or it could be economic, as brought out in Indian court judgements. The difficulty is in identifying involuntariness in economic transactions since the initial transaction, may, in a number of cases, involve what is apparently a degree of voluntary choice. Here one falls back upon Bharadwaj (1979) or Bhaduri (1984) both of whom have viewed the initial exchange in terms of the cumulative disadvantage which accrues to the labourer as well as high exit costs. Such labour bondage results not only in the loss of freedom to choose employment but also in other poorer outcomes (for the labourers) than what would counterfactually be the case. In the economic arena, these poorer outcomes could be a loss in the form of earnings or interest or in some other form, of the labourer or her family, at a point of time or across time.

But it is also possible that the length of the relationship between the labourer and the employer may extend indefinitely, because in a given context it is seen as better than other existing alternatives by both parties. The traditional Indian context, which has excluded low castes from land ownership and even from land cultivation, could in the context of lack of alternative livelihood opportunities, have compelled labourers to attach themselves to employers. Whether such a relationship (often termed as 'patron-client') is benign or not is another issue but the element of compulsion in such labour relationship need not *necessarily* arise from individual employer-employee relationships but the broader socio-economic context in which the labourers need to subsist. Breman has analysed the changing nature of labour relationships in Gujarat from the early nineteenth century onwards. After analysing aspects of such relationships in the early part of the nineteenth century, Breman notes that the attached labourers—the *Hali*—did not always want to terminate their relationship with the employers, although they remained dependent

on the latter for their subsistence and economic reproduction, through wages as well as advances. Breman also argues that such bondage existed even before the onset of colonialism, although the deepening of market relations, as well as other ensuing changes, continuously modified the relationship, leading to its decline and virtual elimination in South Gujarat in the post-Independence period (Breman 2007, chapter 2).

The Bonded Labour System Abolition Act (BLSA 1976) of India is quite extraordinary in that it recognizes (a) the overlap between forced labour and bonded labour in customary relationships, and also (b) the manifestation of these relationships in contract labour and inter-state migration, and (c) considers the nature of restraints suffered by the labourer as a result of the bonded/forced labour relationship, and makes all of these illegal. Section 2 of the act sets out the definition of bonded labour. The act defines 'bonded labour' as a service rendered under the 'bonded labour system'. This is a system of forced, or partly forced, labour under which the debtor enters into an agreement, oral or written, with the creditor. According to this agreement, in consideration of an 'advance' obtained by the debtor *or* by any of his lineal ascendants and in consideration of interest on such an advance *or* in pursuance of any customary obligation or by reason of his birth in any particular caste or community, the debtor agrees to render, by himself or through any member of his family, labour for the creditor for a specified or unspecified period of time either without wages or for nominal wages,² or forfeit the freedom of employment or other means of livelihood, or forfeit the right to move freely throughout India, or forfeit the right to appropriate or sell at market value any of his property or the product of his own or any of his family members' labour. The 1976 Act also lays down the monitoring, enforcement, and implementation modalities, which rest mainly with the state governments.

While the key elements in the definition of bonded labour in the BLSA undoubtedly includes service rendered as a result of a creditor–debtor relationship, the act also brings within its purview service rendered as a result of customary or traditional obligations or by virtue of the labourers belonging to a low social status. Further, the act spells out the implications of the bonded labour relationship in terms of an adverse outcome for the labourer, either in terms of wages, or the sale of products or assets, or restrictions on the labourers' mobility. The BLSA thus goes beyond solely linking labour bondage to a creditor–debtor relationship and links

the phenomenon also to the traditional (forced labour) relationships which could arise in the specific context of India's historical socio-economic formation.

The ambit of 'bonded labour' prohibited by the 1976 Act has further been clarified by the Supreme Court of India in a number of judgements, including the *Asiad Workers' Case* (1982) and the *Bandhua Mukti Morcha Case* (1984). The Courts have clarified that the 1976 Act is derived from Article 23(1) of the Constitution whose ambit is much wider than Article 4 of the UDHR, since 'the Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values' (Supreme Court judgement in the *Asiad case*).

The Supreme Court of India has also taken a wide view of what may constitute 'force' in a labour relationship, stating (also in the *Asiad case*) that:

Any factor which deprives a person of a choice of alternatives and compels him to adopt a particular course of action, may properly be regarded as 'force' and if labour and service is compelled as a result of such 'force' it would be 'forced labour'. The word 'force' must be construed to include not only physical or legal force but also force arising from compulsion of economic circumstances which leaves no choice to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage. Therefore, when a person provides labour or service to another for remuneration, which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour'.

The issue at stake here is that bonded labour relationships are usually reinforced by custom or elements of force. These relationships are not purely economic contracts, even though employees may enter into them voluntarily because of economic necessity. Labour bondage, whether induced by debt or otherwise, can spill over other members of the family, be of an indefinite duration, and involve adverse contractual stipulations not justified by law or even the prevailing state of the market. Once employees enter into these relationships, they are characterized by multiple asymmetries and high exit costs, which were not a part of the contract, as understood by the employee at the outset.

The debate of labour bondage revolves not so much on facts relating to the role of social structure and custom, on the one hand, and the role of credit, on the other, in structuring labour markets, but around

outcomes. There is an influential strand in the literature which argues that the resultant labour market transactions are beneficial to the labourers, and confer superior outcomes to them both in terms of insurance (lower employment risk, protection against other vulnerabilities in patron–client relations) and higher returns (earnings). This strand in the discussion virtually rules out the theoretical (and empirical) possibility of labour bondage, since it is built on the premise that, given the initial endowments, labourers not only enter into the contracts voluntarily but also achieve optimal outcomes (of a second-best kind) (cf. Bardhan 1980, 1983). Arrayed against this, is an impressive amount of empirical and theoretical literature, with which we concur, which shows that adverse individual and collective outcomes associated with such transactions. This is recognized in the well-known judicial verdict in India, which we referred to earlier (the *Bandhua Mukti* case), in which the definition of ‘force’ has been extended to the use of economic power to depress the returns to labour below an acceptable level and following this labour bondage is considered (presumed) to exist if the labourer is not paid the minimum wage or is paid a wage which is below the prevailing market level.

In our analysis, we have taken custom and social structure as the starting point, while recognizing the importance of credit induced bondage. The broad argument here is that labour bondage has to be viewed both in terms of the nature of transaction between the labourer and the employer as well as the outcome of that transaction. Further, given that labour markets are embedded in social and political relations (and inequality in these), causes and outcomes need not and should not be purely viewed in terms of their economic features.

IMPACT OF THE SOCIAL STRUCTURE

In India, as discussed earlier, the social structure has traditionally excluded the lowest social strata (the former untouchables) from ownership of land and productive assets and has consigned them to the role of labour and service castes, with specified obligations for the individual as well as family members (Kumar 1965). These service/labour obligations either are confined to individual employers or extend to the upper-caste community in the location as a whole. Thus, the maximum violence has occurred through the exclusion of these castes from the privileged economic, social, and political spheres, relegating them to the position of providers of labour service, where, too, they are further subject to direct violence and indignity

and exclusive hereditary control of specific employers. The tribals who remained outside the social order (and hence could have access to assets) have been relegated to a similar position, although the historical process by which this occurred in their case has been quite different.³

This inter-generational bondage remained the predominant feature of Indian social and economic structure for millennia. Even though many convolutions have occurred in these relationships, they continue to exercise a profound influence on the contemporary structuring of the labour market.⁴

COLONIALISM

Labour relations in colonial India were shaped by several important influences. First, agrarian relations were restructured and monetization and commercialization made deep inroads into the agrarian economy. The money economy introduced fresh patterns of seasonality and accruals and expenditure for the peasants as well as labourers. Debt emerged as an important instrument of the extraction of produce as well as labour rents. Most of the well-known bonded labour systems in agriculture, based on debt-induced bondage, emerged during this period.

Second, important changes occurred in the labour systems outside agriculture. Large-scale requirement of labour arose in the international colonial system, primarily because of the abolition of slavery, and then subsequently within the economy, with the growth of specific forms of economic activity in plantations, mines, railways, industrial centres, etc. Since despite pauperization, the rural labour force was still rooted to the countryside, the large-scale labour recruitment was principally organized through a system of intermediaries, who controlled both the flow of labour, as well as its activity in the destinations. As migration intensified, other labourers, pushed outwards by pauperization, joined the workforce in the destination areas, as did other workers who serviced the growing economies. The need of many of these industries was for a permanent labour force and there was a potential conflict between the ease with which a circulatory labour force could be controlled and the requirements of a stable labour force. Over time, in many parts of the country, organized labour was able to overcome the fragmentation and the control inflicted upon it by systems of labour recruitment and emerged as a strong unionized force. But the systems of recruitment that arose during this period survived in some way or another in most of the sectors.

THE CHANGING CONTOURS

The first systematic survey of bonded labour was carried out by the Gandhi Peace Foundation and the National Labour Institute during May to December 1978 and placed the total number of bonded labourers at 2.62 million (Sarma 1981). In the survey, 61.5 per cent of the bonded labourers were members of Scheduled Castes (SC) and 25.1 per cent were members of Scheduled Tribes (ST). Among the employers, 89 per cent were agriculturalists.

The National Commission for Rural Labour (NCRL) produced the significant evidence of bonded labour in the country (Ministry of Labour 1991a, 1991b). The Commission still held that agricultural labourers are the main form of bondage in rural India. The Commission concluded that agricultural labour bondage was higher in agriculturally poor regions. However, there were bonded labourers also in the plantation sector: for example, bonded labourers from Orissa and Bihar were employed in the plantation sector in Assam and Tripura.

The NCRL also documented a high incidence of bonded labour outside agriculture. It mentioned the following non-agricultural sectors as having a high incidence of bonded labour: stone quarries; migrant labour; brick kilns; system of *joginis* and *devdasis*; fishermen; forest labour; bidi workers; carpet weavers; pottery; weavers; head loaders; child labour in match and fireworks industries; carpet weaving, etc.

The NCRL found a high incidence of migrant bonded labour: Bihari labour in the fields of Punjab, Haryana, and Uttar Pradesh; in the brick kilns of these states; in the sugar cane fields in Gujarat; in stone and slate quarries and mines; in the plantations of Assam; and even in the seaports of Gujarat. The Commission highlighted bondage among women on account of social as well as economic factors and mentioned the *joginis* of Andhra Pradesh and the *devdasis* of Karnataka. The Commission mentioned a high incidence of child labour and child bondage in a number of sectors. It also highlighted the well-entrenched system of tribal exploitation, expropriation, and bondage in many parts of the country including the Santhal Parganas. In examining the regional spread of bonded labour, it found the practice widespread in all parts of the country.

The nature of labour relationships have continued to change in India in the recent decades, both in agriculture and outside it. The decline noted by Breman (1974) in attached labour relationships in agriculture, in which

both custom and advances (both reinforced by agrarian inequality and power relationships) play a role, has also been observed in most other parts of India. This, however, does not mean that these relationships have disappeared. Our recent fieldwork in rural Madhya Pradesh has again brought out the existence of labour bondage where both these elements play a role, in the tribal regions as well as in the more feudal areas of the state.⁵ Side by side, studies that have taken place in the last three decades or so have also confirmed the growth of debt-induced labour attachment in the developed agricultural regions of the country (Brass 1996; Corta & Venkateswarlu 1999; Jodhka 1994; Singh 1997). There is some disagreement between some of the researchers as to whether these types of relationships and the consequent 'unfreedom' constitute labour bondage or milder forms of 'unfreedom' and whether there has been an overall growth in labour attachment.⁶ In an earlier paper, we had visualized a 'U' shaped relationship between the growth of agrarian capitalism and labour attachment, which we consider to be labour bondage in a substantial proportion of cases (Srivastava 1989, 2000). This view emphasized the decline in customary bondage, whether of the traditional patron-client kind, or even of the debt bondage-based labour systems, but at the same time talked of the emergence of new types of attachment in regions of developed agriculture, which were driven relatively more by economic compulsions of the labourers. It also does not preclude the emergence of purely contractual and 'free' labour relations. Our view does not contradict views which suggest an *overall* decline in labour bondage, but emphasizes its emergence in new forms.

However, major changes have also taken place in labour relationships outside agriculture. This needs to be placed in the context of the changing structure of the non-agricultural labour force. Recent decades have seen a slow growth in formal employment in India. Till recently, the source of employment data in the formal sector (called the organized sector in India) has been the Ministry of Labour. This source shows that the growth in formal sector employment has virtually petered out, and accounts for only about 8 per cent of the workforce. Direct estimates of formal sector employment, based on a precise definition of the organized/formal sector, have now been obtained by the National Commission for Enterprises in the Unorganized Sector (NCEUS) for the years 1999–2000 and 2004–05. These show that organized/formal sector employment has grown by about 8 million between these years, but that this employment consists entirely

of informal workers, casual or regular (NCEUS 2007). According to the Commission, 92 per cent of the workers are informally employed (86 per cent in the informal/unorganized sector and 8 per cent in the formal/organized sector). About two-fifths of the informal workers are wage-workers, the rest being regular employees.

The growth of informal wage employment that is occurring outside agriculture, in order to meet the requirements of the emerging pattern of industrial and economic growth has diverse origins but is being largely met through an increasingly spatially mobile labour force.

At one level, the needs of urbanization and urban-industrialization have promoted a steady stream of rural–urban migrants, who have principally relied on social and kinship networks and resources to reduce migration costs and to migrate. These migrants have met a more or less continuous expansion of labour demand in these areas, generally providing a flexible pool of informal labour and informal enterprises in the urban areas.

Alongside this growth, there has been a steady increase in seasonal and circulatory migration labour streams, consisting of male workers, female workers, family units, or child labourers *migrating both to rural and urban destinations* to meet seasonal and fluctuating demands for labour in diverse industries—mining and quarrying, brick kilns, rice mills, sericulture, agriculture, horticulture, fish processing, rickshaw-driving, construction, gem polishing, embroidery, carpet weaving, public works, logging, and so on. The patterning of circulatory labour migration in Gujarat has been described and analysed in relation to the processes of capitalist growth and accumulation in the detailed studies by Breman (1985, 1996), which require careful reflection.

On the face of it, these large-scale movements of labour suggest that the labourers have broken loose from factors inhibiting such movement and that this is indicative of a purely contractual labour force. However, such an interpretation needs to be modified based on an analysis of the actual processes which lead to the movement. Although movements of labour may occur because of social networks or spontaneously, in a large percentage of cases, labour is sourced and then deployed through a network of intermediaries who still bear the same names as the colonial intermediaries who performed similar functions in the past (*sardar, maistry, jaankar, jamadar*, etc.). From Kashmir in the north to Tamil Nadu in the south, Orissa, Bihar, and Bengal in the east, and the Dangs in Gujarat to the rain shadow areas in Maharashtra, migratory labour is

sourced from the poor households in backward areas and deployed in all types of non-farm industry. The labour transaction is cemented through an initial cash advance; a subsistence allowance is usually paid through the period of employment, and wages are adjusted at the end, after deducting payments and other costs, including (sometimes) the interest on the initial advance and the share in wages of the labour supervisor. We have elsewhere estimated the number of seasonal migrants in India to be around 30 million, of whom an estimated half move through some form of organized recruitment (Srivastava 2005a).

There are now a large number of studies available which document the characteristics of the migrants, the conditions under which they migrate, the recruitment channels, their deployment at work in the destinations, the living and working conditions, etc. We have described these earlier in several places and will not do so here (Srivastava 1998; Srivastava & Sasikumar 2003). The stylized facts are as follows: most of the seasonal migrants are land-poor, and belong to low castes (scheduled castes and tribes). While they come from areas where their livelihood base is already very poor, in many cases, displacement or environmental stress has caused a further stress on livelihoods. Loans/advances that are taken from contractors help the household smooth over lean season consumption, repay loans, or meet contingent costs. Seasonal/circulatory migrants work under high physical stress, their working and living conditions are generally very poor, they receive wages which are generally below the legal minimum—although the absence of verifiable records makes it difficult to confirm any details. The holding back of wages serves to restrain the workers' choice and mobility during the working season, but other types of coercive restraints are also often in operation. Advances/loans may or may not roll over from one year to the next but most seasonal migrants are locked into circuits of migration, year after year, quite often with the same contractor and employer. Industries which receive seasonal migrants are not always seasonal or unorganized, they are often large, annual and organized, but the demand for labour, mediated by the contractors, is seasonal in many cases, and is fluctuating. It is quite clear that in a large number of cases the seasonally migrant labourers are subject to specific constraints which bind them to individual employers under conditions which are far more adverse than what a local, free labour force would be subject to.

It is not our contention that systems of debt-induced bondage outside agriculture come into play *only* with respect to migrant labourers. In fact,

a number of studies also show that such mechanisms are a part of gaining control of the surplus of labour even with respect to local labour. Studies of the *bidi* industry, sericulture, gem polishing, weaving, etc., show that such systems of bondage are quite prevalent even among segments of local labour (De Neve 1999; Human Rights Watch 1996, 2003; Kapadia 1995). A report on bonded labour in Tamil Nadu, prepared at the behest of the Supreme Court, brings out the incidence of bondage in a large number of industries, employing both local and migrant labour (Sugirtharaj & Sait 1995).

As far as agriculture is concerned, labour migration is fuelled by demand resulting from its uneven regional growth, as well as seasonal peaks, and as in non-agriculture, the efforts of employers to keep labour and transaction costs low. Migration in agriculture is both short distance and intra-state and long distant and inter-state. It is also both seasonal and permanent. Although all seasonal migration share some common features, seasonal migration in agriculture is of a more short duration (with respect to any single employer) and less often induced by debt. However, there are a sufficient number of studies which also document debt-induced labour migration in agriculture, mostly inter-state. These studies chiefly relate to the flow of migrants from the eastern states to the north-western states. There is also the case of labour migrants who work as farm servants in areas with developed agriculture, who again belong to the low-caste status groups and whose mobility is restrained by debt (advances) and whose conditions of work can be highly coercive (Ministry of Labour 1991b; Srivastava 2005b). In recent years, with new foci of modern commercial agriculture emerging in different parts of the country, there is new evidence of debt-induced migration. For example, several hundred thousand tribal children and young adolescents are estimated to migrate from southern Rajasthan to cotton hybrid seed farms in neighbouring Gujarat, against advances taken by their parents (Custer et al. 2005; Katiyar 2005). The same practice has also been prevalent in the cotton seed farms in Andhra Pradesh (Venkateswarlu 2003).

Thus, the bonded labourers in all sectors continue to be sourced from the groups that are at the bottom of the social hierarchy, who also happen to be among the most disempowered and fragmented sections of labour. This also holds for the labour migrants who are recruited through mechanisms which bear a strong resemblance to the colonial mechanisms. It is worth exploring to what extent both these features are specific to the Indian context. A significant proportion of these migrants

have features of labour bondage, at least over one seasonal cycle, but often spilling over to other seasons. For similar reasons, the BLSA Act in India also recognizes that contract and migrant labourers can fall in the category of bonded labourers. The degree of unfreedom and adversity facing the labourers may vary from case to case (some have been known to exist in slave-like conditions), but features of labour bondage can be identified in a large number of cases. Breman refers to the labour relationship observed in such cases as 'neo-bondage' but, even while recognizing the diversity that might exist, we continue to characterize these labourers as bonded labourers.

We also argue below (but also see Srivastava 2005b) that the migrant labourers who enter into debt-induced contracts constitute a large chunk of bonded labourers in India today. The numbers of bonded labourers in agriculture is still considerable, particularly in tribal agriculture, in developed agriculture in the north-west, and in the newly developing forms of commercial agriculture. But inclusive of migrant labourers in bondage, a much greater proportion of the bonded labourers are today in the informal non-agricultural economy, both rural and urban, rather than in the agricultural economy. It is thus clear that the nature and pattern of bondage in India has been undergoing an important change in recent years.

MOBILITY AND BONDAGE

Labour bondage is usually associated with restrictions on mobility (often debt induced), which then serves to make labour available to employers. The Indian case illustrates that bondage has historically been the result of social structure and division of labour. Despite changes, labourers from low castes may still suffer from restraints on mobility which are a product of social structure. Such labour bondage is relatively more prevalent among farm servants in poor agriculture. While labourers in such cases may be indebted to employers, such debts are not the cause of bondage. Agricultural farm servants, however, also suffer from debt-induced bondage. This phenomenon of debt-induced bondage in agriculture continues to be more prevalent in tribal areas, but also in areas of developed agriculture (Brass 1996; Ministry of Labour 1991a, 1991b; Srivastava 1989, 1999, 2003). There is an argument that such restrictions lack rationale in areas with abundant labour. But such an argument fails to recognize the various economic and non-economic

benefits that could result for employers from controlling labour through involuntary or debt-induced restraints.

But can labour bondage also co-exist with labour mobility? In our understanding this can certainly be the case. Our argument is that by extending the spatial domain of labour control (bondage) all the way from source areas to destination areas, through a network of intermediaries, and by restricting it (in principle) to only one season, employers are able to achieve a more favourable outcome than would be the case with any effort to subordinate local labour through similar mechanisms. This is for three main reasons. First, employers are able to separate the cost of subsistence of the migrant labourers from their (already low) wage costs; secondly, the elongation of the intermediation chain absolves the employers of any direct responsibility for the condition of migrant workers; thirdly, because the labour of migrant labourers is easier to control and discipline for a variety of reasons.

We have argued elsewhere that seasonal labour migrants ensure availability of a large (virtually infinite) pool of highly flexible, low cost and controlled labour supply to a large number of sectors. This is consistent with the ethos and practice of globalization, and there is a large amount of evidence to show that since the opening up of the Indian economy and the onset of liberalization, there has been a significant growth in seasonal labour migration (Srivastava & Sasikumar 2003). Official data attest to an increase in migration flows in this period but are not able to capture seasonal labour migration (Srivastava & Bhattacharya 2003). But is this without any costs for the economy as a whole? It is sometimes argued that the circumstances of migration are justified since labourers would be worse off in the counterfactual situation, which is indeed true. But apart from the human development dimensions of the issue, arising from the fact that the condition of labourers (and their families) is much worse than what could be justified either on the basis of the circumstances of the industries or from legal circumstances, the macroeconomic implications of low wages and flexible working conditions is severely deleterious to the economy. These translate into low effective demand and low incentive to invest in technological improvements, locking the industry into a vicious low wage, low cost productivity-poor technology cycle. Thus, seasonal migration is consistent with what has been called the 'low' route to capitalist development.

ELIMINATING BONDAGE

The basic thrust of our argument is to show that greater labour mobility has not brought about the transformation of a section of the labour force into a 'free' labour force. Indeed, institutional mechanisms which have existed in one form or another since the colonial period have been re-adapted to make this section of labour force 'unfree' so that it can serve the needs of a specific form of capitalist accumulation in India. Further, we try to show that this re-adaptation carries high costs.

The fundamental issue is how these costs can be eliminated and so also the elimination of the restraints on this section of the labour force. In the earlier parts, we have tried to show that labour bondage in all its manifestations is strongly linked to the social and economic exclusion of a section of society and the uneven development of regions which has deprived these labourers of chances of local livelihood. This is not the space for an overall review, but it can easily be seen that the elimination of bondage occurs only when the transformation of social relations also results in ending the economic exclusion of this class of labourers such that their economic security is also guaranteed. In other words, attempts to reorder social relations have to go hand in hand with the provision of secure means of livelihood. One can easily see why transformative movements in Tamil Nadu, Andhra Pradesh, or Bihar did not eliminate labour bondage (which reappeared in other forms) while the movements in Kerala (and to a lesser extent in West Bengal), accompanied by modest land reforms and other security enhancing measures, were relatively more successful.

While land reforms will remain an important pillar of a strategy to eliminate bondage, the institution of other measures to enhance social and economic security and expand livelihoods within a strategy to promote regional development, must also be brought centre-stage through an approach which empowers these workers. This calls for a careful evaluation of policy, which may not lead to the desired impact. This also calls for steady expansion of rights-based entitlements for the poor, an approach which is already being pursued vigorously by some sections of civil society in India.

Further, one must ask what should be the strategy to enforce regulation to eliminate bondage. The BLSA Act of 1976 is one of the well-conceived acts in India. Its implementation, however, rests on first establishing whether another important condition of work (minimum

wages) is being provided to the worker. However, NCEUS (2007) has shown quite definitively that a large proportion of casual workers, both in rural and urban India, receive wages which are below the national minimum. The NCEUS Report also brings out the fact that legislations which provide for minimum conditions of work or minimum wages are applicable only to some sections of informal labour, and even these are poorly implemented. We could therefore ask whether there is a need to ensure the minimum conditions of work of all informal sector workers (which constitute the universe for bonded labourers) on issues such as minimum wages, and whether such regulation is feasible. The NCEUS has analysed this issue and has concluded that regulating the minimum conditions of work of informal workers is both desirable and feasible (*ibid.*). By declaring that all workers are entitled to a national minimum wage (properly fixed) and minimum conditions of work, the state could set floor labour standards and help to empower all workers to seek the implementation of these standards. This would also give an impetus to meeting the ILO core labour standards, which in the NCEUS view are a subset of the minimum conditions of work.

In a more dynamic perspective, strategies which aim at increasing the social wages of informal labour would also create conditions that decrease the incentive to labour market duality, increase human development, and propel the economy on a more technologically dynamic, labour-friendly growth path.

To conclude: there are strong elements of both continuity and change in the manifestation of labour bondage in India. It is, in the ultimate analysis, a reflection, both of social structure and social institutions, as well as a specific strategy of development. A strategy to deal with labour bondage will have to deal with its causes at both these levels.

NOTES

1. The UN Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery, 1956, defines debt bondage as 'the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited or defined' (Article 1(a)).
2. 'Nominal wages' means a wage which is less than (a) the minimum wages fixed by the government, in relation to the same or similar labour; and (b) where no such minimum wage has been fixed, the wages that are normally paid, for the

- same or similar labour, to the labourers working in the same locality.
3. This is brought out by Mundle's (1979) study of a tribal region in South Bihar (now Jharkhand). As non-tribals moved into tribal areas, tribals were dispossessed of their assets and traditional means of livelihood, and entered into relations of credit bondage with the new landowners/employers.
 4. Breman (1974), and his other writings, most recently Breman (2007), remain the best testimony of the resilience and change in these relationships; but see also Jodhka (1994); Ramachandran (1990); Srivastava (1996, 1997).
 5. Fieldwork carried out in 2003–05 in Betul, Panna, and Sehore districts of Madhya Pradesh in the study on Globalization and Rural Livelihoods in India, under the auspices of the Shastri Applied Research Programme. The fieldwork brought out the incidence of bonded labour in agriculture in the first two districts. Betul has a large tribal population, whereas in Panna, in the areas studied, there was a dominance of upper-caste Hindus. Loans were advanced on an interest-free basis to the bonded labourers, but if the labourer wanted to exit from the relationship, he was liable to payment of full interest on the loans/advances.
 6. These issues figured most of all in the acrimonious debate between Tom Brass and S.S. Jodhka in which the latter held the view that while the attached labourers in Haryana had characteristics of unfreedom, the system could be termed as a system of 'labour mortgage' or 'semi-bondage' (Brass 1995, 1996; Jodhka 1994, 1995, 1996).

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6 Bondage in India

Representing the Past or the Present? The Case of the Dhanbad Coal Belt during the 1980s

DJALLAL HEUZÉ

WHY BONDED LABOUR?

It seems naive to question 'the reasons' for such a large and complex phenomena. Anthro-economic features are not reducible to specific functions or factors. Yet there are rationalities, perhaps processes, which can be examined by asking this elementary question: why bonded labour?

Bondage can spread because there is not enough manpower or because it seems the workers will not remain loyal otherwise. This situation developed in the Indian subcontinent when constant wars triggered a state of anarchy during the eighteenth century. There was also a scarcity of labour in the mines and on the plantations at the beginning of the industrial era. Wages were so low and the work discipline so strict that nobody wanted to work in these places. Those who came left when they had enough money to go elsewhere. Today, this mobility of the workforce is prevalent in many small-scale industries such as quarries and kilns where low wages and terrible working conditions induce the workers to escape once they receive their wages.

Bondage is an efficient way to reduce the cost of labour. Bonded workers are paid at the lowest rate possible, just enough to maintain a workforce. There are also temptations that encourage the workers to spend their money, if they get any, which drives them more and more into bondage. The presence of shops belonging to the 'master' (*malik*, among many other names in north India), especially alcohol shops, aggravates the bondage situation and lowers the cost of labour. Moneylending is also a very profitable business. These circumstances, where lowering the cost of labour is an important or the most important reason for the widespread use of bondage, can be related to the low productivity of agriculture or industry. But there are also situations where the demands for profits

are very high while maintaining productivity at a reasonable level. Both situations (low profits, high demand) can also combine, aggravating the situation.

There are many situations where hierarchical norms of society help bondage to develop. The presence of inequality is one of the conditions for bondage (see the contribution of Pouchepadass, and most case studies in this volume highlight the permanent role of social hierarchy in bondage relations). The pervasiveness of the 'rentier-like' behaviours, which creates a parasitic, elitist lifestyle, is another important trend which facilitates the spreading of bondage. For a long time, the hierarchical system (there are hierarchies in every society) has combined with the presence of a 'rentier-like' mentality among the elite.

Another important factor related to bonded labour is the middlemen who place themselves between the means of production and the worker, the producer and the market, or the employer and the workers. These middlemen are able to grab a considerable portion of the profit. In the Indian case, they continue to increase in numbers and frequently impose themselves (see Picherit's contribution as well as the sugar cane case study by Guérin et al. in this volume).

These features of bonded labour are present in our case study. Unfree labour in Dhanbad was for a long time related to the dearth and instability of labour which helped greatly to lower the cost of manpower. There were, and still are, several pervasive and complex social hierarchies active in the region.

This does not explain much about the peculiarities of the society in which bonded labour is rooted and grows. What happens when a rural society industrializes in a colonial economy? What are the changes brought about by political independence and civil liberties? What is the role of unemployment and under-employment? Are the trade unions able to resist bondage and its agents? Is full-time, permanent employment an absolute guarantee against bondage? Is bondage necessarily a kind of wage relationship—without wages or with lower wages—or are there other types of bondage related to different kinds of work?

LABOUR MARKETS: PRELIMINARY COMMENTS

Macroeconomic data about the Indian labour market does not permit us to investigate the practice of bonded labour directly. On the one hand, the recent laws prohibiting bonded labour and the threat of hefty fines and jail terms for those who recruit and employ bonded labourers have

prompted employers and recruiters, who generally know about these laws, to act discreetly. On the other hand, there is no manpower control such as in China and Russia. The Interstate Migrants Act, which has been established to guarantee decent transport, housing, and pay to workers going from one place to another is an almost useless piece of legislation. In the Dhanbad region (a mining belt in present-day Jharkhand which is the topic of this article), we never heard about it. People had no identity cards. Documents registering labour situations in the so-called unorganized sector were unthinkable. Yet, if the judiciary has no control over the free movement of labour, it has also very few options for opposing restrictions on movement. Last, but not least, the judicial system is totally unable to prevent the prevalence of specialized, insulated labour markets with their organizers, guardians, or masters.

It is impossible to trace bonded labourers in the decennial census and even in the much more detailed national sample surveys.¹ This category does not exist among the various types of labourers. Yet in local and qualitative surveys it is easier to identify them. In the course of our research we did it ourselves. We went to the different locations, analysed the production apparatus and the social relationships before theorizing about workers' categories. By scrutinizing the census documents we discovered that bonded labourers were generally declared casual workers or agricultural labourers by their employers. Some were forgotten by the census takers. There were many dangerous and unsanitary places in the district. Many bonded labourers had internalized the constraints of their situations. They avoided speaking about their special status. This became clear after talking to them at great length. Consequently, we are not in a position to give a precise quantitative estimate of bonded labour in Dhanbad. Any figure between 1–10 per cent of the manpower, according to areas and categories (including very diverse kinds of bondage), would be credible. The largest category is not agriculture, as it usually is elsewhere, but coal-related industries and there are also significant numbers in kilns and sand quarries.

It is nevertheless interesting to question data concerning the labour force in Dhanbad as well as in the country as a whole. If it does not classify bonded labour as such, it helps to understand where bondage remains and why people would prefer to stay bonded.

India has had a huge, unskilled population for a long time, with a large majority being rural folk of the lower Hindu castes and the lower strata of the Muslim population.² If bondage is not a recent occurrence,

unemployment also has a long history. Everything in this domain has assumed enormous proportions with the very rapid population growth that followed Independence and the recent jobless growth (1995–2007). The working population of 268 million in 1981 (it had doubled since Independence) increased to 450 million in 2006 with a yearly growth of 8–9 million. Official estimates of unemployment are questionable. There are figures of 18 million (6 per cent of the working population) in 1991, a figure slowly rising to 24 million in 2000. According to our experience in the field (in Dhanbad, but also in Raipur, Mumbai, Rourkela, Singrauli, etc.) such data is absolutely unreliable. Estimates of unemployment in India are sensitive topics for government agencies and politicians. The only option is to look for other figures. In 1992–5, 105 million people a year and more than one-third of the rural families have benefited from general rural 'food for work' programmes aimed at mitigating the consequences of rural unemployment, conveniently renamed 'poverty'. Millions of others have been the target of specific programmes such as the Jawahar Rozgar Yojna and Trysem, dealing respectively with youth and the educated. In 2005, with the promulgation of a new, larger, institutionalized programme (there are also non-governmental organizations or NGOs in the field), this figure has almost doubled. This is more in accordance with the estimates of the International Labor Organization (ILO) which placed at about one-third of the Indian labour force the percentage of people unemployed or severely underemployed in 1995.

In Dhanbad district the situation was already very serious in 1984. More than 210,000 people were registered as job seekers by the three employment offices. This was nearly 20 per cent of the working population. The industrial city of Sindri (a fertilizer plant) had a rate of about 30 per cent unemployed with a large number of educated youth. The factory was closing. Mines were introducing large-scale mechanization and were going to stop recruiting. The aim was to reduce manpower. Due to migration and a high fertility rate, the population was increasing rapidly. Ten years later it had grown from 2.6 million to 3.5 million. The number of miners had only slightly decreased, this stability being the result of heavy pressure from the trade unions and politicians. The rate of declared unemployed increased to 25 per cent of the working population in 1991. Later, the rolls of the employment exchanges were manipulated and they can no longer be used for an evaluation. The informal sector could not absorb all these youngsters. Those who had been to secondary schools refused to become street sellers or coke makers, crafts and activities which were

anyway overcrowded. Ten years later we still cannot get current figures, but we have learnt that numerous unemployed youths have joined gangs of rural bandits (dacoits). Many others supported a Marxist insurgent (*lalkhand*). This gives one an idea of the crisis.

We will not continue to discuss the extent of unemployment in Dhanbad. Nevertheless, we want to emphasize that the employment situation is worse than ever. Education has not been able to transform this situation. It has only shown that the unemployed are educated. Other job seekers, the majority in many places, have little choice. Those who are bonded are not happy. They complain bitterly about how they live. In Dhanbad there are no campaigns for the eradication of bonded labour. The situation is out of the 'classical' frame of bondage: 'backwardness', landless labour, agriculture, remote regions. In other parts of India, bonded workers who are freed by the authorities or NGOs very often return to bondage after a few months. As a so-called bonded worker quoted in the brick kiln case study in this volume (Guérin et al.) stated, smiling when seeing the foreign observer, 'look, somebody wants to liberate us.' This kind of sad humour is not only rooted in the irony concerning the intrusion of foreigners in kilns. It is also an assertion of the fact that people who are bonded obey what they call 'the law of the stomach' (*peth ke kanun*) whereby they do not care about legal injunctions. They also have a kind of intimacy with their bondage.

Is it a choice, when the labour markets are so terribly congested, to prefer bondage? Perhaps. Recent data collected globally reveal two critical trends.

For the first time in recent history, the very large Indian agricultural sector which mobilizes about 60 per cent of the workforce (64.5 per cent in 1991) is losing manpower. In Dhanbad, agriculture, which still mobilizes 40 per cent of the workers, is stagnant. The soil is increasingly being degraded by deforestation. Employment opportunities decrease. Agriculture is no longer able to provide income to the ever-growing population. Agricultural incomes have always been limited, but at least they used to ensure some kind of livelihood.

The second noticeable global trend is casualization of labour (Heuzé 2007). In all categories, permanent employment and self-employment declined during the past two decades, with very important changes regarding the situation of rural males and urban females. The growth of casualization between 1991 and 2001 is approximately 5–8 per cent, according to the categories of registration (rural males and females, urban

males and females). This is enormous. Casualization of labour necessarily brings with it the lowering of wages. In Dhanbad, the mines do not make use of casual labour, but the sub-contracted activities do. Many cokeries and ancillary industries who employed permanent workers have turned to casualization. A massive arrival of cheap labour from the highlands of Orissa and from Bilaspur (a poor region of Chattisgar) have facilitated the shift.

Casualization is often associated with informalization. At a national level, after a noticeable increase during the 1950s, 1960s, and 1970s, and stagnation in the next decade at about 9.5 per cent of the total manpower, the formal sector is presently declining and represents 9 per cent. In Dhanbad the share of organized sector employment is much larger, about 20 per cent, but it is decreasing steadily. Belonging to the unorganized sector is usually considered a condition for bondage. There are no labour laws, no trade unions (those who try to organize have a very difficult time³) and no collective bargaining in the unorganized sector. We will see, however, that the ground realities are often much more complex.

At the all-India as well as the Dhanbad level, unemployment growth, agricultural crisis, casualization, and informalization go hand in hand. The result is direct and immediate: more insecurity in the labour market, especially for the poor, unskilled people who for a long time constituted the majority of bonded labourers. If bondage has never been the only answer to the insecurity of the labour market, ensuring a minimum of protection was nevertheless part of it. Recognizing the existence of caste inequalities, master-servant relationships and other social bonds (noticeably the paternalistic pattern in politics, state versus people relations, and religion which continue to form a prominent part of the social scene), it is probable that the processes of yesterday are still functioning.

A CONTEMPORARY EXAMPLE

Let us focus on a situation of the twentieth century which helps greatly to throw light on the paradigm of bondage: inequality related to caste and the caste system, different kinds of so-called feudal relations and more recent systems of slavery related to the ideology of contract and 'free' market interference. Our analysis is based on intensive fieldwork carried out between 1981 and 1993, and focused not only on labour relations but on the society as a whole. During our fieldwork, we were based in a village located on the border of the extraction zone, from which it was possible to study the particularities of the countryside and also the main

features of the coal mining region. The region displays many forms of subjugation at work and several processes of bondage, as well as a revealing historic evolution from bondage in a colonial and partly 'feudal' context to contemporary bondage related to extortion, mafias, and the lack of employment opportunities. It helps considerably to understand why bondage is related to the tactics of employers as well as to the will of the workers, processes of coercion and exploitation nevertheless playing a central role. In 1996, additional fieldwork was done, the main purpose being to understand why violent movements were spreading in the Dhanbad region. A recent visit allowed us to get a better view of the place and its social system. There were not enough changes to discard our analysis.

The large Dhanbad coalfield, situated on the Chota Nagpur plateau (presently located in Jharkhand), was a part of Bihar during the 1980s and 1990s. It was densely populated, with about 2.6 million people, according to approximate 1981 data for the region. Roughly 250,000 of them were miners or employees of the mines and there were also 250,000 'other workers' (industrial, services, and commercial) of whom we will try to give some indications. The remainder were peasants, a rather large part of the Dhanbad district having retained an extensive, non-irrigated agriculture, besides degraded forests. The main towns are Jharia, Kerkend, Dhanbad, Katras, and Sindri. Barring Sindri (a planned township managed by the factory) and a part of Dhanbad, these are not really towns. There are pits and noisy lorries everywhere. Facilities are lacking. There is no urban social life.

A PAST OF BONDAGE

The history of the coal mines (opened in the second half of the nineteenth century) is rather bleak as far as labour freedom is concerned. For a long time, the place was notorious for massive bondage of workers in and around the mines. Chota Nagpur, which lies west and south of the Dhanbad region, was involved in the continuous expansion of bondage through debts and land dispossession. At the beginning of the twentieth century, a large steel plant was built in Jamshedpur, south of the present Jharkhand, by the Tatas, the leading Parsi industrialist family (Lala 1981).

Coal is abundant in India, but it is often of poor quality. The only coking coal reserves of India are located in Dhanbad-Jharia. When production began to increase, the recruitment of coal miners became very

well organized. There were two kinds of mines, both private entities. About fifty to sixty large-scale mines belonged to English or Scottish companies, or to joint companies combining rich Indians and the colonizers. They were ruled according to the capitalist rationality of the times, despite the fact that techniques of exploitation were clearly lacking in foresight. They were capital intensive and very often rather deep mines. There were also more than 1,000 small, private mines belonging to zamindars, large and possibly small land owners. They were usually mined by hand, this situation being possible because coal lies at the surface in many places of the Dhanbad district, located at that time in Bengal. Today, after the burning of more than 90 million tons of coal, important fires continue underground in the Dhanbad region.

During the 1920s and 1930s, before the difficult rise of the first labour movement, about 120,000 workers were employed by the mines. Except for a minority of office employees of the large mines and highly skilled workers in both types of mines, a large proportion of the miners (perhaps one half, probably more), were unfree labour. It is interesting to notice differences in status according to the types of enterprises and also to underline the widespread prevalence of bondage.

There were at least three kinds of bondage. In large as well as small mines, skilled workers named *sirdar* (foremen) had special relationships with gangs of workers. These men, belonging to middle or higher Hindu castes or to the Punjabi Sikh community, chose to recruit people of lower castes known to be strong and submissive. There were several castes (*jati*) who were considered especially suitable for the purpose. They were the *bauri*, a very 'low' caste considered by some anthropologists as tribals, the *tanti*, a former weaver caste which had been totally dispossessed by the unfair commercial practices of the British, and the *bhumij*, usually considered a tribe, but devoid of the organizational strength and the taste for revolt which characterized the *santal* of the same region.⁴ These three groups and poor, lower rank Muslims⁵ (Ahmad 1983) usually constituted 80 per cent of the manpower working in the mine itself. About 40–50 groups (Hindu *jati*, Muslim groups, and tribes) were staying for decades in the Dhanbad region, while dozens of other groups migrated from outside as early as the beginning of the twentieth century.

In this region there are several types of human settlements, corresponding to different historical processes and contrasting communities. During the fifteenth century there were many forests providing cultivatable space. The sparse population was a mix of Bengali-speaking, *shakta* cult, Hindu

and tribal bhumij. The santal tribals arrived a little later from the east. During the nineteenth century, important groups of lower caste Hindu *kurmi* (presently the largest social group), diverse low caste people trying to escape bondage in north Bihar, and poor Muslims appeared in the region. Rich traders, peasants, and moneylenders from Rajasthan and the Gangetic Plain also came, targeting the land. After 1860, important migrant groups of diverse origins arrived in the coalfields. This complicated structure led to several interesting processes. There is a large body of opinion among the Bengali-speaking society, the kurmi and the santal, who consider themselves to constitute the real 'sons of the soil' (Weiner 1988),⁶ on the one hand, and of an oppressed majority on the other hand. The 'oppressors' are *marvari* outsiders and rather rich, high caste migrants from the Gangetic Plain. There is also a very striking difference between the society of the coalfield—violent, noisy, industrial and socially mixed—and the society of the countryside, where a stagnant agriculture exists alongside a rather cohesive society. There are very 'low' and uneducated groups, but they have come here to escape bondage. There is thus a kind of culture of freedom in the countryside as well as in the coal belt. This is one of the reasons why effective bondage has been associated with violence, goons, and usury.

To get employment in the mines was not a bonanza for the workers. The conditions were terrible, the pay low and accidents numerous. Yet, after some resistance, many poor people took an interest in mining jobs. The region was not rich. There was not a single irrigation system, despite the presence of numerous rivers. Famines were recurrent among peasant families. With the advent of British rule, many people were dispossessed of their assets by exploiters when the zamindars became large landowners. The *marvari* moneylenders completed the task (Prakash 1990). Yet, workers wanted to go from time to time to the mines and to till some land or hunt when it was possible. Such an unstable workforce was not acceptable to the employer and it is one of the reasons why bondage was so common. Bauri, tanti and others had personal relationships with the foremen, but they also were afraid of the guards and the police who used violence to bring them back to the mines under the pressure of work contracts. The manpower of the small mines of the zamindar generally consisted of their own peasants and servants, among whom were many lower castes—*rajouar*, bauri, and *mochi (chamar)*. Yet those working in the mines were often more bonded than the usual sharecroppers. Such people as the Rajah of Katras, who also had a religious aura,⁷ had more than 1,000

workers in their mines, workers employed in the fields during the rainy season. They were sharecroppers (*bataidar*), indebted and submissive in the fields; in the mines, they were bonded labourers (*bandhua*). With the raja having opened alcohol shops and a cinema, the wages of the workers went back entirely into the pocket of the master and employer (*malik*).

In large mines, this kind of bondage did not exist despite the discreet and, in numerous cases, not so discreet presence of bondage between the foremen and the specialized castes. Foremen got a percentage of the workers' pay. Yet the main case of unfree labour was *gorakhpuri* labour, which resembled the coolie system of subjugation. Gorakhpur is a town in eastern Uttar Pradesh, a place that was at that time especially poor and densely populated. Workers were recruited by mine agents and persuaded to sign contracts promising good pay and fair housing conditions. Indeed, the aim of these agents was to get the signatures of the workers by any means possible. After their arrival, they were put in camps for the time of their stay (two-year contracts) and there was paramilitary control. This organized system, combining legal aspects of contract with deception and coercion, is a common feature of industrial relations in India since the beginning of the colonial era.

This sketch helps to explain the unfree and complicated nature of the labour scene. The growth of trade unionism, whether associated with the national movement or not, was slow and difficult. Zamindars and the large majority of companies and managing agencies believed that workers had no rights. Those who were open-minded became the trade union leaders of their bonded labourers. Free unionism finally came during the 1940s and at the beginning of the 1950s. There were three kinds of labour organizations: a class-oriented and rather violent brand which was destroyed by force at the beginning of the 1950s (several miners were hung), an institutional one exerting a paternalistic pressure on the workers to avoid class conflict, represented by the Congress Party trade union (*Rashtrya Collieries Mazdoor Sangh*), and a myriad of small trade unions representing foremen and loggers. Bondage receded with the advent of Independence and the promulgation of labour laws. Large-scale coal mining occurred in the organized sector of the economy. Yet many pockets of bondage remained. This particularly applied to sub-contracted activities.

A large part of the mining operations and many outside operations such as the transportation of coal were the responsibility of outside

operators. They were rather primitive enterprises in the hands of the *thikedar*⁸ (contractors) who used sub-contractors (*sirdar*⁹) for recruiting manpower. The *thikedar* had lorries and relations in the mining industry or in politics. The workers very often had to buy their own tools (shovels, etc.). Sometimes they rented them. These tools were often an occasion for bondage. They were sold at high prices to moneyless workers so that they were forced to take loans. Many workers were more or less clearly bonded to the *sirdar* or to the *thikedar*. The local recruiter (*sirdar*) used to give advances, rapidly creating bonds with the workers being unable to pay back their debt regularly due to enormous rates of interest. In Dhanbad, 240 per cent to 560 per cent a year were common. Besides, the *thikedar* (contractors) were also alcohol sellers.

THE GREAT CHANGE: NATIONALIZATION

The situation changed suddenly when the coal mines were nationalized. The sale of coal became a state monopoly after Independence. A public sector undertaking in the coal industry was created in 1956 (National Coal Mines Development Corporation or NCMDC). At the beginning of the 1970s (1971–3), due to economic constraints, the state was obliged to nationalize the industry which was fully integrated to Coal India Limited (CIL). It was the time of radical socialistic rhetoric. Besides, the public sector had for several decades evolved rules of functioning favouring unequal, but real, respect for manpower. For these reasons, federal institutions wanted to demonstrate that another labour policy in mines was possible. They took important measures to change the lives of the workers. The aim was to boost production and to mechanize the sites. Nationalization was considered a boon by the miners and a large majority of people staying in the coalfields. Accident rates went down, pay increased, and there were recruitments. The newly created national companies¹⁰ decided to end sub-contracting and to organize production on a 'rational' basis.

Yet when we reached the region at the beginning of the 1980s, the situation regarding rationality of production and efficiency of management had not improved much. Imposition of the Emergency Act in 1975–7 and the period of the Janata government (1977–80) had created social tensions and led to the growth of corruption. Besides, bonded labour and more generally bonded persons were occupying an important part of the social landscape. Sub-contracting was still a very large industry. In

the Dhanbad region, Bharat Coking Coal Limited (BCCL), a subsidiary of CIL, organized the transformations. It was notoriously influenced by the corrupt and violent political methods in Bihar.

Nationalization of the coal mines, and thus of coal, led to a specific situation. It was related to the rise of mass unemployment and to the scarcity of coal. There was a market for any kind of coal, legal and illegal, and there were black markets as well. Illegal mines mushroomed. This mining sector was usually made up of small ventures, associating some dozens of miners with their picks and the lorry of a thikedar who knew where and how to sell the product. There were also some larger mines with hundreds of workers. Estimates in the print media give figures of 10,000 miners, compared to the 240,000 strong workforce of BCCL (Heuzé 1996). In these mines, conditions were dangerous because of the absence of mining apparatus, but the wages were not that bad, due to the importance of the underground employer, especially when coal was absent from the market. The acute lack of coal lasted from 1970–95.

A large percentage of the workers were not free. It would not have been wise to employ free labour for such an illegal pursuit. The workers got advances and went into debt. Alcoholism and gambling also helped to strengthen debt bondage. While the workers were strongly encouraged to drink and to gamble, some prominent figures among the thikedar had adopted very strict vegetarian and teetotaler diets. This is related to two distinct things. Firstly, non-drinking and non-gambling are elements of higher status. Secondly, the consciousness that alcohol is a part of a global system of bondage is strong among the elite. It was used for centuries of subjugation and the dominant class is very conscious of it.

NEW FIELDS FOR BONDAGE

Another very important sphere of unfree labour developed around the illegal cokeries. There might have been 20,000 people engaged in illegal cokeries in 1985. Like coal, coal dust was considered the property of the nation, yet many people harvested vast quantities of this raw material from the coal washeries¹¹ and made a kind of crude coke with it. Coal from the illegal mines was also cokefied, coke being lighter and much more expensive than coal. Well-organized gangs also attacked the coal depots and the trains which carried coal to the power stations with the complicity of the railway workers. They sold their coal independently in the market, but they had to pay the police and the large illegal sellers for protection. They were bonded and self-employed, a very common status in Dhanbad.

This coal was also coked. Coke production took place in several, very visible, areas of the coalfields because the process of making coke (with heavy emissions of smoke) is impossible to hide. It was necessary to be protected by administrative officers and policemen. The workers were employed on a family basis or by gangs of workers organized by a sirdar, who himself worked for a thikedar, a more or less powerful coal seller. They were also declared 'self employed' in the census.

The principal reasons for bondage were not rooted in this system, despite the fact that it had always some relationship with bondage. It was related to the protection necessary for quietly indulging in illegal activities. In some cases, protectors payed the police directly, but many coke workers had to pay goons, the thikedar, and policemen separately. Among the workers were groups of Bihari, Jharkhandi, Oriya, Bilaspuri (from Bilapur region), and other low caste fellows, all migrants, and also a sizeable chunk of middle and higher caste '*jharkhandi*' (locals). The large-scale protectors and merchants were all members of the Bihari upper castes. The manual workers were getting rather substantial earnings (twice or thrice the minimum wages), in the framework of the informal sector in Bihar of the 1980s and 1990s, but a large part of their income (20–50 per cent) went to patrons and middlemen who allowed them to continue their work. The remainder of the income of the so-called independent workers went back to the thikedar, politicians, coal merchants, and corrupt trade unionists, to the dominant class through liquor shops, moneylending, general shops and also movie halls belonging to this class. In many revealing cases, the shops were located at the coke plants and the workers were obliged to use them. These situations of so-called free workers obliged to give a part of their revenue to racketeers, politicians, trade unionists, and policemen are typical of bondage in Dhanbad during this period. The people who profited from bondage had no use for slaves. They preferred workers that they could use as a regular source of money. They could even act for the betterment of the wage of these workers; for example, by organizing coal scarcity which hiked up the prices.

This example shows two interesting things: firstly, bondage can be related to situations of so-called self-employment. Almost all the workers in the coke industries, barring those working in coke-processing plants, were considered by the statistical apparatus as acting for themselves and their families, the system of sirdar-thikedar being more or less impossible to discover without a serious qualitative analysis. The activity of mafia-like protectors and exploiters is especially out of the scope of a census operator.

One of the main processes of bondage was to prohibit free access to the market by the coke producers. Laws which made their activity illegal turned against the producers.

The second thing is that violence was exerted universally against groups and that it was a basis of bondage. The workers were not free to leave the coke-processing plants. When families were present (in a large majority of cases), at least one member had to stay behind when the others moved. There were armed henchmen looking after the coke producers and checking work operations. Besides, there was also 'common' bondage, consisting of debts in the shops of the labour contractor or the thikedar due to drinking and gambling with, it must be underlined, inducement to do so.

Bondage was also present in the transportation of sand and coal which employed at least 50,000 people. The nationalized mines had failed to stop sub-contracting. The transportation system of coal and sand (sand used to fill old mines also helps in coal washing), which was scattered among many operators during the 1960s, had become a rather centralized business with some large contractors receiving tenders from the mines and having in their possession dozens or hundreds of trucks. Surajdeo Singh was the most famous of them. He was a *rajputra* from a very poor family of Katihar (north Bihar) who migrated to the coalfields at the end of the 1960s. He entered the dominant Congress Union after having worked as a security guard in the mines. He killed the union leader, who was also a contractor with the mines and became the most powerful thikedar. He had a 'princely' court of justice. In this princely court, located in a large mansion on the outskirts of Dhanbad, he discussed contracts with the mines' corrupt officers, usually constituting a large majority of the staff. The man was hassled during the Emergency (1975-7), but he came back with a vengeance during the Janata government (1978-80) and in the years that followed. He died quietly of a heart attack in 1989.

His personal history is highly representative of labour relations during this period.. There were national coal wage agreements¹² and a complex apparatus of day-to-day negotiations. Singh had tight control over the contracts of the nationalized companies. He was giving jobs to about 10,000 men or women, perhaps more (who could count the manpower of S. Singh?), and had more than 200 trucks at his disposal. His workers were at the same time dependent and protected. This system of relationships had something 'feudal' about it: it was, more precisely, a reinvented agrarian

north Bihari 'feudalism' combined with speculative capitalism. Workers were obliged to toil day and night, working without payment on some occasions and doing dangerous jobs such as pilfering the BCCL depots and fighting with other groups who depended on other thikedar who were also industrial 'gangsters'. The boss being a politician and trade union leader, they were obliged to support him, violently or not, during elections and trade union struggles: alienation went further than unlawful taxation and personal dependence. Yet they were relatively protected, from the police, from other job seekers and from the mine's uncorrupted officials. Working for Singh was considered a golden opportunity. In normal times 'his workers' were not badly paid. The boss tried his best to get them housing belonging to the mine and other facilities. He gave them allowances when they were ill and 'jobs' to the family of the deceased. Singh was a staunch teetotaler who operated several alcohol shops. The system of subjugation, associating alcohol and debt, was an important part of his power. The pressure of unemployment was the second foundation, and violence the third. He also had media influence through the local papers. He owned a large movie hall in Jharia, in the centre of the coalfields.

This analysis allows us to understand why and how unfree labour can exist so extensively in a world of organization, mechanization, and even collective bargaining. The strong relationship of the main thikedar with the world of labour organizations was a very special part of the story of bonded or partially bonded labour in Dhanbad. Many of them had been in the Indian National Trade Union Congree (INTUC), the largest trade union of the area and the labour wing of the Congress Party, a branch being the Rashtrya Collieries Mazdoor Sangh (National Organisation of the Worker of the Collieries). We know that it was the case of S. Singh who, after having been an important leader of the Dhanbad INTUC, created his own union, affiliated with the more or less socialistic Hind Majdoor Sangh (HMS).

The global position of INTUC on labour and labour struggles is in itself interesting. This union is completely opposed to strikes. It believes in negotiations, but has also developed a theory according to which unions and government, and employers in many cases, are the 'trustees' of the workers who have to give up violence, self-action, and independent organization. These views have their origin in Gandhian thought. It is beyond the scope of this article to discuss the theories of M.K. Gandhi about labour and unions, which are related to perceptions of society as

a harmonious and hierarchical set where conflict has no place. Yet it is noteworthy that paternalistic views about labour are not infrequently used to hide or justify bondage.

An interesting part of the Dhanbad experience is that these views about harmony were buttressed by very violent means. While independent leftist unionism had been smashed by the state at the beginning of the 1950s, INTUC fought violently to get a monopoly over the workers. It was also the place for intense rivalries between local leaders engaged in sub-contracting with more or less bonded labour. We see in this view of ideal labour relations according to INTUC something which is not very far from the labour system of the so-called mafia¹³ don of Dhanbad.

Indeed, Singh was also a serious labour leader. He was the leader of his own men organized in so-called cooperatives. This kind of occurrence—bonded labourers being declared members of cooperatives directed by their master or boss—is not rare in India. He was also a union leader of the miners of the large state-owned companies, its organization enjoying an ambiguous reputation of efficiency and danger.

The relationship of Singh to unionism shows how complicated the relationship of the workers to bondage and insecurity can be. The man was also elected several times as Member of the Legislative Assembly of Bihar on a Janata Party ticket, by the permanent 'free' workers, certainly much more numerous than his bonded workers. At the end of the 1970s, mine management in Delhi, who knew something about the long history of bondage in and around the mines, decided to end casual labour. The mines abolished the system of the sirdar recruiting gangs of workers and the thikedars had to stay away from the proper activity of mining. There was apparently no more place for bondage. This was true and untrue.

SPACE, PERMANENT EMPLOYMENT, UNEMPLOYMENT, AND BONDAGE

It is very interesting to relate spatial and housing conditions to bondage, rackets, and the limitation of civil rights. The mining belt was a large and dirty region with a terrible housing problem. Less than a third of the workers occupied company tenements in the mid-1980s. This housing was in poor condition, neglected, and very often isolated. Security was a problem for everyone. The great labour leaders and contractors were not the only source of trouble, but they were an important one. There were also smaller nuisances threatening the workers' freedom. In many cases there were chains of exploiters, from the local, small-scale racketeer to the largest thikedar. Their method was to associate a danger that they

incarnated with a protection racket. The miners had to pay, under the name of *chandan* (collection, subscription, extortion) for festivals and diverse, so-called charitable ventures of the large contractors. This was a first kind of monetary contribution. There were also occasional rackets and a regular taxation, the large thikedars having created a kind of parallel state. People were obliged to pay taxes on the roads. A third kind of taxation was the very important sum (five to ten years of wages in 1991) demanded for getting employment and promotions in the public-owned companies. This money was shared between corrupt officials and thikedar. An important network of goons and *lathial* (men with sticks) imposed the law of the large thikedar, politicians, and alcohol sellers. It was difficult, impossible in some places, to get a job or company quarters without their approval. After 1985, the rise of mass unemployment gave them greater power. Many of the workers were also obliged to join Singh's trade union, the Janata Mazdur Sangh or JMS (People's Organisation of the Workers) or a section of the INTUC which was splitting into several factions. The dues of the JMS were particularly high.

Financial contributions from the workers were important sources of money for the leaders. Yet, some of them tried to improve the financial situation of the workers. There was an economic rationale behind their attitude. Important thikedars and many smaller ones were also moneylenders. They used to advance money to the workers after having induced them to spend money on drinking, gambling and other expensive activities. Here is a case of a (more or less) free labour market, a protected status for manpower in the organized sector, but an unfree labour force. Extravagant lending rates were able to grab the money of the mine worker, one of the best paid among the manual Bihar workers. So the thikedar and moneylenders were genuinely interested in better wages which they felt could bring them more benefits.

The question arising everywhere in Dhanbad and especially in the case of permanent and protected workers involved in 'unfree living conditions' is the question of violence. Is it because the unions and the goons had engaged in an improbable partnership that such things were possible? The long and rich tradition of bonded labour in the mines was always accompanied by more or less significant levels of violence, before the advent of unions and the large-scale thikedar, politicians, and alcohol shops. Yet, there was resistance to violence. People recruited locally in the countryside and created many groups that had a restive attitude towards exploitation and bondage. They could display this attitude because they

lived in villages far from the oppression of the goons, policemen, and thikedar. Despite being a small minority at the beginning of the coal exploitation era, they had influence. Santal and *mahato* (kurmi) are among them and they are large groups. They presently form an important part of the workforce, perhaps one-third. Consequently, violence was, more than feudal ideology or caste bonds, the way to ensure special labour practices and other 'uncivil' practices, where bondage was a common occurrence. Among the dominant groups everybody indulged in violence.

The thikedar, mine owners, BCCL officers, administrators, money-lenders, cokery owners, industrialists, and merchants, all shared a common characteristic of coming from the northern part of Bihar or from the marvari community. They were the incarnation of a global exploitation of locals by outsiders, a situation which gave birth to the popular demand for Jharkhand (Weiner 1988). In their place of origin they would not have met, but in the 'Far East of India' they did. A kind of very peculiar dominant class emerged. One of its essential elements was the relation to violence. It was considered a normal feature of social life and it regulated the relationship of the rich with the poor. The other element was an enormous level of corruption, everybody agreeing to plunder the state. An important lesson of the approach of the Dhanbad region and its production system is that there is no direct and mechanical connection between development, enrichment, and bondage. Another one is that the organized sector, unions, and labour laws do not prevent situations of dependence from emerging and reinforcing themselves. Bondage has been there for a long time, and it has not receded when conditions have improved (investment and wage money pouring into the coalfields). It has, instead, taken new forms.

CASTE SYSTEMS, HIERARCHIES, BONDS, AND LABOUR

In India, there is a direct relationship between the social hierarchies of the caste society and bonded labour. It is clear in our example at several levels. The *tanti* and *bauri* of the past were 'good' bonded labourers not only because they were strong, but also because they were low caste and obedient. The present workers in the coke-making places are also low caste, clients of higher castes, meek, badly paid, and bonded. The caste system was able to convince workers, employers, and middlemen to make use of bondage. Yet it is not possible to reduce the scene merely to an equation of caste and bondage.

The first reason is that caste (an endogamous group with a rank; Dumont 1966) is not only a segment in a hierarchical order. It is a discrete entity with specific features, a culture, a social organization, a sense of pride and, very often, collective strategies to bolster the collective status. This has been well demonstrated by D. Gupta (2000). It is also true for very 'low' castes. In Dhanbad, caste acts as a form of social organization, a basis for self-protection, an element of solidarity. It helps to resist bondage as well as to promote it. This is particularly clear in the case of the jharkhandi people living in the nearby countryside. They benefit from jobs through caste reservations. They have caste networks in the coalfields. Caste is a kind of social security system.

The existence of dominant castes¹⁴ also has an ambiguous impact on the situation. In almost each part of India there are some very large groups such as the *jat*, the *maratha*, the *patel*, and others. These castes or groups of castes have been able to influence the reality of caste hierarchy. For centuries, an ideal of 'armed free peasantry' was very strong among them. Powerful equalitarian feelings spread in movements such as the Sikh religion, the *lingayat* movement, and the maharashtrian *bhakti*. In Dhanbad, the dominant castes are outsiders like the Bihari brahmin and the rajputra. They are inclined to act as exploiters and make use of bondage because they have divine status and concrete power. Yet there are many poor people and workers in these groups. They are unionized, conscious of human rights, and opposed to bondage. Their resistance is more efficient because they belong to the dominant groups.

An interesting point concerns debt in the Indian context. In Hindu culture, life is often interpreted as a process of debt, a debt which is in itself a kind of sacred bondage. The man (the woman owes debt to the man) has several debts: to the ancestors, to the *rishi* (wise men of the past), to the gods. Life is given for paying debts.¹⁵ The lower caste groups, who are often bonded, do not know much about the Hindu scriptures. They are mainly adivasi (aboriginal), *bauri*, and *mochi* (lower castes). Yet the debt ideology reaches them. It is transmitted through the relation that they have with the higher castes at the village level. It is also a part of the family culture. An ancient agrarian feature helps contemporary bondage to develop.

Caste is regulated at the village level. At home the young children are more concerned with another hierarchy—the family. Indian rural homes as well as many urban ones were places for production and reproduction,

the family representing one or another kind of *political economy*. It is still an essential feature of Indian society. There are important rules for the division of labour, the main ones being that the young people serve the old ones, the female serves the male, and the outsider (the bride for example) serves the insider. This was constantly observed in the Dhanbad region. The exploitation of young girls by young boys and all others, of the women as a whole, of the young spouses by the mothers-in-law and all others, of the young as a whole, was a very striking feature of the families. It was common in the jharkhandi countryside as well as in the coalfields. Those who were against bondage, moneylenders, and 'mafias' were thus inclined to accept exploitation when it exhibited family-like features. In the region, family is associated with a very strong, positive ideology. This is why many actors of bondage (sirdar, moneylenders, policemen, corrupt officials) tried to act as fathers, occupying the highest rank in symbolic hierarchies.

The so-called 'feudal'¹⁶ system constitutes a complex set of relationships which can help in understanding bondage. Agrarian 'feudal' economy was important in Dhanbad besides a more or less free peasantry. There were several zamindars (in Katras, in Santaldih, etc.). They were large landowners who considered the sharecroppers (*bataidar*) and other workers of their domains as their property, but also, or at least they repeated it often, as their family. Industrialization prevented them from becoming the target of land reforms. They became mine owners, then moneylenders, sub-contractors, trade union leaders, and politicians (Shankar Dayal Singh of Katras was several times elected on a Congress Party ticket, he was also an important leader of a faction of INTUC, the Congress Party's union). Some of their sons have become officers in the BCCL hierarchy. There is a striking resilience, a tenacious will to adapt themselves to changing times, in the practices of the Dhanbad zamindar. Powerful and numerous, they are emulated by many.

Poverty is not a creation of the British rule. The British had only introduced the idea that poverty was the guilt of the poor people and that poverty was also potentially useful, as it is able to bring economic dividends to the rich. Now, is it relevant to oppose a 'capitalist' bondage to the specific alienations of freedom that exist in the caste system? The Dhanbad example proves that it is not the case. There are dozens of concrete situations which show deep imbrications of the processes. Capitalist-related bondage very often uses caste regulations and other type of hierarchies to expand itself.

AS A WAY OF CONCLUSION: RESILIENCE, COMPLEXITIES, AND THE EVOLUTION OF BONDAGE

Our case study demonstrates that situations of bondage are not only connected to poverty and illiteracy. In the Dhanbad region, and for several decades, people became more learned, more skilled and more protected by law, but they stayed bonded and in many cases became bonded. The organized sector regulations were not a barrier against dependence because there were other ways than bondage to exploit a workforce, such as personal relationships. There was a society where bondage was not unthinkable, where it could even appear as a normal occurrence. It met organized groups who were financially interested in bondage and who knew well how to combine coercion, patronage and the use of drugs like alcohol to promote their interests. For them it proved much more profitable to leave to the state such problems as work organization and wages and to specialize in siphoning off the excellent wages of the organized sector.

A combination of oppressive trade unions, goons, and dirty politics was employed. The very strong pressure of unemployment, associated with the fact that the merchants, corrupt officials, and thikedars had the keys to jobs, was a very important reason for the perpetuation of this peculiar bondage. It is essential to realise that bondage did not concern only paupers who tried to survive. It also affected the lives of thousands of permanent miners who had no voting rights, who had to give a part of their pay to the exploiters, and who were often indebted. We cannot under-estimate the impact of mass unemployment. There are thousands of job seekers for a single opportunity. 'Mafias' exploit the miners, but they are on their side when it comes to jobs because they live from the workers' money. On the other hand, bondage in the unorganized sector of Dhanbad was not associated with appalling misery. Dependent workers were also protected and their association with illegal ventures permitted them sometimes to obtain slight but real interest in their condition, much better than the situation of free casual labourers.

The structures that promote bondage are plentiful. There is the political system, the corrupt administration, the patron-clientele networks using caste, the caste mentality, the families, and the economic conditions, especially the labour market and its agents. In Dhanbad, the recruitment of Oriya labourers through middlemen, which is on the rise, introduces new types of dependent workers. Regarding caste and bondage, the situation is

not simple. The existence of 'low' castes helps bondage to grow, but today there are very important movements among the Dalit (ex-untouchables). These movements want to end the slave mentality and exploitation. Yet they do not discard caste. They develop pride of one's caste (*jati*). It is through a specific type of caste assertion that bondage recedes.

One important feature of the situation is the importance of debt and a monetarized economy. There are few bonded labourers who are not indebted. Debt appears as the point which associates the spirit of Hindu culture to capitalism and monetarized social relations. It is crucial. It is a metaphor of the relation of bondage, but it is also the economic process which transforms this bondage into a profitable operation. It is impossible to say if it is expanding. The campaigns for freeing bonded labour have very little influence. Resistance movements among the lower castes are clearly targeting the money lenders. In Jharkhand this has led to the rise of armed leftist groups (*lalkhand*). It may be more efficient. Yet the terrible tensions in the labour market give more and more space to the hated moneylenders.

NOTES

1. About the Indian statistical system, see Heuzé (1986).
2. Castes are not recognized by Islam, but there are many caste-like clusters. There are also powerful and more global notions of rank (nobility, etc.).
3. The recent case of Bant Singh, a Dalit who tried to organize the agricultural workers of Punjab is revealing (private sources). He was cruelly beaten and tortured for this reason by the higher caste, rich farmer agents. His experience is one among numerous occurrences.
4. See, among many others, Sengupta (1982). The decades-old Jharkhandi movement, which aimed at carving out a new state from Bihar and other states was finally successful in 2000. A part of its legitimacy is rooted in tribal struggles.
5. About *jatis*, sects, and other communities among Muslims of north India, see Goodfriend (1983).
6. A large part of Weiner's book deals with the sons of the soil movement in Chota Nagpur, the region that includes Dhanbad.
7. There is a very important Kali temple in front of the palace.
8. From the Hindi *thika*: a commission, and from the Farsi *daran*: to have.
9. From the Persian words *sir* (head) and *daran* (to have).
10. CIL comprises seven companies including Bharat Coking Coal Limited (BCCL) which is the main operator in the Dhanbad basin.
11. Coal is washed before being transformed into coke for the steel industry.
12. Industrial Disputes Act (1947), Factory Act (1948), Mines Act (1952).
13. 'Mafia' became, during the 1980s, the term used for globalizing the complicated

systems of subjugation and violence, in Dhanbad and elsewhere in India. It has no sociological relevance. It is a by-product of mass media generalizations.

14. In the sense given by Srinivas (1987).
15. See Malamaud (1980): The special issue of *Purushartha*.
16. Feudalism is not an accurate term for dealing with Indian situations. It is rather related to European situations. We use it in order to avoid long explanations. In our contribution it concerns social and economic relations between unequal and deeply associated people in the framework of agrarian economies.

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7 Corridors of Migration and Chains of Dependence Brick Kiln Moulders in Tamil Nadu

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The brick kiln sector in India is very well known for bonded labour. The most exhaustive ethnography is probably provided by the longitudinal work done by Jan Breman since the 1960s. He has described at length the working and living conditions of armies of native seasonal migrants from Gujarat, who travel every year to nearby Mumbai, to mould brick for a pittance, attracted by the advance system. The author suggested interpreting the type of work relationship as 'neo-bondage' since the relationship between employer/recruiter/worker, while being founded on a debt source of bondage, is less personalized, more contractual, and motivated more by economic factors than previous forms of enslavement embedded in a set of rights and obligations. With the exception of some isolated studies,¹ most of the literature available today emphasizes the severity of working conditions for brickmakers (especially for the moulders) and the lack of any form of social mobility (except from the jobbers), the advance system and the debt trap in which most of the workers are kept being a key explaining factor.²

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This article proposes to take part in the debate on the nature of work relationships in the brick kiln sector, starting with a case study of the brick moulders from the district of Tiruvallur, in the north-west of Tamil Nadu state. What can another case study add to the already existing literature? In the first place, our results largely confirm that labour relations in that particular sector can be classified as a form of 'neo-bondage'. One knows how much India, by its size and diversity, evades any form of generalization; it is therefore useful to proceed to spatial comparisons in order to avoid hasty generalizations. On the workers' side, this neo-bondage is characterized mostly by a relative freedom of movement, as well as a permanent juggling between recruiters and employers. This relative freedom has led some authors, mostly economists, to refuse the idea of bondage by arguing mutual interest (see, for instance, Bardhan 2001). Our position is rather to underline the perversity of this system: this relative freedom is fully compatible with bondage situations. Our observations coincide with those of Breman who considers debt as the central element of bondage: 'debt is both an economic and a political institution by which labour is manipulated in a relationship of dependency' (Breman 1996: 102-3). Debt being at the centre of labour relations, the perversity also lies in the fact that debt, as observed by De Neve in the powerloom weaving sector, 'shapes the particular politics of power and resistance within the industry' (De Neve 2005: 11). As it happens, the most frequent mode of resistance and tactical usage of the labour relationship consists of maximizing the amount of the advances, but not the piece rate amount. The bargaining power of the workers, relatively favourable for the past few years because of the very strong growth of this sector, is played out mostly on the amount of the advance and not at all on the amount of the salary. For sure, such modes of resistance help the workers to preserve their dignity and give them a feeling of autonomy, but it also reinforces their own exploitation.

This article also aims to contribute to the debate on debt bondage in a manner which we hope is more innovative, with two main points. The first is about the role of the advance in the daily management of the family budget, with a comparison to other forms of indebtedness which the workers have access to. If economics remains blind to many other aspects which are not or very little broached here (the role of kinship, caste, identities, etc.), it still has something to contribute to the debate through these financial questions. We will then see how the principle of the advance contributes to put in place chains of dependence and builds

up individual, familial, as well as collective destinies (from a community to the scale of a village), through the configuration of local credit markets and local job markets. Path-dependency and lock-in effects are particularly present in dry villages where the migration to the brick kilns started twenty-five years ago and employs the majority of the population. In a context where agriculture provides less and less employment, the brick network plays a role of (partial) absorption of the surplus agricultural workforce, although in an unequal manner, according to whether or not one is in a dry or irrigated area. The case study of a village situated in a dry area illustrates how the advance has become an essential but also irreversible element, not only in the daily struggle for survival, but also for status and prestige—which remain very relative—through matrimonial alliances.

On a micro scale, the debt relationship between jobbers and workers constitutes the core of this particular form of nomadic bondage; it is the main cog of a perfectly well-oiled system, extremely difficult to control. On a macro scale, the alliance, often tacit but very real, between the 'market' and the 'state', perhaps even a certain part of the 'civil society', considerably curbs the possibilities for protest. Finally, we will reflect on the role of the state and 'civil society', in particular the NGOs. In spite of the diverse attempts during these last years in favour of the liberation of the workers or the improvement of the workers' condition, till now the results are rather disappointing.

We have followed the evolution of the sector from 2003 to 2006, by combining the point of view of the workers, the recruiters, and the brick kiln owners. The qualitative observations have been completed by a careful but also very laborious data collection among 200 families from a dozen different villages, illustrating the diversity of the original socio-economic context of the migrants. The objective was not to pretend to present an exhaustive and accurate picture of reality—accurate data is so difficult to obtain that such an effort is pointless—but at least to provide some kind of perspective and to highlight the actual dynamics in play.

THE BRICK KILN AS A FORM OF NEO-BONDAGE

The brick kilns close during the rainy season and thus only function seasonally, six to eight months a year (July–December). For the moulders, the recruitment works as follows: the quasi-majority of the workforce are migrants and related to the employer (who is very often a labour recruiter [75 per cent according to our data] and not the owner of the brick kiln)

by an advance, granted during the off season, at the worker's village of origin and often in several instalments. The worker—as well as one or more members of his family, since work is carried out by teams of two or more people—commits himself to work until the debt is cleared. During the season, the workers receive a weekly remuneration; the amount is supposed to meet the essential needs of the workers while being measured by their production (approximately Rs 40 per 1,000 bricks for the moulders in 2004). At the end of the season, the accounts are settled: the total production for the season determines the total remuneration (payment is done at piece rate), from which one deducts the amount of the advance as well as the sum of the weekly remunerations. The balance may be nil, negative—the workers will have to return the following year—or positive: the workers return with savings.

The Employers' Standpoint: Bondage as a Way to Get a Cheap and Loyal Labour Force

The management of the labour force is based on three main mechanisms: the advance, the piece rate, and a postpone payment. Of course, the employer/worker hierarchy enables the existence of bonded labour relations. The first are the Reddiars, former big landowners, one of the most dominant castes of Tiruvallur district. The latter are the Paraiyars, one of the most marginal castes of Tamil Nadu. However, it is mainly economic and technical rationales which lead the employers to adopt such practices: political considerations, observed in 'traditional' forms of bondage, are not a determining factor. As in many other sectors based on cyclic production which are highly labour-intensive and use mainly unskilled labourers, the combination of the advance, the piece rate system, and the postpone payment is a way to attract, create loyalty, and underpay the labour force while insuring productivity.³

The characteristics of this kind of workforce management respond to the production constraints which are of a seasonal and continuous nature (the loss of the workforce during the season would jeopardise the whole production chain). The piece rate system is supposed to insure certain productivity, while transferring part of the risks (rain, interruption in the supply of raw material) to the workers. Because of the advance and because of the postponed payment, the workers are obliged to stay on the production site till the end of the season. This obligation guarantees the continuity of the production chain, and it is in this way that the brick kiln owners justify recourse to the advances.

The advance (and the postponed payment which goes with it) is also a way to compress the costs. Like other observations made in different sectors and areas in India⁴, the wages of the 'local workers' are much higher than those of the migrants (20 to 30 per cent higher according to our calculations). Limiting salary increases is also a way to respond to the competition and the (relative) shortage of the workforce. With an approximate strength of 500,000 workers, the state of Tamil Nadu contains more than 12 per cent of the total Indian workforce of the brick kiln sector and is undergoing one of the strongest growth rates in the country, in absolute terms (7.51 per cent between 1993–4 and 1999–2000) as well as relative terms (the proportion of brick workers in relation to the global active population has increased from 1.15 per cent in 1993–4 to 1.77 per cent in 1999–2000) (see Prakash in the same volume). Various case studies dealing with bonded labour give evidence of the dynamic character of labour management methodologies, especially regarding the advance; employers are using it more or less intensively according to their needs, to the evolution of the market, the evolution of the local labour markets and therefore the availability of labour, or again the evolution of the technology.⁵ Even for the 'traditional' forms of bondage, economic and technical factors have always been crucial in explaining the intensity and severity of bondage.⁶ What are the implications of the expansion of the brick kiln market over the last few years? Our observation period is very short, but it highlights clear tendencies. While the selling price of bricks has doubled between 2000 and 2006, our survey data reveals that the income⁷ per head increases more or less at the rate of inflation (between 3 and 5 per cent per year). The amount of the advance, on the other hand, increased more rapidly, about 6.5 per cent per year between 2000 and 2004, and the increase has accelerated during these last two years (about a 20 per cent increase between 2004 and 2006). In 2000, the average amount of the advance per head was about Rs 3,000 against Rs 4,000 in 2004. Qualitative observations in October 2006, just before the beginning of the 2006–7 season, indicate a very strong increase, since the amount per head fluctuates between Rs 5,000 and Rs 6,500. The implications of this gap between the advance increase and salaries are twofold. On the one hand, we observe that a third of the families increase the number of migrants over the years while the opposite tendency is exceptional (3 per cent). On the other hand, more and more families come back indebted at the end of the season: they were a minority in 2000 (around 4 per cent) while they represented almost a third of our

sample (29 per cent) in 2004, and it is very likely that this proportion has increased even more in 2006. The dependence of the migrants on the sector (in terms of active members engaged as well as in debt) is therefore increasing.

If we look at the evolution over the last two decades (when migration started to intensify), with approximate figures collected by conflicting testimonies and the memories of workers, there is no doubt that the income has substantially changed: while the advance represented a minor part of the overall income at the beginning (around 10 per cent in the 1980s), today it represents the lion's share.

These are only general tendencies insofar as the figures given above hide strong disparities between families, be it at the level of the advance, of income, or the outstanding balance. It is with the outstanding balance at the end of the season that the disparities are the most evident. This heterogeneity reveals different strategies (those who want to get the maximum advance and do not care much about the balance, and those who get into debt to the extent of their work capacity or who limit themselves in order to return with a positive balance). The negative balances can also come from diverse constraints (health problem, death in the family, production stopped by the employer), forcing the family or a part of it to interrupt the ongoing season.

Notwithstanding the disparity of individual situations, one point is clear: the bargaining power of the workers is essentially applied to the

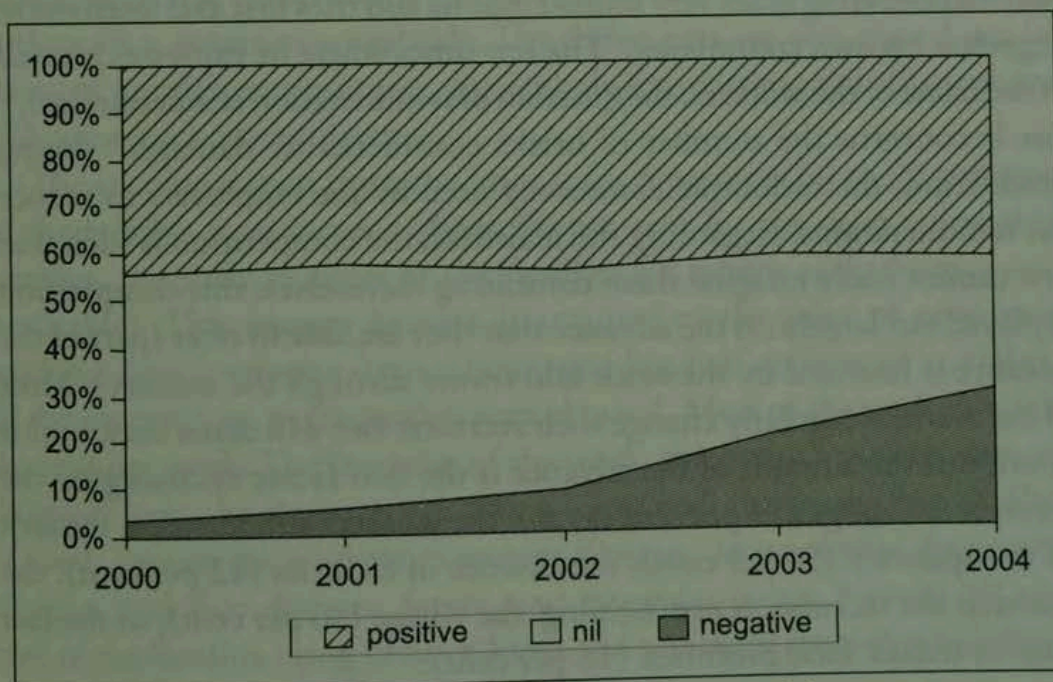


Figure 7.1: Evolution of the balance at the end of the season

advances. Nobody questions the postponed payment. The attempts at discussing the amount of the piece rate salary are rare and seem doomed to end in failure. On this point, the solidarity between brick kiln owners works very well: in Tamil Nadu, increases are decided in a collective way by the regional branch of the employers association (the 'Brick and Tile Manufacturers Association'). The owners say they are bound by a tacit agreement and none of them, they also say, would let themselves deviate from this regulation. They are also very clear on the fact that it is really the advance which allows them to establish the loyalty of the workers, and eventually some gifts (alcohol, clothes) are distributed at the end of the season. Also, the piece rate amount is fixed each year at the end of the season; therefore, to negotiate before leaving does not make sense. The fear of not being paid at the end of the season or of being cheated, as well as the absence of direct cost (there is no interest rate for the advance) are two additional arguments put forward by the workers when they try to obtain the maximum in advance, even if it means to come back indebted at the end of the season. Regarding the concept of collective negotiation, it seems that it does not exist. Workers coming from the same village are dispersed to different production sites, often at the demand of the owners, who are justifiably very suspicious of the risks of regrouping and collective action. We never came across unions implicated in questions of salary in the brick kilns of the area studied.⁸ It is the recruiter (called maistry) who is supposed to represent the workers to the brick kiln owner. Not only is his⁹ own manoeuvring space very limited, but he also tries first and foremost to negotiate his own commission. The few times where he expresses himself in the name of the workers, the question of remuneration is indeed raised,¹⁰ but it concerns the number of bricks considered as 'damaged' during production, the technique commonly used by the employers to reduce the remunerations. Regarding the maistries, the competition is such that one cannot really imagine them consulting themselves; this competition is played out largely on the advance that they are able to offer (part of the advance is financed by the brick kiln owner through the maistry). Most of the workers regularly change their recruiter (we will come back to this later), but the amount of the advance is the first factor encouraging the workers to change (77 per cent say so); the workers also mention the lack of transparency (54 per cent), the absence of facilities (42 per cent), the fact that the recruiter is not 'helping' the village (36 per cent), or the fact that he makes 'false promises' (16 per cent).

The Labourers' Standpoint: Debt Dependence without Patronage and Protection

The majority of moulders (95 per cent) are from the Paraiyar caste, considered one of the lowest castes in Tamil Nadu. Whatever the criteria chosen (income, assets, vulnerability), and even if there are some disparities, all the families can be considered 'poor'. Around two-third of the workers are daily workers, the majority in agriculture. In 2004, the yearly income for the majority (87 per cent) was between Rs 10,000 and Rs 30,000.¹¹ The better-off (more than Rs 30,000 per year) can be divided into two categories. Those who are landowners and who manage to make money with it (10 per cent); to be a landowner is in no way a measure of security, considering the very low profit margin of agriculture. Almost 30 per cent work the land, but more than two-thirds can draw only very limited income from it; half the time there are even losses. As for the second category, a minority (3 per cent), they can rely on regular employment in town: none of them have a permanent contract, but at least repeated contracts throughout the year which provide them with a regular income.

Beyond the income—the amount being difficult to know (the workers themselves are unable to evaluate their yearly income)—the differences are played out in terms of assets, especially housing: the majority (60 per cent) settle for a *kacha* house (mud and straw), the others have *pakka* houses (brick walls and sometimes a tile roof), but half of them have acquired it through a government subsidy. The differences are also played out in terms of prestige expenditures, particularly for matrimonial alliances; we will come back to that later.

The income drawn from the brick kilns represents 60 to 90 per cent of the family's total income (80 to 90 per cent for the most vulnerable families, the daily workers or the families for whom agriculture is not profitable). This meagre income is acquired at the price of very long working days (twelve to sixteen hours per day, half performed at night), all the more tiring, as the work is very physical. Most of the workers work six days per week. The intensity of the work, the permanent exposure to dust and heat, the absence of drinking water and, finally, the bad quality of food, expose the workers to various diseases, in particular dysentery, allergies and skin diseases, fevers, and muscular pains. Around 50 per cent of the families bring their children and put them to work when they

are five or six years old. Child labour is a way to produce more or faster, to pay back the advance more quickly, and also to get more advance (approximately Rs 1,000 per child in 2004). The parents are very clear on the added value of child labour.

There is no Tamil equivalent for the term debt bondage or forced labour. The equivalent used by those who talk about it is *adimai*, which means literally 'to be at the feet of', translated in English as 'slave'. Many workers do not know the term and among those who know it, the opinions are divided: some acknowledge and regret this dependence—one is 'adimai' because one is in debt and thus obliged to work to repay the advance, one is also 'adimai' because of the bad working conditions (hard work, no appreciation from the employer, etc.). The others, on the contrary, categorically refuse the comparison and refuse to acknowledge any bondage relationship; the fact that the work is seasonal and not permanent, that there is the possibility to change recruiters or work—and indeed 85 per cent of them have changed at least once—are two arguments advanced. Some spontaneously compare it to the status of a permanent worker (*padiyal* or *pannaiyal*²), which is in their eyes degrading because of the relationship of dependence that it implies. Some—men as well as women—describe precisely the numerous strategies, techniques, and tricks used to limit any form of dependence and play with the system; we will come back to that later.

The principle of the advance is not questioned at all. 'It is like that', the workers say, and several arguments come into play. One repeatedly comes across a standard observation in India: the advance as 'guarantee' of employment or at least perceived as such (Pouchepadass 1980). The workers themselves say that the system of advances gives cause for 'mutual trust' which does not exclude a climate of generalized suspicion: trust from the employer who is thus ensured that the worker will be loyal to him, trust from the worker who is assured of work for six or seven months (at least in theory). 'One takes the risk of travelling several hundred kilometres, without an advance, what guarantee of employment would one have?' ask the workers when one asks them why they take an advance. Without an advance, the employers 'do not respect us', they also say. In case of a problem, a worker who is not in debt will be dismissed immediately, whereas for a worker in debt, the employer will try to find a solution, and anyway, he will be obliged to keep the worker until the debt is repaid. Some workers go even further and consider that because of the debt, there

is necessarily a 'bond' between the two parties and they are by this fact 'responsible' for each other.

Let us, nevertheless, emphasize the relative character, irregular and uncertain, of the obligations of the employers. The latter are in a dominant position because of the fragmentation of the work force. Debt implies dependence, but without patronage and protection, leading therefore to situations of very high uncertainty and vulnerability, and the shift between debt dependence on the one hand and patronage and protection on the other hand is typical of neo-bondage relationships (Breman 1996; Gooptu 2001). In contrast to ancient forms of bondage, for instance those described by Gunnel Cederlöf (1997) in another region of Tamil Nadu in the first half of the twentieth century, or those described in this volume by Raj Basu, labour relations are de-personalized and disembedded from any form of reciprocity and interdependence based on a sense of moral community. The employment relationship evades any form of reciprocity, paternalism, and community feeling. In return, from the workers' side, pragmatism is prevalent: as mentioned earlier, 85 per cent of the workers have changed employers at least once. Loyalty, if it exists, does not so much express an attachment as a lack of alternative (Heuzé 1989: 26).

CHAINS OF DEPENDENCE: THE KEY ROLE OF THE ADVANCE IN INDIVIDUAL AND COLLECTIVE TRAJECTORIES

A more in-depth analysis of the role of the advance in the individual and familial trajectories reveals a system of chain dependence. To fully understand the role played by the advance supposes a global analysis of local labour and credit markets as well as the individual and collective aspirations (why get into debt?) and at the same time, of the global dynamic of local communities. Debt is the foremost and principal answer to financial needs, whether these are daily needs (food, health) or of a more long-term nature (social and religious rituals), without being a rural or modern phenomenon specific to this area. The extent of indebtedness and the diversity of borrowing sources (the advance on the salary being only one form among numerous options) seem to be a constant among the poorer Indian populations.¹³

The populations studied here are hardly solvent or insolvent from a purely material point of view. The most vulnerable families have practically nothing; they have sold the little they had (jewellery, sometimes land) to pay for medical costs or weddings, or following the loss of a job by

a family member. The others have some jewellery, household articles, sometimes televisions, some cattle and land. Opportunity to save money is almost non-existent; certainly because of the lack of means, but also because they are constantly approached by their entourage—solidarity has its obligations.

In the absence of material guarantees, it is mainly guarantees of a social nature (trust and mutual knowledge), and mostly pledging one's labour which allows access to credit. Let's attempt a typology of the main borrowing sources. In the villages studied here, five categories—with eminently shifting and non-hermetic borders—stand out. The first category includes the close family circle: mutual knowledge, trust, reciprocity, and social obligations are the rules of the game, the border sometimes being vague between gift and counter gift (often with outbidding) and reciprocal borrowings. Then there are the 'professional' lenders, for whom lending is really a profession. Here, we find pawnbrokers (mainly jewellery), finance companies, and itinerant lenders. We also find local shops (the village store, the shop in the neighbouring town) where food and consumer goods (hardware items, household articles, clothes) are very often bought on credit. Another category includes prosperous people living in the neighbourhood (civil servants, landowners, permanent workers, seasonal migrants able to come back with a positive balance at the end of the season, etc.) looking to invest their surplus income. Certainly, lending is a very profitable investment. The borrowers describe them either as 'rich' people, 'known people' or by their caste name if it is different from theirs ('reddiar', 'vanniar'). The conditions of the loan (amount, interest rate, etc.) are very variable from one context to another, from one lender to another, and tend to adjust to the opportunities available in the other categories of lenders. Finally, the last category includes the employers or maistries: even if other factors can come into play, it is first and foremost pledging one's labour which influences the existence of the financial relationship. Let us note here the undeniable, comparative advantages of the advance system in the workers' perception: to work hard, even if it means involving women, elderly and children, is regarded as less risky and less humiliating than to be trapped into financial dependence with relatives, to lose one's jewellery or land (pawnbrokers), or to be trapped in cumulative interest rates (finance companies and itinerant lenders).

All families are caught not only in a maze of debts, but also of debt claims whose density is difficult to imagine. Daily life is regulated by a

juggling which is not only permanent, but very subtle. If going into debt in order to repay is quasi-systematic, to 'invest' in the family circle the little daily, monthly, or seasonal surplus income is also frequent. With the exception of the 'hand-to-hand' exchanges (*kaimathu*)—minimal amounts lent freely for short periods—lending with interest between relatives is common. It is a usual and easy way to generate some profit, it is also a means to anticipate some big expenditures—the creditor will claim back his/her due at that time—and to maintain one's solvency and network of potential creditors. To lend to relatives is part of one's social obligation and some do not hesitate to sell assets to honour such obligations, provided, however, that the debtor has himself/herself already been your creditor, as if lending is subjected to a game of gift-counter gift. Repayments are made according to the needs of one or the other thereby creating perpetual movement through give and take. A tacit, collective knowledge not only of everyone's needs, but also of everyone's income, allows this kind of permanent adjustment. No cash income goes unnoticed, 'good' and 'bad' debtors are clearly identified, as well as the situation of everybody's debts and debt claims: it is thus that individual and collective reputations in matters of solvency are constructed. The fact that X is the creditor of Y can, for example, allow borrowing from Z, the debt claim constituting in a way the guarantee of a future repayment. It should be noted that this adjustment is often chaotic and conflictual: one's needs rarely coincide with repayment possibilities; each transaction often causes stormy and animated transactions. Some do not hesitate to disappear for a while to escape the pressure of their creditors. Some also avoid going into debt with relatives so as not to be under obligation to lend to them in the future, or simply to escape scrutiny and local, social pressure. As with any financial link, these relationships permanently mix solidarity and domination, cooperation and hierarchy; every transaction is an occasion to actualise, reinforce, or inflect the nature of the relationship. Every village has its lenders 'as a last resort' who lend much more than they borrow: here it is the last category mentioned above (*maistries*).

If this frenzy of indebtedness seems to be the rule, the degree of indebtedness and its nature are surprisingly variable, not only from one family to another, but also from one village to another. Only a case-to-case analysis of the social structure and its 'socio-financial' dynamics gives them some intelligibility. Furthermore, the local configuration of the labour market determines, insofar as a pledge of one's labour is likely to represent, in terms of amount, one of the main sources of credit access.

Former studies on the diversity of forms and seasonal migration networks in India have highlighted the close link to the diversity of agricultural opportunities of the original areas, themselves linked to the distinction between dry and irrigated areas (Landy 1994a, 1994b; Racine 1994). In the villages where our surveys were carried out, this distinction remains strongly operational.

Historically, the brick moulders come from dry areas, even if an increasing number of workers come now from irrigated areas, in particular those having opted during the last decades for less labour intensive crops. In the dry areas, the land is rocky and calcic, water is scarce, the farmers limit their production to one crop a year, and concentrate on crops demanding little water (rice, groundnuts, and some cereals). As the years passed, the gap widened between those who managed to dig a well for themselves and use it, and the others for whom the alternative consisted of migrating to the brick kilns during part of the year. This process started about twenty-five years ago and has progressively transformed itself into a strategy at once permanent, collective, and familial (in contrast to the irrigated areas where seasonal migration to the brick kilns is more recent and individual and thought of as a transitory strategy). Today, nearly 90 per cent of the population of the colonies (part of the village reserved for the lower castes) migrates. To bring some or all of the members into work is quasi-systematic (nearly 90 per cent of the migrants function like that; the size of the group is on average 2.7 persons) and unless an exceptional event occurs (generally a health problem) migration is systematic (80 per cent of them have never stopped). The villages are thus deserted for part of the year.

The second case concerns the irrigated areas which opted, during the last decades, for less labour-intensive crops. The examples described here concern villages partially reconverted from 'traditional' crops (rice and sugar cane) to fruit trees (especially guava) and flowers. In the case of guava, the reconversion was carried out in the framework of a governmental pilot programme. Today, nearly 25 per cent of cultivated land is reserved for guava, a crop which is much less labour-intensive than rice or sugar cane. Many daily farm workers, in particular men, have thus been forced to migrate and some have chosen the brick kilns. The proportion of migrants is much lower than in the previous villages (between 20 and 30 per cent of the colonies); the migration is more recent, less systematic (two-thirds of the migrants do not systematically choose the brick kilns) and it is less a family departure than in the previous

scenario (a little more than a third systematically leave with the family; for the others, it depends on the needs of the moment).

This first distinction between dry and irrigated areas being made, other factors complicate this dichotomous vision: proximity to the town, the nature of local social relationships, the forms of socialization and social mobility are some factors of astounding diversity within nearby spaces which should be taken into account.

A CASE STUDY: A VILLAGE LOCATED IN A DRY AREA

We will restrict ourselves to one case study: the colony of Kamaraj Nagar, situated on the west side of the highway connecting Villipuram to Panruti. It is a village located in a dry area which has nevertheless the distinction of being relatively new, created in the 1960s as part of the public policies of land redistribution. About fifty families originating from a village located 30 kilometres away came to settle here with the promise of a land plot. Some have been relatively well served (between 6 and 15 acres), others still wait for their share; it took more than thirty years to obtain the property titles. Because of the total lack of irrigation,¹⁴ agriculture has never been very profitable and the first departures to the brick kilns date back to the 1980s. The successive droughts of these last twenty years have accelerated the process. Today, all the families of the colony, without exception, depend on the work in the brick kilns for their living. For the landless, it is a question of survival. The more prosperous have not given up agriculture, but complement this work with the bricks, some as maistries, the majority as simple workers.

Not only is the village deserted six to seven months a year, but it is badly maintained. Rocks, wasteland, swampy areas give an impression of neglect. The houses are all very rudimentary. Out of forty-five houses, three are made with bricks. A makeshift temple has been built recently. The state, in addition, seems to be very invisible: there is no tar road, the 'electricity for all' scheme has never taken off, and the few electricity connections which do exist are private. A water tank, however, has at last been erected after years of negotiations. Besides the initial programme of land distribution, the families declare that they have never benefited from anything and one feels a certain fatalism: 'The politicians are not interested in us, they are afraid that we will not vote since we are migrants', they tell us. The NGOs are also absent and the reason is probably the same: how to ensure continuity with a migrant population? The first self-help group (group entitled to microcredit) has recently been formed, but in

the absence of services specifically adapted to migrants, one can fear that it will disappear rapidly.

'The bricks? It is at the same time our gold and our god.' This is how a village elder concluded one of the many discussions we had on this subject. Not that the villagers have an excessive admiration for the brick kiln owners: most of them are, on the contrary, very aware of the degree of exploitation that they are subjected to. 'They get fat from our sweat', a woman who has been migrating for more than twenty years told us. But they are perfectly aware of their degree of dependence on this sector. In the collective imagination, to migrate to the brick kilns is considered the specialty of this village; nobody puts into question this fact and rarely does anyone envisage another activity. To become a maistry is their only prospect for social advancement through employment. There are more and more who try the experience, with more or less success.

To limit oneself to the brick kilns does not mean to submit or to give in: individual and family trajectories show clearly a diversity of techniques aimed at optimizing the system and making the most out of it. But to optimize the system means, mostly, *to maximize the amount of the advance*. 'Seniority' in the sector obviously gives them a better negotiating power than in the irrigated areas. One can hear it in their remarks, which are very vindictive towards the owners and recruiters. Let us quote the case of this woman who has been migrating for more than twenty years. She tells us that every year she changed the brick kiln (and the maistry ten times) and that it was an absolutely deliberate strategy: by staying with the same employer, she says, one takes the risk of being regarded as a 'cheap' and 'docile' person. This is also what the figures reveal, since the advance per head is on average higher than in the irrigated areas where people have migrated more recently. The gap narrows down over time (it was 45 per cent in 2000, it was only 20 per cent in 2004) and the dispersion is very high, particularly in the dry areas. Discussions with the maistries allow us to interpret such results. According to them, the number of years of migration determines, in part, the 'solvency' of the workers and the amount of the advance; then come into play the ability and capacity of negotiation of the workers or simply their free choice (some are careful and do not enter into debt more than their work capacity allows).

The advance allows them to eat and take care of themselves: it meets, first and foremost, an imperative of survival; this is obvious. For those who are agricultural daily workers during the slack season (about six months a year) the income hardly exceeds Rs 3,000, which is clearly not enough

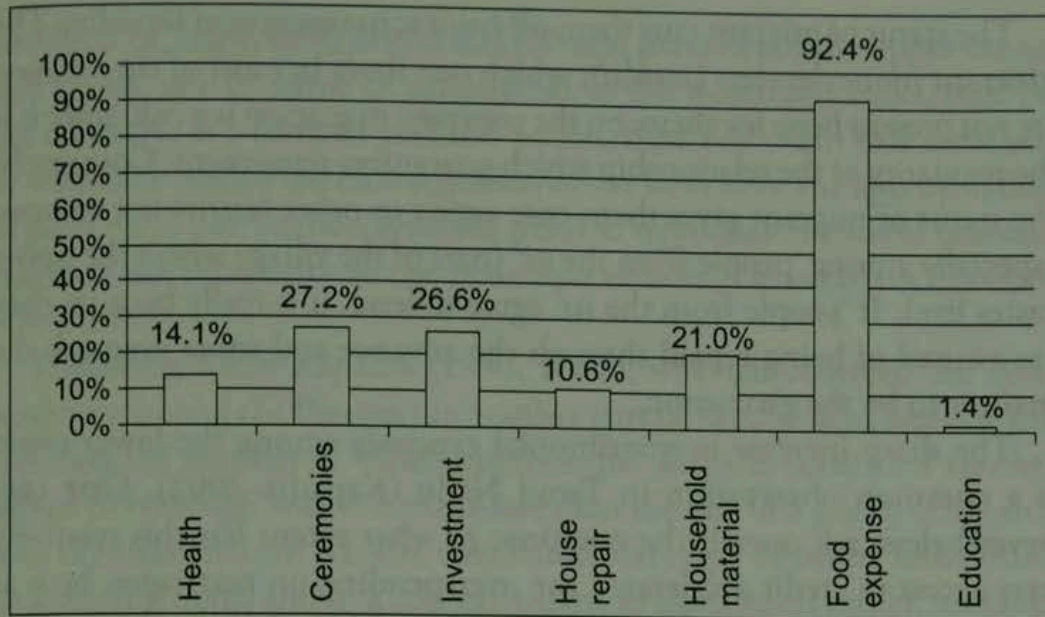


Figure 7.2: How is the advance used?

to feed oneself. The advance also plays a determining role for those who work the land, since it is used in part for agricultural investments. The advance also allows them to fund housing: the few concrete houses not subsidised by the government have been financed that way. The others, as rudimentary as they are, nevertheless need a minimum of maintenance and here again the advance comes into play. Finally and foremost, the advance plays a central role in matrimonial alliances.

While the yearly income in this village hardly exceeds Rs 20,000, it is common today to spend Rs 35,000 to Rs 60,000¹⁵ for a marriage (boy or girl). So it is really the advance which allows them to spend that much. Some round it off with agricultural income and the sale of assets (cattle, land, jewellery), but for the others, the advance plays a decisive and direct role through the cash it provides, but it also plays an indirect role as a guarantee for other creditors. A detailed analysis of the marriage expenses and their financing modes shows that the advance is used systematically, representing on average 20 to 30 per cent of the total amount. During our last field visit (October 2006), a couple could expect Rs 10,000 to Rs 13,000 in advance for a season. 'Arrangements' of a diverse nature can nevertheless bring in up to Rs 50,000 (that is to say, more than two years of salary for a whole family): an agreement with one or several families of the colony who also migrate and who one will repay the next season (sometimes with interest); an arrangement with the maistry who agrees to give two years' advance (sometimes with the knowledge and approval of the employer, sometimes not).

The status of migrant cuts them off from some sources of liquidity. The itinerant moneylenders (*tandal*), which one finds in most of the villages, are not present here: for them, on the contrary, migration is a risk, since it is the regularity of the relationship which guarantees repayment. Conversely, the status of migrant gives them easy access to other borrowing sources, especially among 'people from the ur' (part of the village where the upper castes live). If 'people from the ur' agree to lend, it is really because they are assured of being repaid through the advance and some even ask the maistry to be the guarantor.

The sharp increase in matrimonial expenses among the lower castes is a common observation in Tamil Nadu (Kapadia 2002). One can, nevertheless, ask oneself the question: to what extent has this relatively easy access to credit accelerated the overspending on marriages, be it at the level of aspirations of the migrants or at the level of the demands of the people around them who are very well informed of the migrants' financial opportunities. The days following the distribution of advances are generally very animated: the relatives (real or potential) pass by to ask for help, gifts, or, in case of future marriage, negotiate the amount of the ceremony. This blind rush into matrimonial alliances being more and more expensive and ostentatious—several years of salary—can also be interpreted in terms of resistance, the way through which brick moulders try to negotiate for the improvement of their condition. As suggested by Nandini Gooptu '[labour] politics are not conceived in narrow terms, limited either to institutions, organisations and state structures or to overt 'political' acts and agitations, but are taken to include cultural, ritual and religious innovations' (Gooptu 2001: 19).¹⁶ Such aspirations, of a ritual or social nature, give another significance to the relentless work: poor labourers cannot be considered only as 'empty stomachs': they are also men and women concerned about their dignity and their honour (Heuzé 1989). If the moulders sacrifice their health in moulding clay, it is really a question of survival; but it is not incompatible (on the contrary) with the seeking of status, honour, and dignity. These behaviours also express the growing will of the 'poor' to be part of the consumerism society. Marriage expenses concern 'investments' (especially jewels and vessels), but also consumer goods (especially two-wheeled vehicles, televisions), as well as the ceremony itself. It is not only the number of guests and the quality of the food which counts, but the various services which makes the event as 'modern' as possible (renting of a marriage hall, professional musicians, professional photographer and cameramen, etc.). To understand the

adoption of 'respectable' social and cultural practices of the upper classes and castes, not in terms of submission to the dominant order, but, on the contrary, as a form of political action, does not mean that such acts of resistance lead to the emancipation of the labourers: the appropriation of power and domination symbols tends to reproduce the status quo and translate the incapacity of the poor into elaborate alternatives (Gooptu 2001: 20).

Following Karin Kapadia (1996, 2002), who has observed the same tendency among the Paraiyars in another part of Tamil Nadu, one can also question the manner in which matrimonial alliances constitute another aspect of bondage, much more subtle than the one of a purely economic and financial nature. In the continuous struggle between individuals and social groups, and in a context where, as mentioned earlier, mobility perspectives through employment are very limited, to consume and to spend become essential weapons, and the expenses for ceremonies are at the heart of this consumer race. It is a question of dignity and prestige which is as much individual and familial (for example, a good father is judged according to his capacity to spend for the dowry of his daughter), as is collective (the competition between communities in the same area is played out in part through prestige spending). The labourers have given up any prospect of mobility through employment—if not for the maistries, but this is a luxury devoted to a minority—and therefore matrimonial alliances represent their sole aspiration. Such alliances probably allow the workers to maintain the honour and dignity of their families, in particular that of the men, while confining them to poverty traps and reinforcing the gender discrimination which one should also scrutinize in another study.

To conclude, the advance system is really at the heart of a series of chain dependencies, giving rise to what the institutional economists define as path-dependency with lock-in effects, in the sense that the advance system has set up a specific trajectory of institutional development and consolidation that is difficult to reverse.

EXTERNAL INTERVENTIONS: A DELUSION?

It is observed that despite the protests, conflicts, and various forms of struggle, these exploitative practices persist and are upheld. Although spontaneous mobilizations do emanate from workers themselves, they remain limited in both time and space. Interventions from outside are probably more common. Nowadays, following Christian missionaries,

well-meaning colonizers or civil servants, and reformers,¹⁷ come social workers and activists from all kinds of NGOs and international organizations, notably the ILO. It would be excessive to deny any positive effect from these actions, but such initiatives undoubtedly face tremendous difficulties.

The following anecdote illustrates the position commonly adopted by the workers towards the concept of the release of bonded labourers. Once, while we were entering a brick kiln, a worker exclaimed, upon seeing us approach, 'Look, somebody who wants to liberate us!' The laughter burst out, but a few seconds later the worker and his companions went back to work and were no longer concerned about their visitors. The remark refers first of all, in a somewhat ironic way, to the regular visits of various people wanting to free the workers. The worker's remark also reveals a major characteristic of the phenomenon of bondage, which makes its eradication particularly problematic: the fact that the bonded labourers, at least some of them, by no means want to be 'released'.

In the current state of affairs, namely the absence of social security—a protection net as well as the lack of employment—the workers have no alternative and are perplexed in front of the different liberation and rehabilitation attempts. They are aware of their bondage, but they are also very clear regarding their lack of room to manoeuvre.

Civil society is often presented as a possible alternative to the failings of the state and a means to ensure respect for the rights of the most destitute. We will not enter here into the academic debates regarding the concept of civil society. Let us limit ourselves to mentioning the usual weaknesses of the normative visions of civil society. The first one, coming from a naive and romantic conception, consists of idealizing civil society, which is supposed to be more authentic, fair, and reliable than the state, which is accused of being corrupted, inefficient, and unfair. The highly conservative and elitist character of trade unions, peasant movements and, more generally, of Indian democracy has been very well documented, and grass-roots movements and NGOs can hardly be considered an exception. Notwithstanding their unequal dimension (even the so-called 'grass-roots organizations' tend to exclude the poorest), neither their legitimacy nor their representativeness can be taken for granted. The second weakness emanates from the belief that civil society (conceived as being dedicated to the welfare of the poor and redistributive issues), is systematically opposed to the state and the 'market'. As suggested by Oomen (2001), alliances with the state are the rule rather than the exception and, moreover, it is

quite common to observe intense competition between various factions of civil society, much more concerned by internal conflicts than by building a united front against the state. It is also common to observe coalitions between civil society actors, the state and sometimes the market, in opposition to other factions of civil society. Indeed, this is the scenario observed here.

In Tamil Nadu, a certain number of NGOs have worked for about twenty years against bonded labour. Their diversity is measured in terms of ideology, way of functioning and financing, of operating sectors, of targeted populations, of links with trade unions and political circles, etc. Most of them concentrate on the application of the law through awareness activities among the representatives of authority and legal support for the bonded labourers. They therefore rely on relationships of alliances and collaboration, even if they are conflictual, with the employers as with the state. Some organizations (but they are much rarer) try to modify the functioning of commodity chains and the capital–labour relationship, for example, by helping the workers to buy their own production unit in the form of a cooperative. A third strategy consists of choosing media liberation by counting on the humiliation of the employers and the sensitization of public opinion. In the district studied here, only the first and third case have been observed in the brick kiln sector, and within both cases there has been an acceleration of interventions during the last five years. The brick kilns owners have been confronted simultaneously with media liberations—not numerous, but repeated enough by the press to touch the whole sector—and measures of dialogue and negotiations initiated by the ILO and taken over by local authorities.

If it is difficult and premature to evaluate accurately the consequences of these various measures, it is nevertheless possible to describe the reactions and strategies of the employers. We have met them several times during the last three years (2003–6), individually and in groups, in private discussions as well as at official celebrations. We have questioned them, but we have also listened and observed them carefully (during their discussions with the authorities or with the ILO, but very little on the production sites which are under heavy control). Unity is their main strength and the pressures against them in regard to bonded labour have probably reinforced that. The Brick and Tile Manufacturers Association includes about 80 per cent of the brick kiln owners of Tamil Nadu (700 production sites): its members deplore the lack of coordination regarding questions of production, but the mobilization which followed the wave

of media exposures leaves no doubt as to their defence capacity and has allowed them to speak with one voice.¹⁸ Their position towards bonded labour and child labour is unambiguous: the first does not exist and the second, when it occurs, is not their responsibility. Their reasoning is based on arguments of individual freedom for the workers as well as on general interest (creating employment and maintaining minimum sale prices).

The employers admit that they need the advance system in view of the constraints related to their production process (because of its cyclic and continuous character, the loss of labour can jeopardize the whole chain of production), but that the only alternative would be to mechanize, which means to lay off personnel. Also, they say, it is the workers themselves who demand the advances. 'Without an advance we have no right to call the workers', an employer told us. They are right on this point, as we have discussed earlier. On the other hand, they do not bother about the *reasons* which drive the workers to demand and even to maximize the advances (in particular the low wages). For them, the argument is faultless: the fact that the workers are the ones who demand the advance relieves them of any responsibility, including a responsibility towards the legislation on bonded labour which does not take into account this situation and is therefore, according to them, totally inappropriate. Regarding wages, the employers have a strong argument: in 2004, the official minimum wage was Rs 108 for 1,000 bricks,¹⁹ while they pretend to offer Rs 140 to Rs 160. However, they fail to mention the different deductions (in particular those related to 'damaged' production and to the commission for the maistries). In the end, therefore, the real salary at that time came to around Rs 110, which is clearly less than the mentioned amounts, while being slightly higher than the legal salary and this is where the shoe pinches, since this amount is absolutely incompatible with a decent income and decent working conditions. Similar to what happened in other regions of India (Breman 1996), one can put forward the hypothesis that the amount of the minimum salary is very largely determined by the employers, and continues to be determined mainly according to a profit rate considered acceptable for the sector. In other words, the principle of a minimum wage would only legitimize existing practices. During an official function in the presence of representatives of Tamil Nadu and the ILO, we presented our results concerning the real wages and working conditions to the employers. No one put into doubt the validity of the data; they admitted that the income was low and the work hard. This is where the argument of the general interest came back. 'We do not have

the choice', they answered. 'The profit rates are falling. To increase the cost of manual labour would condemn us to disappear, and the workers with us.' According to the employers, the profit rate has fallen from 25 per cent in the 1990s to less than 10 per cent today. According to our own observations, approximate because of the difficulty in obtaining reliable data, the current profit rate would be more in the range of 40 per cent.²⁰ Concerning child labour, here again some deny it while some admit it but consider themselves in no way responsible: in spite of their regular warnings, it is the parents, they say, who insist on putting their offspring to work. They fail to mention the pressures and daily harassment endured by the workers in matters of productivity. Self-exploitation having its limits, child labour is indeed an answer, as we have mentioned earlier.

The same arguments are put forth by the employers towards the authorities. The lack of political will and the state-employers coalitions are regularly denounced as the main hurdle in the enforcement of labour laws. But the problem is more complex. It is true, the work inspections lack permanent staff who are honest, trained, and motivated; thus, they are not very efficient in front of an economic and political lobby as powerful as that of the employers, and in front of a complex legislation hardly accessible to the uninitiated. But the capacity of the employers to sway the work inspectors, the 'vigilance committees' responsible for detecting bonded labourers, and the district collectors is also a factor of stagnation. The offensive conducted by some NGOs, supposed to sensitize public opinion to the victimization of the workers, seems rather to have had the contrary effect. The employers cleverly knew how to reverse the situation to their advantage by claiming themselves as victims—some do not hesitate to claim that they are the ones who are bonded—and so gaining a portion of public opinion and of certain NGOs. More than ever, they insist on the absence of bonded labour and on their lack of responsibility in child labour—it is now the slogan of the brick kiln employer association—and one of the objectives is to convince the authorities of this in order to prevent a reinforcement of the controls. Another objective is also to refuse any collaboration with the 'harmful' NGOs and to mobilize against any form of action. The 'harmful' NGOs are, according to the employers, the foreign NGOs with dubious motivations—only concerned with media coverage, which content themselves with liberation raids on the workers, without clearly identifying the problem and without adequate support in matters of rehabilitation.²¹ In whose name do these strangers get involved—rumours that liberation is a new Christian conversion method

circulate—and how can they pretend to intervene since they do not know either the context or the local 'customs'? they argue. Another argument is to invoke the perverse effects of these liberation measures: according to the employers—and on this point they are probably right—the workers play with it, threaten the employers, hesitate less and less to escape without having settled their debt. Their conclusion is as follows: the principle of the advance is all the more necessary in order to discipline a manipulated workforce (increasingly rebellious and disloyal), as well as labour cost compression, since escape, evaluated at 20–30 per cent a year, causes losses which one has to compensate.

Obviously, such complaints are far from the reality. The way the employers transform and exaggerate the reality is probably a 'strategy' allowing them to 'justify the routine repression' exercised on the workers (Gupta 2001). If a certain flexibility exists in the repayment of the advance, not to settle one's debt remains nevertheless exceptional. It happens that inexperienced maistries get cheated, but the owners, often of higher castes (mainly Reddiars), rely on many alliances to prevent any form of dissidence: alliances with the village leaders of the migrants, who will then intervene in favour of the owner in case a worker escapes; alliances with the leaders of the villages where the brick kilns are located (principally through donations to the temple, and eventually through investments in local infrastructures, especially roads), which avoids or restricts any possible reticence towards the employment of a migrating workforce; also alliances with one or several political parties who protect them against potential sanctions from the public authorities.²² Some owners also make alliances with political parties engaged in the defence of the lower castes in order to protect themselves against potential collective actions in the name of the fight against lower caste discrimination. Finally, donations to local NGOs are also frequent (building a nursery, supporting an event, etc.). Because of their involvement in common public goods and in public sponsoring, the brick kiln owners can be considered as local 'big men'. Being generous is a common practice of major employers or businessmen in Tamil Nadu. Generosity is often presented as a contribution to local social harmony.²³ Here, on the contrary, the generosity of the owners does not benefit the migrants at all. The point is really to buy social peace, of the neighbouring villages—to avoid rebellion against the employment of a migrant workforce—as well as those of the organizations likely to intervene against bonded labour and the political parties defending the Dalits. Independent of numerous political alliances, which provide a

certain protection, their image of benefactor and the support of public opinion also protects them against the local authorities, in particular the labour inspectors. An agent even told us that the pressure of local public opinion can be a restriction on their attempts to bring to book brick kiln owners. The brick kiln owners are very anxious about their reputation, even preferring to pay the labour inspectors, sometimes heftily, rather than being investigated and enduring public shame.

CONCLUSION

As suggested by Jan Breman, our understanding and knowledge of the living and employment conditions of this massive army of destitute workers is probably better than a quarter century ago, but the efforts for improvement have not, up to now, met with much success (Breman 1996: 23). Ten years later, the findings are unfortunately the same. The case study described here illustrates the historical and social build up of strongly segmented migration networks, this segmentation, over time, providing them with a quasi-irrevocable character. The advance plays a determining role in this process of irreversibility. For sure, seniority in this sector allows the workers to develop some capacities of negotiation and to a certain extent strategies to circumvent the system, but at the same time it reinforces the dependence of the workers and their families on the brick kiln sector. The propensity to go into debt is now such that the workers have no more alternatives left. The advance and the other credits to which it gives access are fully integrated in family budget management as well as in individual and collective aspirations, especially matrimonial alliances. The advance is at the heart of the social building of local employment and credit markets, as well as forms of social mobility, or at least perceived as such. Except for the maistries and small landowners, who manage a little better than the others to amass and diversify their sources of income, for the others, the future offers no prospects.

Analysis of the intervention of civil society reinforces our pessimism. Nevertheless, let us point out that it is only an isolated case study. To recognize (as we have done here) the fragmentation of civil society, its competitive and unequal features, should not lead us to abandon any kind of hope regarding the potential of civil society in the fight against bonded labour. Given the huge heterogeneity of the civil society, given also the extraordinary diversity of local modes of governance and the way civil society actors interact and link themselves to local power structures, it is therefore impossible to give a priori any conclusion: only detailed case

studies can tell us about the achievements, the successes, the drawbacks and the failures of civil society initiatives.

NOTES

1. See, for instance, Shah (2006), who analyses the seasonal migration in the brick kilns as a certain form of freedom for young people who feel oppressed by a conservative family circle. The author notes, however, that such a subjective perception of freedom is not inconsistent with very hard working conditions and exploitation. According to Deliège (1989), brick-making is also considered as a source of relative social mobility for the Paraiyars, one of the lowest castes in Tamil Nadu, for two reasons: regular income and the fact that it is skilled activity. However, his case study concerns 'traditional' brick kilns (small and temporary production units located in rural areas), where it seems that there is no advance system and the labour force comes from the neighbouring places. By contrast, our own reflection deals with 'modern' brick kilns (big and permanent production units, dealing mainly with migrants and located in peri-urban areas).
2. In addition to the work done by Breman in Gujarat, see, for instance, Gupta (2003) and Singh (2005) in Haryana, John & Ateeq (2003) and Singh (1997) in Punjab, or Aseem Prakash (this volume).
3. See, for instance, Breman (1996); Gooptu (2001: 55); Kapadia (1996).
4. See on this point, the work of Breman (1986, 1993, 2003, 2004); Byres et al. (1999); Harriss (1992); Harriss-White (2003); Kapadia (1996); Srivastava (2005).
5. See, for instance, Engelshoven (1999) for the Surat diamond industry, and De Neve (2005) for the weaver sector.
6. See, for instance, Breman (2007), Cederlöf (1997), and the contribution of Rammohan in this volume.
7. It is extremely difficult to obtain reliable data on the advances and incomes; the best method that we have found was to rely on the account booklets of the maistries and compare them with the declarations of the workers.
8. One witnesses the emergence of small unions recently formed for a very specific aim: to serve as intermediaries in the implementation of social protection measures enunciated by the Labour Welfare Board of Tamil Nadu for the 'unorganized' sector. According to one of the founders of this type of union, there are about twenty in the district of Tiruvallur. For the moment, the brick kilns do not seem to be part of the affected sectors.
9. Most of them are men.
10. The other topics of negotiation concern the amount of the advance, the living conditions (lodging, access to electricity, etc.) and work conditions (regular supply of raw material, especially water and sand)
11. In comparison, the official threshold of poverty in India in 2004 was put at about Rs 15,000 per family (for a family with five members), knowing that this amount is clearly under-evaluated; a decent living standard would actually be an income of Rs 50,000. Here also, getting reliable data is a challenge. To follow

the families long enough and to reconstruct their work schedules while having a good knowledge of the local socio-economic (especially agricultural) context can bring in good results.

12. 'Padiyal' is usually used to talk about permanent workers, although 'pannaiyal' refers to bonded labourers (Racine & Racine 1995) but many workers use one term only and do not necessarily distinguish the meaning of each term.
13. On the labour world in the 1930s, see, for example, Chandavarkar (1994) and Goptu (2001: 54). On the rural world, see Pouchepadass (1980) on the farmers in colonial Bihar and Hardiman (1996) for the west of India during the colonial period.
14. Open wells or bore wells are the main source of water, but only a few can afford them (in 2006, the cost was around Rs 150,000). A canal does exist, but is fed only by rainwater during the monsoon.
15. Some moulder families spend up to Rs 100,000; they are generally the bigger landowners and the maistries.
16. See also De Neve (2005); Heuzé (1989); Picherit (forthcoming).
17. For a historical description of outsider interventions for bonded labour eradication, see Breman (2007) and Cederlöf (1997).
18. One member of the research team has attended one of their meetings, called explicitly to counter the attacks of the NGOs.
19. Bricks of average quality.
20. This figure can be compared with the observations of Breman in Gujarat, who proposed a 40 to 60 per cent bracket (Breman 1996: 196).
21. We have not proceeded to conduct a detailed analysis of the intervention methods of these NGOs, but the words of a representative of one of them (International Justice Mission) are unambiguous: the priority is indeed to alert public opinion through denunciations in the media and to humiliate the employers; during an interview conducted in 2004, he admitted that the NGO had not yet devised a reliable method of identification or of rehabilitation, and that therefore, in the two instances, the results were mixed.
22. Most of the brick kilns do not respect the following legislation: Prohibition of Child Labour in Hazardous Industries Act (1970); Employment Provident Fund and Miscellaneous Provisions Act (1971); and Factory Act (1948), which regulates working hours and provides compensation for overtime; the Inter-State Migrant Workmen Act (1979), which provides for specific measures (housing, medical coverage, etc.) when more than 50 per cent of a company's workforce are migrants.
23. See, for instance, merchants' communities such as Beeri Chettiyar in Chennai (Mines 1996: 49 *sq*) or corporatist communities, for instance, the weavers in Coimbatore (De Neve 2005: 269 *sq*).

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8 How (Un)free are the Workers in the Labour Market?

A Case Study of Brick Kilns

ASEEM PRAKASH*

INTRODUCTION

The Indian economy under the inspiration of the structural adjustment programmes initiated in the 1990s saw some crucial changes in its vision and policies. In practice it meant attempts to cap public investment, drastic lowering of various forms of subsidies, disinvestment and privatization of public sector companies, and a reduction in almost all forms of provision for development planning including public expenditure on agriculture. Labour flexibility and labour redundancy are strongly suggested policy measures. Employers' militancy is supported while the power of the trade unions is on the decline. The agriculture sector's (which still forms the basis for more than half of the workforce) contribution to the national product has gone down substantially without much change in the share of workers who sustain it.

As a result, the economy has witnessed a distressing decline in its employment absorption capacity,¹ an alarming increase in casual employment, and an increasing feminization of the labour force along with new forms of exclusionary processes specific to gender, caste, and ethnicity. The share of organized sector employment is shrinking consistently along with an alarming rise in unorganized sector employment. In the rural areas, declining state support and tougher market conditions have resulted in an increase in suicide deaths of small and marginal farmers² or have displaced them to the status of casual labourers. The dwindling agricultural employment and absence of worthwhile non-farm options³ has made the situation of people lacking in assets and capabilities far more precarious. These processes together have created conditions for

*The study is inspired by Harriss-White (2003). The author is grateful for critical comments given by Barbara Harriss-White. The usual disclaimers apply.

the production and reproduction of a mass of quasi-jobless, unskilled labourers. This 'freed' labour is used by other sectors in the labour market for furthering various types of capitalist activities. The lack of livelihood options and the resultant increased supply of labour push them to accept underpaid and exploitative contractual terms and conditions. However, this does not mean that exploitative conditions for the labourers are specifically related to the post-liberalization era in India. The post-1990s is the era in which their situation has relatively deteriorated in relative terms. Exploitation and underpayment has always been the central feature of the labour market while providing employment to unskilled/under-skilled workers. Historically, the crucial forms of exploitation of the workforce to ensure their commitment to work for a particular master/employer were through the institutions of slavery, attached labour, bonded labour, debt bondage, etc. These institutions always contributed to recruiting, disciplining, and regulating the workforce towards the interests of people controlling the means of production. In this context, the purpose of this article is to understand the nature of the labour effort in brick kilns and to explore the structural conditions at the micro-level which reproduce the steady and cheap supply of workers,⁴ while also contextualizing it in the debate on free and un-free/attached/bonded labour.

There is substantial literature replete with penetrating insights on the nature of the relationship between capital and labourers/employers—employees/masters—servants, and how they reproduced an exploited workforce.⁵ The first set of viewpoints comprises the debate between pre-capitalist labour relations and capitalism. Bhaduri (1983) argues that it is the pre-capitalist economy (marked by an extremely unequal distribution of land, majority of subsistence farmers, and the presence of a large number of landless and near landless labourers) which disallows the landless and near landless to find gainful employment. In case of shortfall in consumption needs, the latter depend completely on the unorganized credit market which is also interwoven with an economic power relationship—between the debtor and the creditor. It allows the latter to set economic and extra-economic terms for debt servicing. Likewise, Ashok Rudra (1984) argues that the patron—client relationship structures the inequalities which reproduce the dominant mode of capital—labour relations and also inhibits the development of a capitalist labour market. But in one of his later works, Rudra opines that working for a specific employer on a continuous basis does not necessarily constitute semi-feudal relations especially since the semi-attached labourers enjoy much better

economic conditions than daily labourers (Rudra 1987). K.P. Bardhan (1984) strongly refutes the thesis of semi-feudalism and argues that extra-economic coercion and debt servicing to a single employer-creditor has been replaced by attached labour which voluntarily offers his services because of a better status offered in the labour market in comparison to casual labourers. This position is also taken by Bhalla (1976). The employers use attached labour to oversee the work of casual labourers. In Bardhan's opinion, the two-tier labour arrangement allows the employer to fragment the labour force and help reproduce the capital-labour relationship. Moreover, Bardhan also thinks that the monopolistic power of the lender-employer to dictate his terms (to extract additional rent in the form of underpaid labour) is perfectly compatible with capitalism. In his opinion, even big capitalist enterprises mobilize credit through personal ties and can pay high interest for the quick availability of credit. Similarly, Brass (1999) argues that attached labour is essential and inherently required for capitalist development. As the accumulation process is characterized by overproduction and consequent economic crises, the only option left is to convert free workers into unfree workers. Also, the import of workers bonded by debt is not only easy to regulate but also helps lower the cost of the local workers because of excessive supply. Debt bondage, whether inherited or otherwise, becomes crucial to reproducing the labour power while maintaining profitability. Kapadia (1995), in her case study, advances the idea that bonded labour is not a semi-feudal production relation but is rather driven by capitalist motives. In her account, the debt servicing relationship and kin networks are crucial to reproduction of a cheap and disciplined labour force.

Another set of scholars give explicit importance to caste in the reproduction of unfree labourers. Srivastava (1989) finds that unfree labour is reproduced either through the traditional patron-client relationship (*jajmani*), or when the dominant landholders keep tenants or farm servants. In return for credit, the tenant provides the dominant landholder with *begar* and priority labour (if he is self-cultivating). In case of farm servants, contracts place an explicit obligation on the debtor's family and the non-return of debt may lead to tying and debt bondage. Such a relationship may have hereditary implications. Lerche (1995), in his case study, explains that landholders are invariably upper caste/class and that labourers are lower castes/class. The labour relationship is only one of the many social and ritual ties that bind labourers to the landowning

caste. Lerche's field area was thus characterized by patron–client relationships with built-in benefits as well as elements of unfreedom. Lerche also agrees that debt bondage and paternal relations are not necessarily the only effective measures for the control of the labourers. Political domination backed by a strong position in the wider society is the key to understanding the reproduction of dominant capital–labour relationship. Harriss (1992: 207–8) while describing the situation in the labour surplus region of northern Tamil Nadu finds that debt bondage is not widely prevalent but that the labour is attached through the institutions of ideology and patronage.

Against the logic of ideology of patronage and benefit used for tying the labour (patron–client relationship) for reproducing the capital–labour relationship, Breman, in his extensive longitudinal field research (Breman 1974, 1993, 1996), argues that the economic relationship of workers with the (proxy) employer is bereft of any extra-economic coercion and is largely the result of economic distress. This relationship, it is argued, is different from what he earlier described as 'patronage and exploitation'⁶ and has acquired what he now terms as 'depatronization' or 'neo-bondage'. Breman (1996) writes that 'new-bondage is less personalized, more contractual and monetized, while also the elements of patronage has gone, which provided some protection and a subsistence guarantee, however meagrely defined to bonded clients in the past' (p. 169). Jodhka (1994), in his case study, also points out that there has been complete erosion of 'patronage and loyalty'.

THE ARGUMENT

In the light of aforementioned critical viewpoints, we build on the arguments of different authors, often agreeing with some and disagreeing with others in varying degrees. Based on intensive fieldwork of seven brick kilns in two districts of Punjab, we argue that the labour market in brick kilns is completely capitalist. It banks on various institutions to regulate the workforce and extract maximum profit. Debt bondage is one of the most important labour market institutions stabilizing profit. But debt bondage is one among several important institutions regulating and disciplining the workforce and depressing their wages in the labour market. Labour markets are the sub-set of the exclusionary socio-economic and political processes which are also articulated and produced in the institutions of the state and which contribute in reproducing the workers at bare or

below subsistence level. Further, the state's inaction from the standpoint of workers is not only a reflection of the dominant socio-economic processes but also a result of its appetite for rent.

THE CASE STUDY: THE STORY OF SEVEN BRICK KILNS IN PUNJAB

In order to understand the extent and nature of debt bondage and how it is reproduced, a field study of seven brick kilns in the districts of Gurdaspur and Amritsar (Punjab) was conducted in late 2004. The system of investigation combined a structured questionnaire and unstructured interviews with 283 brick kiln workers, seven brick kiln owners, five labour contractors, three labour union leaders, and a few (nine) of the administrative staff of the brick kilns. The discussion in this sub-section is divided into four parts. The first part describes the production process. It is followed by a discussion of the socio-economic composition of the brick kiln workforce. The third sub-section presents a description of the socio-economic profile of the labour contractors, the brick kiln owners, and the administrative staff at the brick kilns. The last sub-section maps out the governance of the labour market in brick kilns.

Production Process and Criterion for Wages

A proper understanding of the work process in brick kilns would require a discussion on the division of labour in the brick kilns. The workforce in the brick kilns is recruited through the labour contractor (also known as *jamadar*). The contractor recruits workers from far off states and brings them to the site of production, often through manipulation and 'coercion'.⁷ The work process in the brick kilns begins with the *pathera* (brick moulder) who sculpts the mud into the shape of a brick. The process of moulding employs the *pathera's* complete family including children. Once the bricks are suitably dried, the *kumhar* or loader carries the dried bricks to the brick kiln. Next, the *beldar* or stacker arranges the dried bricks inside the kiln. The *rapaswala* then arranges the soil on the bricks to level them and for burning later, and subsequently disturbing the soil for facilitating the withdrawal of the baked bricks. The *jalianwala* (fireman) sets fire to the kiln and regulates the temperature. Thereafter, the *nikasiwala* withdraws the baked bricks from the kilns and stacks them according to their quality. As and when the business order for the bricks is procured, the loader packs the bricks into trucks for transportation to the construction site. The labour contractor is mostly paid a commission

on every thousand bricks produced. All the workers are paid per thousand bricks except the jalianwala, accountant, guard, and supervisor.

The Socio-economic Composition of the Workforce

Gender Composition Formal employment status — workers drawing wages in their own registered names — in the brick kilns was primarily 'enjoyed' by men (Figure 8.1). The bulk of women and children in the brick kilns work as part of the family labour force. Their labour is invisible to the formal production and accounting process. The reasons for the same will be taken up for discussion later in the article.

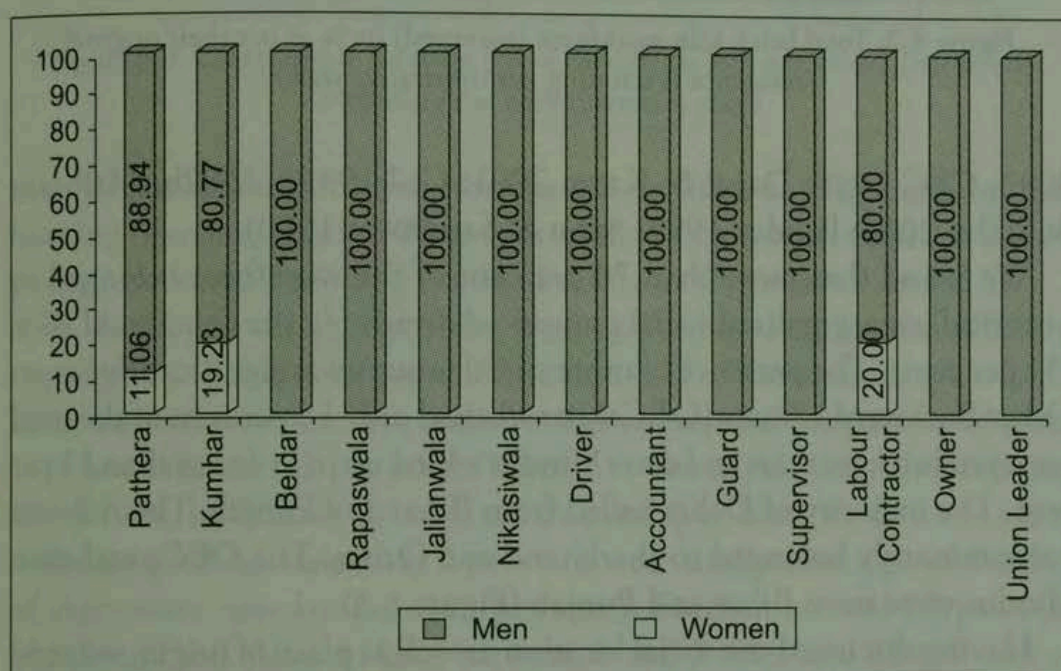


Figure 8.1: Gender composition of surveyed brick kilns

Migrants and Locals Migrant workers from Bihar, Jharkhand, and Orissa constituted nearly 80 per cent of the workforces in the brick kilns we surveyed. Merely 20 per cent of the workforce came from the host state, though a good number of those came from neighbouring districts. The brick kiln owners also prefer migrant workers because they are easy to control and regulate in their business interests (Figure 8.2).

Class/Caste/Ethnic Location of Brick Workers and Migration The majority workers employed in the brick kilns belong to the lowest socio-economic strata of society, a fact not only revealed in our survey but also buttressed by several other studies conducted at different points in time (Anand

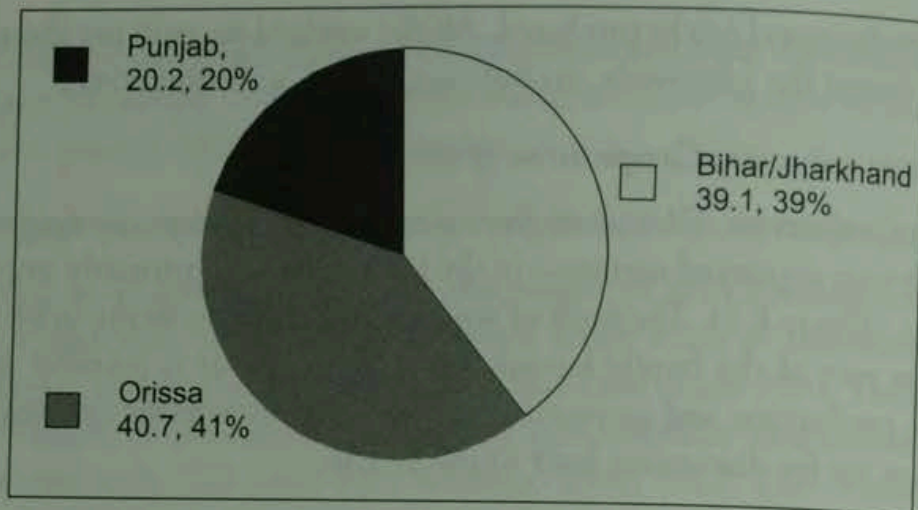


Figure 8.2: Total brick kiln workforce (surveyed) in % as per their original residence (excluding administrative staff)

2003; CEC 1998; Dayal & Karan 2001; GoI 1982a, 1982b; Malhotra & Sidhu 2003; Pandey 1993; Sarin & Sandhwar 1990).

We found that more than 70 per cent of the workforce belonged to historically marginalized social groups—Adivasis (42 per cent) and Dalits (31 per cent). The presence of other social groups was significantly lower: Other Backward Classes (OBCs) constituted only 15 per cent of the total surveyed brick workers and caste Hindus added up to little less than 11 per cent. The majority of Dalits hailed from Bihar and Punjab. The Adivasis predominantly belonged to Jharkhand and Orissa. The OBCs and caste Hindus were from Bihar and Punjab (Figure 8.3).

Having discussed the social location as well as place of origin, we need to discuss the causes for such a large-scale migration. Here we attempt to explore the existence of the causal linkages between brick workers, their assets (their ownership and control over productive resources), and the migration of their labour force. The simple hypothesis being that the lack of productive assets and consequent low income can be a cause of migration.⁸ In our survey, two proxies were taken to assess the asset capability of brick kiln workers: (i) the possession of land as an income resource; and (ii) ownership of a house.

The brick workers, irrespective of their place of original residence and social group, owned below the average quality of un-irrigated land. Around 11 per cent of them had more than 5 acres of land. Nearly 28 per cent owned land between 2 and 5 acres. A substantial proportion of them were either landless (nearly 23 per cent) or nearly landless (nearly 40 per cent) Shah (2006).⁹ The field documentation also revealed that a little more

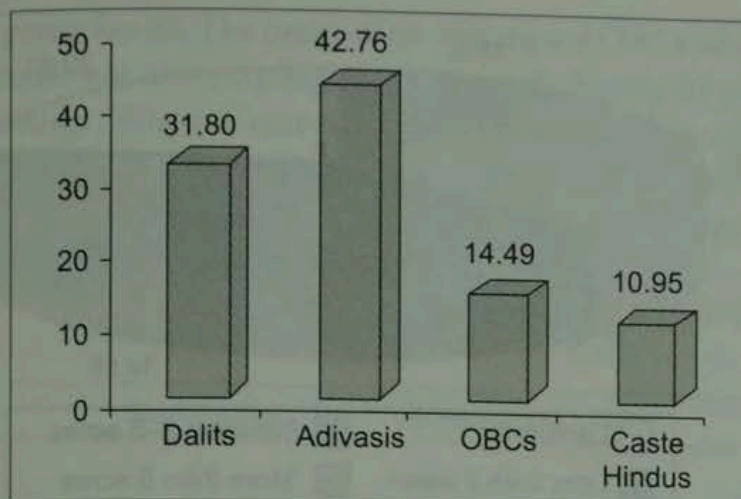


Figure 8.3: Caste/ethnic location (% of total brick kiln workforce [surveyed] excluding the administrative staff)

than 10 per cent of the brick workers did not have any legal title to their housing. Further, nearly 70 per cent of the brick workers did not have a pucca (cemented/concrete) house to reside in (Figures 8.4 and 8.5).

If we further disaggregate the land ownership data for the different social group (Table 8.1), we will find that half of the total sampled Dalit brick workers were landless and a further substantial proportion of them were near landless (43 per cent). When it comes to Adivasis, a community which historically have claim to the ownership of land, we find not many of the sampled Adivasis (only 5 per cent) were landless but a good number of them were near landless (43 per cent). Further, around 35 per cent of Adivasis had claim to land between 2 and 5 acres and 15 per cent of them had land of more that 5 acres. Traditionally, the OBCs are also a landowning community. Hence, only 10 per cent of the total sampled OBCs were landless and 18 per cent of them were near landless. But a high proportion owned land of more than 2 acres and more than 5 acres (50 per cent and 22 per cent respectively). Among caste Hindus, nearly 30 per cent of the total sampled caste Hindus were landless and 40 per

Table 8.1: Landholding by social groups (in absolute numbers) of brick kiln workers (excluding administrative staff)

	Landless	Less than 2 acres	Between 2 and 5 acres	More than 5 acres
Dalits	45	39	6	0
Adivasis	6	53	43	19
OBCs	4	7	21	9
Caste Hindus	9	13	7	2

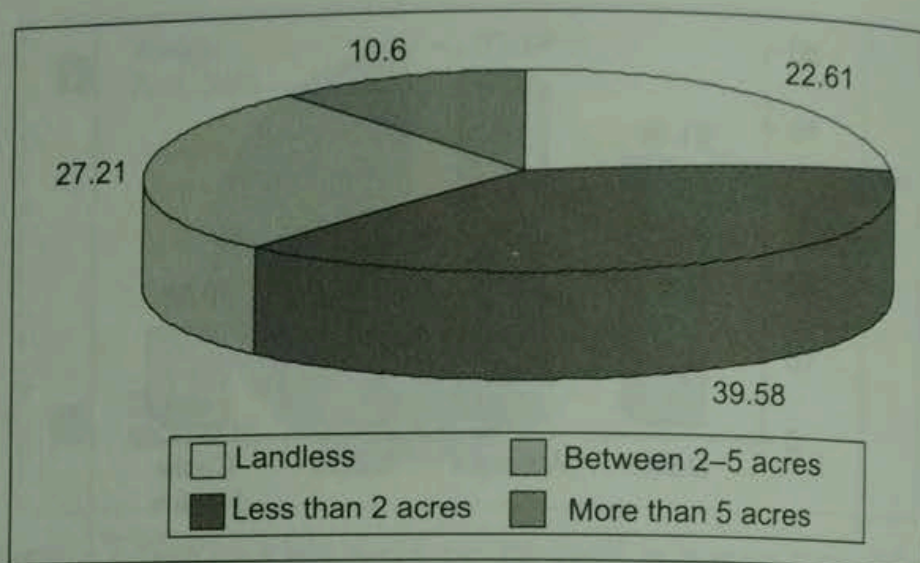


Figure 8.4: Brick workers' (% of total) landholdings (excluding administrative staff)

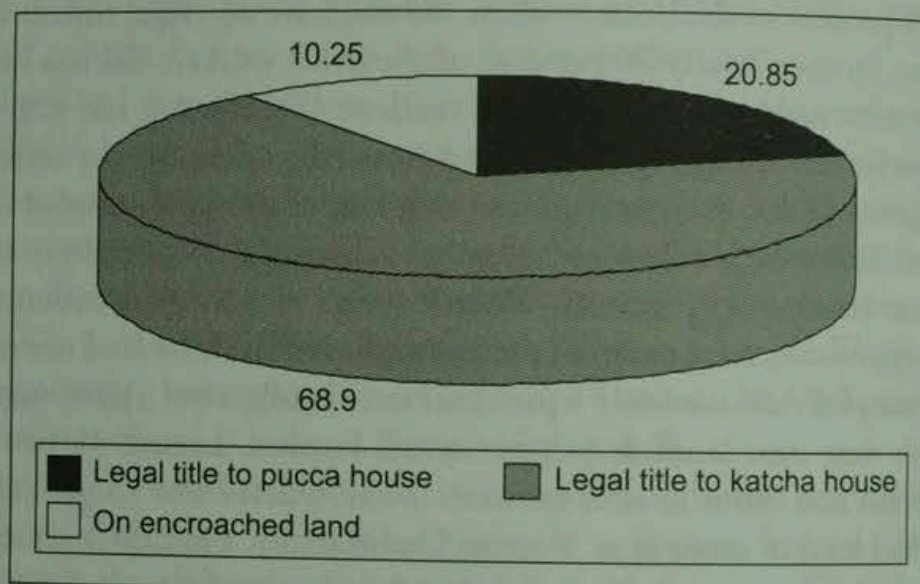


Figure 8.5: Ownership/possession of type of house by brick kiln workers (% of total)

cent near landless. A significant number of them (22 per cent) had land of more than 2 acres. A small proportion (7 per cent) of the total sampled caste Hindus had land of more than 5 acres.

When we look at the housing status of brick kiln workers in relation to their social location (Table 8.2), we find that the proportion of sampled Dalit brick workers with a *katcha* house is alarmingly high (70 per cent). A good number of them (13 per cent) also did not have any legal title to their homestead and resided on encroached land. A very high proportion of total Adivasis (sixty-nine persons) resided in *katcha* houses. A small proportion of them stayed on encroached land and not many of them had

a title to a pucca house. The proportion of sampled OBCs who resided in a katcha house was also very high (66 per cent). Nearly 27 per cent had pucca dwellings. When it comes to the sampled brick workers among caste Hindus, more than three-fourths of them had no claim to pucca dwellings while 20 per cent of them lived in pucca dwellings.

Table 8.2: Type of housing by social groups (in absolute numbers) of brick kiln workers (excluding administrative staff)

	Katcha house	On encroached Land	Pucca house
Dalits	63	12	15
Adivasis	81	13	27
OBCs	27	3	11
Caste Hindus	24	1	6

This profile clearly reveals that lack of ownership and control over productive assets leads to what Breman (1985) calls 'survival migration'. Moreover, the ownership of land reflected here does not portray, in all likelihood, the actual ownership. The land, over the years has been divided and subdivided between generations of family members, a fact also confirmed by the brick workers. We can perhaps conclude that most of the workers are nearly landless or have some small quantity of un-irrigated land which is not an adequate base for their family. Moreover, in eastern and northern India, the ownership of land does not ensure prosperity or survival. The poor quality of land, rain-fed farming, and poor irrigational infrastructure coupled with the capture of state development resources by the dominant class/castes leaves no other option for small farmers and the landless but to work on the large farms at very low wages or migrate to urban areas in the lean period. The gap between income and consumption at home for prospective migrants is met by borrowing money from informal sources and from the labour contractor. In case of the latter, their labour during the lean season has to be pledged.

A Socio-economic Profile of Labour Contractors, Brick Kiln Owners, and the Administrative Staff of Brick Kilns

In our sample brick kilns, there were five labour contractors instrumental in importing brick workers from Bihar, Jharkhand, and Orissa as well as procuring labour from the local labour market. All of them except one were men. The woman labour contractor was an Adivasi from Jharkhand, often referred as *sardarni*. Her area of operation for procuring primarily

woman workers consisted of a few districts of Jharkhand. Of the men, three came from Bihar and were OBCs, though their area of operation for procuring workers included Jharkhand. One male contractor was from Orissa and his area of operation was the Adivasi districts of Orissa. These labour contractors also supplied workers to other districts of Punjab. All of them were middle range agricultural producers but owned un-irrigated land amounting between 8 and 15 acres. The woman, a widow, and her late husband had been labour contractors. She entered the business to help her husband procure women workers. After his death, she herself started supplying woman workers.

The seven brick kiln owners were all Hindu Sikhs and were large landowners. Production on their land was partially mechanized and partially carried out through hired labour and supervisors. Moreover, agriculture and the ownership of brick kilns were not the only economic activity they pursued. Three brick kiln owners had transport companies; two had stakes in real estate; one owned a petrol pump; and one owned a large prestigious showroom for ready-made garments. All their economic activities were controlled by family members through hired supervisors. The brick kiln owners were also known for their political muscle power in their area of operation. Two of them were also associated with political parties and one was a prominent member of the management of the local *gurdwara*.

The sample administrative staff for our study at the brick kilns constituted only men from Punjab. They also controlled land in varying quantities but none of them had adequate land for their family's economic requirements. All of them were Hindu Sikhs, the distinctive feature being that they belonged to the extended kin group of the owner. Their ascribed trust was the primary criterion which enabled them to get their employment.

Salient Features of the Governance of the Labour Market in the Brick Kilns

Contract and Debt Field material informs us the workers commit to migrating to work in the brick kilns in return for the advance given by the labour contractor. The vicious cycle of debt bondage starts with the shortfall in meeting consumption requirements. This forces the workers to borrow money from the labour contractor and pledge their labour in return. Usually the adult male member of the family enters into a contractual arrangement but in practice the labour of the entire family is

pledged, irrespective of gender and age. This is very common to pathera, the category of brick workers which comprises the majority of workforce in the brick industry. With their earnings from brick kiln labour they hope to return the advance as well as save some money before returning home. However, the workers pointed out that they are often forced to take a further advance from the same contractors at the end of the work season with the promise of returning to work next season. This sparks a vicious cycle of debt and consequent annual migration to work in brick kilns.

All the workers in our case study were indebted to the labour contractor in varying degrees¹⁰ (Figure 8.6). Nearly 39 per cent of the workers had borrowed more than Rs 12,000 and nearly 40 per cent of the workers had borrowed between Rs 8,000 and Rs 12,000. Thus, the borrowed amount of almost 80 per cent of the workers is almost equivalent to three to six months of their immediate family's earning. Further, nearly 14 per cent of the workers had borrowed money above Rs 5,000 but below Rs 8,000. The brick workers who had borrowed money less than Rs 5,000 constituted merely 8 per cent of the total sampled brick workers.

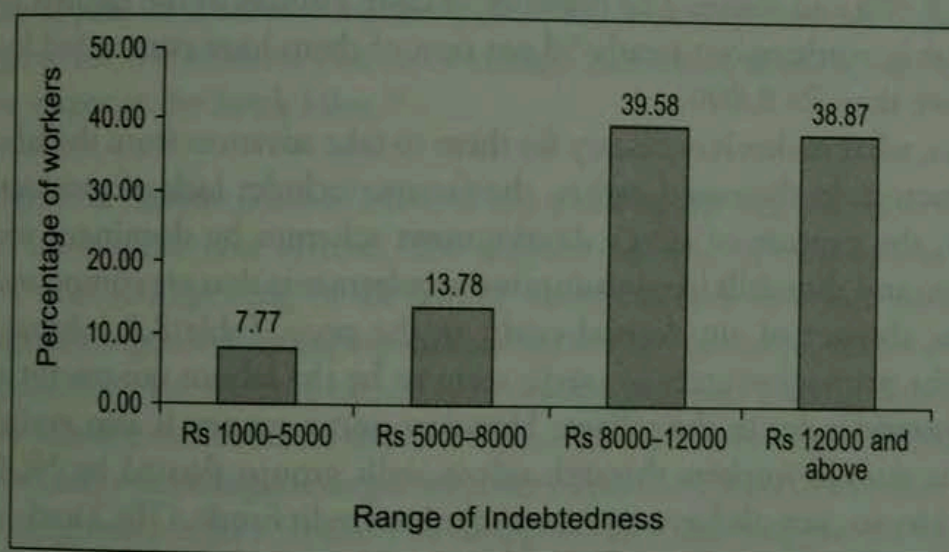


Figure 8.6: Magnitude of the indebtedness of brick kiln workers (excluding administrative staff)

However, when we disaggregate the range of indebtedness by social groups (Figure 8.7), we will find that the Adivasis and Dalits, as social groups, have the most severe debts followed by the OBCs and caste Hindus. More than three-fourths of them have taken advances from the labour contractor—equivalent to 30 to 50 per cent of their yearly family income. When it comes to OBCs, around 30 per cent fall in the highest range of indebtedness and nearly 40 per cent of them have taken a loan

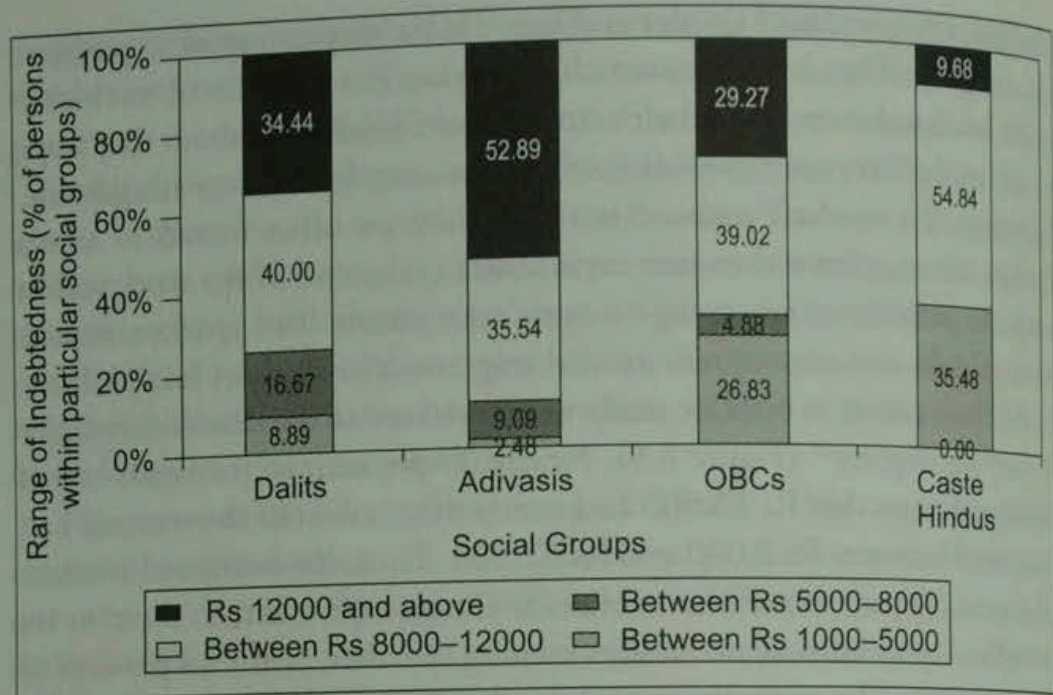


Figure 8.7: Magnitude of indebtedness by social group

of Rs 8,000 and above. The presence of caste Hindus in the highest loan bracket is minimal but nearly 55 per cent of them have contracted loans of more than Rs 8,000.

But, what makes it necessary for them to take advances from the labour contractor? As discussed earlier, the factors include: lack of productive assets, the capture of state's development schemes by dominant social groups, and shortfalls in consumption requirements that are compounded by the absence of any formal credit to the poor. Table 8.3 informs us that the primary sources of credit seem to be the labour contractor and the moneylender in the village. However, some money is also available to our sample workers through microcredit groups floated by NGOs. Dalits in our sample have no access to microcredit funds. OBCs and caste Hindus to an extent also rely on their social network in their respective communities to raise money.

Table 8.3: Sources of credit according to social group

	Village moneylender	Government agencies	Social network	Labour contractor	Microcredit group	Multiple source
Dalits	☑	☒	☒	☑	☒	☑
Adivasis	☑	☒	☒	☑	☑	☑
OBCs	☒	☒	☑	☑	☑	☑
Caste Hindus	☒	☒	☑	☑	☑	☑

Note: ☑ Yes; ☒ No

It seems that the economic condition of the Adivasis and Dalits do not permit them to raise money through their own social networks. These social groups do not seem to command any surplus which can be shared with other friends and relatives at their time of need. In contrast, the social networks of the OBCs and caste Hindus allow them to borrow money and avoid the trap of the village moneylender. The resources from microcredit are not adequate to meet the complete consumption requirements the workers in our sample. By their very nature, microcredit groups are socially homogeneous and they share with their members the accumulated savings of the group. When the savings are less, the credit and loans given by the microcredit groups are correspondingly low. This is the space where the labour contractor steps in and offers credit. Interest free credit¹¹ is offered in return for labour pledged at the brick kilns. This may be the best option available to the majority of people who fall short of their consumption requirements. This labouring opportunity coincides with the lean period when there are hardly any opportunities for work in original places of their residence. This arrangement, which may appear as a secular market principle, translates into an oppressive regime for the workers due to extremely hazardous work schedules and low wages at the brick kilns.¹²

Wages and Labour Unions Most of the work in the brick kilns is carried out on a piece rate system. The majority of the brick workers work as a unit (comprising of all family members/kith and kin who have migrated together), engaging themselves in the various processes of brick production. The income earned is extremely low, particularly if one takes into account the labour of the entire family unit. For instance, the pathera (moulder)—forming the largest number of brick workers in any kiln—was earning between Rs 150 and 180 on a good day. The wage seems to be on the relatively high side, but if we also include the family labour of three to four persons, contributing to their aspect of the production process, the daily income drawn per person drops drastically.

It also appears that the wage structures are contingent on the degree of unionization of the brick workers. A comparison of prevailing wages in the brick kilns in different regions reveals that when brick workers are able to organize themselves on a common platform, against the brick owners, they are able to command higher wages, especially in states such as Uttar Pradesh (UP) and Bihar where the wages are abysmally low.¹³ The same is true for the wages drawn by those brick workers in our case study who

were members of Bharat Mazdoor Sangh (BMS), a union of brick workers in Punjab. The documents of the union claim that the wages prevailing in the kilns where the BMS is active are 24 per cent and 17.5 per cent higher than the official wages (wages decided as per the last price index of Punjab) in the districts of Gurdaspur and Amritsar respectively. The workers were also able to lay claims on a few other entitlements such as provident fund and health benefits. Our own field documentation informs us that the workers do get higher wages and unionization seems to be the cause of this increase. But the official wage record does not reflect the twelve to fourteen hours of labour that the complete family puts in to make ends meet. The unions also work with the structural logic of the piece wage rate system which makes the labour of women and children invisible to the social production process.

Gender, Age, and Quality of Work Done at the Brick Kilns The labour of women and children in the brick kilns is either invisible to the formal accounting process or commands less value. The reason for this emanates from the fact that only male adult members enter into a contract against money advances taken from the labour contractor. The women, children, and older members of the family who may also choose to migrate along with the primary male member and also work with him as a unit are never put on the pay rolls. This puts them out of the ambit of a worker's rights and as a result they are not entitled to the legal benefits due to a worker.

A crucial aspect of the women's exploitation in brick kilns arises from the dominant social construct that men can alone undertake skilled jobs while the unskilled jobs are left for 'their' women. This makes women in the family responsible for the most tedious and laborious jobs such as preparing the dough, carrying the bricks, etc. while the less labour intensive and 'skilled' jobs such as moulding the dough into the shape of bricks, firing the kilns, etc. is done by men. The invisibility of women in the production process is generally true for the patheras. Women are also individually employed as loaders and un-loaders; very few of them will be patheras. Sometimes, these women, who are individually employed, are widows. They are recruited through a female intermediary for women workers at the village level usually called a sardarini. The wages paid to them are not only lower than their male counterparts but are also lower than promised at home. Moreover, the women are subjected to various

forms of humiliation—rebukes, threats, not being allowed to meet their family members, and often sexual abuse. If they are with their respective families, the work performed by women in brick kilns does not translate itself into the lessening of domestic chores like cooking, collecting water and fuel-wood, washing clothes, child care, etc.¹⁴

Another social group cutting across caste, class, and gender which is excluded from the production processes are the children of brick workers. A distinction has been drawn between child labour—children who work for wages—and 'nowhere children'—children who are neither wage workers nor go to school but who mostly contribute to the family labour. It is the latter category of child workers (which we call the 'working child') who are mostly found in the brick kiln sector working with the patheras families. These working children are not in direct interaction with the labour market. They acquire the skills required for the job from their family members. Similar to the labour of women their contribution to the family income is not recognized by the formal production process, while the crucial time required to be spent for their education and development of their personalities is jeopardized.¹⁵ The surplus produced by them contributes to the family income basket while also adding to the profit margin of the brick owner and income of the labour contactor.¹⁶

In our case study of the select brick kilns, we found that there were 240 migrant workers in various categories of employment. More than 60 per cent of the workers were accompanied by a woman member of their family (Table 8.4). Mostly, it was the wives who accompanied their respective husbands but there were several cases where another adult woman family member accompanied a male migrant to work as a social unit in the brick kilns. A substantial number of non-adult children also migrated with their respective families. The study documented 53 children of different ages (more than 20 per cent of the total sampled workforce) at the brick kiln sites who were not engaged as paid workers in the kilns but who were 'working children' (Table 8.4). The maximum number of children who were not formally employed were in the age group of 8–14. The parents also preferred them to accompany them to the brick kiln site because they contributed to the sharing of the work burden as working children. There were fewer children in the 0–8 age group because they tended to be a burden on their parents, especially women, during the course of the working day. It appears that many of the children in this younger age group were left behind to be looked after by other family

members, especially the older ones, who remained at their place of origin. The family labour is mostly found in all categories of work in brick kilns, which is undertaken on piece wage rate. The invisibility of women and children in the production process contributes to the final profit earned through business in bricks.

Table 8.4: Migrant workers with their family—women and children

Type of job	Migrant brick worker from Bihar/Jharkhand and Orissa	With family (wife or adult kith or kin—women)	Age of children		
			0-8	8-14	15-17
Pathera	185	141	21	10	3
Kumhar	20	7	3	3	1
Beldar	12	0	0	0	0
Rapaswala	8	3	0	3	0
Jalianwala	3	0	0	0	0
Nikasiwala	12	0	0	0	0
Total	240	150	17	31	4

The Contest over Wages and Regional Identities The modus operandi of the labour contractors and owners to depress the wages involves creating a chasm in the secular identity of the working class and promoting workers' regional identities. This is especially true in areas where there is a strong presence of unions. When workers are sufficiently organized to demand higher wages and other benefits, the contractors will try to replace these workers by others workers. Our field experience in Punjab revealed that when the local labour started demanding higher wages, the owner employed the services of a Bihari labour contractor to procure workers from Bihar to discard the local labour. Due to the efforts of the BMS, after few months when the Bihari workers also claimed the minimum prescribed wages, the employers switched over to an Oriya contractor to bring workers from his state. This modus operandi of the owner resulted in a fierce verbal duel between different regional identities over the cornering of working opportunities. However, the owners employed goons to ensure that this did not translate into open physical conflict by pushing out the local and Bihari labourers.¹⁷

We should be careful in the interpretation of this described collective action. It should not be taken as a pure articulation of working-class interests spearheaded by labour unions or as an expression of a regional

identity. The mobilization of workers in the union is through the labour contractor. In other words, the labour contractor explicitly works for the owner but at the same time indirectly and quietly facilitates the labour union in their enrollment of workers. Higher payments for workers, facilitated through labour unions, also mean a higher commission for the labour contractor. Hence, any displacement of the workforce also translates into her/his loss while also increases the risk on her/his initial investment (the advance given to workers). Moreover, the workers are mostly influenced by the labour contractors because they owe their jobs to them along with their advance. Any collective action of the above kind is not possible without the consent of the labour contractor. Thus, in the above instance (clash of regional identity), the material interests of the labour contractor are combined with the material interests of the workers and are articulated through the medium of their regional identity.

Policy Regime and Executive Lapses There are twelve major laws which are applicable to brick kilns for the welfare of workers.¹⁸ The district-level governance of the brick kiln lies within the purview of the office of the District Labour Commissioner. The officer, along with his subordinate staff, is expected to regulate and ensure compliance with various labour laws pertaining to organized as well as unorganized labour, and also to act as an arbitrator in the event of any dispute between an employer and an employee. However, during the field visits and during an interview with concerned officials, we came to understand that almost all the regulations are repeatedly flouted¹⁹ and that very few arbitrations went in the favour of brick workers.

Almost all the officials as well as some of the few trade union leaders attribute this to the vast chasm between the workload in the labour commissioner's office and the strength of the staff available to perform their regulatory role coupled with either the inability or unwillingness of the state government to lift a ban on fresh recruitments. Whatever the status of this mismatch, this study does not support this explanation. The violations of the labour law are due to structural as well as functional flaws in the current legal regime. The philosophy behind these legal provisions itself makes them structurally flawed. There is still no legal provision which takes into account the specific requirements of brick kiln workers. All the labour laws are general in nature and applicable to the large organized and unorganized sectors. Informed commentators

(Jhabwala (2003) note that these acts are based on the supposition of an industrial factory system. They were designed primarily to protect workers in such a system. The cornerstone of the acts was the existence of an employer–employee relationship and of a workplace where the employer could exercise control and supervise work. Thus, the labour laws are explicit in offering security to such workers with the active participation of the employer (insurance, provident fund contribution, etc.) (ibid.). In the brick kiln sector, while there is an employer for the brick workers, there is no employer–employee relationship. The labour contractor or the kiln supervisor proxies for employee.

On the functional side, the implementation of the legal provision is not possible—even to a limited degree. Although the employers are under a legal obligation to provide certain benefits to the workers, the brick kiln itself does not qualify for the legal status of an industry. This points to the a flaw in the legal framework in which the employer is 'compelled' to meet the requirements emanating from the legal stipulations, but does not have any legal standing to claim the state benefits provided to formal industries. However, this is not to deny that an overwhelming majority of the brick kiln owners would prefer to remain outside the ambit of industrial regulation since their present status permits them to manipulate and maximize the surplus they extract. Moreover, the manipulation is easy in the unorganized sector because the 'willing lapses' on behalf of the executive machinery can be easily bought for a price.

Willing lapses emanate from a symbiotic relationship between government officials, local political leaders, and muscle power. Most of the brick kiln owners are the local landed elite or business people who, besides owning more than one kiln, invest in other economic activities. Thus the managerial work in most cases is done by salaried or commissioned employees. This proxy control by the kiln owners allows them to carry out several economic activities simultaneously. Economic power also brings them close to the local political leaders. In fact, many of the brick kiln owners are themselves local political bosses which gives them the necessary leverage to flout the provisions of the existing laws with impunity. Further, government officials are always kept in good humour through the offer of presents and bribes. A study, documenting the breakdown of items that the owner has to pay towards setting up and running the kiln, lists commissions paid to local brokers and goons as well as to the union leaders (Sarin & Sandhwar 1990). This is generally done to influence them in their favour at the time of any possible workers' unrest.

HOW DOES THE LABOUR MARKET REPRODUCE THE UNDERPAID WORKERS?

The workers in the brick kilns, no doubt, are the poorest individuals who choose to migrate to such oppressive work conditions. The primary cause of migration emanates from consumption shortfalls which force them to accept the loan offer of the labour contractor. What appears as a win-win situation triggers a vicious cycle of debt—involving migration—more debt and recurring migration which finally restricts the livelihood options to the exploitative conditions at the brick kilns. This pattern is a classic case of unfree labour through debt bondage. We can think of several axes along which the economic relationship in the brick kiln's labour market can be disaggregated and all in combination with each other reproduce the underpaid and exploited workforce.

On one axis lies the categorical class distinction between kiln owners, intermediaries, and workers. However, it is not a neat twofold distinction between owner and worker where the former is supported by his agents (intermediaries). The class structure acquires a pyramidal segmentation. At the apex is the owner followed by the intermediaries. The owners largely consider themselves as a non-opposing class²⁰ but also differentiate themselves economically. The latter implies owners making a self-perceived class distinction as per their asset holding, the range of economic activities each of them controls, the number of people working for them, and the amount of surplus they are able to extract. Notwithstanding the class difference between the owners, the capital represented by them is far more cohesive when it comes to the question of retaining the status quo in the capital-labour relationship. This cohesiveness, as explained by some of the owners, was manifested in allowing the workers from their kiln to shift temporarily to other kilns (rather than poaching one another's workers) when the latter receives a large order for supply of bricks, thus meeting the short-term capital needs of each other, collecting money for the monthly rent-giving to local state executives, etc. The workers, in the opinion of the owners, are a homogenous block. At the same time, the owners deal with them through their ascribed identity of caste, region, gender, and language for the purpose of labour management. The workers, no doubt, are in the brick kilns because of their low economic status and consequent relationships of debt bondage with the labour contractor. Notwithstanding this fact, they perceive a class difference among themselves and define it in terms of the quantity, quality, and type of landholding they own,²¹

their type of residence back home and its location in the village,²² and their bargaining power with the labour contractor.²³ This self-perception stratifies the brick workers into several layers. The most numerous are the ones who are economically the weakest. Stratification on the basis of self-perceived class difference is further buttressed by a far more rigid social stratification arising from their ascribed social identity, an aspect that we shall discuss in the following pages. The stratification between the workers results in fragmentation of their class identity vis-à-vis the far more cohesive character of capital, a necessary condition for propelling the reproduction of the capital-labour relationship.

The second axis is governed by the largely ascribed social identity. This implies a social identity acquired at birth, i.e., caste, region, ethnicity, language, and religion. These identities (either individually or in combination) can differentiate or unite owners as well as workers. The primarily pre-given social identity most crucial in dividing owners and workers is between the upper caste owners and largely the Dalit and Advisi workers. But it appears we cannot depict such a neat twofold division along this axis either. Both the owners and workers seem to be united and divided in varying degrees. The owners in their perception are a 'non-opposing' class because their difference in class status is mellowed by a common identity of upper caste Hindu Sikhs, speaking the same language and practising the same religion. Religion and caste in their perception appear to be the strongest bonds of a common identity. Further, as we have noted earlier, three of our sample owners were active in local politics and management of the gurdwara respectively. The institution of gurdwara here is not only a site for practicing religious rituals and cementing ones religious faith but also a space where owners can develop their social proximity to state officials as well as other influential members of the local society. Similarly, political affiliation allows proximity to state executives and also links business interests with local politics. The latter implies that on one hand the business of brick kilns, whether legal or illegal, must be articulated with the local state/political machinery. On the other hand, it helps political parties to mobilize money through business persons for the cause of their politics or for simply satisfying their rent-seeking endeavours. Political affiliation can also be a source to facilitate rent-giving endeavours to the state officials as well a medium to influence their actions. Thus a social relationship helps to evolve and sustain an illegal economic relationship which in turn facilitates the flouting of legal provisions without any fear of executive sanctions. When it comes to the workers,

they are united as well as divided by their pre-given social identities. The labour markets in brick kilns, as we have shown, are heavily populated by historically marginalized social groups—Adivasis and Dalits—albeit with a small presence of other social groups like the OBCs and upper caste Hindus. The social identity of workers in the brick kilns is governed by the labour contractor who brought them to the kilns. Within the kilns, however, they further differentiate themselves with others through the region of origin, caste, and language. We noted that the social groupings and camaraderie, which evolve within the kilns, are governed primarily by caste, language, and region. Neither of these social variables on their own individual strength can galvanize group behaviour. For instance, it was not possible to document group interaction²⁴ between upper castes and lower caste/different ethnic groups. At the same time, it was equally difficult to record a group interaction between Punjabi Dalits and Bihari Dalits, or between Adivasis from Orissa and Jharkhand, or between Dalits and Adivasis. On their own admission, caste/ethnic identity and language were the two most important factors for interaction and (mis)trust.

The differentiation between the workers, both perceived and real, has considerable impact on their socio-economic status, both at their home as well as the brick kilns, and especially their relationship with the labour contractor. In order to make it clearer, we make a distinction between exclusion and discrimination. All the workers, irrespective of the social groups, are economically excluded from the development processes and occupy the lowest position in the class ladder. However, the historically marginalized social groups (Dalits and Adivasis) are not only excluded but also discriminated against. As per the perception of Dalit and Adivasi workers, their social status prevents them further from accessing development schemes, health and educational facilities, and economic enablers. Dalit workers informed us that microcredit initiatives were quite successful in their home locations and yet they were not offered these services either by the government agencies or the NGOs. Similarly, both Dalits and Adivasis are prevented from accessing health benefits; and the meager resources in the sector are captured by the dominant/entrenched social groups. The social network of the upper castes and OBCs either allows them to access the development facilities or at least, in times of contingency, allows them to borrow money from kith and kin. This is also reflected in our tabulation on sources of credit (see Table 8.3 given earlier). The upper castes and OBCs also bank on their social networks for meeting shortfalls in consumption requirements and hence their

dependence on the labour contractor is reduced. It may be the case, but not necessarily so, that upper castes take advances as surety. This is not so for Adivasis and Dalits where the only major source of credit seems to be the labour contractor.

Thus we see apparently different roles of pre-given social identities. On the one hand, the historical marginalization is further buttressed by new forms of discrimination which block access to development resources. The upper castes and OBCs, it appears, see Dalits as well as Adivasis more or less as a homogenous social group. However, the Dalits and Adivasis among the workforce differentiate themselves on the basis of language, region, religion, and caste. This social understanding completely fragments their secular working-class identity. It is further reinforced at the work site by the conscious recruitment of workers in different but homogenous social groups. Negotiations and deliberation by the labour contractor are not carried out with an individual worker but with a given social group, often through its informal leader. This practice makes the workers far easier to control, regulate, and coerce, if necessary. On the other hand, the same social variables of caste, religion, and language unite the interests of capital and make the workers from different social groups labour towards the interest of the owners.

The third axis of disaggregation in the labour market of brick kilns is according to gender relations. We have already noted the invisibility of the labour of women and children. But men, irrespective of class, ethnicity, and caste were more or less unanimous in the view that women workers are unskilled, less productive, and slow in their work. Workers see them as mere helping hands in their economic activity, once they are free from their 'primary' duty of cooking and other family responsibilities. Owners opine that the piece wage system makes good business sense because of the large number of women who choose to migrate with their families. Daily wages, they feel, will ruin their business because of the low skill and productivity of the labour. They also felt that the presence of men helped in maintaining better quality of female work. So we observed that gender constructs of all men, irrespective of their socio-economic positions, helps capital to reproduce itself at the expense of the workforce.

The fourth axis of disaggregation in the brick kilns guiding the 'disciplined' workforce is the ambiguous class status of the labour contractors. The material interest of the labour contractor lies with the workers and the owner. A labour contractor in the brick kilns, on an

average, has made an investment between Rs 200,000 and 500,000 in the form of advances to workers. His return on this investment is closely related to workers earnings. He would like wages to rise and hence he links workers to the unions²⁵ but at the same time he maintains a cordial economic relationship with the owner in order to ensure the retention of his workers. It is much easier for the brick kiln owner to replace the labour contractor and get a fresh set of workers through another labour contractor. In such a situation, the labour contractors will side with their workers only if their material interests are threatened. Otherwise, they will abide by the owners demand for the supply of disciplined workforce.

The final axis of disaggregation is the local state machinery, entrenched/dominant social groups, and owners of the brick kilns on one side and the mass of workers fragmented by the labour processes and also by identities of caste, class, ethnicity, language, religion, and gender on the other. The local state machinery at both places—the original home of the workers and the destination location when they are migrants—works against the interests of the mass of workers and sustains them in their present deprived status. This has to be understood against the backdrop of an iniquitous initial distribution of property and resources and the equitable development mandate of the state. The attempts of the state to bridge the vast inequity, in practice, resulted in a widening disparity between social groups. It has also created a geographically uneven development process along with the state's inability to oppose the socio-economic interests of the powerful. It was repeatedly explained by the workers that the development benefits at their home location are either non-existent or captured by powerful social groups. The threat of violence or actual violence was a major deterrent for workers whenever they decided to negotiate their livelihood options locally.²⁶ Moreover, any lawful action against violence on complaints by the workers is not considered a legitimate response by the workers. These factors combine together to create a gap between their meager income and modest expenditure thereby forcing them to fall into the trap of the labour contractor. At the worksite, it is again the local state which on time openly coerces the workers or works in the interests of the brick kiln owners by overlooking the latter's violation of laws (whether as a sign of solidarity towards caste and religious peers, in return for economic rent, under the pressure of local politicians, or because of all these factors) and thereby contributes towards reproducing the pathetic condition of the brick workers.

TOWARDS A CONCLUSION: MARKETS, EXCLUSION, AND DEBT BONDAGE

The research reported here leads us to conclude that the economic behavior of the dominant agents in the labour markets is consistent with the characteristic features of the latest form of capitalist markets.²⁷ The markets are structured by the interests of groups defined in terms of multiple identities and the suppliers of labour power mostly adhere to the given structures. The social structures²⁸ have an in-built inertia which means they retain status quo. This is not to deny that pressure from below may force the structures to change. In such an instance, innovative strategies evolve in order to re-work the forms of a structure but retain its essential content. This appears to hold true for the unorganized sector in India in general, and brick kilns in particular. The labour regime in the present period is significantly different from the earlier era. The structural changes introduced in the economy at the behest of the dominant social groups, largely from the beginning of the 1990s,²⁹ have resulted in a substantial freeing of labour. The last decade and a half has also seen considerable investment of private capital, which in turn has also resulted in increased market competition. However, unemployment trends over the last decade show that expansion in private investment is not sufficient enough to compensate for state withdrawal and declining state expenditure. In the social sphere, decades of pressure from below has ushered in significant changes in caste-related social practices. Caste as well as ethnic identity in the present period has shaped itself in a political ideology and practices related to them have also significantly changed with important implications for labour markets.

The emerging labour market, it appears, is structured by centralized capital control and decentralized production processes. The production processes based on the piece wage rate system does not require constant monitoring. It allows the capitalists to invest their surplus and reap returns which can be re-invested without their direct participation in production processes.³⁰ Their intervention is limited to structuring the institutions, both formal and informal, governing the outcome of the markets. The crucial analytical effort is to understand the nature of the capital interventions to regulate these institutions.

As we know from Nayyar (1998: 3122), markets exclude people as producers or sellers if they do not have assets or capabilities which can be used to yield an income in the form of rent, interest, or profits. Such

exclusion is shaped by historical factors and reinforced by the current socio-economic processes. The formal institutions of the state can step in and mitigate the gap between different individuals/social groups in the ownership of assets and capabilities by creating entitlements for those who lack them. However, the institutions of the state have largely articulated, reflected, and reproduced the interests of entrenched and dominant social groups. This results in uneven development between regions, an underdeveloped or inaccessible market in land, labour, and credit, the capture of developmental benefits by unintended people, violence or threat of violence in case of protests by the rightful claimants, and the unavailability/impossibility of accessing access institutions promoting and guarding the rule of law. So, the entitlements for Dalits are either not created or if they are at all provisioned, there is a high possibility that they are captured. Economic exclusion and consequent poverty impinges on the historically marginalized social groups more than others because they are not only excluded but also discriminated against. All this has contributed to the unequal distribution of assets and capabilities resulting in benefits for some, and persistent poverty for many. The labour market and conditions of work, including wages, is thus shaped by lack of assets and capabilities, unequal social relationships, and a complex of economic, political, and legal institutions of the state whose actions are non-actions from the standpoint of the historically deprived population. Such structurally-induced deprivations and poverty translates into a vast gap between income and expenditure among workers. This forces them to source loans from the labour contractor and pledge their labour in return. The consequent labour effort is not to earn wages so much as to service their debt. Earnings in the labour market are extremely low, a fact which forces workers to take recurrent loans, thereby triggering off a vicious cycle of debt bondage. Entry into this relationship may appear to be voluntary. But are their labour efforts free? Or are they unfree? As per the classic definition given by the Thorner (1957: 84), free labour has several important attributes. These are: her/his ability to accept or reject the conditions and wages offered, and freedom to quit and seek alternative employment, while an unfree labour is constrained by the absence of any bargaining power, an inability to refuse the terms of her/his master, and being tied to the needs of the master either through custom, compulsion, or specific obligation. In the context of Thorner's definition, it appears that labour efforts, in our case study, are not free since the workers are unfree to accept or reject the conditions of work. The

formal and informal processes present in the society marginalizes some and further discriminates against many, leaving them with no option but to commit and sell their labour power for a bare subsistence at the terms and conditions offered by the labour market. We stress that the workers are not tied to an employer or creditor due to any custom or specific obligations but because of their economic compulsion. Our case study confirms studies by Bremen (1993, 1996) and Jodhka (1994) that the institution of the patron–client relationship has been completely eclipsed. We find that the new relationship is completely based on market principles where the wages are largely a result of demand and supply of labour, and earnings are largely contingent on productive capacity. The institution of the labour contractor and debt bondage intervene and regulate the supply of labour, ensuring that it is slightly more than the demand which in turn keeps the earnings of the workers—both migrants and local³¹—abysmally low. It is the perplexing capacity of the labour market to portray labour as ‘*de jure* free’ (provided the debt is repaid, she/he can quit),³² when in fact it is ‘*de facto* tied’ (low wages and more debt ensures her/his return). Market dynamics lead to labour reproducing itself at barely or at times below subsistence level. If bonded labour were an outcome of landlords’ efforts in agriculture to hold the labourers back from an exodus and depress their wages (Banaji 1977; Mundle 1979: 92), or the need of the master for additional labour (Breman 2007: 46-7), then debt-induced migration and consequent debt bondage in the present form of capitalism would be structured to control the supply of labour and their wages in the markets. The unwillingness on the part of the official discourse to recognize the present form of debt bondage as an institution of capitalist markets which reproduces an underpaid and exploited workforce, without much open coercion, results in governance measures like registering the migrants, giving them roaming public distribution cards, surprise raids to identify and liberate bonded labourers, etc. Such measures are tackling the symptoms instead of addressing the structural causes responsible for debt bondage.

Debt bondage is not the only institution that makes the socio-economic relationship in the market exploitative and unequal; there also exist other social institutions which feed into the same processes. Capital intervenes to further shape and reinforce the identity of workers on the basis of caste, class, region, language, gender, ethnicity, and religion. As noted earlier, similar social identities support the united face of capital, notwithstanding their internal contradictions, while it fragments workers

identities. The labour market processes do not recognize the individual workers but workers belonging to a particular social group. Accordingly, it negotiates the market transactions with them. The brick market negotiations are purely economic in nature but, as noted earlier, social status (whether one is only excluded from the development process or also discriminated against) and the resultant control over assets and capabilities affect their entry into the market and thereafter their bargaining power. A similar socio-economic process of regulation and control over wages has been described by Brass as de-proletarianization. The process of de-proletarianization implies 'replacing free workers with an unfree equivalent or by converting the former into the latter' thereby reducing the cost of labour in order to 'prevent the emergence of specifically proletarian consciousness or to curtail the latter where it already exists' (Brass 1999: 13–14). Two arguments, flow from this. First, there appears strict duality between unfree and free labour and also between the workers and the capitalist. The distinction between the labourers stresses on the agency of the individual workers. They are restrained from 'class for itself' action by the processes of deproletarianisation. The capitalist–labour duality argument concerns the need of a 'capitalists *as a class* to control workers *as a class*' (Brass 2003: 107). Second, the political power of the state is construed as a reflection of the dominant social processes.

We argue, with the help of insights from our case study, rather than a duality, there is a continuum between 'free' and 'unfree' workers. Their status is affected by their bargaining power at the time of market entry (which is 'over-determined' by their social status and their assets and capabilities). More crucially, they are *de jure* free to step outside the economic relationship (Jodhka 1994). The actions of the capitalist are shaped by the 'class for itself' endeavours. Their social location also helps them cement economic ties. But as a class, the economic and social behaviour of the workers is mediated by their self-perceived class distinction as well as differences emanating from their multiple social identities. Hence, there are class factions within the same class, further divided by caste, religion, language, ethnicity, gender, etc. These identities have been historically forged to prevent the asset and capability needed to acquire an identity which can be sufficiently proletarian. Further, 'de-proletarianization' as a strategy of the capital is not merely an economic and social process but also political: the status of workers is also influenced by the non-action of the state executives.

Therefore, we argue that workers are *de jure* free in the market but the operation of the market ties them to exploitative conditions through various socio-economic and political institutions which the dominant and entrenched interests not only nourish but are also able to sustain. As a result, the institutional structures of the markets reproduce their labour power at the bare subsistence level.

NOTES

1. Reflected in noticeable disjunction between rate of growth of employment and rate of growth of labour force.
2. Due to crop failure and increasing debt burden.
3. This is particularly true for the rain-fed areas. Rain-fed areas account for about 60 per cent of the total 142 million hectares of net sown area in the country.
4. Our case study is from a few brick kilns, but we tend to believe that the same processes documented in the brick kilns will be largely true for other unorganized sectors.
5. There are reasons to believe that the case studies of the different authors cited here and their generalizations of the social facts may no longer hold true because of lapse in time (at least for a few of them). Even in such a case, it will help us to understand the continuities and changes in the nature of labour effort. Moreover, the discussion here is indicative, and not exhaustive, of the major strands of debate on this particular issue.
6. Breman (1974), in one of his earlier works, describes the labour relations between the landlords and landless as patronage and exploitation. The former implies 'concern and self-imposed obligation' on the part of the landlord to meet the social and other expenditure (mostly advances in kind) and the bare basic needs of the labour working for him, not as a gift but as an advance. The process becomes the source of indebtedness for the labour and in return the labour commits himself and the labour of his family. In due course, with rising indebtedness, the services are no longer voluntary but acquire the form of servitude. In terms of an economic relationship, the labour market develops labour bondage through patron-client relationships. The capital controlled mostly by the upper castes subjugates and controls the labour of the lower castes due to the economic necessity of the latter, as also the social hegemony of the former.
7. We will discuss the modus operandi of coercion in the section 'Contract and Debt'.
8. This is not to deny the fact that migration is quite a complex phenomenon and as such lack of assets is only one though important cause. For some of the other non-tangible reasons please refer to Shah (2006). She argues that the non-tangible reasons may result in migration to brick kilns, nevertheless, the end result being capitalist exploitation of the workers.
9. We have taken the category of less than 2 acres as near landless because of twin reasons. The first being that a below average and un-irrigated land is as good as

- not having land because of its low productivity. Second, it is a common tendency among workers to report their family land as their land. In other words, there are other claimants within the family for the produce of the same land.
10. The amount of their loan, as explained by the workers, was the amount which they owed to the labour contractor at the beginning of the season. This also includes, at least for some workers, the loan taken at the end of the previous season.
 11. This is not always the case. Kapadia (1995: 467) in her case study of the gem-cutting industry in Tamil Nadu had similar findings as our case study: that workers work to repay their debts and not to earn wages. But unlike our case study, the workers in the gem-cutting industry were returning the principle amount as well as interest.
 12. The same facts are corroborated in numerous case studies on brick kilns. See, for instance, Dayal & Karan (2001); Guérin (this volume); Gupta (2003); Malhotra & Sidhu (2003); Sarin & Sandhwar (1990).
 13. The documentation carried out by the International Federation of Building and Wood Workers in 2004 for the labour unions promoted by them tells us that the wages drawn by various categories of brick kiln workers are higher (by 15–25 per cent) than the workers who are not members of any particular union.
 14. The facts about the low socio-economic status of women, their pathetically low educational status, long hours of work, physical and sexual exploitation in the brick kilns has also been documented in other case studies. See Pandey (1993); Sarin & Sandhwar (1990); Singh (2003).
 15. The very structure of brick kiln activity whereby the family migrates for the good part of the year prevents them from attending school, though at several places, for instance, in Buldhana in Maharashtra, Begusarai in Bihar, Salem in Tamil Nadu, schools have been started at the site of brick kilns. This is not enough to coax the parents to send their children to school because the experience of the labour market of the adult family members is such that the skills required to enter the wage market can be learnt by them without attending formal school. Thus, children even in households which can afford to wait for returns from education enter the labour market at an early stage.
 16. The literature makes a distinction between the working child and child labour. The latter implies that the labour of the child is in direct interaction with the market, where the wages are low even if the quality and quantity of work done is similar to that of an adult. See Prakash (2002).
 17. This instance from the field does not imply that two or more regional identities can never co-exist and work together in the same brick kilns.
 18. These are as follows: Factories Act, 1948 (the brick kiln is a factory and hence the law applicable to the factory applies to brick kilns); Payment of Gratuity Act, 1972 (brick workers are entitled to gratuity subject to completion of the period specified); Payment of Bonus Act, 1965 (kiln workers are entitled to payment of bonus subject to the kiln employing twenty or more persons on any day during the accounting year); Employment Provident Fund and Miscellaneous

Provisions Act, 1952, 1963, 1971 (workers are entitled for Provident Fund subject to twenty or more persons being employed and if the worker has rendered sixty days of work); Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 (if 50 per cent or more of the total workforce of the brick kilns are the inter-state migrants, the workers are entitled to residential accommodation, free medical aid, and payment of wage for the period of the journey); Bonded Labour Abolition Act, 1976 (no worker can be kept in captivity or against his will through the use of force); Equal Remuneration Act, 1976 (equal remuneration to be paid to men and women workers for the same work or work of a similar nature); Prohibition of Child Labour in Hazardous Industries Act (no child below the age of fourteen should be employed in brick kilns); Contract Labour (Regulation and Abolition) Act, 1970 (the main objective is to take care of a variety of malpractices indulged in by intermediaries); Minimum Wages Act, 1948 (payment of minimum wage for daily as well piece rate work as decided by the government); ESI Act, 1948 (to introduce an integrated system of health, maternity, and accident insurance); Workmen Compensation Act, 1923 (workers are entitled to receive compensation for injury caused during the course of their work).

19. For instance, The Factory Act of 1948, which provides for regulation of working hours (section 51 to 55), wages for overtime (section 59), and grant of leave (section 78 to 84 of chapter VIII). It should be noted that an overwhelming majority of brick workers are employed as piece wage rate earners and hence these provisions do not hold any meaning for this sector. Section 6 of the Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979, prohibits employment of inter-state migrant workmen without a certificate of registration issued by the respective home state government. None of the workers we met are even aware of such legal formalities, nor were the employers bothered about the same. Further, section 8 of the act requires that a labour contractor should have a license in order to qualify for carrying out his 'business' of recruiting and supplying workers. According to informed sources almost all the brick kiln owners flout this provision because the criterion of a labour contractor who can carry out his/her business successfully is governed by his/her ability to procure and ensure a regular supply of cheap and efficient workers. Further, sections 16, 17, 18, and 19 of the Contract Labour (Regulation and Abolition) Act, 1970, makes it mandatory for the brick kiln owners to provide welfare and health facilities. Our field visit as well as numerous case studies reviewed for this essay do not provide any such evidence to document. Similarly, section 2 of the Bonded Labour System (Abolition) Act prohibits giving any advance in cash or kind as consideration for recruiting workers. In most cases this provision is most daringly flouted. Further, there does not appear to be even a scant respect for Prohibition of Child Labour in Hazardous Industries Act or the ESI Act, 1948 (providing for an integrated system of health, maternity, and accident insurance). All the acts in general and the ones relating to women in particular (for instance, The Maternity Benefit Act 1961, Equal Remuneration Act, 1961) are easily

open to manipulation and subversion because of the nature of the industry itself, which relies informally on family labour, i.e., a majority of the recruitment in the brick kilns for all legal purposes is carried out by enrolling the male members of the family. Furthermore, two specific provisions—The Minimum Wages Act, 1948, and The Employees Provident Fund and Miscellaneous Provision Act, 1948—are generally subverted. However, in specific kilns and in some regions, where there is a strong presence of labour unions, the workers are able to procure these benefits as provided for in these acts.

20. The owners consider themselves as having the same socio-economic interests, though they may compete when it comes to protecting pure material interests. The conflict may arise on the issue of control of labour when the supply is low, contesting each other for the same business order, etc. We were also told of instances when two of the owners were able to procure land at concessional rates for brick kilns due to their proximity to political leaders. Such a concession, which in the final analysis lowers the capital investment and adds to the profit, especially in relation to others, is seen with admiration as well as jealousy by the business peers.
21. It implies type of soil and productivity of the land.
22. The difference between legal title and encroached land, cemented house, and mud house.
23. We will elaborate this in the next section.
24. An attempt to document group interaction was made by asking workers' preferences in interviews and the reasons for the same, as a participant observer, during their lunch break and evening meals. Similarly, women were documented while cooking food for their families in the makeshift common kitchen and sharing of the utensils.
25. We have discussed, earlier in the section on contest over wages and regional identity, that trade unions make their members through the labour contractor.
26. A demand in higher wages results in such behaviour on the part of the powerful.
27. We call it the 'latest form of capitalist market' because the present onward march of market capitalism is largely devoid of any welfare measures, a fact which had some semblance of presence in the era of welfare capitalism.
28. Structures are shaped by several institutions, both formal and informal.
29. For a discussion on the structural causes for the ushering of economic reforms, see Chandrasekhar & Ghosh (2002).
30. The owners of the brick kilns, in our case, were agro-mercantile elite and with the help of surplus drawn from agriculture they ventured out into several newer economic activities in the urban areas, while retaining close connections with the rural hinterland. Their investments were managed by family members/kin, and supervised by a proxy employer.
31. Harriss (1992: 207–8) cites the case of northern Tamil Nadu and points out that the rural labour market is thus characterized by the deliberate exclusion of local labourers at the expense of migrant labourers who can be better controlled. This

segmentation not only helps in the reproduction of capital-labour relationships but has also resulted in progressive impoverishment of large group of labourers in an area of accelerated economic growth.

32. It is the *de jure* face of free labour which Jodhka (1994: A-106) finds in his case study of Haryana. He points out that attached labour is based on economic deprivation but that among them is a growing dislike of the attached status and hence their attempt to mobilize alternate sources of credit.

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9 Neo-bondage, Seasonal Migration, and Job Brokers Cane Cutters in Tamil Nadu

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After Brazil, India is the second producer of sugar cane in the world. Around 35 million producers depend on it. Considered a priority sector, sugar production has always been highly organized and controlled by the state. State control was imposed at the end of the colonial period in the 1930s, with the existence of strong trade barriers. It was strengthened in the 1950s in the framework of the five-year plans, and it is probably during the 1980s that state interventionism reached its peak through extremely strong political incentives with the goal of making India the first producer in the world. Since then, various incentives exist, for the producers as well as for the sugar mills. Among other measures, the minimum prices (fixed at the central level, but also at the state level) are a matter of permanent debate and tension between the producers, the mills, and the government. The question comes up every year and gives rise to strong polemics which are widely publicized, the key issue being to ensure simultaneously minimum retail prices to the poorest for a consumer good considered as essential and decent incomes to the producers (Acharya 1997; Landy 2006: 80).

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At the same time, it is surprising to see that the issue of the working conditions of the harvesters does not attract attention even though, in many cases, they are absolutely miserable. Harvesters are often migrants, recruited from production areas known for their cutting skill. They come and go according to the needs and the production peaks. The observations of Jan Breman (1978, 1996, 2007) concerning Gujarat and Maharashtra also match with those in the south, in particular in Tamil Nadu, the third producer after Uttar Pradesh and Maharashtra. The sugar cane sector, considered the second agro-industrial sector in India, part of what is called the 'formal' sector, shows how much the intensification of capitalistic and 'modern' regimes of accumulation, far from providing security and improving working conditions, are, on the contrary, highly compatible with over-exploitation of the workforce and the persistence of bonded labour relations. The transformation of the accumulation regimes has on the contrary fed on this migrant workforce, reputed for its discipline and its docility, and well adapted to the needs of cyclic production systems, which are continuous and faintly capitalistic.¹

While the state of Tamil Nadu can be considered as one of the most progressive Indian states in the field of bonded labour, by recognizing its existence (even if it is in a very partial manner) and by taking some action against it, it is also surprising to see that certain forms of bondage are totally neglected. This is especially the case for seasonal migration in agriculture. All the official reports on the subject limit themselves to the 'traditional' forms (long-term relationship between a landlord and a worker with his family).² When the question is raised with the officials, the argument of the formal sector automatically excludes the question: bonded labour, when it is recognized (which seldom the case), would be limited to the so-called 'informal' and 'non-organized' sector. On the part of the NGOs, while their intervention seems to intensify in different parts of the state and in various sectors (the brick kilns, construction sites, quarries, weaving units, etc.), here also seasonal migration in the agricultural sector doesn't draw any attention.

Our observations do not leave room for doubt: in the sugar cane industrial sector ('white sugar')³, a large number of cane cutters are indeed bonded labourers. On the other hand, all harvesters are not bonded. It is interesting to note the diversity of management modes of the workforce and to see that bondage is neither necessary nor inevitable. In the state of Tamil Nadu, two systems co-exist. One is based on a migrant workforce, recruited by an advance and through the intermediary of jobbers who

play an essential adjustment role, the other on a local workforce recruited without advance and where the role of the jobbers is reduced to the bare minimum. Notwithstanding the living conditions, which are really pitiful for the migrants, the wages can vary by as much as 40 to 85 per cent. The main purpose of this article is to analyse the consequences of seasonal migration on the working and living conditions of the cane cutters. As observed in others sectors and others regions of India, we'll see that a greater labour spatial mobility does not mean a 'free' labour force, quite the opposite (see Srivastava's contribution in this volume). Not only is it the workers themselves who entirely support the cost of migration but their migrant position, because of the advance and the presence of a job broker, induces 'multiple asymmetries' as well as very high 'exit costs', to use the terms of Ravi Srivastava.

The article starts with a comparison between the two systems of labour management (migrant labour versus local labour). Despite an apparent (and relative) freedom of the workers (which can be assessed either through their own (subjective) perception or the fact that they are allowed to change their jobber), all the migrant workers are well and truly bonded, and this is for two simple reasons. Their indebtedness and their dependence to a jobber (even if is a short-term dependence) leaves them without any bargaining power (which is then entirely in the jobber's hands) and condemns them to accept starvation wages. As in many neo-bondage situations, the jobbers are instrumental in setting up bondage mechanisms. Without pretending to any exhaustiveness (the jobber's role is very complex), we will focus on two aspects of their multi-dimensional role. We will see how they monopolize the discussions and the bargaining as regards wages, and how this allows them to extract a huge part of the labour surplus. We will also have a look at the advance system, which requires a subtle balance between generosity and rigor (how to push the workers into a debt trap without spoiling their creditworthiness). Finally, we will also see that the beauty (and the perversity) of the system relies on an intermediation chain rather than single individuals. The main jobbers—called *maistries*—surround themselves with *kiz-maistries* but also with a myriad of other actors, usually chosen within the close kin (men as well as women). This family-based network ensures the efficiency of the system while reinforcing its opacity as well as the extraction of the labour surplus.

The article is based on intensive fieldwork conducted between 2003 and 2007 in several areas of production of Tamil Nadu. The major part

of the data comes from qualitative information (life histories, informal discussions, immersion, and observation) collected in the native village of the workers and in the production sites, and combining various standpoints (workers, maistries and kiz-maistries, landowners, mill officers). This qualitative information, essential to understanding the process and the functioning of the sector, has been supplemented with quantitative data concerning the working and living conditions of the workers. Around 300 workers have been interviewed as regards the advances and the wages (with a systematic crosschecking with the maistry's standpoint). As for the working and living conditions, the sample has been limited to around seventy workers.

WHY CAN WE TALK ABOUT BONDAGE? THE ADVANCE SYSTEM AS A WAY TO MINIMIZE LABOUR COSTS

The opposition between free and unfree labour has led to many debates, with endless discussions on the voluntary or involuntary dimension of bonded labour (see Lerche's contribution in this volume). In an environment of extreme poverty, where most of the decisions are, unfortunately, the result of lack of choice, what is the meaning of such a debate? To ask the workers about their own understanding is also difficult. As with any fieldwork, the relations between the researchers and the people under study are very likely to be prone to bias, and this all the more with people in great poverty: some seek to provoke pity and compassion; some, on the other hand, want to preserve their dignity even if it means idealising reality. In our case, it seems that the workers seldom consider themselves bonded. As in the brick kilns (see the article by Guérin et al. in this volume), they clearly make a distinction between their own status and the status of the *padiyal* or *pannaiyal*,⁴ considered degrading, especially among the youth. In one of the villages where the fieldwork was done (Villupuram district), and where about 80 per cent of the scheduled castes (*paraiyar*) migrate every year for the sugar cane, thirty years ago, a number of families worked as bonded labourers for the local landlords (mostly *reddiars*). This period is now over and the villagers are proud of it, except some elderly who speak of it with nostalgia, mentioning the feeling of security ('we ate every day'), but one can also suppose that these evidences are biased by memory and the wish to discredit the present uncertainties. Also, sugar cane cutting is considered a local, 'traditional' activity (the massive reconversion to cane production dates from the 1950s in Villupuram district) and therefore altogether honourable: 'To cut cane

here or somewhere else, what is the difference?', by contrast, for instance, with the brick kilns, usually perceived more as a symptom of misery and of 'no choice'.⁵ One also finds the argument of *rights* (see Prabhu Mohapatra's contribution in this volume): the workers think that they have the right to an advance because they work (and not that they are obliged to work because they are in debt, which is entirely different).

Let us come back to the discussion on the definition of bonded labour. Jens Lerche, in his contribution to this volume, summarizes the main terms of the debate. According to some authors (Brass's position), the labourers' indebtedness (the advance system) would be a sufficient criteria for talking about bondage. Another position (Rao's position) considers that the advance is not in itself a criterion of bondage and argues that it is the case only under certain circumstances, especially in 'semi-feudal' situations. As long as the labourers can leave their employer once the debt is repaid through labour, they should be considered free. Other studies support the same argument: as long as the workers can change employers, even though the debt is not repaid (their debt being repaid by the new employer), they should be considered free.⁶

As indicated by Jens Lerche in this volume, these two positions are untenable. Many labour relationships are based on a system of advance and are completely free. Conversely, the freedom to change employers can go together very well with unfree relations. Notwithstanding the fact that the dichotomous perception free/unfree should be replaced by an understanding in terms of a continuum between mild and worst forms of bonded labour (see the introduction to the volume, see also Guérin et al. 2004), and as suggested by Ravi Srivastava in this volume, 'labour bondage has to be viewed both in terms of the nature of transaction between the labourer and the employer as well as the outcome of that transaction'. We consider that it is rather the consequences of the advance on the wages and on the bargaining power of the labourers in terms of wages which should be considered indicators of a free/unfree relationship.

Let us come back to our case study. When one analyses the configuration of the cane sugar labour market, it is striking to observe that some cane producers employ *local* workers and that they are much better paid than the migrants. According to our analysis and calculations, the difference between the migrants' remuneration and that of the locals is dramatic (local labourers get between 40 and 85 per cent more than migrants) and there are two main reasons for this. The first is the indebtedness of the workers, which prevents them from negotiating anything about

salary. Next comes the presence of job brokers: they cannot be ignored during seasonal migration, but their role as intermediary has a cost, and it is entirely borne by the workers. The freedom to change the employer indeed exists, even if the debt has not been repaid. If the migrants are obliged to contact a maistry in order to migrate, the majority consider that they have the choice, even when they are still in debt, since it is enough that the new maistry takes over their debt. Concretely, according to our observations, 95 per cent have changed their maistry at least once and the average time of 'contract' with a maistry is two or three years. Granted, to change maistries can prevent an abusive relationship of domination and patronage, but it doesn't change the fact that the salaries are miserable. According to us, the simple fact that the migration and the advance principle which is attached to it implies huge reductions of wage is enough to claim that it is indeed bondage.

Now let us see in detail the main difference between the two recruitment systems, seasonal migration *versus* local labour.

TWO RECRUITMENT SYSTEMS: SEASONAL MIGRATION VERSUS LOCAL LABOUR

If cane production has a long history in India (de Haan 1988), its massive introduction in the south goes back to the 1950/60s (Landy 1994). In Tamil Nadu, it is the Arcot region, around the Palar River basin, which has been chosen as a place of production intensification because of very good irrigation conditions. Considered the 'sugar cane belt' of the state, this region today includes the districts of Tiruvannamalai, Vellore, Villupuram, and Cuddalore. Cane production today represents nearly 30 per cent of the production area (Government of Tamil Nadu 2006).

Three sectorial specificities can be mentioned here: state regulation (as mentioned in the introduction, it is one of the most regulated sectors in India), vertical integration, the role and the power of the sugar mills varying according to the regions, and finally strong production fluctuations (linked to climatic conditions but also to public policies, more or less generous according to electoral calendars).

The sector is based on a triadic system, involving landowners, sugar mills, and public authorities (and the workers of course, but they do not have much to say in the organization of the sector). Upstream, the public authorities supervise production very closely and play an essential, incentive role among the producers (in particular through guaranteed minimum prices and subsidized credits—at present in Tamil Nadu, the

state, via the nationalized and cooperative banks, distributes soft loans of Rs 10,000 to 13,000 per acre) as well as the sugar mills (for instance, through tax exemption and diverse subsidies). Downstream, the producers depend on the sugar mills to take on their production and start the cutting only when they have a contract with the sugar mill.

The cutting is done by groups of workers (a *pannai*, between thirteen and fifteen labourers), paid at piece rate (according to weight cut). A minimum salary is fixed by each sugar mill which takes into account the minimum prices fixed at the state (State Advised Price or SAP) and central level (Statutory Minimum Price or STP). It is only a nominal amount allowing the farmers to obtain advances on the production (the payment of the farmers by the mills is generally very late, two or three months after the end of the season). Then the way real wages are fixed varies a lot. They are fixed case by case for each cultivated field just before the harvest. The size of the fields rarely exceeds 4 acres (between 1 and 2 acres on average), so the workers accept contracts for different fields, sometimes more than twenty or so for one single season. It is here that the distinction between migrant labour/local labour becomes crucial, given the fact that these two labour systems also depend on the degree of vertical integration. In short, the two systems can be summarized in the following way.

In the 'local labour' system (which exists for instance in the districts of Villupuram and Cuddalore which are part of the sugar belt, already converted to sugar cane production for half a century), the farmers are relatively independent of the sugar mills and most of them employ a local workforce. There can be jobbers for the workforce, but their role is reduced to the bare minimum: bringing together the workers. Occasionally it happens that advances are distributed to the workers, but the amounts are very low (Rs 1,000 to Rs 2,000 for a *pannai*, a little more than Rs 150 for a worker). The wage negotiation is done openly between the workers and the farmers; the sugar mills are not involved very much in the process. The jobbers often conduct the negotiations, but the workers are really present and involved in the discussion. The workers are paid as soon as the contract expires.

In the 'migrant labour' system, which one finds for instance in the south of Tamil Nadu (Madurai district), the farmers are much more dependant on the sugar mills, in particular for the labour force management. For most of the farmers, it is the mills which take care of the workforce, be it the recruitment or the payment. One estimates today that 80 per cent of this workforce is migrant, coming from the Arcot region. The

only discussion partners of the sugar mills are the jobbers—called the maistries—officially registered by the sugar mills. The sugar cane officers come to solicit them in their native village several months before the start of the cutting, and sign an annual contract with them. The maistries are remunerated by the sugar mills on the basis of a 'bonus' calculated on the production amount (between Rs 5 and Rs 10 per ton), a portion of which is distributed at the end of the season, the other portion at the beginning of the next season (the maistries are therefore more or less attached to one or several sugar mills). This amount will be utilized to a great extent for distribution of advances to the workers by the maistries. The workers will only be paid at the end of the season, upon returning to the village, while the maistries are paid at the end of each contract with each farmer (some payments are delayed until the end of the season, but the greater part is paid as the work goes on).

THE WAGES: THE CRITICAL ROLE OF MAISTRIES

Let us look at the salaries. First of all, let us emphasize the difficulty of obtaining reliable data. Of course, maistries are inclined to under-estimate their commission while the workers tend to do the opposite. There are also strong variations, both between landowners (up to 25 per cent), between various periods of the season (the difference between the start and the end varies between 20 and 60 per cent), and between maistries, some being more generous than others. The figures given are obtained from a follow-up covering several years among the different stakeholders (maistries, kiz-maistries, farmers, cane officers, workers). If the total lack of transparency prevents us to give any accurate figures, the diversity of sources allows us to give rough estimates which can be considered reliable. Evidences given by the various stakeholders have been systematically confronted. The working accounts of the farmers and the maistries have been meticulously reconstructed in order to check the reliability of their own testimonies. When available, their notebooks have been dissected (most of the maistries and kiz-maistries keep very detailed accounts). First of all, the amount of the salaries is about 20 per cent higher in Villupuram and Cuddalore than in the south; in 2006, the piece rate for 1 ton of sugar cane was around Rs 220/240 in Villupuram/Cudalore (on average for the whole season since there are strong variations during the season) against Rs 175/200 in the south. In addition, the jobbers deduct between 10 and 30 per cent of the wages as a 'commission' (in addition to the bonus given by the mill), but only in the south (and more

generally, in all the migration systems we have seen). After the deduction the harvesters' wage is around Rs 125/160 per ton. Some maistries deduct systematically a fixed percentage all along the season (Figure 9.1), but it seems that most of them deduct a bigger part when they manage to bargain for better wages, and this occurs in two cases: either when a landowner is pressed for time or during the second half of the season. All in all, local labourers get between 40 and 85 per cent more than the migrants (Figure 9.3)!

Figure 9.2 describes the differential of commission per landowner: whatever the amount that has been negotiated by the maistry with the

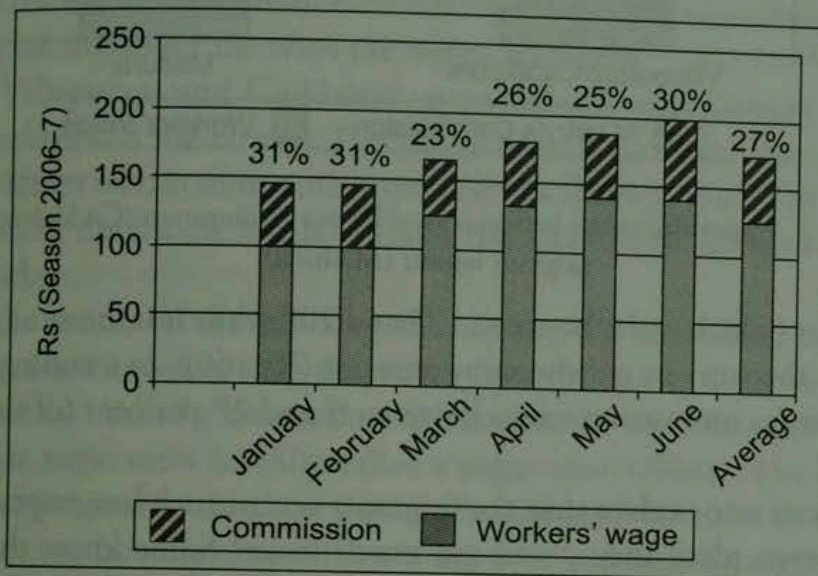


Figure 9.1: Maistry's commission in Madurai area, case study 1 (season 2006-07)

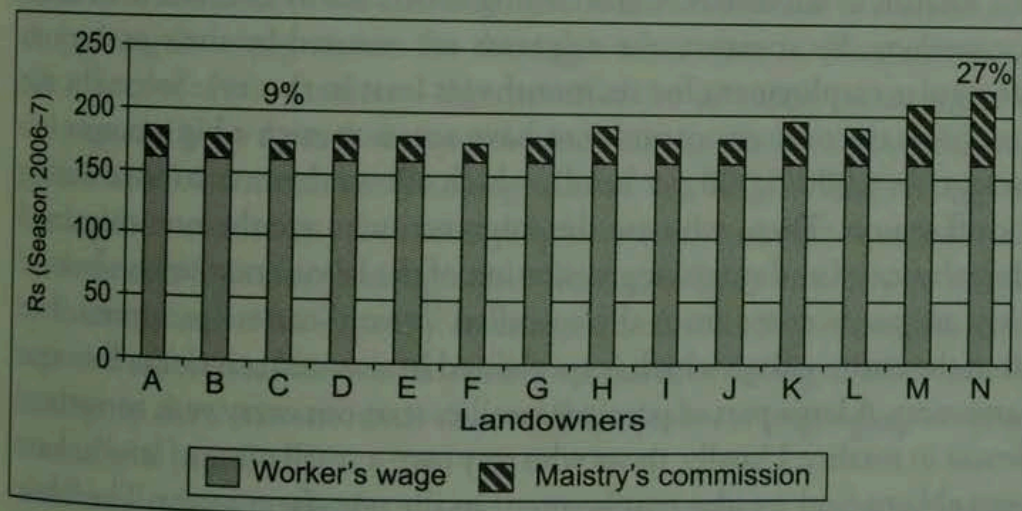


Figure 9.2: Maistry's commission in Madurai area, case study 2 (March 2006)

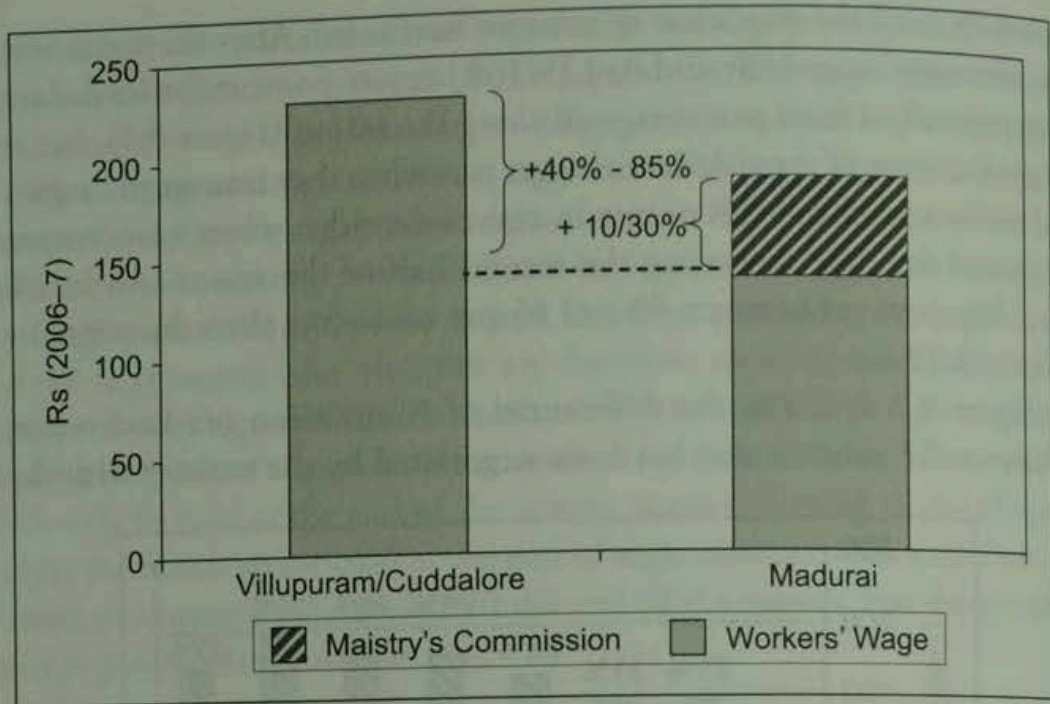


Figure 9.3: Wage differential between local labour (Villupuram/Cuddalore) and migrant labour (Madurai)

landowner (which varies between 175 and 200 while it is the same period (March), the workers get the same amount (Rs 160). As a consequence, the maistry's commission varies between 9 and 27 per cent (of the total wage).

How can one explain that the migrants accept such low wages, while in their own place they could get much more? Some know the local wages, but they migrate for two reasons. First, they hope a job guarantee for the whole season. Those who harvest locally hardly work more than two months as harvesters. Cane cutting is necessarily coupled with other occupations. By contrast, the migrants are ensured by their maistry to get regular employment for six months (at least in theory). Secondly, the advance is the only opportunity to have access to such a big amount (on average Rs 4,000/6,000 per head), which allows them to survive during the off season. Then, who are the migrants, who are the non-migrants? Here the social and spatial segmentation of the labour markets is obvious. Most migrants come from the so-called 'lowest' castes (paraiyars). It is often the entire village which is specialized in seasonal migration for sugar harvesting. A large part of paraiyar families start out every year, sometimes almost in totality. Usually, those who stay own a small piece of land or have been able to find regular employment in the non-farm sector. The fabric of these pockets of migration is mainly the arbitrary result of personal relations between sugar mills and maistries. Among the workers, one can

find vanniars,⁷ but most of them, even the poorest, denigrate these forms of migration, well-known to be the specialization of the paraiyars.

How can we analyse such a gap in terms of wages between the two labour systems? There are two main explanatory arguments.

First of all, the producers from the south incur much higher transport costs. The fields are not only very small, but also very spread out (frequently, a farmer produces on several tiny plots). They are also enclaved, not only located inside the land, but often far from the sugar mills. Then comes the bargaining power of the migrant labourers, much more limited, both because of the advance and because of the intermediary role of the maistries (without even talking about their commission—here we are talking about the ways the wages are fixed).

In Villupuram and Cuddalore, negotiations occur directly between the workers and the farmer. The negotiation is often conducted by the group leader who is sometimes qualified as a maistry, but there is indeed a collective discussion and it is about the amount finally distributed to the workers.

In the south, on the contrary, the workers are completely left out of the process: it involves only the maistry (in the name of the workers) or his 'assistant', called a kiz-maistry, the landowner and one representative from the sugar mills (usually called a sugar cane officer). The tripartite contract is signed by the three parties. Farmers and maistries are the main protagonists, but the cane officer is involved not only as a witness, but also as a guarantor of the quantity cut. It is the farmers and the maistries who agree on a price, but the cane officer supervises the discussions. He informs the farmers of the current rates, of the situation of the workforce, thus giving them arguments for the negotiation. It is he who introduces the maistries to the farmers—the maistries, let us recall, are attached to the sugar mills by a yearly contract—and this also limits the negotiation capacities of the maistries. The negotiation has to give results, they do not have a choice, even more so as they have every reason not to lose time between two harvests. Among other factors, a 'good' maistry is judged by the workers on his capacity to ensure the continuity of employment over the whole season, which means working with big landowners or linking up the contracts with the small landowners in geographic areas as nearby as possible.

One has also to note the absence of transparency in the negotiations. The workers, of course, are never informed of the results and will never know the exact rate of their wages. The weighing of the cane is not done

on the spot, but upon arrival at the sugar mill. The workers have only rough estimates about the cut tonnage. According to our surveys, 85 per cent of the workers say they do not know the piece rate. The absence of transparency also comes from the fact that the salary is a part of a global 'package' comprising transport, shelter, food, some medical expenses, all this being taken in charge by the maistry, the farmers, and the sugar mills; the workers never know exactly who pays what. The presence of several intermediaries (maistries but also kiz-maistries, in charge of assisting the maistry, sometimes at the time of the wage negotiation) intensifies the opacity of the system (we'll come back to that point later).

The workers might have some leeway as far as the date and the cutting speed are concerned because they play a strategic role, for the farmers—cane cut too late loses weight—as well as for the mills which need a regular supply without interruption to optimize their production system. Effectively, the amount of the piece rate increases during the season (it is 30 to 60 per cent higher at the end of the season, from April–May till July), but the role of the maistry remains ambiguous. One often observes arrangements between cane officers and maistries, negotiated secretly without the knowledge of the farmers. This complicity depends on a mutual interest. The cane officers are paid partly according to their capacity to provide the mills with a regular flow of cane in order to ensure the continuity of the crushing process. The maistries commit themselves to supervise the workers as best they can and to accelerate the working speed when necessary, while the cane officers put pressure on the farmers in order to increase the rates or to play the game of the maistries by displaying tonnage and rates below the actual figures, thus allowing the maistries to increase their margin (the 10–30 per cent deduction mentioned earlier).

In 2004, from a sampling of about 300 workers, the salary for the season was on average Rs 8,000. This makes a monthly equivalent of Rs 700 per worker for workdays of fifteen to eighteen hours, and miserable living conditions (collective housing under tents, a hardly conceivable promiscuity, total lack of hygiene). Almost all of them feel that they are victims of harassment, mainly verbal (two thirds of them), but one third also consider that it can be physical, and sometimes sexual. According to them, the low productivity and the fact that they'd like to leave the work place (or sometimes that they left it without the consent of the maistry) are the main reasons for the harassment. Then comes alcoholism and quarrels between co-workers. Apart from a minority (4 per cent), such acts

of harassment are not exceptional. When asked the frequency, 15 per cent consider that it is daily, 60 per cent weekly, and the remaining monthly. Maistries are the main source of harassment (almost 70 per cent), but we also find landowners (20 per cent) and cane officers (10 per cent). Some of them have already tried to complain (around 13 per cent), the others consider that it is useless.

In addition to the salary in cash (often there is nothing left at the end of the season because of the deduction of the advance), there is the food given by the maistry or the farmer. Concerning the wages, as mentioned before, they are distributed at the end of the season with the advance deducted. Because of this most of the workers come back not only with empty hands, but indebted for the next season. In 2004, 62 per cent were in this situation, against 23 per cent with a nil balance and the others (15 per cent) managing to come back with a little savings.

Of the workers, 75 per cent say they settle their debt 'from time to time', 15 per cent never do while 10 per cent do it systematically.

THE AMBIGUITY OF THE WORKERS/MAISTRY RELATIONSHIP

As documented in numerous studies, job brokers play a 'vital function of coordination and deployment of the [Indian] labour force' (Chandavarkar 1994: 100–10) and the sugar cane sector is no exception. Their role is complex, as well as multi-dimensional (financial, economic, social, sometimes political) and ambiguous. Squeezed by contradictory pressures exerted by managers/employers on the one hand and workers on the other hand, the main challenge for them is to find the right balance between authority and proximity (Breman 1996: 95 *sq*; de Haan 1999: 73–81; de Neve 2005; Gooptu 2001: 55; see also Picherit's contribution in this volume).

They should be able at the same time to keep their distance from the workers, to affirm their superiority and their power—for the employers, a 'good' jobber should manage his labourers easily and win respect from them—while listening attentively to the workers' needs and showing them empathy, understanding, receptiveness—for the labourers, a 'good' jobber should be able to 'help', to protect, to assist, but also to stand up for them against the employer.

Here, this ambiguity is reinforced by the fact that the maistries originate from the same milieu as their labourers and this seems to be a common feature of neo-bondage relationships. In our sample, all the workers without exception are from the same caste. We have met some

cases where the maistry was from a different caste, usually slightly higher (according to local systems of hierarchies; for instance, some vanniars recruit paraiyars). The workers themselves are not very clear as regards their relation to the jobber. Sometimes they fully accuse him (even if the women do play a role, as we'll see later, they are rarely considered as maistry but just as 'helpers' to their husbands/fathers/brothers). They complain that they are exploited, that the maistries live off their backs, that the system is unfair, that they are treated like 'dogs', etc. Sometimes they express their gratitude and their appreciation. Of course, it is always difficult to know whether it is sincere or all put on: to express one's gratitude can be a deliberate strategy aiming to coax and soothe the maistry in order to get additional support. The feelings also vary from one worker to another, according to the frame of reference and group/caste to which they belong, the former life experience—there are cases where the workers 'chose' the sugar cane after being bonded during the first part of their life to a landowner where freedom of movement was very limited. Beyond this heterogeneity of situations, each relationship consists of a mixture of gratitude and bitterness and permanently alternates between protection, assistance, support, and domination. We have mentioned earlier the systematic harassments suffered by the labourers: in the majority of cases (70 per cent) it is the maistries who harass the workers. The labourers are also conscious of the fact that they are cheated: 70 per cent complain about it and consider that the lack of transparency regarding the accounts is the main reason. At the same time, 90 per cent of them consider that they trust their maistry. These few data, despite all the limitations of a quantitative questionnaire on such complex questions, have the merit of highlighting the ambiguity of the workers' sentiments towards their maistry. As mentioned earlier, 95 per cent of the workers have changed their jobber at least once. The amount of the advance and then the lack of transparency are considered the two main motives (52 per cent of the workers mention the advance and 26 per cent the lack of transparency as a first motive), next comes the 'help' at the village or at the production site (25 per cent mention it as a secondary motive). 'Help' means being available for any kind of problem, even without any connection to labour issues. We see here that the relationship still implies a certain form of patronage with strong expectations in terms of permanent help and support. At the same time, a minority of workers (5 per cent of our sampling) have the habit of changing whenever they can in order to avoid a too strong dependence.

MAISTRIES AS FINANCIERS: BEING ABLE TO SUPPLY A GENEROUS, BUT ALSO FLEXIBLE SYSTEM OF ADVANCE

The major factor in competition between the maistries lies in the efficiency of the advance system. What do we mean by an efficient system? Being able to provide large amounts is a primary factor. In 2004, the average amount of the advance was around Rs 9,000 per set of workers (2.2 on average), which is around Rs 4,000 per head. A maistry who begins has to show his worth and involve his own capital which means a minimum of Rs 60,000 since the work is necessarily done in groups of thirteen to fifteen workers (*pannais*) and one estimates that beyond two or three pannais (between 25 and 45 workers), the activity is not profitable.

The capacity to mobilize capital is then one of the first qualities of the jobber, even if it is far from sufficient. Some maistries consider that the first challenge is to obtain funds from moneylenders: identifying them, seeing them regularly, and convincing them. The maistries who have proven themselves can finance themselves in part from the sugar mills. The sugar mill officers deny this since they don't want to be accused of encouraging the advance system, they say that it is only a 'bonus', but they know very well that the maistries use these amounts to finance advances (on average about half of the total advance). The biggest maistries that we have met manage up to twenty pannais (which means 260 to 300 workers), and invest between Rs 400,000 and 500,000 a year. For small landowners (most of the maistries are paraiyars or vanniars without much land), these amounts are considerable.

If the amount of the advance is a primary criterion, a 'good' maistry must also be able to supply his workers with cash *at any time* and also *at any place*. The advance is not paid in a lump sum, but in a gradual manner, mainly between the month of *Adi* (August) and Deepavali (one of the major Tamil festivals that takes place in October or November). At festival time, Rs 3,000 to 5,000 is usually given and the remainder is given in very small amounts, sometimes almost daily. Then during the season and on the production site, the workers frequently need cash as the payment is only done at the end of the season. They get only an 'allowance' for the food, generally distributed by the landowner, in kind or in cash. Frequently, therefore, the workers ask for additional advances, either to supplement the daily meals—the food offered is often of poor quality—to buy cigarettes, alcohol, sweets for the children, medicines, etc., or quite simply to survive in case of a break between two contracts

(which is relatively frequent!). Apart from these two places (village and production site), the ideal is to be able to engage the maistry (or one of his assistants) anywhere in case of need. According to the maistries, the distribution system of the advance varies: some workers receive the advance only in the village during the off season (37 per cent in our sample), others get it in the village and on the production site (20 per cent), and others try to get it 'anywhere' (33 per cent).

In the last case, considered as the most convenient by the workers, the maistries (usually the big ones) rely on a network of 'assistants'—people carefully chosen within a close circle and living in different places—who help them to distribute these small sums. This organizational network gives an extraordinary flexibility to the system, since the borrowers have several interlocutors at different places. For example, a maistry in Thondireddi is assisted by some ten people established in the neighbouring hamlets (Madugarai, Mandagapattu), in market towns located at a distance of some 10 kilometres (Valavanur), but also in large and relatively distant towns (Puducherry at a distance of 40 kilometres, and Chennai at 120 kilometres).

The maistries generally keep very precise accounts, indicating the name of the person who gave the money (maistry's 'assistant'), the amount, sometimes the use, the place, and the name of the witness, if any. Table 9.1 is an extract from a maistry's account book. We have reproduced the account of a single worker: the period of time extends from October 2003 to June 2004 (and thus does not cover the entire season). The details given vary greatly from case to case; the main objective for the maistry is to have the evidence that he really gave the sum in case of contention from the borrower.

If the ability to grant advances at any time determines in large part the quality of a maistry, at the same time a 'good' maistry should avoid taking too many risks: not only must he avail himself of different means of incentives, or coercion, to ensure the loyalty of his worker, but he must also avoid exceeding a certain amount of advance, in which case the borrower, aware of his inability to repay, may decide to abscond. Ultimately, the granting of advances is a matter of delicate arbitration. One has then to be able to respond to the demand—competition, let us recall, is tight—but since it is infinite one has also to be able to refuse without hurting. This presupposes tactfulness: to convince those who ask too much that they do not need so much money, that it is dangerous, and simultaneously anticipate some demands in order to maintain trust

Table 9.1: Extract from a maistry's account book

Advance at the end of the season	230
Received from Murugan	20
Received on the road from Mandagapattu	110
Received on the road from Madugarai, on behalf of Kannadasu	20
Received at the same time as Pannir and Murugan	20
Received at Madugarai from Ganesan	110
To go to Pondicherry	400
Received at Madugarai in the presence of Alaguvel	20
Received from Ganesan to buy arrack	35
Received from Ganapathi in Pondicherry to attend a funeral	900
Received the day after the funeral	20
Received at the same time as Marimuthu	10
Received the following day	20
Received to buy alcohol	10

and to be competitive. Some maistries consider that their role is in part to be perfectly aware of the needs of the workers in order to be the first to meet them; for instance, to be informed that someone has a ceremony to finance or a close relative who is seriously ill in order to approach this person and offer his financial 'support'. To spend time at the arrack shop is also a way to show a certain form of receptiveness. Some give a portion of the advance in kind: clothing for a marriage, bricks or sheet metal when the request involves the building of a house, etc. The very fact that it is in kind sounds like a gift and a sign of generosity, kindness or even affection, even though the maistry also keeps meticulous accounts for such expenses and the equivalent in cash will have to be reimbursed sooner or later.

The distribution of the advance also depends on the degree of loyalty of the labour, which they need. Some maistries clearly identify the 'loyal workers', who have been working for them for several years and whom they need every season. The amount of the advance is rather generous (up to Rs 6,000 per worker in 2004): that they are not able to repay doesn't present a problem; on the contrary, in this way they are sure they will come back next year. Then, according to the seasons and the intensity of production, these maistries may need additional labour: the advances will be less generous (insofar as it is possible in the face of competition!), calculated on the work capacity, the aim being to balance the accounts at the end of the season (in giving Rs 2,000/2,500 per worker, the maistries are generally sure to be repaid in one season). The advance is then clearly used as a means to control the flux of workers.

The Intermediary Chain

The role of the maistry, we have seen, is not only multi-dimensional, but requires a constant availability, in the village as well as on the production sites. In the village, the maistries must be attentive to requests, even to anticipate them, which requires vigilance at every moment, a continuous presence, the participation in private life, etc., and all this in a climate of stiff competition. Since it is out of question to increase the wages and since the amount of the advances cannot increase indefinitely, the constant challenge is to find efficient and trustworthy workers (on the issue of trust, see Picherit's contribution in this volume).

On the production site, the maistries must follow the price evolution, but they must also be in constant contact with the cane officers and the farmers, keep alive good relations and a good reputation, and this happens through regular favours, 'gifts', and incidental but frequent services. Of course, supervising the workers is another critical part of the job: to incite, to encourage, to punish if necessary, either because the cutting doesn't progress fast enough, or because it is badly done. Not only is cane cutting extremely physical, especially in full sun—one has therefore to scold the 'lazy ones' regularly—but it is also technical, the frequent risk being to cut the stems too high up. Maistries are also expected to answer the requests of the workers: some are sick, some others want to go back to the village, others fight between themselves or with the local inhabitants, etc. One man alone can hardly take up all these functions. Most of the time, the close kin is fully involved in the business, both men and women.

First of all, most of the maistries rely on kiz-maistries, whose function is to assist the maistry. The kiz-maistries manage a group of workers (one, two, even five pannai, which means between fifteen and sixty workers), with various responsibilities according to the situations and the maistries. Some kiz-maistries contend themselves in acting as intermediaries between the maistry and the workers, others also invest their own funds. Some assist the maistry mostly on the production site; others are mainly in charge of maintaining relations with the workers in the village; others do both, etc. The kiz-maistries are generally chosen from within the close family (brother-in-law, son-in-law). It is mostly a question of trust, say the maistries: to delegate part of the work to a kiz-maistry is risky, as much financially as in terms of reputation (towards the workers, but also the farmers and the mills). Some kiz-maistries vanish with the advance even before distributing it to the workers, others are unable to supervise

the workers correctly, others one day decide to be independent and leave with their group of workers. To recruit within the close family is then a (partial) guarantee against this type of risk.

The presence of kiz-maistries considerably reinforces the opacity and the perversity of the system, especially in terms of wages. Most of them work with the labourers and receive a normal part of the remuneration (on average about Rs 4,000 per season per head), plus a commission per pannai from the maistry (between Rs 1,000 and 3,000) and possibly a share of the total profit for those who have invested their own money. Gifts and bonus in kind are also used as an incentive mechanism (for instance a watch or a ring). In addition, some kiz-maistries deduct a part of the advance distributed to the workers without the knowledge of the maistry. Many workers know it, but consider that it is a compensation for the services rendered by the kiz-maistry (to help them to bargain for bigger advances with the maistry, to take care of them on the production site, etc.). In addition, a substantial part of their income comes from the landowners: at the end of each contract, the landowners 'thank' the kiz-maistries by giving them cash, sometimes gifts in kinds (for instance pants, shirts, bedsheets) and this is considered as the custom. The status of this payment is not very clear: it is usually called *mamul*, a Tamil term which can mean 'gift' as well as 'small bribe', and the transaction is usually done without the maistry's knowledge. The kiz-maistry is supposed to share the money with the workers but many keep the major part or even the full amount for themselves. When they share with the workers, it is mainly through small gifts (cigarettes, alcohol), presented and understood by both parties as favours and liberalities rather than a right and a compensation for the work done. When the kiz-maistries' wives help them in the workers' supervision (which is rather common, see ahead), some of them get part of the *mamul* as compensation for their work. The interesting point for our reflection is that the *mamul* is the main topic of bargaining between the kiz-maistries and the landowner. The former are expected to defend the workers and to bargain for better wages when the work appears to be harder than expected (scattering of the cane stems, isolation of the field from the marketplace, difficult living conditions because of mosquitoes, snakes, etc.). Most of the time, the landowner calms down the complaints and the requests by promising a more generous *mamul* at the end of the contract, provided that the work has been done fast. According to our observations, the total amount of the *mamul* for the whole season and for one kiz-maistry is around Rs 2,000 to Rs 3,000.

In addition to kiz-maistries, the role of women is also essential and quasi systematic. Some studies hint at the feminization of attached and bonded labour following male migration.⁸ Jan Breman (1996) has extensively described the over-exploitation of women and children, be it in the brick kilns or in sugar cane harvesting. Aseem Prakash in this volume underlines their invisibility, including in the trade unions. Despite these few exceptions, research has paid scant attention to the role and the situation of women in bondage mechanisms. In the present case study, we would like to highlight a rarely mentioned dimension: the decisive support they provide to the maistries and kiz-maistries. They are rarely recognized as official negotiators in the sugar mills (yet we have met two cases where women were registered and paid by the sugar mill as maistries), but they fulfil numerous functions. They often accomplish the logistics on the spot (not only preparing food, but also supervising the workers, entering into discussions and negotiations with landowners and cane officers) which allows the men to stay in the village and conduct other activities. Some women are also in the middle of negotiations played out in the village and are sometimes uncompromising, much more so than the men. They do not hesitate to publicly humiliate the 'lazy ones' or the 'swindlers' (those, for instance, who take advances from several maistries). The wives of the kiz-maistries and maistries are often on the front line, but they are sometimes sisters, daughters, or even step-daughters. Regarding the remuneration of the women, it is likely that it is not at the level of their involvement and responsibilities. Some have the official title of kiz-maistry, and are therefore remunerated like the men, but the others, probably the majority, only 'help' their husbands (their brothers, their fathers or fathers-in-law), and do not receive personal remuneration.

Matrimonial alliances are also instrumental in the efficiency of labour force management since they allow the extension of the recruitment area. Recruitment implies proximity and trust relationships; therefore, the vast majority of maistries and kiz-maistries recruit in their own 'community' (not only the same caste, but also the same village) which severely limits the potential number of workers. We did not explore, in depth, the question of kin ties between maistries (or kiz-maistries) and workers. Kinship relations are not only complex (with terminologies not always matching with those in English), but also frequently 'manipulated', in particular in labour relationships.⁹ This type of analysis calls for a meticulous study which has not been conducted here. What is sure, however, is that the recruitment is never done in unknown terrain. To recruit within one's

own community limits the risks of failure: it is a question of reputation, of access to information (those who escape are quickly found, via word of mouth, everything gets known and the information circulates very rapidly), but also of sanctions and punishments, likely to be applied by the local caste leaders or by the local 'muscle men' (*goondas*) with which some maistries surround themselves to watch over the workforce. To delegate a part of the recruitment to the in-laws, native from another village, therefore enables them to extend the recruitment sphere. When some big maistries have a quasi-local monopoly on recruitment, the only option is to recruit somewhere else, and the role of the kiz-maistries and women is particularly decisive.

The issue of kin ties raises of course many questions. As mentioned earlier, analysing kin ties would imply an in-depth understanding of the way people manipulate relationships and create fictive ties in order to get favours, to create or reinforce moral obligations (and this can be done in both ways, by jobbers or workers). The maistries, for instance, are often called 'big brother' by their workers, a sign of proximity and respect, although there is no alliance or blood link. It would also imply an in-depth analysis of the ambiguity of such relationships. Whether they are real or fictive, based on blood relations or alliances, kin relations can be a source of trust and guarantee but they can also be used as an excuse to escape from moral obligations and commitments. To reply to such questions goes far beyond the scope of this study, the only point which matters for our reflection concerns the consequences in terms of management of the labour force. The involvement of myriad actors makes the labour relation much more complex: rather than being an interpersonal relation between a jobber and a worker, the labour relationships take place within a complex network made of multiple ties in which many intermediaries intervene. As we have seen with the kiz-maistries, the presence of additional intermediaries removes the workers even further from the bargaining process with the landowners and the cane officers as regards the wages. The responsibility of each stakeholder is seldom defined with precision, and, above all, the way they are paid is never clearly established. Official wages are rather uncommon: payments rather take the form of compensations, gifts, and various services which are embedded in a whole set of rights and obligations. The existence of kin ties can be used as justification for long-term reciprocity exchanges rather than contractual obligations. Not only does all this represent an additional extraction of the labour surplus, done at the expense of the

workers, but results in lack of transparency and the feeling of unfairness often experienced by these small intermediaries who encourage the various actors of the intermediary chains to find their own and often hidden methods to extract an additional part of the surplus.

This is particularly clear for the *kiz-maistries*. The issue of their remuneration is a topic of permanent discussion, tension, and conflict with *maistries*. Of course there is no contractual agreement, most of them will know how much they get at only the end of the season. The way they are paid also depends upon the nature of the relationship which pre-exists. The assistance they provide is sometimes understood as a 'service', on behalf either of kin ties or of previous favours which the *kiz-maistries* benefited from in the past (from the *maistry* or from any other member of the kin). Sometimes the assistance they provide is considered as a form of apprenticeship, and it is true that many *kiz-maistries* hope to become *maistries*. Both arguments are used by the *maistries* to justify the fact that *kiz-maistries* are underpaid. But these vague and often tacit agreements lead to many misunderstandings and frustrations, and encourage many *kiz-maistries* to find their own sources of remuneration and to take over whatever they can all along the season. Apart from *kiz-maistries*, such misunderstandings might also occur for the other people involved in the business, especially men. Women, since they are seldom used to getting their own wages, are less demanding, but their presence can be used as an excuse by *kiz-maistries* to appropriate still more.

CONCLUSION

The case study described in this article is typical of neo-bondage relations described elsewhere by Jan Breman (see for instance Breman 2007) and Ravi Srivastava (2005; see also his contribution in this volume). The sugar cane production in Tamil Nadu has probably always relied on seasonal migration of labour (Landy 1994). However both the scale of migration and the distances covered have considerably increased over the last decades with the emergence of new channels of migration, the best example being that of Orissa, which is more than 2,000 kilometres from Tamil Nadu. This spatial mobility goes hand in hand with a reinforcement of over-exploitation practices. Labour migration is a means to bond people and the comparison with other labour management systems existing in Tamil Nadu and using local labour allows us to speak without ambiguity. The combination of the advance, the post-payment and the recruitment through jobbers (which implies a huge extraction of the labour surplus)

leads to a relation of dependence and prevents the labourers from using their labour power freely. In contrast to 'traditional' forms of bondage, the freedom to move or to change their jobber exists, but it is the freedom to bargain for better working and living conditions which is then impossible. As a way of consequences, the wages are miserable and lock the labourers in a debt trap. It is also interesting to see that the fabric of these migration channels is fully organized and managed by the sugar mills, which have found an excellent way to combine vertical integration without embarrassing themselves with the inconveniences of labour management. Here again we see the perversity of the jobber system since it allows the mills to relieve themselves from any direct responsibility as regards the working conditions of the labour force. As regards the harvesters, and although it is the mills who control the flux of migrations and partly the wages, the mills escape from any labour legislation quite legally thanks to the jobbers.

By way of conclusion, what can we suggest in terms of action? First of all, let us emphasize that these forms of bondage apply neither to public authorities nor to NGOs. The fact that they are part of the so-called formal sector is probably one of the main explanatory factors: that bondage is limited to the 'informal' sector is a common belief (or a poor excuse). Some naively mention microfinance as a solution, arguing that the microfinance supply in Tamil Nadu is very well developed through the Self-Help Group (SHG) movement and should be able to stop these forms of migration. The reality, unfortunately, is much more complex. At the time of the interview, none of the workers was an SHG member. According to half of them, the very fact that they are migrants prevents them from joining such activities. Of them, 26 per cent did join in the past, but stopped after some time because they were unable to contribute to the regular savings. In its present state, microfinance is anyway incapable of 'competing' with the flexibility and efficiency of the advance system described in this article. Low interest is one of the main arguments of microfinance providers. When people have the choice between various loans, the cost is only one factor among others (Guérin et al. 2004; Roesch et al. 2007). What also comes into play is the speed and ease of access, repayment flexibility (regular repayments, imposed by microfinance providers, are hardly compatible with the irregularity of incomes), and finally the other services that are likely to be provided by the lender. Moneylenders as well as job brokers can be coercive, but they can also show a great flexibility, and besides, according to the borrowers and to

the workers, such flexibility affects the 'quality' of the moneylender and the job broker. By contrast, NGOs and banks (many SHG programmes provide microfinance in partnership with banks) hardly allow any delay and can also show some kind of coercion. In other words, the flexibility of informal credit practices (the advance being one of the main options in the villages under study in this article), as opposed to the rigidity of most microfinance services, explains to a great extent the very limited impact of microfinance on the problem of bondage. In addition, many workers do not consider the advance as a loan, but as a 'forced savings' system, since there is the hope—if the working conditions are good and if there is no unexpected event—of coming back home at the end of the season with some savings. To pledge his/her labour is not considered risky. Instead it can be considered a protection: ensuring a job for the whole season.

Then comes the tricky question of entrepreneurship. Microfinance is expected to help these people to start an 'income-generating activity' which would prevent them from migrating. Here again, unfortunately, the reality is much more complex. The illusion that microfinance translates into self-employment stems from a purely economic perspective of work. While poor people are motivated to generate income for economic reasons (daily survival), other motivations of a social, ritualistic, and psychological nature impact their decision making, as do attitudes towards risk. It is often forgotten that being an entrepreneur involves taking risks that the poorest simply cannot afford. The fact is, the majority of poor people do not want to become entrepreneurs, either because they lack skills, social networks, and access to information or because of psychological and social ties to employment and agriculture. The hierarchical and monopolistic functioning of commodity chains and local markets combined with their limited dimension makes it difficult for microfinanced activities to have any significant impact on labour markets. Moreover, microcredit too often finances activities that are unprofitable, uncompetitive, or not adapted to local demand.

We agree with other authors in this book (see the introduction, Srivastava and Lerche's contributions) when they say that the only way to move forward is through the improvement of labour standards. How to do it in practice is of course another question which goes far beyond the ambition of this article.

NOTES

1. This has already been highlighted by the work of Breman (1996, 2004); Byres et al. (1999); Harriss (1992); Harriss-White (2003); Kapadia (1996); Srivastava (2005).
2. See the introduction of the volume for more details on such forms of bondage. As regards the denial of neo-bondage relations in the agricultural sector, the best example is the report done in 1995 for the Supreme Court of India (Sait & Sugirtharaj 1995). The authors estimate that the number of bonded labourers in Tamil Nadu alone is around one million, and this estimation is much more realistic than any other official statistic. The report also underlines that a large part of bonded labourers can be found in the agricultural sector (according to the report, 6 per cent of agricultural labourers would be bonded) but they don't pay any attention to seasonal migration.
3. This article focuses on refined sugar, in contrast with to jaggery, which represents a large part of the production, but where the style of production is very similar to that of a cottage industry (traditional, small scale) and is not analysed here.
4. *Padiyal* is usually used to talk about permanent workers, although *pannaiyal* refers to bonded labourers (Racine & Racine 1995) but many workers use one term only and do not necessarily distinguish the meaning of each term.
5. However, here too, we can find strong differences: some communities, who previously specialized in agriculture, gradually converted themselves into brick moulding workers and some of them are proud of it (see the article on brick kilns by Guérin et al. in this volume).
6. See for instance De Neve on the weavers (2005: 200).
7. In number, vanniars represent one of the dominant castes of the region; they are classified as Other Backward Castes (OBCs) by the Indian administration.
8. See, for instance, the work done by Da Corta & Venkateshwarlu (1999) in Andhra Pradesh.
9. See, for instance, Kapadia (1996: 466–7); De Neve (2005: 123).

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10 'Workers, Trust Us!'

Labour Middlemen and the Rise of the Lower Castes in Andhra Pradesh

DAVID PICHERIT*

What he has furthermore are the means you provide him to destroy you. Be resolute in no longer serving, and you are then free. The first reason men serve voluntarily is that they are born as serfs and they are raised as such.

Etienne de la Boétie, *Discours de la Servitude Volontaire*, 1576, p. 122.

Symbolic power is only brought to bear with the cooperation of those who are subject to it because they contribute to its construction as such. But nothing would be more dangerous than to stop at this statement (with idealistic, ethnomethodological or other constructivism): this submission has nothing to do with a relation of "voluntary servitude" and this complicity is not accorded by a conscious and deliberate act; it is itself the effect of a power that is firmly inscribed in the body of the dominated, in the form of schemata of perception and of dispositions.

Pierre Bourdieu, *Méditations Pascaliennes*, 1997, pp. 246–7.

INTRODUCTION

A crowd standing around a man, barefoot and dressed in black, the attire of the disciples of Ayyappa Swami, attracted my attention. I was with two labour migrants, Kurmurti, a *madiga*,¹ and Krishnaiah, a *golla*,² at the bus stand of the *mandal* headquarter. Seated on his motorcycle, the potbellied and moustached man wore a proud expression while attempting to operate his mobile phone.

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'That is Kondanna, the teacher at the *lambadi*³ school', Krishnaiah told me. 'He is also *peddamaistry* [main labour middleman]', Kurmurti immediately specified.

I joined the group in order to meet him, showing due respect as instructed by the other two. He informed himself about me from Krishnaiah (a *golla* like he is), who remained at a distance. Not a word, not a glance was directed towards me: he did not want to speak with me, neither in Telugu nor in English. He avoided having to confess the gaps in his knowledge of English and pretended not to recognize me (a foreigner in a village never goes unnoticed). He nevertheless consented to meet me the following day in the nearby village where I stayed. The next day I waited for him there, but he failed to come.

A few days later, in another village, I spoke with Manem Konda, a young maistry (labour middleman) who works for Kondanna. They are both *gollas*. I was with several *reddys*⁴ when Kondanna arrived. After the religious salutations⁵, he could not evade the pressure of the others, whom I had told of our first encounter. He claimed that I could not speak Telugu, but the *reddys* assured him of the contrary: I could understand them and did not cause any problems. Kondanna extricated himself by mentioning a *reddy* who spoke English and could translate. We all accepted the compromise.

Kondanna and I arrived at the house of the *reddy*, whom I already knew. Happy to welcome me, he started the conversation and Kondanna very quickly announced that he had an appointment. I was unable to object and, in the end, admired this continual avoidance.

The old *reddy* is a former *peddamaistry*: he managed up to 3,000 workers at the largest dams in India, from the Narmada to Tamil Nadu. A member of the Congress Party and former *serpanch*, former president of four *mandals*, traditional head of the village (*peddamanishi*), main landowner, he told me that the development of the village is the result of his efforts. The results were very limited: lack of water, no roads, and desertion of the *madiga* and *lambadi* areas (all are away with maistries or in Mumbai and Hyderabad at the daily construction markets).

According to him, the work of the maistry has greatly changed; the profits have decreased with the arrival of machinery and relations with the workers have become increasingly difficult. Many of the latter run off without repaying the advance and no longer have trust. He concluded: 'Whatever the workers do, it changes nothing. They are always the losers and only the maistry makes a small profit.'

As I am leaving, the reddy looked at me intently and solemnly repeated '*nammakam mukkyamayna*: that is the basis of the maistry's work.' Trust is the most important thing.

This account of the hierarchy of middlemen is concerned with villages in the district of Mahabubnagar in Andhra Pradesh, an arid plateau that is known for the seasonal migrations of its workers⁶ to dams and irrigation canals,⁷ and describes the middlemen away from the places of work. This brief example approaches different notions: on the one hand, that of trust—*nammakam*—, which was continually mentioned in discussions with the maistries. It assumes forms at different levels of relations and is connected with the notion of loyalty and commitment. The labour relations, between the contractor and the peddamaistry, between the peddamaistry and the labour maistries, between the labour maistries and the workers, are therefore described in these terms.

On the other hand, the notion of respectability—*maryaada*—, to which the maistry attach great importance, crosses different spheres that are closely and strategically linked, such as caste, the religious (Ayyappa Swami), the political (serpanch and others), and the economic (land, motorcycles, mobile phones). These interlinking spheres are the key to the organization and circulation of labour in India.

This article is interested in the roles played by the social mobility of middlemen of low castes—*golla*—for seasonal labour from the district of Mahabunagar, Andhra Pradesh, in the changing unfree labour relations in villages. This study focuses on the maistries and the social relations in the village that sanction bondage and the upward mobility of the *gollas*, which could be compared in some aspects with the *vanniars* in Tamil Nadu (De Neve 2005). By going outside the worksite⁸ and in recognizing the economic exploitation examined in these studies, it undertakes to explore the changing social relations of recruitment involved in the bondage of the workers to the maistries, starting from the villages where they operate.

The different maistries mentioned here were those whom I followed throughout the twenty-two months of fieldwork. This time was divided among the villages, the worksites—stone quarries, construction of buildings, irrigation canals—and the labour camps in rural and urban areas where I used to live. I attended labourers' marriages and their religious festivals, making regular trips up and down.

Integrated into a chain of hierarchical commands, the maistry is, from a strictly functional point of view, responsible for recruiting the labour force for a site. This point is, however, too restrictive to understand the

labour middlemen. I employ the term middleman rather than recruiter, as the maistry is not only in charge of recruiting the labour force. He is the 'in between' and 'makes links'. The respective functions of the maistry and of the peddamaistry hold concurrently: teacher, maistry, and landowner for Kondanna; politician, peddamaistry, and large landowner in the case of the Reddy. These middlemen have in common the ability to move from one milieu to another, to be part of different social groups at the same time. The labour relations established by the maistry require the mobilization of vertical relations (to link with the peddamaistry, with politicians and to gain respect) and horizontal relations (to recruit the labour force to which he is near), which are based, according to the maistry, on trust and secrecy.

Through the review of the maistry's activities, I will analyse the transformation of the social relations of recruitment of the labour force in the village. Two arguments will be presented: first, the prestige and reputation for maistry of the low caste are crucial in order to gain the loyalty of his workers and to keep or increase his position. But to gain prestige, he has to follow careful and flexible recruitment strategies, influenced by others: labourers, kin networks, peddamaistry.

Second, I analyse the political and economic changes that have made the rise of the lower castes in the villages of Andhra Pradesh possible, namely the gollas—caste of shepherds—and their position with respect to the maistry. The gollas have benefited from, and contributed to, the rise of the regionalist Telugu Desam Party (TDP) since the 1980s. The rise of the lower castes had numerous consequences for the social labour relations, particularly the increasingly assertive rejection of inferiority and bondage (without having led to their disappearance). This rise permitted the gollas, profiting from indispensable political support, to accede to the position of maistry. Apart from their assertion of belonging in terms of identity and politically to the *yadava*, the gollas belong to the local political landscape: the reddys, the dominant caste in Telangana, can no longer disregard them.

RECRUITMENT AND AUTHORITY

The subject of the maistry is seldom approached in itself: it is limited to economic exploitation (Olsen et al. 2000) and confined to the worksites (Streefkerk 1981), mainly in the organized sector (Chandavarkar 1994; Holmström 1984). Many of the studies have a useful structural perspective (see Roesch et al. and Prakash, in this volume) and do not focus on the

individuals that perform the linkage functions between labourers and peddamaistry. We know little about those individuals and I argue that the organization of labour circulation is also partly shaped and transformed by maistris and labourers.

The maistry fascinate with their underworld connections (see Chakrabarty [1989] about *goonda*, Chandavarkar [1994] about *dada*), and disturb with their image of wicked persons who exploit and harass. The will of the government and enterprises to eradicate him was sporadic (De Haan 1996): he should disappear with modernization. De Haan takes up these allegations and includes the elimination of the *sardar* in the chapter entitled 'Modernisation of Labour Relations' (ibid.: 79). Chandavarkar recognizes that he is indispensable in the regulation of the labour force; the latter fluctuates according to the employer's demand and not because of a commitment problem on the part of the rural population (Chandavarkar 1994). He summarizes the question thus: 'Since the jobber or his equivalent was a ubiquitous figure in Indian industry and labour organization, he has been constantly portrayed as a social archetype and cultural artefact, a pre-industrial survival or an institution peculiarly suited to the specificities of Indian culture and conditions' (ibid.: 100).

The research pertaining to recruitment and authority have been conducted only in the places of work and show that the position of the middlemen is acquired beforehand, outside the place of work.

The recruitment question in the literature is limited by an assumption about the 'primordial ties' that underlie labour recruitment by maistris, without giving explanations on what constitutes 'primordial ties', strategies of recruitment of the maistris, and strategies of labourers to access and secure jobs. Ethnographies on the social relations of recruitment in villages are rare. The references to the range of functions of the maistris (lodging, credit, health, strikes, etc.) outside the workplaces are made primarily by historians and anthropologists (Breman 1978, 1979, 1985, 1996; Chandavarkar 1994, 1998; De Neve 2005; Gooptu 2001).

The authors testify to the importance of the workers' ties to the village, through the maistry, without always making the nature of those ties clear. Thus, Chakrabarty states that the *sardar* must have an influential position *before* becoming a *sardar*, that his authority follows from pre-capitalist links, that is, a jumbled concentration of categories such as 'kingship, religion, community and other similar loyalties', or again 'friendship' and 'village' (Chakrabarty 1989: 112). Breman (1996) demonstrates that the authority of the *mukhadam* rests on primordial ties. Joshi (2003)

underscores the ties created in the village and brought to the place of work. She correctly recalls that this in no way means that the labour market would be entirely fragmented by the 'primordial' ties: 'The notion of a market completely segmented by 'primordial ties' of community is as problematic as managerial assertions in the 1930s that there was a free market for labour' (ibid.: 70). Respect, honour, and prestige reinforce the vagueness surrounding the relations between maistries and workers.

The authority of the maistry does not ensue from a formal delegation of managerial power (Chakrabarty 1989: 147; Joshi 2003: 70). It is therefore not the title that makes for authority. The question of authority condenses around a very relative notion: arbitrariness. According to Joshi, 'arbitrariness in a sense was the basis of the maistry power' (2003: 153). That is an authority exercised according to goodwill, the caprices of an individual, proceeding from a free choice of principles and conventions. This is difficult to reconcile with the numerous assertions demonstrating that the maistry shares the same social origins as his workers. These rules, consigned to the domain of the arbitrary, can be in part understood and internalized by the workers.

MEN WITH CONNECTIONS

The maistry is therefore the one who links the production space, the vicinity, and the village, that is, social spaces where the workers live, where they construct the social relations connected with the world of labour. He develops the horizontal and vertical networks. He avails of his abilities to force his group to work with responsibility at the sites, while being the main defender of the group in the face of the demands of others. Organizer and breaker of strikes (Chandavarkar 1994; De Haan 1996: 81), he is difficult to classify. He demonstrates the impossibility of separating the different spheres in which these manual workers evolve and scrambles all the unduly separated categories.

The *palamur*⁹ system dates from the 1930s: workers were conveyed throughout India for the construction of irrigation canals and dams. This practice was common in the colonial period, whether it involved infrastructural works (Kerr 1998) or plantations (Chatterjee 2003). The maistry is a figure that cannot be disregarded in this circulation. He is the labour recruiter in the villages where he originates. The circulation of labour is dominated by an entire chain of subcontracting, but it is locally that the maistry's power is significant. The system is organized around a contractor who responds to government invitations to tender for the

construction of a canal, a road, a dam, or a railway, etc. This contractor delegates the management of the labour force to several 'group maistry' or peddamaistry, who in their turn rely on several local labour maistries responsible for recruiting labour at the local level. The groups generally do not exceed more than forty workers, men and women (Olsen & Murthy 2000: 2). The maistry, in his turn, delegates his authority to the *gumpupampupedda*, a worker, during his absences from the camp. The maistry gives advances to the workers before their departure: half of the sum is taken from his own funds, which presupposes a capacity to borrow. At present, the seasons last around nine months, from November to July,¹⁰ with numerous variations.

The maistry recruits the workers, becomes indebted to provide the advances, finds them a workplace thanks to his contacts with the peddamaistry, arranges for them a place to sleep (huts), and something to eat (very bad). He finds them work (very hard) and moves them according to the work, organizes rituals for certain festivals on the worksites and for the machinery, returns them to the village, and also does the accounts when back. Importantly, he lives with them!¹¹ He does not work but he is there, present on the worksites, in the labour camps; he shares their food, their habits, their gods, their fears and isolation, their family networks, their caste sentiments, their conflicts, their alcohol and brawls and, sometimes, their women. He shares neither their suffering at work (but he may have worked in the same way earlier) nor their position. It is he who decides, organizes, advises, reprimands, supervises, helps, humiliates, supports, beats, protects, and exploits.

The major part of the maistry's work consists in recruiting, on behalf of the peddamaistry, a disciplined labour force, hardworking and mobile for nine months, against a monetary advance distributed all at one time in the village at the beginning of the season—around the time of deepavali.

Being a maistry is a risky job and the advancing of money to the workers presupposes the possibility to lend money. The maistry receives only part of the amount necessary for providing the advances from the peddamaistry: for a sum of Rs 300,000 he must borrow around Rs 150,000. The stakes are considerable. The maistry is obliged to borrow money, often from outside the village.

The discourse of the maistry focuses on the risk of a worker deserting after the advance has been paid. This risk, according to the maistry, is a real one and increasingly frequent and implies the loss of the advance and of a worker. The recent activities of NGOs and media concerning bonded

labour, diverse investigations, and the internal relations in the village mean that the maistry can no longer act openly. The secrecy surrounding the negotiations, the departures and places of work take fully into account, on the one hand, the risks connected with desertion and, on the other, the media coverage of the illegality of this form of labour by NGOs and governments.

All these maistries are affiliated with peddamaistry. The latter can be an important person in the village—at the political, economic, and religious levels—or established in the neighbouring town. It is inevitable that the peddamaistry has political connections (a Member of the Legislative Assembly [MLA], or a Member of Parliament [MP]) through which to obtain contracts. The contractor is established at the district level or in Hyderabad. Observing the whole concatenation of subcontracting, the maistry appears to be the last link in the chain of intermediaries (on this chain, see also Guérin et al. in this volume). He is also the last to be served by it.¹²

The maistries know each other, follow each other, and have worked together at some time during their careers. They exchange information concerning a particular worker, not in an organized manner, but during informal discussions. The maistries are always in contact and in competition with each other regarding the choice of workers. This does not mean that the maistries would constitute a homogeneous body. The differences in caste and in profile presuppose very heterogeneous strategies. But in order to become a maistry one must be recognized by one's peers and have access to networks of connections and support and, above all, to credit networks. Trust and solidarity among the maistries are the two points they talk about. But these relationships are far more complex, as maistries are also in competition with one another and are concerned with protecting their own workers.

A conflict took place in the centre of the village the day before the departure of Bhupathi Reddy's group. A maistry from another village came on a scooter along with the serpanch. He vehemently called out for Kurmaiah, a madiga from the village, whom he did not hesitate to manhandle and push around. However, faced with the madiga, who joined together in opposing him with their numerical superiority, he had to calm down. The altercation was violent and the maistry reproached the madiga for not having repaid Rs 3,000. He had also just come to know that maistry's departure was set for that night: the money would be lost for nine months. Then Bhupathi Reddy arrived, Kurmaiah's new maistry,

a well-known large landowner. He is well acquainted with this maistry, but could not entirely agree with him in front of some of his workers. The advance had already been paid and everyone expected him to protect his workers. This is what he did by mitigating and dismissing the affair. The maistry had to leave without the money.

To keep the workers in place through economic constraint alone does not suffice. The maistry must maintain extra-economic relations in order to attach and discipline his labour force. At the same time, their will to reduce the cost of protection included in the bondage relationships make the economic aspects increasingly predominant. But by doing so, they lose control on the labourers. The maistries tend to behave as brokers and not as patrons, but expect to keep the prestige of being a patron. While for some of the labourers, the predominance of economic aspects with less protection tends to accentuate the relationship of dependence, for others the escape with two advances can be a response. The strategies of the workers are mixed and varied, according to their economic and social positions: some give a lot of respect to secure their relationship with the maistry, others change their maistry to find the best advance or build other networks to go to cities as daily wage workers.

In 2004, Idanna decided to change his maistry, despite the debt by which he was bound. The maistry did not want to give him another advance until he had repaid part of his debt. Carefully shaved and hair combed, wearing a perfectly white shirt, he passed through the surrounding villages looking for a new maistry. For fifteen days, he put pressure on Ballaiah, the head of the gollas in the village, to mobilize his networks. The latter has a son-in-law who is a maistry and who engaged Idanna in spite of his very bad 'service record' and his reputation of being a notorious alcoholic.

For Idanna, the maistry is above all someone who provides an advance, the largest one possible. Other considerations such as the work, the quality of the food and location are parameters that are discussed but they are of lesser importance (see Guérin and Venkatasubramanian, this volume). Idanna does not have the right to examine the destination, which is announced only a few days prior to departure. The maistry anyway has only a vague idea about the places of work, which are extremely varied (as many as five worksites each season).

The major strategy followed by the recruiters is the division of the workers: multiplication of villages as recruiting zones and multiplication of castes. The *gumpu* that leave the village each year are heterogeneously

composed. A gumpu of forty workers can include up to six villages and six or seven different castes.¹³ In a majority of cases, this takes place at the level of the mandal.

The maistry has to evaluate, case by case, the advantages and disadvantages of closeness. Advances are only given to someone who is known through his networks or recommended by someone he trusts. He composes his groups while mixing relatives, 'strangers', castes, villages in order to limit the solidarity between labourers.

The power of the maistry is not only dependent on caste superiority; among the members of the same caste or of the same family, exploitative situations can exist. Anjaneylu, a golla, hopes to change his maistry and get a larger advance to repay Rs 20,000 to Chandraiah, his present maistry, also a golla, who had lent him Rs 40,000. Chandraiah's money financed, in part, the house and the dowry for the marriage of Anjaneylu's daughter with Chandraiah's son! The change of maistry is a delicate matter: his wife, other daughter, and he finally set off again with Chandraiah. It is impossible for them to extricate themselves from these relations. The maistry doubled his stakes and took on four persons.

The recruiting strategies are thus in part connected with this objective: recruit around oneself, in a sub-caste, in one's family, in relations in which the domination of the other and his submission seem to bring no risk. The maistry carefully maintains his networks through his attendance at marriages and religious festivals. The prestige he acquires through his social success is displayed through a motorcycle, a mobile phone, and relations with important figures in the villages. The maistry is constantly under pressure to recruit workers: caste helps in the recruitment and influences his power. The maistries are all known to each other and they exchange information pertaining to the workers. Some are put on the blacklist and therefore can no longer find work. However, in the same way, the workers try to choose the maistry who has the best reputation; one who fulfils his commitments, provides proper food, and respects 'his' workers.

That, however, is not enough: the maistry must be feared and respected. The caste relations in the village remain deeply anchored: prohibition of the madiga to enter the temple, concentration of good land and water in the hands of the reddy, as well as an entire range of social interdictions.

The maistry regularly recruits from a caste that is equivalent to or lower than his own. This makes it possible to preserve an authority by 'birth'; the upper castes refuse to work for the lower castes. The forms of

economic domination are superimposed on forms established by caste status, and the maistry has not created this superiority which he views and imposes as if it were 'natural'.

TRUST AND COMMITMENT

The bondage relations maintained by the maistry hinge on violence, which is now more symbolic than physical (Breman 1996), on the caste system, and on a strong economic dependency.

The authority and the social mobility of the maistry are limited by his position as a middleman. Being a middleman is the key to his power. It means that he cannot leave one of the two sides: he needs to get close to the peddamaistry and other dominant peoples in villages to get prestige. But, at the same time, he cannot be too far from workers: if so, he will lose his contacts, respect, and prestige by becoming *garvam* (proud). According to this, the strategies of recruitment are very diverse and flexible: advances and work given are part of a personalized relationship.

Discourses on trust reveal the tensions between maistries and workers around the definitions of commitment, loyalty, and on what constitutes a 'good worker'. As De Neve (2003: 253) rightly argued, both have different views on commitment.

The work of the maistry denotes, above all, the ability to recruit and take a group of workers to different places in the course of the season for a derisory sum,¹⁴ to make sure of their endurance in toil and relentless work. The 'good worker' is one who works for a long time without grumbling, does not fall ill, is content with the working and living conditions, and is satisfied with the low-quality food. That, however, does not suffice; the 'good worker' must continually prove through his gestures, bearing and vocabulary, through his deference and submission, his namaste and other signs of respect, that he views the maistry as a benefactor who is rendering a service. The worker is the subject of constant complaints from maistries, golla mallaiah told me, 'The workers no longer respect anything, they try to rip us off all the time, they take two advances and run away. Before, they trusted us and one trusted them and everything was okay. Now, the young people don't want to work. They want to wear jeans and go to the cinema.'

The term 'trust' or 'nammakam', is fundamental in the discourses of the maistries. The regular complaints about the lack of trust express the ways they look at the changes in the loyalty and commitment of workers. Through trust, they recall an ideal 'communitarian' system in which the

labour relations based on trust and loyalty take precedence in simple contractual and monetary relations.

According to the maistries, there was once a 'community' where they could trust the workers with eyes closed, where labourers were fully loyal and committed to them. This ideal is described by the maistries as a reality that has been called into question for some ten years. The authority of the maistries, long ago made 'natural', can no longer be taken for granted. The notions of service (work as service rendered to the maistry) and of community are questioned by the workers, who are aware that their interests differ from those of the maistries and that the protection is reduced to a minimum. This does not contradict seeking protection (invitation to a marriage, caste and family ties) through the acceptance of extra-economic obligations demanded by the maistry. The protective discourse of the maistries—provide work in the fields upon return to the village, avert risks and insecurity, give credit for marriages and money without interest—are nowadays seldom turned into practice: the ties with the workers have loosened.

On the evening of deepavali, I was invited by Ravi, a golla, to go to the house of Bhupathi Reddy, his maistry. He offered the workers something to eat and drink, taking advantage of the occasion to even out the accounts. The women were not present. Sitting in a chair (the only one available), he looked at 'his' workers, who ate their food seated on the ground, outside. He greeted them and made jokes. He insisted on talking to me about his work.

Every year, I give 200 rupees to my workers and to the families in the village. They work for me and I take care of them. The camp is clean and the food is always of good quality. They know that I deal with them correctly, that is if they have a problem, I will help them. They know that I am the only one to give work and money. Here, in the village, all the others give small sums at '3 rupees charge'¹⁵, but they don't give them work. With me, some have up to 20,000 rupees. It's normal to help them, they work hard and die. That's all they make of their lives here

I left with Ravi. The meal is not a service, a kindness offered by the maistry to the workers: 'It is his dharma', he told me. The maistry does his duty, and the low-caste worker is not mistaken: the maistry does it for himself.

Bhupathi Reddy always expects deferential behaviour from his workers, mostly from the lower castes in the village. Proofs of loyalty are regularly demanded: respond immediately to his needs, go fetch this or that, and adopt respectful attitudes. Leaving the best place in the rickshaw for him,

not smoking in his presence, acquiescing when he speaks, holding one's hands behind the back, begging twenty times to obtain a 'service'—these are a few of the corporeal attitudes that are socially 'incorporated'. The vocabulary is also put to the test; a few courteous expressions are welcome and the '*andi*'¹⁶ is appreciated. He is addressed ingratiatingly with kinship terms (in his presence), as commonly as with insults (in his absence). He must have a group of dependents who accentuate his prestige and accept to render him services at any time.

The maistry must also attend marriages. On the occasion of the marriage of Idanna's daughter, the notable person expected was Ramullu, his new maistry, a *golla* like Idanna. It is of little concern that one would have forgotten to invite the brahman. Ramullu profited from the occasion by negotiating the arrival of one of the daughters of Idanna at the labour camp, after the marriage. Idanna's former maistry, also a *golla*, has become a 'son of a bitch', the new one is 'uncle'. For his part, Ramulla has the guarantee of his brother-in-law, a *golla* headman in Idanna's village.

The pilgrimage and the religious functions (which he performs on the working sites and the labour camps also) are intended partly to increase respect. But the situation can have a reverse side. In 2003, Saodanna, his former maistry, attended the religious festival of the *Godavari Pushkaralu* in Andhra Pradesh to perform a *Pinda Pradaanam*,¹⁷ widely commented by the workers. The maistry became an esteemed person, but can still come in for sharp criticism. When I questioned a few women about the approaching religious festival *bonnalu*, one of them responded ironically, 'Here, for us, *bonnalu* is every day', miming the gesture associated with the festival, which is identical to that in their everyday work. She added, in the presence of the maistry, 'We will also eat meat: above all the bones, which are free and in great quantity.'

The extremely complex and dynamic relations between the maistries and the workers extend beyond the economic framework and are integrated into family, caste, and religion. It is in the overlapping of these spheres that bondage takes shape and is reinforced.

The power of the maistry is limited by his position: he cannot totally submit to the contractor. He navigates between the obligations connected with the work process and with his position in the village, where he must render accounts—financially, morally, and socially.

This is what Balakrishnaiah, a *madiga*, told me. In thirty years of migration, he saw his maistry oppose the contractor and call a strike on only one occasion. Several fatal work accidents had occurred on a

dam. Two bodies had been submerged in cement, secretly and quickly. According to Balakrishnaiah, the management feared that, for reasons of belief, the workers would be afraid to return to work. The third accident concerned a man from the gumpu. Under pressure from the workers, who insisted that the body be sent home, the maistry sided with them and they achieved their objective. The body was sent home at the cost of the company.

The networks that the maistry uses for recruiting are also the networks that limit his power. Recruiting within his own caste, his own village, or his own kin necessarily has implications on his reputation and prestige.

His power is limited in the village by caste. The maistry recruits from below and looks for political support above, among the well-off and influential members of his caste. Caste furthers exploitation (a reservoir of docile labour, which seems to signify 'primary ties') and is also instrumental in limiting exploitation. The maistry must take into account his reputation and the expectations outside work when recruiting and disciplining. The prestige acquired by his status and through the exploitation of his close relations somewhat limits this exploitation: rights and obligations (extremely unequal) are involved in the maistry's relations with workers belonging to the same caste and to lower castes. Marriage invitations are occasions to remind the maistry of his obligations and his support for the caste. But caste is not the only element: the gumpu composition shows the diversity of social origins of workers.

SOCIAL CHANGES AND SOCIAL MOBILITY OF THE GOLLAS

Tankerranna migrated for the first time in the 1950s, at the age of twelve, at the bidding of the maistry; he was the only representative from his family. It had already been six years since his father had last left the village. Not much had come of his last trip, which was to Nagarjunasagar: many of the workers had died as a consequence of water problems. His father was so overcome with fear that he has not left again since then.

Tankerranna thus succeeded his father, followed by his two brothers, their wives, and then the children. He worked, among other places, in Hospet and Chitradurga, on two irrigation canals (Karnataka), on two dams in Nagarjunasagar and Badrachalam (Andhra Pradesh), on a railway in Tirupathi (Andhra Pradesh), in a steel plant in Bokara (Bihar, now Jharkhand), on a road in Goa, or again in Nagpur (Maharashtra) and in Jabalpur (Madhya Pradesh). As is often the case, these places, which the workers like to recite, cover the map of large projects in India.

He told me that, before 1980, no one went to towns alone. The maistries—exclusively reddy—completely organized the migration. Out of fear, no one refused. They feared the reddy,¹⁸ but also the police. The latter rarely came, but when they did, men and women were struck without distinction.

Tankerranna migrated over a period of thirty years, until 1985. He then cultivated lands left after his father's death. For him, the change came in 1982 with the arrival of N.T. Rama Rao¹⁹: securing the right to vote in the village,²⁰ roads, electricity and the re-distribution of land. Thus, numerous SCs and BCs obtained small plots of land and the reddy were obliged to compromise with them. Gradually, some were able to refuse to go along with them. Golla, madiga, boya, and uppari went to Hyderabad for construction work.

The departures as day labourers to construction sites in Hyderabad and Mumbai have become more intense during the last twenty years. This alternative, together with the diminishing significance of the caste system (as the older people in the village underscore) and the disappearance of the *bhagela* (bonded servant) and *vetti* (free labour service to the local lords) systems of exploitation (Reddy 1983; Vaddiraju 1999; Bobbili 2003) established in the princely state of Hyderabad, or again the diminution of the *jeethagallu*,²¹ has brought about a loosening of the bondage relations. Nevertheless, the extra-economic obligations, the symbolic violence and coercion are still very much present.²² The bonded labourer does not enter this relation voluntarily, contrary to what Krishnaiah (1997) puts forward. The relation has passed from worker/maistry to workers/maistries. The workers attempt to escape the personalized attachment by multiplying the maistries and by circulating the debts. But they all know that the maistry is the only one who offers a considerable sum of money *and* guarantees work for nine months.

The alternative represented by going to cities as daily wages is not accessible to everybody. Going to cities requires contacts, to depend on maistries in labour markets, to know where to stay, to accept different social rules. The specialization of palamur labourers on main irrigation projects since the 1930s allowed the rise of an identity known as 'Palamur Labour' based on territory and exclusive to bonded labourers. The new forms of migration since the last twenty years are based on the strategical uses of this identity both by migrants and by maistry—a guarantee of cheap and hardworking labour in Hyderabad. The social relations in place in the palamur system, while undergoing change, lie

entirely in the framework of the capitalist economy of the construction industry, as in other sectors (Brass 1993: 225; Breman 1996: 168). The sites on which the gumpu work are the symbols of Indian modernity, the famous dams called 'temples of India'. The dams, the irrigation canals, and some of the buildings of High-Tech City in Hyderabad are financed by the Indian government—and, in the case of Andhra Pradesh, by the World Bank: all of them resort to bonded labourers of the palamur system.

The political rise of the lower castes (gollas) has modified the organization and circulation of labour as also social labour relations. According to Srinivasulu (2002: 13), this process dates back to the end of the 1970s. The TDP, founded in 1982, rose to power nine months after its creation. This success, based on the formation of populist politics (Suri 2002: 26), which are always topical (Reddy 2002), was achieved with the support of the lower castes (Srinivasulu 2002; Vaddiraju 1999). In the villages, the reddy, who are the dominant caste, had to reckon with the lower castes, as is the case now. The gollas rose to office in the panchayat—and not merely as representatives of the reddy.²³ The increasingly frequent investments in land—along with their traditional activity as goatherds—have provided the gollas with a better economic and political basis. This social ascent is recognized throughout Andhra Pradesh (Johnson et al. 2003: 21). The assumption of political posts by gollas has made it possible for them to depart as day labourers to urban zones—thereby extricating themselves from the hold of the maistry—and given them access to positions as maistry.

From the large landowning reddy to the madigas, maistries do not come from the same milieu or from the same castes. From social ascent to the diversification of family activities, the strategies are numerous. The diversity of profiles originates then in different social, economic, and political changes.

The appearance of the lower castes in positions as maistry is explained by social, political, and economic transformations. These changes, however, have not modified the general structure: the reddy hold the key political and economic functions in the organization of labour. But many reddy have invested in education for their children as they are interested in securing government jobs for them.

The maistry adapts to the new tendencies. His authority is derived less and less 'naturally' from his caste superiority and from the lack of knowledge on the part of the workers, from the total absence of

opportunities, or again from the fear of physical violence. But the relation is not a purely contractual one and the simple course for the largest advance, as described by Jodhka (1994) is still marginal and reserved for the most prosperous.

De Haan (1996) states that any worker can become a *sardar*²⁴ (p. 78)—a position without importance (p. 90). In the present case, the situation is much more complex: the worker, apart from a few personal capabilities, must be introduced as trustworthy to the other maistries. He has to show his loyalty for many years, his aptitude to respond to the needs of his maistry and to serve him.

I first met Mallaiah at the departure from the village to the *Kurmurti Jatra*. We left in two tractors, one of which was loaned by Shekar Reddy, the maistry, and the second by Tirupath Reddy, peddamanishi of the village and former maistry. A few hours and jolts later, we arrived at the site of the festival. I followed Mallaiah, accompanied by two gollas, Krishnaiah and Nilli,²⁵ his former workers. After a bath, we climbed the hill and performed a quick puja, prompted by Mallaiah. No one lingered. No puja—no meat, no alcohol! We went down the steps, where a long line of beggars had gathered. Only Mallaiah distributed a few small coins.

Mallaiah is a golla and maistry. He had just returned to the village from Tandur and his stone quarries. He worked for four years in the 1970s on the orders of the same maistry, a red dy.

I was a very good worker and made myself very useful to the maistry. He always said that I worked well. Gradually, he asked services of me, which I carried out. Then one day he came to find me to tell me that he trusted me and that I could be in charge of the gumpu during his absences. I became a *gumpupampupedda*. Two years later, he helped me so that I could take a group alone. I didn't know anything about it, but he helped me very much. Afterwards, I got along by myself: I went to the Narmada, I visited the Taj Mahal, I took a gumpu to the Nagarjunasagar. I know all of India: I worked in Delhi, Mumbai, Kanyakumari. I am a very good maistry; the workers worked, I gave them good food. I had lots of work. One year, I went to meet the peddamanishi, who gave me money, to encourage him to take work. It was me who showed him everything, explained everything. He knew nothing. Now, his sons have a car and much money. Me, I have nothing. And he doesn't help me. A year ago, two workers deserted and I lost money. I had a lot of debts and nobody helped me. It is me who showed them everything but they no longer want to lend me money. My daughter just married a young maistry, but he is no better than the others. As for the workers, it's the same, they cannot be trusted. Before, they respected us, now they want money without doing anything.

Mallaiah is still a maistry. But he only works on a commission basis: 10 per cent of the wages per day and per worker. His name is now associated with 'bad luck' and it is difficult for him to recruit workers who trust him to find regular work. At present, there remains for him only a miserable hut.

Mallaiah was one of the first of the maistries of a low caste in those villages. Through hard work, he became a maistry under the patronage of another maistry. The political rise of low castes and the declining interest for those activities by the reddy made it possible for the gollas to access this position. 'Maistry' is no longer a position reserved for the reddy.

From the point of view of social mobility, Mallaiah, having become maistry, represented one of the possibilities of social advancement for the workers: he now underscores the fragility. A worker who became maistry, he has fallen lower than the workers. He was subjected to the forms of resistance by the workers about which maistries today complain: lack of loyalty, problems of trust, purely economic relations and the flight of the workers—all of which are over-estimated by the maistries. The social rise of the lower castes, for which the maistries can be a rung, cannot extend to the individual level. Caste support is indispensable in gaining access to credit.

The peddamanishi of the village, to whom Mallaiah 'explained everything', is the principal landowner in the mandal. He is also the leader of the TDP on the mandal level and vice-president of the Grameen Bank. His oldest son owns two excavators, which he rents to the large sites. The youngest son has three of them and has opened in High-Tech City (Hyderabad) a shop selling materials for the worksites. They both reside in Hyderabad. His brother-in-law is a member of the ZPTC (Congress) and labour contractor, while his brother is a 'tipper contractor'. The uncle of this peddamanishi is an ex-Member of Parliament (Congress). This brief account suffices to cast light on the distance between a maistry and a peddamaistry. The peddamaistry in a neighbouring village has more than 100 maistries at his bidding.

The profit made by the peddamaistry cannot be compared to that made by the maistry, who gets around Rs 5,000 a month. His political, government and financial connections are thus out of reach of maistries from the lower castes. The key positions are held by the reddy, who distributes the work, loan sums of money so that the maistry can become peddamaistry, or not. By showing interest in the status of peddamaistry, the maistry would intervene in a sphere in which power is different. The

extent of the maistry's influence is therefore limited by the other spheres of power that block his access to the necessary credits to the extension of his influence (Chandavarkar 1994: 102).

While they need the support of reddy to access credit in order to become maistry, the gollas gain influence and a better economic position through their political rise in villages and urban settings.

The maistry thus represents, for the worker, a form of social ascent that is evident and comparable. For a maistry from a lower caste, this social rise represents, above all, the end of manual labour: the pencil in the shirt pocket, the pants, the clicking of tongue or snapping of fingers to summon a worker, and the belly full of better quality rice. Meat is still eaten, but the *beedies* have been replaced by cigarettes. These demeanours are symbols of success in the rural milieu. The maistry must become *maryaada* without being *garvam*. The purpose of his position is to escape manual labour.

This contrasts with the peddamaistry, who is unseen and beyond comparison.

CONCLUSION

The economic alternative represented by the relatively easy access for some to the construction market in Hyderabad and Mumbai deeply changes the relations to the maistry. At the extremes, we find the bonded labourers repaying debts contracted in some cases by their fathers and seasonal migrant workers toiling as day labourers. The border is becoming more and more blurred. On the one hand, it becomes possible for the bonded labourers to change their maistry, but without leaving the system of bondage. On the other hand, workers are bonded for ten years, redeem their debt, leave as day labourers for Hyderabad for three years, then leave again at the bidding of the maistry. Taking on this diachronic dimension, the multiplicity of forms of work and their links appear in a single family and during one lifetime.

The political and economic rise of the lower castes and of the gollas across Andhra Pradesh has definite repercussions as regards the modification of unfree labour relations. However, the impact varies from district to district. In the adjoining district of Nalgonda, Vaddiraju tells us that the power of the reddy has declined and that one can find no form of unfree labour or of extra-economic coercion (Vaddiraju 1999). I nevertheless doubt that this can be generalized to encompass the whole district. I met numerous bonded labourers from Nalgonda at the various

canals and sites I covered. The accentuation of the maistry should not allow one to suppose that domination is exercised only through him.

Idanna and his wife, a golla, have been bonded for thirty years. The youngest girl, nine years of age, works in the small neighbouring town as a servant —(*intipani*) at the house of the daughter of the village peddamanishi. This means being fully available—for Rs 1,500 a year. By giving this family the service of her daughter, Idanna gained access to a loan from them: Rs 6,000 at 36 per cent annual interest.²⁶ Another daughter, thirteen years old, has a place in Hyderabad with her two older sisters, who are married and work as day labourers in construction. The other, eighteen years old, accompanies Idanna and his wife to work on the canal. Idanna's mother remains in the village, alone and without money. She will have to work from time to time to be able to feed herself.

The changes in labour relations are thus limited (Srivastava 2008), and can be characterized as neo-bondage (Breman 2008, 1996). Those who are better-off find the resources to negotiate the advance to the greatest advantage and to avoid personalized binding relations. The most frequent case is that of a young person sent off to work by his or her family, while the other members cultivate the land and look after a few goats. Taking an advance becomes part of a family's strategy to secure employment, to invest in goats, but not as a long-term bond (De Neve 1999). However, such diversification is rare; the preference turns to a debt with a moneylender, reimbursable after several months of work as day labourer in Hyderabad.

The maistry, by 'giving money' without interest, by offering a meal for deepavali, gives himself all the appearances of economic selflessness. The maistry brings into play—and this is all the more necessary for maistries from the lower castes—all the elements that make it possible, on the one hand, to render his dominant qualities 'natural' and, on the other, to impose them as intrinsic to his person. This is what the old peddamaistry expresses with *nammakam*: his status, his deeds, his white Gandhian dhoti must induce the trust of the workers, which he sustains through protective forms. He omits all the instances of physical violence described by Tankerranna that have supported these relations of servitude. Physical violence is now seldom seen, but it is possible to imagine that it would appear in the case of a massive refusal of the harijan to obey the reddy.²⁷

The diminution of protective relations does not prevent the maistries from wanting to preserve these relations of symbolic domination. But,

'if authority is always perceived as a property of the person, it is because soft violence requires that he who exercises it pay with his person. Soft domination is very costly for the one who exercises it' (Bourdieu 1980: 221).

It is incorrect to say that the workers call all forms of domination into question. The hierarchy of the caste system has imposed, at least locally, a long history of subservience. But above all, work is thought of in terms of connections and social relations: 'hierarchic groups, clientelistic networks or familial solidarities', as Heuzé tells us (1989: 220). This may be applicable to a certain extent to the day labourers who leave for Hyderabad in search of the protection of labour recruiters in the urban quarters.

NOTES

1. The workers call themselves this and want to be called madiga or harijan. The terms Dalit and Scheduled Caste (SC) are not commonly used.
2. More precisely, *erra golla*, a sub-caste of the *golla*: a shepherd caste. They also refer to themselves as *yadava*, a pan-Indian term that includes all castes practising the profession of livestock breeders. This identification is based on political considerations. The *gollas* are classified as Backward Castes (BCs), according to the administrative terminology.
3. Classified as ST, they also call themselves *banjara*.
4. The dominant caste in Andhra Pradesh.
5. Swami Chaaranam, salutation of the disciples of Ayyappa.
6. These workers are, in the order of importance, *madiga* (SC), *lambadi* (ST), *golla*, *uppari*, *idiga*, and *pitchiguntla* (BCs).
7. Approximately 200,000 workers, one third of whom are bonded labourers (proportion given by Olsen & Murthy 2000), leave the district every year for nine months (Rao 1993). Rao et al.'s estimations go up to one million seasonal migrants per year (2006). The villages in which the fieldwork was carried out have between 50 and 70 per cent of the working-age population (15–45 years) on sites away from the village. All are owners of plots of land—between 1 and 5 acres—(83 per cent of the bonded labourers have land in another district of Telangana, according to Subrahmanyam et al. 1995), but without access to water. The open wells are dry and water has been privatized: rice cultivation requires much water and the bore wells, which are costly, are reserved for the *reddys*.
8. The interest of this approach is explicit in the works by Breman (1979, 1985).
9. Palamur is the former name of the district of Mahabubnagar, but is commonly used. Migrants are commonly called 'Palamur labourers'.
10. Beginning of the monsoon.
11. For an analysis of friendship in relationships between political middlemen and labourers, see Picherit (forthcoming).

12. Thus, when one considers the construction of a road and the total amount involved, the maistry is not the one who makes his fortune. While all the intermediaries 'eat money', the commissions are much larger at the level of the MLA than of the labour recruiter.
13. All of them are either SCs or BCs.
14. A day's work is equivalent to Rs 30, with meal and lodging provided.
15. The interest rate is commonly expressed as 'Rs 3 interest' for Rs 100 borrowed, without notice of the length of the credit. Here it is 36 per cent of interest per year.
16. 'Andi' is a suffix showing respect in Telugu, added at the end of conjugated verbs. Not commonly used in spoken Telugu in Telangana, it is in current use in Andhra Pradesh. It increases in value when the workers from Telangana use it.
17. A puja offered to the ancestors.
18. They feared the *dora* (landowner) of the village and the 'village officers': the *patwari* (reddy), the *patel* (reddy), and the *police patel* (reddy). *Dora* is a designation often employed by the old people, but the current term is *peddamanishi*. Tankerranna explained that the *dora* was also the first to touch the woman on the evening of her marriage (this was with members of the lower castes). In the same way, when taxes are mentioned, Tankerranna thinks of *dora* as a tax head of the upper caste, but not for the village as a community. This tax system is discussed by Vaddiraju (1999).
19. A former cinema actor, he founded the Teulgu Desam Party (TDP) and rose to power in Andhra Pradesh a few months later. This party is now led by Chandrababu Naidu. The *madiga* allude more frequently to Indira Gandhi.
20. According to him, earlier, no one dared to go to vote and some were not informed about anything.
21. Agricultural worker bound on a yearly basis to a landowner. At present in the village, they are particularly young, between ten and fifteen years. They are available twenty-four hours a day, given lodging—outside with the animals—and food. The workday is around seventeen hours, as Atchi Reddy (1983: 175) already observed. Clothing and health expenses are *a priori* the responsibility of the landowner. I have, however, never been able to observe this: *jeethagallus* who are injured are asked to return to their homes and take care of themselves.
22. The debts incurred by the bonded labourers are intergenerational and mainly used for marriages and daily needs. Some utilize them to repay other debts, others to dig a well. Labourers are multi-indebted with several persons: the moneylender, the maistry, and the landowners for the principal debts; the shop, the wine shop, and now microcredit groups for the minor debts. These functions can be held concurrently: the maistry can also be moneylender and landowner: the debts circulate.
23. It is common that the caste quotas would be achieved by sending workers attached to the *reddys* to key offices (Herrenschmidt 1989).

24. 'The Chief Inspector of Factories said in 1919: "Anyone can become a *sirdar*." This was confirmed in my fieldwork.'
25. The first is now a day labourer in Hyderabad and has returned to the village for the religious festival. The second is a tractor driver for Bhupathi Reddy in the village and at worksites. He remained until the departure of the gumpu.
26. The interest rate is commonly expressed as 'Rs 3 interest' for Rs 100 rupees borrowed.
27. Instances of physical violence in coastal Andhra Pradesh against Dalits who openly lay claim to their rights testify to the appearance of violence when the established order is opposed. Cf Mendelson & Vicziani (1998: 45).

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11 Bonded Labour in the Rice Mills Fate or Opportunity?

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INTRODUCTION

While many empirical studies dealing with labour conditions in general and bonded labour in particular have been carried out over the last few decades, it is surprising that the rice mills sector—an important sector in India, which is the second largest rice producer in the world—has been totally neglected. Yet, bonded labour in the rice mills is an inescapable fact. Analysing its mechanisms is interesting for several reasons.

The appalling, horrifying, and inhuman dimension of the forms of exploitation is the first reason. Whole families are packed in sheds that are locked, sometimes for two or three generations. They have no choice than to live according to the relentless pace of rice drying under unbelievable working conditions. Their social exclusion is almost total. Not only does their confinement cut all ties to the external world, their family and their native village, but also the exhausting pace of work and the living conditions prevent any family life worthy of the name. The second reason for studying this sector comes from the specificities of labour bondage relations. In contrast to many contemporary forms of bondage (qualified by Jan Breman as 'neo-bondage' a term used by several

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authors in this volume) these labour relations are permanent. Thus, these labour relations are neither seasonal nor limited to a few months or few years. There is no intermediary or jobber and the relationship between employees and their employer is typical of certain forms of paternalism, where over-exploited workers still show their gratitude to an employer who is considered a 'protector'. Rice mill owners represent a protective figure in a hostile and insecure environment that they have created: it is the employers who create the labourers' vulnerability. The existence of such tragic bondage situations leads us to think about bondage not in terms of a dichotomous opposition between free and unfree labour but rather in terms of a continuum of situations, from relatively 'mild' forms to practices which are much more brutal, the degree of severity being analysed and appreciated according to the 'costs of exit', to use the expression suggested by Ravi Srivastava in this volume. In the case study presented here, these costs are considerable.

The main purpose of this study is to analyse the working and living conditions of the labourers in the rice mill sector in Tamil Nadu. We also identify the explaining factors through a twofold approach combining a sector-based analysis with a territorial analysis. For territorial analysis we consider three geographic areas: Tiruvallur District (mainly the Red Hills area), Villupuram District, and Puducherry.

Three main factors, developed in the article, explain the persistence (and even the rise) of bonded labour. The first factor is the technical constraints. Bonded labour is specific to a particular labour force (workers who manually take care of the soaking, boiling, and drying operations) and limited to the paddy processing units, especially drying areas that are not modernized. The production process is not only continuous but also very demanding in terms of monitoring. Bonded labour can be a means to ensure the complete submission and availability of the labourers, and this is the case in Tiruvallur District, but it is not the only one since other modes of labour management exist (Villupuram District and Puducherry). This explains the relevance of territorial analysis that clearly shows that bonded labour is far from being a fatality.

The second factor is the social context. Bonded labourers are mainly from the Irular community that is considered to be one of the most marginalized groups in Tamil Nadu. The third factor is the sectoral constraints and the recent evolution of the supply chain (increased competition, tendency towards vertical integration, modernization and development of rice brands). This factor explains not only the persistence

of bonded labour, but also the fact that the pressure exerted on the labourers and their working conditions seem to be worsening.

The present situation is also characterized by an active intervention of the 'civil society'. Several local NGOs and the ILO have been strongly involved in bonded labour eradication over the last few years. Mass public demonstrations, which took place in September 2004 in Tiruvallur, can probably be considered a watershed. Four hundred and fifty workers from ninety rice mills joined, demanding release from 'the iron grip their employers had on them and their families'.¹ This event, as well as many other actions initiated by the NGOs and the ILO, have obviously contributed in making the employers aware of the severity of the situation and some very concrete actions have been taken, especially in terms of child education. However, ambiguous and sometimes perverse effects are also observed, especially the exacerbation of the opposition between 'modern' and 'traditional' units and the intensification of opaque and highly questionable practices of the latter.

Our research is based on intensive fieldwork done during a two-year period (2005–6). In-depth analysis of production units (more than fifty monographs) has been supplemented by many discussions with various stakeholders of the supply chain: official representatives of the Rice Mills Association, trade unions, and NGOs. We need to underline the challenges of the fieldwork for the workers. The access to the field has been extremely difficult for three reasons (this might also explain why so little research has been done on the topic): confinement of the workers (the production units are locked most of the time), an atmosphere of distrust (following the 'release' of bonded labourers in October 2004), and the huge competition between 'modern' and 'traditional' units, which reinforces the distrust of the employers.² Due to these difficulties, we gave up the idea of a quantitative analysis and contented ourselves with around thirty qualitative cases studies.³

TECHNICAL CONSTRAINTS IN *NERKALAMS* AND RICE MILLS

Some production systems are more conducive to bonded labour than others. In agriculture, for instance, irrigation constraints have justified, for a long time, the presence of permanent workers; bonded labour being an excellent means to guarantee a labour force available at any time at a low price.⁴ For seasonal activities (not only in agriculture, but also industrial activities which take place outdoors), bonded labour is a means to ensure the loyalty of the labour force for short periods. It is all the more efficient

when the production process is continuous and does not permit any break (see, for example, the brick kilns and sugar cane harvesting described by Guérin et al. and Prakash in this volume). Though bonded labour is more often used in case of unskilled labourers and for manual activities, it is also found in sectors requiring skilled labourers. In the latter case, bonded labour is used as a means to ensure the labourers' loyalty.⁵ In the rice mills sector, the technical constraints of the production process are also a factor, though not the only one, since alternative modes of labour management exist.

Manual Drying: The Need for an Experienced and Permanent Labour Force

Let us start with a brief description of the process (Figure 11.1). In order to be hulled and transformed into rice, the paddy has to be first soaked, boiled, and then dried very quickly. The process takes place primarily in two locations: the *nerkalam* (Tamil word for 'yard', where paddy is washed, boiled, and dried); and the rice mill itself, where paddy is processed into hulled rice and rice is cleaned, polished, sorted, and put into sacks. The rice mills sector is thus composed of three types of units: the *nerkalams*, the hulling units, and the rice mills (which have both *nerkalam* and a hulling unit). Often, the term rice mill, in the strict sense, is used to name *nerkalams* and rice mills together. Since bonded labour is much more

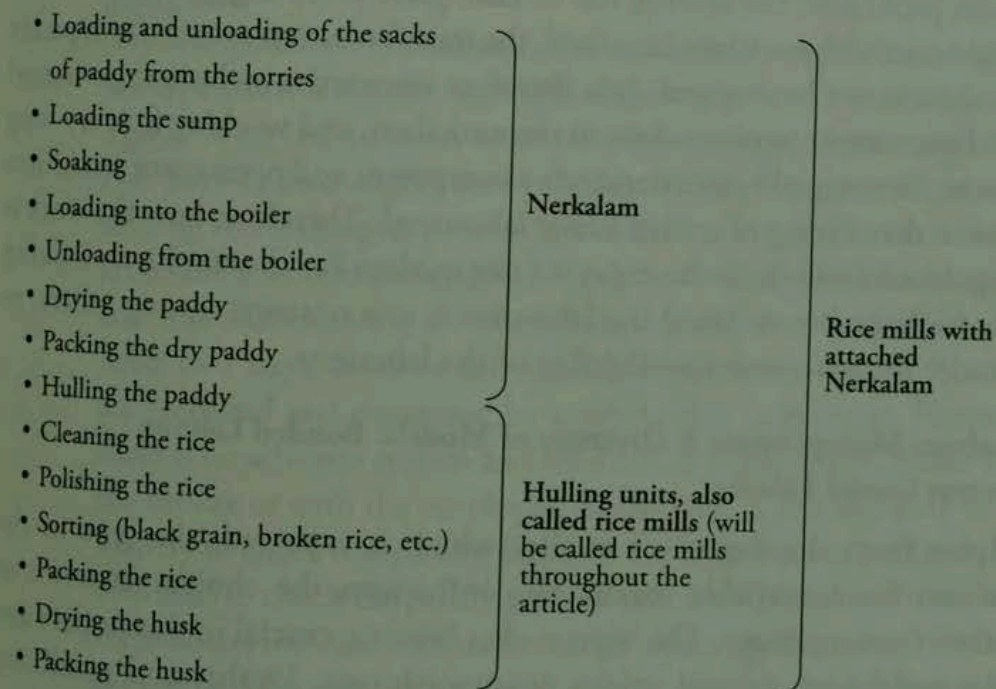


Figure 11.1: Description of the production process

prevalent in the *nerkalam* than in the rice mill, we will maintain the two terms throughout this article.

Drying, which is the trickiest operation, takes place on concrete surfaces inside compounds called *nerkalam*. This process, depending on the manner in which it is carried out, has a direct impact on the output in terms of quantity of broken rice, the storage qualities, and the taste of the rice. Soaking and boiling have to be followed immediately by drying in order to avoid the development of mould. Therefore, these operations take place at night so that the boiled paddy can be dried as soon as the sun comes out. The drying has to be carried out with care in order for the rice to be homogeneous. It continues for two or three days depending on the quality one wants to obtain. Almost all the operations in the *nerkalams* are labour intensive, while those in the hulling unit are mainly mechanical and executed by machines. In hulling units, the labourers' job mainly consists of supplying and supervising the machines. Thus, while only a few minutes are needed to hull a paddy bag, almost three days of work are required to dry the same quantity of paddy.

The specific process of drying operations has implications for labour management. It requires experienced staff (especially the physical capability to work very hard), constant monitoring, and a continuous presence of the labour force. The process is continuous: soaking in the evening, boiling from midnight to sunrise, and drying all day. To make the production units profitable, the boiling has to take place every night or at least two nights out of three. Once launched, the transformation process from paddy to rice cannot be stopped. It is therefore imperative to have experienced and permanent workers close to the *nerkalam*, and working for very long hours. Better quality rice demands a competent and permanent workforce rather than hiring of coolies (daily labourers). Therefore, how the work is organized depends on the expected rice quality. For the employers looking for high quality, to bond the labourers is one strategy, among others, to ensure the permanent availability of the labourers.

Labour Management: A Diversity of Models. Bonded Labour versus Casual Labour

Apart from the degree of quality which is expected, the type of the labour force available locally also influences the choices in terms of labour management. The aspects that become crucial in this respect are: the social and cultural origin, trustworthiness, loyalty, and possibility

to diversify its sources of income. Regarding the drying process in the nerkalams, three types of labour organizations have been identified in the three areas under study. In the three locations, the technical process is more or less the same.

1) *A continuous work system (as in The Red Hills and Tiruvallur District):*

The workers labour from midnight to 6 pm next day with short pauses. It is in this system that we find bonded labour. The system is characterized by families living inside the nerkalam. All family members work; some work is done only by the men, other by women and children. The working hours and working days are long and the movement of people out of the working area is strictly controlled. Usually, workers have a good skill in paddy drying. Work is divided into groups of four to six pairs. Paddy is put to soak at 2 pm. The transferring and boiling start at 1 am till 6 am. From 8 am to 6 pm, the paddy is dried; each group deals with 'its' paddy for three days. A second series can start from the second night. Drying can alternate with the first series. The workday can thus last for twelve to sixteen hours, sometimes until eighteen hours, seven days per week if asked by the employer. Nerkalams are located in the outer suburbs of Chennai. In almost all cases, though nerkalams provide housing for the labour force, they also prevent workers from going out.

2) *A system of two sets of workers, which alternates every two days (about fourteen hours a day for two days, then two days of rest [Villupuram Type]):* A set includes ten to sixteen men who work one night and two days or two nights and one day. Work begins at night with soaking and boiling, then two days of drying. According to the work schedule, a second soaking/boiling is carried out the second night, and it is the following set which takes up the drying of this paddy. After two days, another set resumes work for two days. The sets are recruited and organized by a job broker (a *maistry*). However, there is no advance system and no form of dependence, either with the broker or with the employer. In the past, it was the duty of the *maistry* to check the quality, but now the mills have appointed their own staff to check the paddy process and drying quality. Sometimes the workers join and choose a *maistry* who negotiates with the mill for wages, advances, etc. After the work, the first set receives wages

and goes back to their village and the second set then takes over the process. Between the two sets, the labourers can have other income generating activities (mainly agriculture).

- 3) A night shift system with a clear splitting of the work between men and women: Men do the soaking and boiling while women carry out the job of drying (about nine hours [Puducherry Type]) The men do their work (soaking and boiling) during the night for approximately seven and a half hours (from 11 pm to 6:30 am). In the morning, the drying work is shared among the women; each one is responsible for a batch of sacks to be dried for two days, from 8 am to 5 pm in the evening with (sometimes) a short break around noon. In the meantime, the men rest or carry out some work in the rice mills (cleaning, loading, unloading). Here again, neither the advance nor any form of dependence can be found.

Among the three areas, the remuneration per hour and per day is lowest in Red Hills. Though the remuneration in Red Hills appears to be similar to that in Villupuram, the working conditions are obviously more strenuous and dangerous in the former than the latter.

Table 11.1: Comparison of the working hours and wages between the three types of nerkalams/rice mills

Particulars	Red Hills	Puducherry	Villupuram
Labour force	Men, women, children	Men and women	Men
Working hours	13 to 16 hrs/day 7 days/week = 100 hrs/week	Men 7 hrs, women 9 hrs/day, 6 days/week = 42 to 54 hrs/week	17 hrs/day, 2 days on 4 days = 59 hrs/week
Direct wage/worker/day (Payment in cash) in Rs	28.3	50	26.3
Rice and other additional payment/ worker/day (in kind) Rs equivalent	8.5	15	20
Total wage per day (paddy processing wages + additional pay) in Rs	36.8	65	46.3
Wages in Rs/hr	2.54	7 to 9	2.72

It is clear from Table 11.1 that the working and wage conditions in Puducherry are similar to the daily wages of agriculture coolies. Agriculture

coolies are paid Rs 50 to Rs 80 per day for seven hours of work. From the labourers' standpoint, working in the rice mills can therefore be competitive with agricultural work. In addition, during the rainy season (the agricultural season), work in the rice mills reduces. In the Villupuram system, rice processing is complementary to agriculture; both can be done simultaneously and that is why the workers accept to be paid less. In Red Hills, not only are the working conditions very difficult, but also the wages are the lowest. If the workers had access to the labour market outside the *nerkalam*, it would be rather easy for them to find something better paying. Thus, bondage practices are also a means to prevent the workers from having access to the outside and keep wages very low.

What is the labour cost compared to the price of the rice? If we take the total price of the rice, for a 49.5 kilogram rice bag that costs Rs 470, Rs 350 goes for production (74.5 per cent), Rs 55 (12 per cent) for transport and the brokers, and Rs 50 for processing (10.5 per cent). If we take only processing, the labour cost is around Rs 16. The labour cost is roughly the same irrespective of the mode of labour management (whether bonded labour or not) and represents between 30 per cent and 35 per cent of the total cost. The labour cost for processing represents only 3.5 per cent of the total cost of rice production. This means that while the labour cost is significant for those who are in charge of paddy processing, it is minimal as compared to the total cost of the rice.

BONDED LABOUR IN RED HILLS AND TIRUVALLUR: THE SOCIAL FABRIC OF A SYSTEM OF DEPENDENCE

How can we explain that bonded labour is limited to a specific geographic area? Various scholars, focusing on the social fabric of markets in India, have emphasized the role of space.⁶ Barbara Harriss-White, for instance, using intensive empirical investigations undertaken in Tamil Nadu, points out the significance of the territorial dimension in explaining the diversity of social structures of accumulation (Harriss-White 2003). According to her, regional and local differentiation and specialization is a highly defining feature of the Indian economy; many economic activities are organized in *clusters*. While it is well known that clusters promote efficiency and economies of scale (mutual exchanges of information, technology, etc.), they can also lead to negative externalities. Among other features, Harriss-White suggests that Indian clusters are characterized by 'specific internal relations of labour' and the 'social acceptance of vast negative externalities'. Specific internal relations of labour refer to an intense

segmentation of labour markets and the various strategies forcing labour to remain weak (especially vertical subcontracting, bilateral collaboration, and multilateral collaboration through employers' associations). We also observed this phenomenon in our study. We come back to the issue of vertical integration and collaboration between employers later. In this section, let us focus on the segmentation of the labour market.

It is interesting to note that the labourers in charge of the drying process come from very specific communities, though with strong variations in location. In Puducherry, the workforce is recruited by brokers (maistry) from the Cinna region (Salem). The workforce has settled in the villages near the rice mills. Besides their work in the rice mills, the workers also keep some livestock. Working seven hours a day, including part of the night, they can pursue some other activities in their neighbourhood in the afternoon. They belong to Paraiyar or Vanniar community. They are paid per day of work and not per bag.

In Villupuram, the work is done by two sets of labourers working two out of four days. During the other days, the workers can be agricultural coolies or can work on their own land. The workforce is essentially Vanniar, locally recruited. As mentioned earlier, the work in the nerkalam is *secondary*, complementing their main activity of farmer or coolie. This explains why they accept a lower piece rate salary than that of Puducherry.

In the Red Hills and Tiruvallur district, the employers overwhelmingly recruit among the Irulars, known to be one of the most vulnerable communities in Tamil Nadu. The employers look for them in the small communities living outside the villages in the district or in their region of origin (Salem District, Tamil Nadu). Their 'technical skills' are the first argument used by the employers to justify why they recruit in priority among the Irulars and it is true that they are known for being specialists in paddy hulling (Singh 1994; Thurston & Rangachari 1975). Apart from the so-called technical skills—and we know that such arguments are often used as a poor excuse to exploit vulnerable communities—the hierarchical difference between the Irulars and the employers is obviously crucial. Traditionally, the Irulars used to live in the forests and specialized in hunting for rats and snakes, collecting honey, beeswax and medicinal plants, and digging out tree roots. Some of them were also agricultural coolies. Since the 1950s, like many other communities specializing in forest activities, they have been gradually obliged to move to the plains and take up other occupations, most of them facing a number of difficulties in

terms of labour and social integration. Generally, the Irulars are regarded as 'rough' people, with little education. They are very dark-skinned (*irul* means darkness, blackness). They generally speak only Telugu (spoken also by many rice mills owners who are native from Andhra Pradesh) and not Tamil which is the local language. Last, but not least, most of the Irulars live in thatched huts in very small communities on the outskirts of villages. Their settlement is seldom permanent; they can migrate from one village to the other after a few years, according to the work they find. This means that they do not really have a native place and very few of them have property titles. In such a context, alternatives are even more limited. In contrast, the rice mill owners are mostly Chettiars (mainly Beri Chettiars), Naidus, Mudaliars, and Nadars.⁷ Besides, the vulnerability and the 'roughness' of the Irulars is an argument used by the employers to enhance the image that they claim of 'protectors'. 'Alcoholic', 'ignorant', 'naïve', and even 'simple-minded': these are the terms commonly used to describe their staff, and the degree of contempt they display is unbelievable.

The Employers' Argument: The Red Hills Model as a 'Win-Win' System

The employers in Red Hills and in a large number of *nerkalams* (attached or not to a rice mill) in Tiruvallur district have developed a specific strategy in order to attract and maintain the labour force. They do so by providing them a job, housing, and a daily and permanent so-called 'protection'—this is the expression commonly used by the employers. The employers claim that they do their best to ensure the well-being of their labourers.

First, the employers gather maximum amount of information on the potential workers, on their village of origin, and their families left behind in the village (in order to trace them if they escape). At the start of a new *nerkalam* or rice mill, often the owner or his agent goes directly to the villages, looking for Irular communities. If an employer needs to recruit additional labourers or replace one of his workmen or one of the families who left the place, he recruits through family contacts, through a broker, by exchange with other employer, or directly from another *nerkalam*.

The lodging, water facilities, and electricity (sometimes television) are 'free'. The labourers receive daily rice (0.5 to 1 kilogram per day per family). Medical expenses are supposed to be reimbursed and the employers usually claim so, although in practice it is very uncommon. The rate and the terms of remuneration are laid down by the employer, and

are based on the quantity to produce. The wages are, theoretically, fixed by an official agreement. The Rice Mills Association has signed a five-year agreement in 2001 on the remuneration for drying with the trade union Centre of Indian Trade Unions (CITU)⁸ and the Tamil Nadu government. In practice, however, the agreement was valid only from 5 July 2002 to 4 July 2005 and has the following components (Table 11.2):

Table 11.2: Terms of the agreement

Particulars	Payment (in Rs)
76 kg sacks to boil and dry	8.5
Tea money	0.5
From one sump to the other	1.2
Carry to go down	1.2
Drying paddy husk	4
Total	15.4

Initially, the agreement was also supposed to include additional facilities:

- Food allowance during the rainy season should not be billed to the worker.
- Medical expenses should be completely taken care of by the management.
- All the workers will get a Janatha insurance policy from the management

In practice, although the rice mills owners *recognize* the wage part of the agreement, they avoid honouring it (by cheating on the quantities of processed bags and the repayment of the advances). The nerkalam owners refuse explicitly to honour the agreement, arguing that it was signed by the Rice Mills Association, not by any nerkalam association. As for the other part of the agreement, it seems that no one follows it. The agreement was to be extended or re-negotiated in 2006; however, the Rice Mills Association refused to sign as long as the other signatories to the agreement (Ministry of Labour and trade unions) accuse them of using bonded labour. In the face of all these accusations, the employers are categorical. Not only do they say they do not hire any bonded labourers, they argue that the advances are 'voluntary', and they consider it a 'service' that they are generous enough to provide. Moreover, they claim they are socially responsible and strongly committed to 'social work', not only to the advantage of their labourers, but also to the local community. They

point out the free meals (following the agreement signed in 2001), the gifts given out at festival time (dresses, cash gifts), and the money handed out to NGOs for child education. They also refer to investments devoted to the local community (marriage halls, water tanks, building for the police station, etc.). Like most of the powerful employers of the area, they behave like local 'big men', they combine economic activities with political responsibilities and their so-called generosity is a means not only to buy local social harmony, but also, and maybe above all, the silence of local public authorities.

The Other Side of the Picture: The Vicious Cycle of Debt and the Confinement

There is no official data regarding the number of production units. According to some NGOs, there are 200–300 nerkalams and 110 rice mills (with or without nerkalam) in Tiruvallur district, with around 10,000 workers, half of them in the Red Hills area. Even though the working and living conditions are highly diverse, some employers being more conciliating than others, it is clear that the so-called 'win-win system' claimed by the employers conceals several dark sides:

- 1) *Debt bondage*: This is ensured by the employer, through a deliberate strategy aimed at preventing the worker from settling the debt. Once the labourers are recruited, the employers grant an initial advance. In the past, this advance could be as much as Rs 20,000 or 30,000. Following the releases of 2004, mentioned in the Introduction, the employers committed themselves to stopping the advance system. Today, although the advance system has not stopped, the amounts are much lower, close to Rs 5,000. However, there are some cases where the advances reach the same amounts as in the past, but it seems that it is a request of the workers themselves, especially the new ones as a condition to come and work. Once the employers have given an advance, they use various strategies to maintain the debt and make it impossible to repay. First, they cheat on the number of processed bags by paying irregularly for the work (every fifteen days or three weeks) rather than after every processed set. After several sets, it is more difficult for the workers to argue if they disagree with the employer's calculation. In addition, the sacks of the various sets are stacked together; it is difficult to recount them afterwards. The employers pay only an advance on wages, arguing

that it is a way to prevent the workers from wasting their wages on alcohol. Sometimes the labourers are paid in kind. If they want cash, they have to sell the rice on their own. The only way for the workers to survive on a daily basis is to ask regularly for small advances. For specific events (in case of ceremony, festival, or illness), the workers can get a bigger advance. As soon as work stops, the worker requests an advance. At the time of each payment, part of the wage is devoted to the repayment of the advance and the workers keep the balance, limited most of the time to the bare minimum. The wages are so low that gradually the level of their total indebtedness increases and it becomes impossible to repay the debt. Earlier, the employers recorded the payment of wages and advances in a booklet. After the events of October 2004, employers withdrew these booklets to avoid any accusation. According to the workers, the accounts are inaccurate because the employers often refused to record certain repayments. In addition, the workers, most of them are illiterate, did not know what the employer wrote in the booklet. Extract from a worker booklet is reproduced below (Figure 11.2). It clearly reveals that the regular repayments are not enough to balance advances. The workers have no illusion about settling their debt. For them, the game is to get the maximum advance: it is the only room of manoeuvre that they have, even if getting additional advance reinforces their own dependence (Figure 11.3).

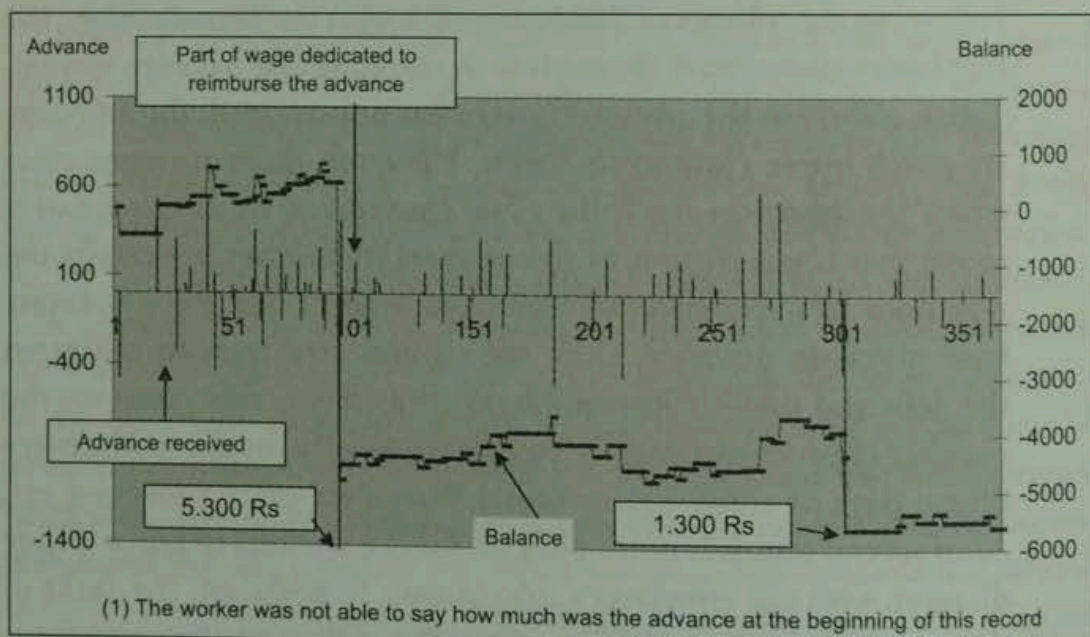


Figure 11.2: Extract from a workers' booklet

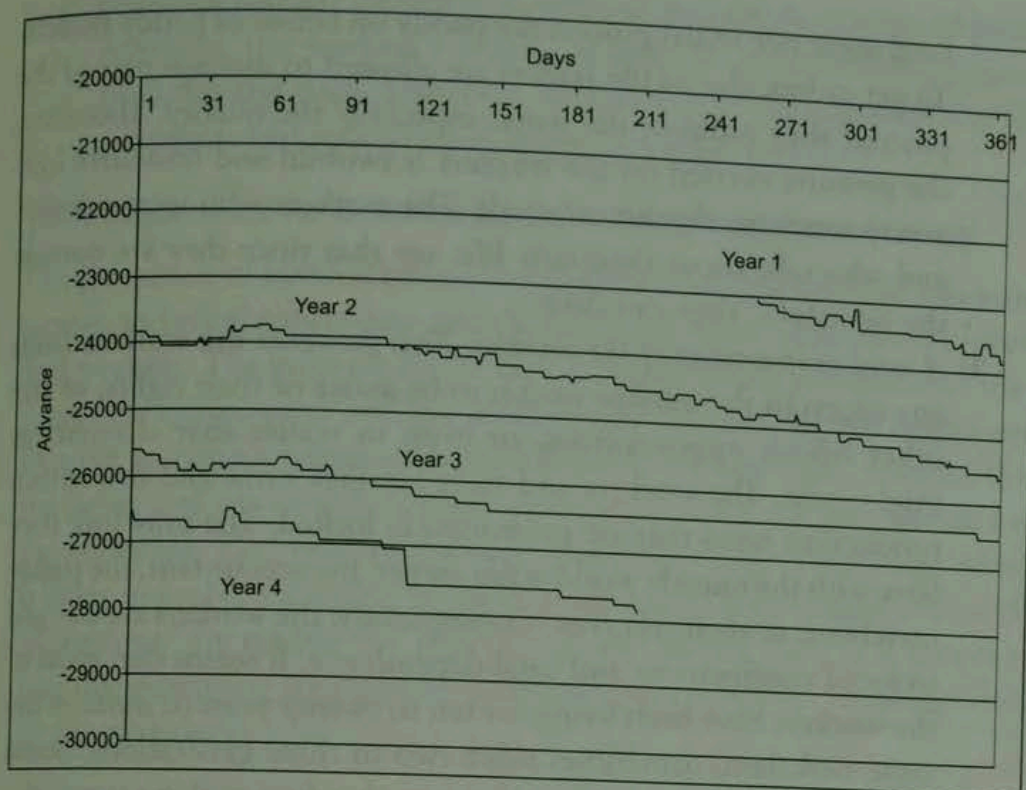


Figure 11.3: An example of the evolution of the balance

- 2) *Working and living conditions:* This prevents the workers from taking rest or having any kind of social life outside the place of production. Labourers are paid on a piece rate but they have no choice regarding either the schedule of their work or the workload. Working hours range from twelve to sixteen per day, sometimes more, and there is no day off. The drying is done on a large concrete area in the sun, and the workers stir up the paddy continuously for long hours. Burn and skin problems due to long sun exposure are very common. Women (even pregnant women) and elders work intensively. Even though some of the children go to school, it seems that many of them are involved in sun drying (sometimes under pressure from the owner, even if the pressure is exerted indirectly). They are in charge of cleaning the drying area before the sun rises. Then they help their parents to pull the wood plank or the rake used to spread the paddy. They do not work continuously and substitute for their parents when the latter are tired. Rather than increasing the quantity of dried paddy or the productivity, child labour permits them to lighten the workload of their parents. For this reason, the employers claim that it is the parents who ask their children to work and therefore they are responsible. Most of the nerkalams

(and some rice mills) process the paddy on behalf of paddy traders. To get orders, the paddy traders are allowed to manage part of the process: they monitor the work, especially the quality. Therefore, the pressure exerted on the workers is twofold and translates into a very intensive rhythm of work. The workers who were released and who talk about their new life, say that since they are outside the *nerkalam*, 'they can sleep'.

- 3) *A total confinement of the workers*: This prevents the workers from any access to the outside world, to be aware of their rights, of any other labour opportunities, or even to realise that alternatives might exist. The workers and their families work and live within production units that are permanently locked. The only link they have with the outside world is the owner, the accountant, the paddy merchant, or their relatives. Consequently, the workers are obliged to social confinement and total dependence. It seems that most of the workers have been living for ten to twenty years or more in the same *nerkalam*, sometimes since two to three generations. Some have shifted from one rice mill to another two or three times, the condition being that the new employer pays back their debt to the previous one. Even if there is no work, the workers are obliged to be present and are not paid. Every exit is controlled, limited to one or two hours and to one member per household. While men are allowed to go for a drink to the wine shop or tea stall, women and children may be allowed to go to buy vegetables and groceries. Some employers allow their workers to leave exceptionally for one or two days for ceremonies. Only one member per family is allowed to go. With such restrictions, it is very difficult for the workers to run away or to look for any other job (even part-time, when there is no work due to non-arrival of the paddy to be processed). Whatever the rules, deviances are sanctioned (fine and physical violence in particular). Housing and sanitary conditions are often extremely bad. Cases of tuberculosis, due to promiscuity and the lack of proper hygiene conditions, seem very frequent, especially for children and elders. Generally, the workers themselves have little desire to escape, fearful of not finding housing, being without work, or that the employer will find them. One of the owners' strongest and most frequently used arguments to justify confinement and strict control is that the workers spend all their salary on alcohol. When questioned about alcohol issues, the workers reply unambiguously: how could they

bear such a steady pace of work without alcohol? As in many physical activities, the workers consider alcohol as an anaesthetic against tiredness and pain. Moreover, it remains the only opportunity for relaxation and socialization (especially for men).

THE PERSISTENCE OF BONDED LABOUR: SECTORAL CONSTRAINTS

The prevalence of bonded labour in Red Hills area is the result of two main factors: technical constraints and the social hierarchy between employers and workers. The workers are in such a marginalized position that they accept the exploitation and the confinement imposed by the employers. Despite numerous pressures exerted over the last few years, it seems that the living and working conditions in the *nerkalams* not only persist but are worsening. Far from being a static feature, bondage is a strategy, which is likely to evolve according to the fluctuations of the markets and/or the technology.⁹ Increasing the pressure on the labour force is a means to face the increasing constraints, technical and economic, currently faced by the *nerkalams*.

The Growing Importance of Brands: Factors Related to Supply and Demand

Consumers (mainly the new middle class) increasingly demand quality. They like to know about the quality of the rice they buy and look for a brand with which they are sure to find taste and quality. The rice mills in south Tamil Nadu were the first to develop brands, twenty years ago. Being close to the production area allows them to be supplied with the same variety and quality of rice. In order to face this competition and the development of brands, the rice mills in Red Hills (north Tamil Nadu) developed their own brand. By selling directly, they have freed themselves from the wholesale rice market. They develop their paddy purchase network for several reasons. It allows them to buy large quantities of the same paddy quality, to avoid the mixtures, to have a better quality control at purchase, and to free themselves from the brokers. It is also a means to buy in the same village, the same region, and to advertise the geographical origin on the brand, and to keep the loyalty of the farmers who supply paddy to them or convince them to improve the quality.

The development of brands has important consequences for the production process. Quality has three components. The first is a gustative one, highly influenced by the quality of the drying and its homogeneity. The second is a physical and visual quality, conditioned by the elimination

of black grains, the regularity of the size of grains and the polishing (more and more rice mills are equipped with an optical scanner). The third component is long-term conservation. All these imply homogeneity during the drying process. Homogenization can be carried out in two ways:

- 1) *Mechanization*: Two parts of the process can be mechanized—drying and hulling/cleaning. Mechanization of the drying process is very costly both in terms of investment and in terms of working costs. Few rice mills can afford it.
- 2) *Manual drying*: Homogenization carried out manually requires more vigilance from the labour force (permanent presence and regularity in the work). This in turn implies more pressure from the nerkalam owner or from paddy merchants on the labour force.

Vertical Integration

As in many factories in the agro-industrial sector, nerkalams and rice mills owners were traditionally big landowners and farmers from the Chettiar community. Sale of part of the land enabled them to gradually build the infrastructure and buy the material. In Red Hills, as in other areas of Tamil Nadu, the capital needed for industrialization is of agro-commercial origin (Harriss-White 1996). Nowadays we observe a vertical integration for various reasons: the need for more and more working capital, the need for costs limitations by increasing the production capacities, and the search for additional market shares through the development of brands. Usually the rice merchants give the rice to the retailer on one to two months' credit while the paddy merchant has to pay the farmer two days after buying. It forces both the paddy and rice merchants to have enough working capital with them. The paddy merchant thus has the tendency to process his paddy quickly and ask for immediate payment from the rice merchant so that he can pay the farmers and the nerkalam for the paddy drying. He is able to store his rice for one month only, forcing him to find a rice purchaser rather quickly.

Market Fluctuations and Speculation

Due to strong seasonal concentration, the rice market is characterized by intense market fluctuations and speculations (Landy 2006). Storage paddy makes it possible to be free from market fluctuations, and stored paddy acquires value. Sufficiently dry paddy, steamed or not, can be preserved for

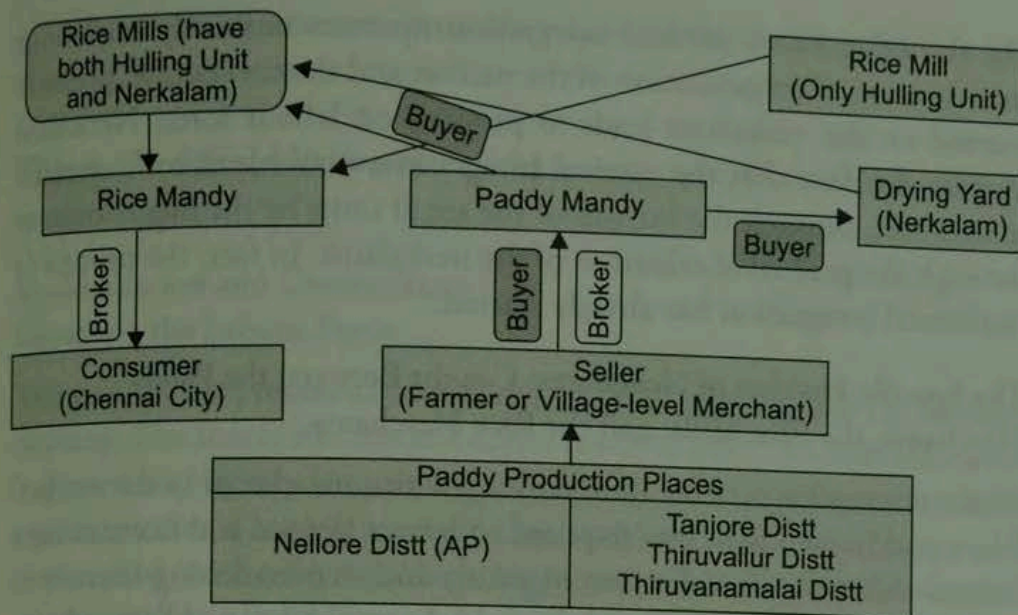


Figure 11.4: From paddy to rice: The commodity chain

a very long time, more than one year. A one-year old paddy gives better quality rice than freshly harvested paddy. On the other hand, white rice cannot be kept for so long; it yellows over time (requiring polishing) and acquires a bad taste. To be able to fill the demand it is necessary to create buffer stocks. These stocks can be maintained either by the farmer, the paddy merchant, or in rice mills while waiting to be hulled. Maintenance of stocks, however, requires huge working capital. Those who have sufficient capital are the paddy buyers and rice sellers. They store paddy and process it when they find buyers for the rice. Those with capital can then play with paddy and rice stocks to make a better profit. The owners of modernized rice mills are in the best position, they are able to store paddy at the processing point, and process large quantities quickly, play with the quality of paddy and rice to find the best buyer and to speculate on the price and quality of the rice. Therefore, rice mills require initial capital. As the market is very speculative, the banks are cautious and refuse to finance the stocks. Thus, vertical integration starts from rice mills (which have a nerkalam and a storage place). The integration happens gradually: it starts from direct buying of paddy at the production site, development of brands and selling to wholesalers. Integration is carried out either directly by rice mills owners or by kinship networks. Those who can afford the cost of vertical integration and modernization are usually involved in other industrial sectors (including brick kilns).

Integration has no direct impact on bonded labour. When a rice mill owner repurchases a nerkalam, he also 'buys' the advances of the workers.

On the other hand, vertical integration operates indirectly on labour management. Reorganization of the market and the consequent pressure exerted on the *nerkalams* leads to pressure on labour force. *Nerkalam* owners also fear that the vertical integration would lead to horizontal integration, through the buyout of the small units by the bigger ones or through the gradual elimination of the *nerkalams*. In fact, the process of horizontal integration has already started.

The Specific Position of *Nerkalams*: Caught Between the Paddy Merchants, the Rice Mills, and the Rice Merchants

About ten years ago, there were only a few rice merchants in the market. Every paddy merchant was required to have a licence and licences were limited. After the liberalization of paddy and rice marketing licences in 1999, many merchants entered the field. In particular, paddy merchants started to market their rice. Paddy merchants increasingly control the whole process—from buying from the farmer to selling rice to the wholesaler. In the past, paddy and rice markets (*mandy*, place of markets) used to deal in the entire production, while taking charge of the collection and transportation of the grains. Today, the paddy *mandy* and rice *mandy* still function in Red Hills¹⁰ but they deal with lesser tonnage. *Nerkalam* and rice mills that do not deal directly with farmers, sub-contract to paddy merchants. The paddy merchants also manage the selling of the rice processed by the rice mills. The rice mills and *nerkalams* are therefore dependent on paddy merchants. The *nerkalams* are fully dependent on paddy merchants, for the same reason as the rice mills without capital. Paddy merchants work with various production units and partly manage the production by giving orders and putting pressure on the workers.

Thus, two types of rice mills emerge:

- 1) Rice mills that have enough capital to buy the paddy on their own, process it and sell it in the market: These rice mills are also in a position to modernize themselves and are helped by various governmental measures for industrialization (especially soft loans from the Tamil Nadu Industrial Investment Corporation)
- 2) Rice mills that depend on paddy merchants and do only sub-contracting: These rice mills sub-contract for the dry stage if they have a *nerkalam*, and/or for the hulling, polishing, etc. These rice mills have little room for manoeuvring since prices are imposed by the paddy merchants. The paddy merchants also have little

room to manoeuvre since they in turn depend on the rice and paddy markets.

The main difference between the two types of rice mills lies in modernization.

Modernization and Competition:

Impact on the Labour Force

Two parts of the process can be mechanized: the drying, and the hulling/cleaning. The first (a mechanical dryer) is very costly.¹¹ The second can be improved step by step (improving the cleaner, the whitening unit, adding a grain scanner, a husk separator). Currently very few rice mills are fully modernized (with a dryer). These target two markets: either they deal in priority with the Food Corporation of India (FCI), through three years' contracts, or they process their own paddy under their own brand.

Today, these rice mills have no direct competition with nerkalams, but only with semi-modernized mills that develop brands. Nerkalams do not have the production capacity to deal with the FCI. The main competition thus takes place at two levels: among nerkalams and between nerkalams and rice mills with an attached nerkalam.

Both these levels are characterized by lack of modernization. The production capacity of the nerkalam is limited by the size of the dryer place and/or the size of the boiler. The terms of competition vary according to the evolution of the price of paddy and rice markets. Either a huge paddy supply (due to a good production in Tamil Nadu or huge arrival of paddy from Andhra Pradesh and Kerala) or a high price (as happened in 2006) may lead to the saturation of the production capacity of the nerkalams. This competition can increase the price of the process but it does not translate into higher wages for the workers. Thus, the only impact on the workers is an even bigger pressure on them to process as much quantities as possible. Conversely, in case of a slow down in the supply of paddy, nerkalams operate below their capacities. Dealing with fewer quantities, workers get less work and therefore less money. Thus, wages are a way to attenuate market fluctuations. The most intensive competition takes place among paddy merchants. As mentioned earlier, the paddy market is a very speculative one. One finds individual farmers, farmers' groups, paddy brokers, rice mills owners, and paddy merchants. Some are professionals, while others are there occasionally. Some make fortunes quickly but bankruptcy is also frequent. The intensity of the competition

explains the pressure exerted by paddy merchants on nerkalams. They try to reduce costs and to hire the best nerkalam workers at the lowest cost. In other words, they transfer a share of the market pressure to the nerkalam owners and the workmen.

The Marginalization of Nerkalams: Bonded Labour as a Survival Strategy?

Rooted into factors of a technical and a social nature, the persistence and maybe the reinforcement of bonded labour (it seems that the pressure exerted on workers is worsening, though it is difficult to measure) is related to the modernization of the sector. There is not much room for the nerkalam to manoeuvre to maintain production costs at an equal or lower level than that in the modernized sector.

The market develops with, on the one hand, branded rice for the middle and urban class, and on the other, a low quality rice distributed by the government. This branded rice tends to win over the classes below what is called the middle class, and also appears in the countryside. This phenomenon tends to marginalize paddy mandys and rice mandys that exclusively handle non-brand rice in bulk. The paddy and rice mandys are used as indicators for the fixing of paddy and rice prices because it is they who are the ones in 'free competition'; they process and market residual tonnages. This residual tonnage does not enter the governmental or the brand circuits, and is processed in independent nerkalams.

As mentioned earlier, small units (nerkalam or rice mills without capital) cannot afford the cost of the dryer. Though various factors encourage modernization (with a strong incentive role played by the Indian government) and the modern equipment (increasingly manufactured within India) is less expensive, the investment remains hardly accessible for small units. Simultaneously, the strong tendency towards vertical integration (followed by horizontal integration) put them in a very hard situation; all nerkalam owners we met were very critical and pessimistic about their future. They see a question mark over their survival.

Though the survival of nerkalams may not be questioned for a few years, even decades, the working conditions of the bonded labourer will *always* be difficult (even more so because of the ever intensifying competition).

CONCLUSION: WHAT CAN BE DONE IN TERMS OF ACTION?

When the bondage trap closes in on them, workers find themselves over-indebted, confined, often mistreated, and condemned to work at an

infernal rhythm imposed by the employer. Asking for more advances is the only bargaining power they have, and this reinforces, even further, the debt trap in which they are kept. Contrary to other sectors known for bonded labour, the work in the rice mills sector is not seasonal. Due to this, the families remain prisoners of this system for decades, and even generations. The question of the future of these Irular families has become urgent. The working conditions, the confinement, and the appalling remuneration existing in the *nerkalams* of Tiruvallur District may continue as long as the drying remains solar. Since these production units still have a comparative advantage in terms of cost, we can expect them to survive for some time in the face of the current modernization process.

The procedure of social rehabilitation and integration set up by the state is rather ineffective. First, without external interventions (usually by NGOs) the procedure has little chance of succeeding. Second, notwithstanding the lack of cooperation from the administrative units in charge, the slowness of the process (if the procedure succeeds, the rehabilitation package is given two or three years later) makes it useless. For instance, in Tiruvallur District, the NGO Bharati Trust, one of the most active NGOs working on labour bondage issues, managed (with huge difficulty) to release around 600 families from the rice mills. This is the result of numerous and repeated efforts: two years of intensive negotiations and lobbying of public authorities (including at the highest levels), public demonstrations with the support of various social movements, and finally the intervention of the High Court. Three years after the release, only a quarter of the families have benefited from the rehabilitation package, and the others are still waiting. Even when the families get the package, it turns out to be rather insufficient. It is very common that the workers, unable to find any livelihood alternative, put themselves back 'under the protection' of their employer. When the release includes a rehabilitation package with a strong follow-up (for instance, the Peblisa Project initiated by the ILO in partnership with two local NGOs), the results are more conclusive. Though daily survival still remains difficult because of unstable income, not for anything in the world would the people go back to the rice mills. They reveal the following changes in their life: decent living conditions, the feeling of finally being respected and considered as human beings and not as 'dogs' or 'working machines', and the fact that they have a social life again (Roesch et al. 2007). However, let us emphasize here the cost of such rehabilitation processes. Given the huge vulnerability of the labourers (not only economic, but also social and psychological), the

sole means to give them the capacity to manage a livelihood on their own requires intensive efforts in terms of follow-up, monitoring, innovative training, and services.

The actions of NGOs are not limited to release and rehabilitation. In Tiruvallur District, there are four NGOs strongly involved in labour issues with a specific focus on rice mills, some of them with the support of the ILO, with three distinctive strategies:

- 1) The first strategy, initiated by two NGOs specialized in community development (IRCDS¹² and MSSS¹³) with the financial and technical support of the ILO, targets both labourers and employers. With regards to the workers, they use a 'global and holistic' approach, the ultimate objective being to promote the 'social and political empowerment of people vulnerable to bondage'. Prevention is the focus, even if a few labourers have been released (thirty-one families between 2003 and 2006). Since 2003, 3,000 families have benefited from various services, including not only microfinance but also training, awareness-raising in the fields of labour and human rights, collective action, leadership, gender equality, etc. in partnership with trade unions. Simultaneously, the project targets the employers through a 'social dialogue' strategy, the main purpose being to encourage them to improve the working conditions of their labour force. Several meetings have been organized, bringing together employers, public authorities and sometimes trade unions.
- 2) The second strategy is also based on social dialogue, though focusing on a specific aspect: child labour and child education. This strategy has been developed by an NGO internationally recognized in the field of child education—Jeeva Jothi. On the basis of data collected from the rice mills regarding the working and living conditions of children (unfortunately, the report is confidential), Jeeva Jothi has been able to negotiate support from the Rice Mill Owners Association. The employers from the association allow the children to go to school and it seems that some of them pay for the teachers, the uniforms, the books, and the transport.
- 3) The third strategy, in contrast with the first two, uses a radical approach, based on denunciation, confrontation with employers, massive labourers' release, and their 'political empowerment'. This strategy is adopted by the NGO Bharati Trust (mentioned earlier),

specializing in 'the cause of upliftment and empowerment of Irular communities' since the 1990s.

To assess the results, especially the political dimension, both for the workers and the employers, is difficult and goes far beyond the scope of this article. We will limit ourselves to highlighting the challenges and the ambiguities of these various actions.

- 1) *Problem of representation within the rice mills sector employers:* As we have observed, the sector is highly segmented, with a strong opposition between traditional units and modern units. The opposition is all the more strong since the former are much less visible, being located in the countryside, while the latter are much closer to Chennai, being near two of the main roads of the district (Red Hills Road and Tiruvallur Road). We have also seen that bonded labour is especially prevalent in traditional units. Yet, most of the actions in terms of social dialogue have been carried out with the Rice Mills Association, which regroups only modernized units. The NGOs as well as the ILO face a strong and aggressive resistance from the employers who deny any labour bondage problem. Moreover, the employers belonging to the Rice Mills Association pretend to represent the whole sector. It is true that both NGOs and the ILO do not really know the realities of the rice mills sector and do not make any distinction between the various production units. However, it is also true that the Rice Mills Association monopolizes the public space (they are also the recognized representative for discussions and negotiations with public authorities) and the dependence of the nerkalams on the rice mills condemns them to invisibility.
- 2) *Problem of representation among some NGOs:* Bharati Trust, which claims to act on behalf of the Irulars, was founded and is still managed by a very charismatic woman. She has devoted her whole life to social work, but she is not an Irular (she is from a high caste). Not only the employers, but also the other NGOs and some Irulars themselves use this argument to denounce her lack of legitimacy.
- 3) *Problems with initiatives based on social dialogue:* These initiatives can sometimes translate into compromises. For instance, it seems that the NGO Jeeva Jothi, which collaborates with the employers

on child education, takes instructions to assure discretion regarding bonded labour issues. Just three years ago, the same NGO was denouncing the problem of bonded labour. For any public event or public meeting dealing with bondage issues, the employers get Jeeva Jothi to go with them, and the NGO comes and testifies that bondage does not exist in the rice mills.

- 4) *Problems with initiatives based on radical denunciation:* These initiatives may also lead to perverse effects. Following the demonstrations of 2004, the employers display even more opacity. They have stopped writing accounts of wages and advances on workers' booklets, and they refuse to show their own booklets. They have refused to renew the tripartite agreement, requesting that the accusations of bondage be first taken back.
- 5) *Numerous tensions and conflicts between various stakeholders:* The NGOs using social dialogue strategies denounce the illusions of the radical approach, which they consider useless against employers who are extremely powerful. In turn, the NGOs who choose denunciation and confrontation accuse the others of hypocrisy and of maintaining the status quo. Some trade unions do not agree with the NGOs' actions, whatever they are. They consider that it is better to focus on wage agreements (as the tripartite agreement signed in 2001), rather than the issue of bondage, since it threatens the employers and can only lead to refusals and opposition. To these ideological differences and oppositions should be added issues of competition and personnel conflicts. Some actors find it difficult to accept the intrusion of outsiders and consider a particular territory or issue to be their exclusive domain. Thus, trade unions may conflict with NGOs, or well-established NGOs may conflict with more recent ones. The main consequence of this total lack of coordination is to blur the message towards the employers. Quickly they chose the alliance with the NGO which is most likely to be the least inconvenient (the one focusing on child labour), while deliberately maintaining tension and opposition by spreading rumours about such and such NGOs.

Bonded labour eradication in the rice mills sector should focus on the improvement of labour standards. The only solution to make the lot of the labour force better while maintaining the same level of competitiveness is

to change the work organization and the modes of payment. We suggest the following:

- 1) *Payment to the labour force:* To raise the wages of workers up to the minimum wage (Rs 80 per day) would imply an increase in the paddy processing cost, from 20 to 30 per cent of the total cost. Since the competition between the nerkalams is very strong, a spontaneous increase has little chance of occurring. To be effective, an external authority on all the nerkalams should impose this measure. In addition, the share of the labour cost in the final cost of the rice is low enough so that an increase in salary would only have a slight impact on it. For this to happen, however, the rice merchants must accept this increase from the nerkalam and all nerkalam owners must make this increase.
- 2) *Restructuring of working conditions:* Even more than the wages, it is the working and living conditions of Red Hills' workers that need to be improved. The objective should be to reduce the number of hours and to allow the workers to live outside the nerkalams (the only way to reduce the pressure that the owner applies on the workers in order to increase their hours), and allow them to integrate in local life and live more normally. It would also be necessary to allow them access to complementary activities during the slack periods in paddy processing. This would gradually put them in contact with other job opportunities. The work schedules in the other parts of Tamil Nadu (Puducherry and Villupuram 'models') could be used as a basis for reorganization. Some rice mill owners talk about settling the labour force outside the rice mills. In this case they would no longer be in charge of housing. Notwithstanding their appalling current wages, lifestyle and dependence, the situation of bonded families will only worsen once settled outside the rice mills. Whether these are empty threats or true intentions, it is not possible to allow a worsening of the situation of the bonded workers. As of today, by working together with the authorities, the NGOs, all the representatives of the rice mills sector, it is urgent to create a blueprint for discussion, to identify the means to prepare the progressive reintegration of these populations within a framework of normal life.

The restructuring of working conditions represents a risk for the nerkalam owners, not necessarily a cost: the risk is that the worker finds a better job

and better conditions in another nerkalam or another unit. The pressure exerted presently by various actors (NGOs, government) because of the existence of bonded labour should incite the nerkalam owners to be ready to negotiate. Negotiation could include external supervision and advice of this restructuring to allow the nerkalams to successfully manage the transition. The difficulty, however, is to find legitimate partners for the discussion. The existing associations are either not representative (the Rice Mills Association) or non-functional (the Nerkalams Association).

Of course, all this requires a progressive approach. A first step would be to get the nerkalams to organize and mandate representatives for the negotiations, as well as to inform them about the provisions of the relevant labour legislation. A second step would be to allow the trade unions to enter the nerkalams, discuss, educate, and inform the Irular workers about their rights. A third step would be to open negotiations between trade unions, associations or mandated representatives and government, on changing living conditions and work organization. However, the main point remains: the political will of the government authorities, firstly to recognize the existence of bonded labour and then to eradicate these living and working conditions that are clearly unworthy of an 'emerging' country.

NOTES

1. *The New Indian Express*, 20 September 2004, p. 4.
2. The only way to gain entry, to get in touch with the workers, is to ask for the owner's permission. Not only is it very difficult to get permission to talk to the workers (we were only granted this twice in Red Hills area), but also the visit then necessarily takes place in the presence of the owner.
3. Cases studies were done with two workers who are presently working, met by chance while they were out on exceptional leave, and the others with released labourers. We don't take into account the workers we met when with their employers, as this information is not reliable.
4. For an example in Tamil Nadu, see Cederlöf (1997).
5. See the example of the weavers, as described by De Neve (2005).
6. See, for instance, Cadène and Vidal (1997), Cadène and Holmström (1998), and Harriss-White (1996).
7. Naidus and Beri Chettiars are natives from Andhra Pradesh and speak Telugu, even though they are settled in Tamil Nadu for several generations.
8. CITU is the trade union wing of the Marxist Communist Party of India (CPI-M).
9. See, for instance, Engelshoven (1999) for the Surat diamond industry and De Neve (2005) for the weaver sector.

10. About twenty years ago, a rice *mandy* (market) existed in Villupuram and Puducherry. Rice mills of the area developed their own brand, packaged the rice in sacks of 5, 10, and 25 kilograms (instead of 75 kilograms as in Red Hills), and sold them on the semi-wholesale market. This caused the disappearance of the rice *mandy*.
11. More than Rs 10,000,000 (around 170,000 €).
12. Integrated Rural Community Development Society.
13. Madras Social Service Society.

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12 Unfree Labour in the Plantation System

SHARIT K. BHOWMIK

This article deals with the conditions of tea plantation workers in the framework of bondage and freedom. It begins with the features of the plantation system and tries to show how the specific means of control over labour resulted in unfree relations. In most countries where plantations exist, the labour form a part of the formal/organized workforce as they have permanent and secure jobs and there are laws regulating their employment and work. Yet, despite these comparatively recent safeguards, it is found that plantation labour in India continue to live in unfree conditions. This article examines the reasons behind this situation.

Plantations were a major industry in the world at the time of the industrial revolution. They were spread over large tracts of land and produced single commercial crops. They were established largely in tropical areas. According to a definition provided by the ILO, the term 'plantation' at first referred to a group of settlers or a political unit formed by it under British colonialism, especially in North America and the West Indies (ILO 1950: 6). With the colonization of Africa and Asia by British and European entrepreneurs and colonialists, the term acquired a broader connotation. It came to denote large-scale enterprises in agricultural units and the development of certain agricultural resources of tropical countries in accordance with the methods of western industry (*ibid.*: 9).

The main plantation crops were cotton (in the early stages in the southern part of United States of America), sugar cane (Caribbean Islands, northern part of Latin America, Mauritius, Fiji, etc.), tobacco (southern part of United States, Indonesia, etc.), tea (India, China, Indonesia), coffee (Brazil), rubber (Malaysia), and cocoa (Ghana).

Historically, plantations were a product of colonialism and their produce was mainly for export. In some cases, such as rubber, they were established to provide raw materials for western industry—especially

for the colonizing country. In others such as tea, coffee, and sugar, their markets lay in the colonizing countries.

The development of plantations necessitated two basic requisites. Firstly, large areas of cultivable land and, secondly, a large labour force. However, the areas most suited for plantations were initially sparsely populated and hence local labour was not sufficient. The planters were by and large not inclined to take local labour, even if available, because they would have better bargaining power. Being a labour-intensive industry, reducing labour costs would considerably increase the profits of the planters. Moreover, the planters needed to get the maximum work from the labour force. What this actually meant was that the planters wanted cheap and hardworking labour under conditions of labour shortage. Such a situation appeared as wishful thinking, but the planters managed to make it a reality.

The only way the planters could manage to get cheap labour under local labour shortage was by not allowing the labour market to develop. Normally, when the labour market is comparatively free, the demand for and supply of labour determine the wages. If there is high demand for labour and low supply, wages would rise. Plantations faced similar conditions but the planters did not want to increase wages to attract workers. Instead, they imported labour from outside at low costs. These immigrants were initially imported as slaves and later as indentured labour. The cotton plantations in the southern part of USA, the sugar plantations in the Caribbean Islands and in other places such as Guyana, Mauritius, Fiji, etc., were all run on slave labour from Africa in their early stages of growth. After slavery was abolished, indentured labour from Asia was used. Besides getting cheap labour, these systems of recruitment ensured that the labour force stayed on the plantation under the total control of the planters. The plantation hence came to be known not just by a resident labour force but more often than not, 'with one of alien origin' (Greaves 1959: 115).

The slave trade was a very lucrative business. It involved Europeans capturing Africans and bundling them off to plantations in different parts of the world. This trade was initiated by Spain and later Britain took over the major part of the trade. Ron Ramdin, a Caribbean historian, notes that 'European enterprise and slavery during the seventeenth and eighteenth centuries, and also the greater part of the nineteenth century, were closely connected, helping not only the spectacular rise of British,

French and Spanish ports such as Bristol, Liverpool, Nantes, Bordeaux and Seville...' (Ramdin 2000: 3). Christopher Hill notes that the slave trade financed the industrial revolution. He writes, 'Where did capital from the Industrial Revolution come from? Spectacularly large sums flowed into England from overseas—from the slave trade, and, especially from the seventeen-sixties, from organized looting of India' (Hill 1983: 245).

Britain and France banned the slave trade in the mid-nineteenth century. After this the system of indenture was adopted. Under this system the worker had to agree to serve on the plantation for a specified period of time (usually four or five years) and would be free to return after that period. Though this system was an improvement over slavery, which implied a lifetime commitment without any rights, the long distance from their places of origin made it difficult, if not impossible, for workers to return home after the period of their contract ended. This was further mitigated by the low wages paid by the planters that left hardly any savings for the return journey. Hence, in most cases, these people preferred to remain in the plantations even after the period of indenture, as they had nowhere else to go.

The main difference between slave labour and indentured labour was that the former was of African origin while the latter was from Asia. One does not know whether the colour of the skin had anything to do with these two systems, but it is most likely. Under indenture most recruits were of Indian origin, mainly poorer sections belonging to the so-called lower castes. One can see the spread of the early Indian diaspora in most of these plantation-based colonies (later independent countries). There were recruits from other regions too in some of the colonies. For example, the tobacco plantations in Indonesia were run by immigrant Chinese labour (see Breman 1988). Hugh Tinker's major study on indenture labour (Tinker 1974) gives detailed accounts of what he calls a new system of slavery.

In fact, Tinker's views are confirmed by later historical studies on indentured labour. One finds that whether planters used slave labour or indentured labour the effect was similar, namely, having a captive labour force that had no other means of livelihood save working on the plantation. Indentured labour appeared to be free when compared to slave labour. Ramdin (2000: 13) mentions a case of a planter, John Gladstone, who requested a Calcutta firm to supply labour for his plantations in British Guyana. The firm replied that there were no difficulties in supplying labour and added, 'the Indians would be unaware of their destinations or

the length of the voyage they were undertaking.' Such workers, who had to travel half way across the world, would hardly be expected to return after the indenture period was over.

PLANTATION LABOUR IN INDIA

The tea industry in India began with the founding of the Assam Company in 1839. The potential for growing tea was discovered earlier, in 1824, by Major Robert Bruce when he came across indigenous tea bushes in Assam (ITA 1933: v-vi). At that time the British East India Company had a monopoly over trade with China and it was importing tea from there. It had no interest then in opening other centres. In 1833, the British Parliament cancelled the Company's monopoly over trade with China. Its directors then decided to explore the possibilities of growing tea on a commercial basis in Assam, which had been annexed by the Company in 1825 (Bose 1954: 1-2). The first consignment of tea was sent to London in 1838 as a trial (Tinker 1974: 29). Within a short span of time Indian tea scored over its Chinese rival because of its thicker and stronger brew, which increased its popularity among the working class. As a result, by 1839, there was a 'mad rush to clear the hillsides of Assam for new gardens' (ibid.: 29). Subsequently, tea plantations were started in the Darjeeling and Jalpaiguri districts of Bengal, Nilgiris and Coimbatore districts of Madras (Tamil Nadu), and the Idukki and Wynad districts of Kerala; but this was over three decades later.

The areas suited for growing tea in India were covered with thick, unhealthy forests where malaria and black-water fever (*kalazar*) were rife. These forests had to be cleared and the local population were unwilling to work under these hazardous conditions and the low wages offered. Wages of tea plantation workers in Assam and Bengal remained static at around Rs 3 per month during the late eighteenth century and the early twentieth century (Griffiths 1967: 309-10). Wages of agricultural labour in these areas were more than double. The Sub-Divisional Officer of Karimgunj in Assam reported in 1883 that wages of the tea plantation workers were 'less than three rupees a month during the last season. Bengalis in the adjoining villages earned without difficulty rupees seven a month' (cited in Bose 1954: 87). Wages of agricultural workers in Jalpaiguri in West Bengal were between Rs 6 and Rs 7 per month in 1871, a year before tea plantations were started in this district (Hunter 1872: 278) whereas wages of tea plantation workers, in the subsequent years, were around Rs 3 per month.

Labour recruited to the plantations comprised migrants and the planters ensured that they worked only on the plantation at the low wages offered. Labour in Assam and in the tea areas of Jalpaiguri district and Terai in the foothills of Darjeeling district were recruited from the tribal people of central India, namely, the Chota Nagpur region of the present Jharkhand state and the contiguous tribal belts of Orissa and the present Chhattisgarh states, who had been reduced to penury due to frequent droughts, famines and ruthless land revenue policies set by the colonial rulers (Bhowmik 1981, chapter 2). These hardworking but poverty stricken tribals were ideally suited for plantation work because they were able to withstand the hardships and rigorous work in the plantations.

The colonial government, eager to help the planters, enacted a legislation which legalized the system of indenture. In 1859, the Workmen's Breach of Contract Act was passed which stipulated that a worker had to work for a minimum period of five years once recruited. The act rendered the worker liable for prosecution for any breach of contract, 'but gave him no protection against the employers and laid down no conditions with regard to the arrangements of his transit to the tea districts' (Griffiths 1967: 269). The Inland Immigration Act of 1963 replaced the earlier act and it reduced the period of contract to four years, but it gave the planters the right to arrest erring workers (Chandra 1964: 361-2). Workers were cruelly dealt with if they tried to leave or if their work was not satisfactory. Griffiths notes that 'The planter was bound by his contract to clear one-eighth of his land (leased to him by the government) within five years and he could ill-afford to lose his labour... short work was punished with flogging and absconders, when recovered, were also flogged' (ibid.: 270). The plight of indentured tea labour in Assam evoked strong criticism from the rising nationalist movement (see Bose 1954 for details).

The aforementioned Acts were applicable to only those areas where the system of indenture was prevalent and this was in what is now the state of Assam. As mentioned earlier, the tea industry started in this state and even now it remains as the largest tea producing state in India. The industry in other parts of the country started much later. The region we will be dealing with in this article is Jalpaiguri district and the contiguous Terai region of West Bengal. The tea industry started in Jalpaiguri in 1872. In southern India too, the industry started around the same time. These areas did not use indentured labour and the Acts in existence in Assam were not enforced in the newer areas. However, even in these areas workers found it difficult to leave their plantations as the planters used

force to prevent them from doing so. The government too did not provide workers any means to redress their grievances.

The planters encouraged families rather than individuals to migrate to the plantations. This served a dual purpose. Firstly, since planters wanted cheap labour they had to have workers who were permanently settled in the plantations and who had no opportunity for alternative employment. Therefore, by encouraging families to migrate they ensured that workers were cut off from the places of their origin and were settled in the plantations. The entire family—male, female, and children—worked at wages determined by the planters. Secondly, family-based migration ensured that labour could be reproduced, thus solving, to some extent, the problem of future recruitment. During the present period, however, the notion of family employment has other implications, which will be discussed later.

Till the country became independent in 1947, the planters, with the backing of the colonial government, exercised total control over labour. The planters had their trade bodies to represent their interests whereas the workers were prevented from unionizing themselves. The report of the Commission of Inquiry on the Conditions of Tea Plantation Labour in India and Ceylon set up in 1944 (also known as the Rege Commission, after its chairperson) noted: 'the employers are highly organized and powerful whereas the workers are all unorganized and helpless' (Rege 1946: 96). The Commission recommended the necessity of trade unions but admitted that they were unlikely to appear in the near future (*ibid.*: 193). The report of the study group for the tea industry of the first National Commission on Labour (NCL) noted that the main reason for the absence of trade unions in the pre-Independence period was because 'Access to the plantations was difficult, if not impossible, and attempts to form trade unions before independence were seldom successful' (NCL 1969: 64). Hence the mechanism for collective bargaining did not exist till 1947 in this industry, which, at that time, employed one and quarter million workers.

POST-COLONIAL SITUATION

Though plantations are historically linked with colonialism, they are not structurally, or inevitably, linked with it. As colonies free themselves from colonial rule and become independent states, a new set of production relations develop. Political pressure forces these governments to provide protection and security of employment to plantation workers. Coercion

is relaxed and trade unions begin to function among the workers enabling them to fight for their rights. Therefore, the changes in the plantation system in all parts of the world began when plantation labour began organizing itself to fight for their rights and influence the affairs of the state.

In some countries, such as India, plantation labour also benefited from the struggles of other sections of the working class. In the initial post-Independence stage, plantation labour got benefits of laws granting protection to workers, mainly because of the struggles of other sections of the working class that had pressurized the government to pass these laws. Later, as a result of this protection, plantation labour was able to organize struggles on its own.

After attaining Independence in 1947, the character of the Indian state changed. The new government's attitude towards the working class was more favourable than that of the earlier colonial regime. It tried to impose some regulations on the class of employers while granting some protection to the workers, hence trying to find a *via media* between the two.

At the Indian Labour Conference held at Delhi in 1951, the representatives of workers put up a strong plea for rational fixation of wages. The Conference decided to set up committees in various industries to formulate the statutory minimum wages in each industry, including tea. In 1952, for the first time, the statutory minimum wages were fixed for tea plantation labour (Government of India 1966: 13–14). This guarantee of a minimum wage provided some protection to plantation workers. The planters could no longer fix wages according to their whims or merely on the weak bargaining power of the workers. They had to now accept the concept of a living wage, any violation of which would result in prosecution under the Minimum Wages Act of 1948.

Subsequently, other acts were passed granting some facilities to the workers. Some of these acts, such as the Payment of Bonus Act, legislations providing for Provident Fund and Gratuity affected the working class in general. There were other acts too which were passed after Independence such as the Industrial Disputes Act of 1947 and the Factories Act of 1948 which granted security of employment and conditions for safety at the workplace. The planters initially ignored these Acts as there was no check on them and the state apparatus to enforce them did not exist. In the early 1950s, the state governments set up labour bureaus headed by a labour commissioner and labour officers were appointed in different regions to ensure implementation of the provisions and deal with conciliation

between labour and management. Labour Tribunals were also set up to decide on disputes.

All these changes resulted in formalization of relationships between the planters and the workers. The planters started losing the tight grip they once had over their workers and their relationship changed from the existing master-servant relationship to that of employer and employee. The latter was now not wholly dependent on the mercies of the employer as she/he had some legal protection.

Amongst the legislations affecting plantation workers, the most important is the Plantation Labour Act (PLA) of 1951. This is the only act that seeks to raise the living standards of plantation workers. It contains several provisions related to housing conditions, health and hygiene, education, and social welfare. This act, along with the Factories Act, regulates employment, working conditions, and working hours. The act provides for compulsory housing and lays down that every year 8 per cent of the houses have to be converted into permanent structures (viz. walls of brick and mortar and tiled roofs). There are provisions for sanitary facilities and water supply in the labour residences (known as labour lines), crèches for infants, and primary schools for children. The act therefore has a great deal of potential for improving the working and living conditions of plantation labour. However, even several decades after the act was passed, there is possibly no tea plantation in Assam or West Bengal that has implemented all the provisions.

The aforementioned changes helped to provide greater freedom to the workers to some extent. They also provided the basis for forming trade unions among the workers. In fact, it can be pointed out that the level of unionization is fairly high among plantation workers. The Indian National Trade Union Congress (INTUC) that has close links with the Indian National Congress has a wide membership in Assam, though some other unions such as Centre of Indian Trade Unions (CITU) that has links with Communist Party of India (Marxist) and All India Trade Union Congress (AITUC), which is linked with Communist Party of India, have made inroads in some areas. In West Bengal, the tea growing districts of Jalpaiguri and Darjeeling have a large number of trade unions operating. In Darjeeling, the majority union is the Himalayan Plantation Workers' Union of the Gorkha National Liberation Front. In Jalpaiguri, which is the larger of the two tea growing districts in the state, half the workers are members of CITU-affiliated unions followed by INTUC and United Trade Union Congress (UTUC - Bow Bazaar) affiliated unions

respectively. In this article we will be focusing on tea plantation labour in West Bengal in order to get an in-depth understanding of the process of marginalization. We will also compare this labour force with that of Darjeeling in order to understand how workers fare in the two regions.

TEA PLANTATION LABOUR IN WEST BENGAL

West Bengal is the second largest tea producing state in the country. The state has two districts in which the bulk of the tea plantations lie. These are Jalpaiguri and Darjeeling districts, both situated next to each other in the northern part of the state. The two districts collectively contribute to 20 per cent of the tea produced in the country (Tea Board 2002: 11–12) and have around 240,000 permanent workers, a little more than half of who are women (*ibid.*: 145–6). The total number of plantation workers and their families would number five times the number of permanent workers. These workers are largely descendents of immigrants who were brought to these areas to work as plantation labour a few generations ago and are now permanently settled in these areas with little or no contact with their places of origin.

Jalpaiguri is the larger of the two districts and it has 165,000 workers. The tea growing area in this district is known as Dooars. Darjeeling district has two tea growing areas, namely, Darjeeling hills (where the famous Darjeeling tea is grown) and Terai, which is in its foothills. Darjeeling hills has around 50,000 workers while Terai has 25,000 workers. We shall refer to the three tea growing areas in the two districts as Dooars, Darjeeling hills, and Terai.

The topography and the tea grown in Dooars and Terai are similar. The workforce too is similar. Most of the workers in these areas are tribals from the contiguous areas of Jharkhand, Chhattisgarh, and Orissa that have tribal populations. These include the Oraons (who form around half the tribal population), Mundas, Kharias, and Santhals among others. There is also other, non-tribal populace from the same area, such as Mahali, Chik Baraik, Ghasi, and Turi. The population in Darjeeling hills is of Nepali origin, now known as Gorkha, and belongs to different caste groups such as Brahmin, Chetri, Mangar, Biswakarma, Limbo, and Buddhist groups such as Tamang, Lama.

Persisting Marginalization

Though the conditions of the plantation workers have improved since Independence, as compared to the colonial period, they continue to

form the less developed section of the population in the state. There is a difference between Jalpaiguri and Terai on the one hand, and Darjeeling hills on the other. The tribal tea plantation labour population in the former form a minority in the population of the respective regions whereas the Gorkhas in Darjeeling hills form the majority of the population. Before we come to the implications of the situation we will examine the conditions of tea workers in the three areas (Dooars, Terai, and Darjeeling hills). The data is taken from a survey conducted by the author in 1995 (Bhowmik 1996). A sample of 182 households in the three regions was covered. Though this data is twelve years old (at the time of writing this article), the situation is similar at present, if not worse. I have made periodic visits to the tea growing areas of West Bengal since 1998 and my observations also show that not much has changed. In fact, the turn for the worse could be observed after 2002 because a large number of plantations in Dooars and Terai have shut operations leaving their workers destitute.

The survey examined whether provisions of the PLA had been implemented. The PLA was passed by Parliament in 1951 but it came into effect in 1955. This act stipulates a number of guidelines relating to living and working conditions of plantation workers. It lays down that the employers must provide workers with permanent structures as houses, there should be sanitary facilities, and supply of drinking water in the labour lines (quarters). The plantation must provide free primary education to children of plantation workers through primary schools within the plantations. There are also provisions for recreation and cheap canteens for the workers. The lives of plantation workers would improve substantially if these provisions were implemented. In reality, there is not a single tea plantation in the state that has fulfilled all the provisions of the act.

According to reports of the state government (GoWB 2005) around 74 per cent of the workers' houses are permanent structures (viz. walls of brick and mortar with tiled roofs or of corrugated iron). The others live in mud house with thatched roofs. Had the PLA been implemented, all the houses would have become permanent structures in 1969. According to the report, house repairs are not carried out by the employers and in most cases workers have to bear these costs. Toilets too do not exist. The survey carried out by the author shows that none of the plantations covered had regular toilets. The workers and their families used the open fields. Doctors in the plantations informed that infection from hookworms is quite high among the labour force. These worms breed in open defecation.

The most depressing data is on education. The data on 182 heads of households showed that nearly half (49 per cent) were illiterate, 12 per cent were functionally literate, and 22 per cent had primary education while 14 per cent had reached middle school. The PLA states that every plantation having twenty-five or more children has to provide for primary schooling for them. These heads were in the forties and hence were born after the PLA came into force. Their educational levels indicate that they did not receive the benefit of primary education.

The state of primary schools in the plantations shows that the trend continued in 2007. Creating educational opportunities for children of plantation workers is very important for the future of this community. Education could break down the isolation they face and could lead to occupational mobility.

The government, with the cooperation of the employers, runs schools in the plantations. The plantation provides for the schoolhouse while the teachers are employees of the state's education department. My visits to the plantations show that most schools have not more than two classrooms and two teachers. The smaller planters have one teacher. These people are expected to teach children for the first four years. There are supposed to be at least four classrooms, one for each class. In many cases, the plantations have large numbers of children of primary school-going age but even in these cases there are only two classrooms and two teachers. One wonders how knowledge could be imparted or the children imbibe it in such conditions. In all probability the same course is taught every year for all students irrespective of which year they are in. The situation is worse in Terai as most plantations here do not have schools. There are local primary schools run by the panchayats and the children attend these, if they are in the vicinity of the plantation.

The situation in Darjeeling is better. When the survey was conducted we found that schools were functioning properly and they had more classrooms and adequate teachers. We also found that the parents contributed towards running private primary schools when there was a pressure on the government run ones. Of late, the Gorkha Hill Council too has provided for schools near the plantations so that the children can avail of education. The main reason for the difference between Darjeeling hills and the other two is that the parents of the children are very proactive in scrutinizing the functioning of the schools. In the other areas, the parents are not as assertive in ensuring that the schools function properly. This too is a result of the marginalization of the tribal plantation

workers. The schoolteachers are Bengali and the local school committee comprises mainly of the white-collar staff of the plantation who too are Bengali. They hardly pay heed to the complaints of the tribal parents; if at all these people stir up courage to complain. Moreover, the community knows that their children will join the ranks of plantation labour in the future, as there are no other avenues of employment. Formal education is not needed to get a job of this type.

In Darjeeling hills, the plantation workers value education as they see it as a tool for occupational mobility of their children. The avenues of employment are better than for plantation workers in the plains. Though this region is not a developed district of the state, it is more developed than the other two tea growing areas because of its tourist industry. This industry provides for jobs in hotels, restaurants, or shops in the towns. A large section of the males are also recruited in the armed forces, paramilitary forces, and the police. This has increased the family income of the workers and they are able to finance their children's higher education. Such opportunities do not exist for plantation workers in Dooars and Terai.

The plantations in Dooars are in isolated areas and the workers and their children have little access to employment other than the plantation or in low productive agriculture in the neighbourhood. The plantations in Terai are not as isolated because they are situated near Siliguri, the largest town in the north Bengal. However, tribals can rarely find employment in the town because most jobs, even the manual ones, are held by Bengalis or immigrants from Bihar, Rajasthan, or some other Hindi-speaking state. The lack of education restricts their choices of alternative occupations but this is not all. They are also marginalized in the area which tends to make them group together in their own communities in the plantations. Hence, they too, like their counterparts in Dooars, look towards the plantation for employment in the present and the future.

The vulnerable plight of tea workers could be seen when a crisis arose in the industry from 2000 onwards. At that time the planters claimed that tea prices started to fall and by 2002 they fell below the costs of production. Around 55 tea plantations in West Bengal closed and their workers were left with no wages or sources of income. This heavy dependence on the plantation had taken a heavy toll on the plantation workers, especially those in Dooars. They had no alternative forms of employment. It was estimated that between 2001 and 2003 nearly 200 people had died of malnutrition, most of them being in Dooars.

There is no satisfactory explanation from the employers for this depression in tea prices. In fact, we find that though tea produced in the plantations fetched low prices, prices of tea had risen in the retail market. Hence consumers did not benefit in any way from the falling prices. Instead, they found that prices had increased.

The mystery of falling prices is not difficult to solve. Till 1999 it was compulsory for plantations to sell their processed tea through the auctions in any one of the centres. The auction centres in this area are in Kolkata (the largest centre), Siliguri, and Guwahati. It was mandatory for plantations in West Bengal to sell at least 75 per cent of their manufactured tea through the auctions. There is a degree of transparency in auctions because the price is known to all through the bidding process. In 1999, the state government, in a bid to liberalize the process, decided that plantations could adopt their own means of sale. This was seen as a process that did not bind the plantations to sell to only one source. Thus, from 1999 sale through auctions was not compulsory. We find that tea prices started falling since that year. It is believed that the planters sold their superior quality through private sale and sent the inferior quality tea to the auctions. Hence prices at the auctions started to fall. Moreover, the sale price of privately sold tea too showed a fall. One is not sure whether this fall in prices through private sale was actual or was shown in the books.

The net result of these manipulations was felt by the workers as many plantations closed down under the pretext of high costs and low returns. Other plantations did not pay full wages or cut down on welfare measures in order to save costs. In fact, one could find that the employers abandoned the plantations in December. Tea production stops during the three months of winter (December to February) as the tea bushes are pruned and other cultivation work is done then. Since there is no income during this period, and only expenses, the employers would abandon the plantations. During this time the workers would tend to work on the plantation free of cost. They knew that unless the winter cultivation work was completed the new crop would be affected. The employers would return in late February or early March when production was resumed. Hence one can see the abject opportunism of the plantation owners on the one hand and the helplessness of the workers on the other hand.

Why Plantation Workers are Unfree

The present problems of the plantation labourers and their families have roots in the historic process of the plantation system. In the earlier years

there was acute labour shortage. The planters could attempt to overcome this by offering higher wages and better living conditions. This would mean that they had to spend more on labour costs. The planters knew that this would, in effect, reduce the huge profits the plantation industry was amassing. Given the fact that plantations the world over began by employing slave labour, the planters tried to find similar type of labour even after slavery was abolished. They then developed a new category of bonded labour known as indentured labour. The early plantations in Assam engaged indentured labour from the tribal areas of central India. We mentioned in the first section that the system of indenture was not used in Dooars. This is mainly because the planters had earned a bad reputation in the national press because of their exploitation of labour through indenture. The tea companies that operated in Jalpaiguri were the same as in Assam and hence they avoided the use of indentured labour. However, control over labour in Jalpaiguri was the same despite the lack of any legal binding that was prevalent in the system of indenture. Once in the plantation areas, the workers could not leave or return to their places of origin.

This was done in two ways. Firstly, they prevented the workers and their families from moving out of the plantation by keeping workers captive in the plantations. The watchmen (guards) kept a strict vigil in the labour lines and kept a watch on any outsider entering. The planters had the constant fear that others would lure their labour away (see Bhowmik 1981, chapter 2 for details). The other way was of not allowing any form of alternative employment in the tea growing region. This would ensure that once in the plantation, the worker would be totally dependent on work in the plantation for their sustenance. In the initial years of the plantations in Jalpaiguri, the Forest Department tried to lure workers by offering them cultivable land in exchange for work in the forest plantations. The planters' association protested strongly to this form of enticement as they had brought their labour from a considerable distance and had paid for its recruitment costs. They used their influence on the colonial government to prevent the Forest Department from hiring plantation labour (details in *ibid.*).

The aforementioned methods served the objectives of the planters, of having a captive labour force. However, when this system continued even in the post-colonial period when there was no shortage of labour, it created new problems for the plantation workers and their families. Since there are hardly any employment opportunities outside the plantation

system, the unemployed within the families of the workers look towards the plantation for gainful employment. In fact, one of the significant features of tea plantations in West Bengal is the high incidence of casual labour. The author had conducted a study in 1992 to examine the extent of casualization in the workforce (Bhowmik 1993). The survey had collected data from 149 of the 330 tea plantations in the state. The total number of workers covered in these plantations accounted for around 60 per cent of all permanent tea plantation workers in the state. The findings showed that there were 50.5 casual workers for every hundred permanent workers. In other words, one-third of the total labour force comprised casual labour.

Another significant finding was that an overwhelming majority of this labour was drawn from the households of permanent workers. They were their children, spouses, or kinsfolk and they resided in the households of the permanent workers. This is quite different from casual labour in other major industries where casual or temporary labour is not necessarily related to the permanent labour force (see Davala 1993).

The availability of a large pool of unemployed within the plantation has placed the employers in an advantageous position. The employers now use the existence of casual labour to depress the general wage levels. When trade unions press for higher wages at negotiations for wage revision, the employers invariably tell them that a high wage is possible but that the number of casual labour would have to be reduced. This puts the workers in a fix because higher wages will increase the individual income but a reduction in casual labour will decrease the household income. As a result, the amount of wage increase is inevitably scaled down.

We could observe such a situation in 2005 when negotiations for wage revisions were initiated by the state government and the trade unions. Such negotiations are expected to take place every three years, as wage agreements are valid for three years. The wage revision is decided through a tripartite meeting of the state government's labour department, the coordination committee of the trade unions, and the committee of the employers' associations. The daily wages of adult workers before the negotiations began was Rs 45.90. The trade unions had initially demanded a minimum daily wage of Rs 88. This was based on calculations for the need-based minimum wage as laid down by the 15th Indian Labour Conference for 1.5 units of consumption.

The negotiations failed and the workers went on strike on 5 July 2005. This strike covered all 300,000 workers of this industry in the state. The

strike lasted till 25 July and was the longest industry-wide strike in the tea industry. However, despite all pressures, the employers agreed to increase the daily wages by Rs 2.50 during the first two years and by Rs 3 in the third year.

During the negotiations, while workers asked for a hike of Rs 42.10, the employers' associations (the main ones are Indian Tea Association and Tea Planters' Association of India) generously offered Re 1 as they claimed that the industry was in a shambles and there was no question of a wage increase. In fact, they maintained that the present labour costs were already too high and any increase in wages without increase in productivity would cause further losses. The agreement also brought in a clause relating to productivity. Tea workers engaged in plucking of tea leaves are given an incentive wage (traditionally called 'extra leaf pice') for plucking more than the quota fixed by the plantation (this is known as *thika*). Hence, if the quota is 25 kilograms, the worker is paid extra for every kilogram plucked above the *thika*. This increases the daily wages as sometimes during the peak season (July–August), workers pluck nearly double the *thika*. Women workers are largely engaged in plucking and this extra earning goes to them. The extra income is mainly during the two months when the monsoon is at its peak. The season can be stretched at the most to three months. At other times (February to April–May and October till December) the plucking rate falls, as there are fewer leaves. Usually plantations lower the *thika* during these months. In fact, in the months of October and November the quota can be reduced to 15 kilograms.

The new wage agreement has a productivity clause relating to *thika*. Under this agreement, *thika* will be 24 kilograms for all plantations. Extra leaf pice will be paid at the rate of Rs 1.50 only after a worker plucks 30 kilograms of leaves. In other words, the worker will not get any extra payment for plucking up to 6 kilograms above the *thika*.

The increase in wages is just a pittance as compared to the earlier wage agreement. In the last wage agreement, workers were given a wage increase of Rs 3.50 per year for three years. Hence, at the end of three years (2003), the total increment was Rs 10.50. Under the present wage agreement, workers got an increase of Rs 8 at the end of three years. Besides, though the earlier agreement ended in 2003, the workers got back wages for only three months (instead of twenty-four months).

The employers could get away with such a meagre wage increase and on the above-mentioned terms only because of the pressure they applied

on the workers of reducing casual labour in the future. Hence, we still find that despite the situation having changed considerably in the post-Independence period, plantation labour remain vulnerable because of the continuation of the past practice of lack of development in the region.

The aforementioned factors have collectively led to the marginalization of tribal workers in the Dooars-Terai region. Besides these, the ethnic factor has also played a role. The main problem of these people is rooted in the fact that they were migrants to the area and were accorded low status. Hence, though they have been responsible for building up the wealth of the state through their labour in the tea industry, they have been kept out of the mainstream. This can be seen from the fact that though these communities are numerically large in the region they have never been politically effective. This large section of the population has been kept in isolation and they can hardly articulate their interests on their own. Non-worker, non-tribal leaders (mainly belonging to the dominant Bengali community) continue to lead the trade unions and take decisions on behalf of the tribal workers. Isolation and lack of employment opportunities in the area has made these people dependent on the plantation system or on subsistence agriculture in the vicinity for their subsistence.

The situation in Darjeeling hills is different despite a similar economic situation. The plantation and ex-plantation workers constitute the majority in the area and they have been politically effective. They are thus able to articulate their demands and have in fact been the driving force behind the Gorkhaland movement. It is through their efforts that the Autonomous Gorkha Hill Council was formed.

Though both groups of plantation workers, namely, the tribals in the Dooars-Terai region and the Gorkhas in Darjeeling hills region, are marginalized within the state of West Bengal, their responses to the situation has been different. The Gorkhas have been assertive about their language and their right to develop on the basis of their own culture. The tribals on the other hand have been unable to raise either issue. The Darjeeling hills workers have been able to develop their leadership in their community as well as their trade unions. The tribals have been dependent on outsiders for articulating their problems.

Role of International Organizations in Maintaining Labour Standards

Of late, especially after 1995, India's tea industry has come under criticism due to its labour standards. International pressure has mounted to ensure

that proper standards are maintained. Mainly fair trade groups located in Europe have carried out these pressures. The pressure exerted by these groups is not necessarily for maintaining international labour standards, as stated in the Social Clause, but rather they stress more on the fact that the labour standards prescribed by the country's law should be adhered to in plantations that export tea to markets in Europe.

The main regions that have come under this pressure are those whose products are marketed abroad. This mainly concerns Darjeeling as the main market for its high quality tea is in Europe. Nilgiris too exports a section of its produce and the district too has come under the scrutiny of the importers.

Fair trade organizations in Europe run chains of stores that sell products manufactured in developing countries. Tea is one of the main items in these stores. There are other organizations which do not directly market tea but which label the tea as having been produced under fair labour standards. These organizations are known as Labelling Organizations and they exist in almost all countries in Europe. Their main aim is to convince consumers that they should purchase only those tea packets that have the label of the concerned organization; this will ensure that the tea she/he consumes is produced in plantations that have followed the labour laws of the concerned country.

The largest and most popular labelling organization is the Max Havelaar Foundation based in the Netherlands. Max Havaaler is the name of the protagonist in a popular Dutch novel on colonial rule in Indonesia. Denmark too has a labelling organization by the same name. These organizations purchase tea directly from plantations where statutory labour standards are followed. The fair trade organizations and the labelling organizations have a federation based in Bonn, Germany, known as Fairtrade Labelling Organizations (FLOs). These organizations have prepared lists of tea plantations where labour standards are followed and their representatives make periodic trips to the plantations to ensure that the process is continued. The main pressure for the elimination of child labour has been exerted by these organizations. A significant aspect of the fair trade movement is that they have the support of trade unions in these countries. The Dutch Trade Federation (FNV) and the trade unions in Germany, Denmark, and France have supported the campaigns of the fair trade movement. Though the influence of these organizations is not very significant to the total imports of tea to these countries, they are nonetheless trying to make consumers aware that they should purchase

tea which has been produced in plantations where workers are not brutally exploited. It is notable that the West Bengal government had to pressurize planters in the area to improve working conditions, as a campaign of this sort would affect the consumption of Darjeeling tea in Europe.

Darjeeling tea is mainly exported and hence international campaigns could influence its consumption abroad. However, tea grown in Dooars, Terai, and Assam is mainly consumed within the country and hence international campaigns for improving workers' conditions have limited impact on conditions of workers in these regions.

CONCLUSION

We have tried to explain in this article how, despite being a part of the formal sector and having a high degree of unionization, tea plantation workers in the Dooars-Terai region of West Bengal are not totally free as in other industries. This study is similar to the other cases of informal labour in this volume, though the workers in plantations form a part of the formal employment. At the same time it differs from the other cases because we can see that the 'unfree' condition of the tea plantation workers in this region is caused not by advances paid to them by their employers but through a series of other reasons that are discussed in the article and summarized in this section. The result of this situation is that plantations remain as enclaves. The workers are vulnerable and can be exploited by the plantation companies. They can be made to work for low wages and under exploitative conditions.

The early conditions in the plantations were in fact created so that labour remained captive. The later developments too did not help the workers to be emancipated from the shackles of low paid work. This situation can be improved to some extent if some measures are taken. First, there is a need to create new avenues of employment for the family members/dependants of plantation workers. Education is an important means of achieving this and there is an urgent need for ensuring that educational facilities are available to them. The lack of proper education of the children of plantation workers has affected their occupational mobility. These children, like their parents, are doomed to work as low paid plantation workers, more often as casual labour, with little or no possibilities of their moving to better, or skilled, occupations.

It is also necessary to establish centres for technical training for the new generation so that they can take up other activities. It is significant that there are no technical institutes like the Industrial Training Institutes

in the plantation regions, though the younger generation needs these the most. Therefore, development of educational facilities, right from the primary level onwards, is an important issue which has not been taken up seriously either by the workers' representatives, namely, the trade union leaders, or the state governments. This needs to be addressed if the future generations are to improve their lot.

Second, greater stress has to be laid on the development of areas outside the plantations. This could be by creating facilities for small and medium industries where these workers can be employed. Alternative sources of employment will increase the bargaining power of the workers. It will also reduce the isolation of the plantations. Here too trade unions and other development agencies, including the state governments, can play an important role in pushing this idea through.

Third, the cultural development of plantation workers needs to be attended to. The living conditions of the worker need to be improved. Most of these problems can be tackled if the PLA is implemented earnestly. The act provides for all inputs needed for the upliftment of the workers. These include improvement of living conditions by standard housing, provision for drinking water, sanitation, recreational facilities, and education of the children. Had this Act been implemented, plantation labour would not be in its present pathetic conditions.

Finally, the tribal workers and their dependents constitute a population of at least 800,000 in the district. This is not a small number that can be neglected by the authorities. The state government has to initiate steps for their economic and social uplift, if at all it considers itself as a government of the people.

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Part 3

The Urgent Need for Legal and Global Action

Doing away with labour bondage, although formally put on the statute books both before and after Independence, did not result in liberating labour from still existent forms of captivity in various parts of the country. The Bonded Labour System (Abolition) Act promulgated in 1976 overlooked forms of discrimination which were an integral part of the doctrine of inequality as the mainstay of social organization. When from various corners reports came in on how men, women, and children—either as seasonal migrants or as members of scheduled castes/tribes—recurrently but sometimes also permanently were made to sell their labour power in advance and below the minimum wage rate, it was clear that lack of freedom continued to victimize large and vulnerable segments of the workforce. Moreover, such practices could not be explained away as survivals of a feudal-agrarian past which still lingered on in a few backward regions of the subcontinent. Bonded labour turned out to be profitable business for employers and their recruiting agents in many modern and capitalist branches of industry. The courts, having earlier on shown sympathy to the cause of labour deprived from exercising full control over the conditions of their employment, subsequently reacted unfavourably if not with hostility to disputes submitted to them under the heading of public interest litigation. While accepting the plea made for judicial activism siding with the working poor rather than with middle-class interests, there is also the urgent need for political action to put pressure on the powers that be in order to clarify that promotion of the informal sector economy built on cheap labour should not lead to work arrangements which negate the basic rights of people required as a commodity but disrespected as human beings.

Globalization does not merely imply getting access to faraway markets and thus accelerating economic growth. The other side of the coin is being emphatically questioned: why decent labour standards

should remain absent even if they have been framed and duly signed up as international conventions for a considerable period of time. Prolonged failure to abide with these regulations naturally gives rise to outside interference which cannot be just wished away as an intolerable nuisance motivated by ill will and fear of competition. Analysing the issue from a comparative perspective seems to suggest that South Asia is in the forefront of unfree labour, estimated to reach a figure ranging between six and eighteen million people, with debt bondage as a major category. From the late colonial era onwards, the International Labour Organization (ILO) has been the main agency in efforts to emancipate large masses of workers from their shackles. Criticism of attempts to downplay and also downgrade labour bondage in the international arena should not lead us to stop identifying and bringing together stakeholders world-wide in the political struggle to free labour from various forms of entrapment. Global action is all the more needed to comprehend and tackle the problem in a broad-based framework which does justice to local and time-bound specificities. The widening of the labour market, also intercontinentally, has contributed to making adults and children mobile in a state of immobility, prone to what has been labelled as worst-form abuses. This is why political action needs to connect social forces at both ends, i.e., in the area of origin and of destination. Poverty, powerlessness, discrimination, and bondage are intertwined dimensions of a hierarchical ordering of relationships, and should not be understood and acted upon in isolation from each other. Paradoxically, the casualization and flexibilization of labour in the globalized economy, as part of the more general trend towards an informalization of employment, would seem to herald a return rather than a fading away of bondage. To reverse that eventuality global activism is a must.

13 Bonded Labour and the Courts

KAMALA SANKARAN

India's constitution, when adopted in 1949, was unique in that it not only created political institutions, laid down fundamental rights and created the ground rules of governance for the country, but also declared that '[T]raffic in human beings and *begar* and other similar forms of forced labour are prohibited...'. It went on to state that contravention of this provision to be an offence punishable in accordance with law. Defining and creating offences are normally considered to be the province of criminal law while constitutions deal with question of power and power sharing. Forced labour or *begar* was considered to be important enough to find place in the constitution as part of the right against exploitation.

A question that has often been raised in recent years (and also by the editors of the present volume) is the manner of changes that have taken place in the form of forced labour and whether one could continue to characterize these as forms of bonded labour or *begar*. This article traces how legislation (including subsequent amendments) and judicial decisions have dealt with forced labour over time, the changes in their approach and capacity to provide relief in these matters, and the implications that the law and court decisions have for the manner in which other disciplines have interpreted and analysed the changing forms of bondage in India.

LOOKING BACK

Almost sixty years on, it makes interesting reading to look back at the Constituent Assembly Debates to understand the context within which the article was inserted in the constitution. The draft constitution had a differently worded article (Article 17) dealing with forced labour. At the very outset one must note that a well-known member of the Constituent Assembly, T.T. Krishnamachari (Madras: General), expressed himself strongly that, 'I wish...my honourable Friends in this House will not try to import into these fundamental rights age-old peculiarities of ours that still persist, bad as they are in particular parts of society which can be made to disappear by suitable legislation in due course, perhaps in two, three or four years.'¹ He was speaking in the context of other members, notably

G. Durgabai (Madras: General) and Prof. K.T. Shah (Bihar: General) who raised the practise of *devadasis* and discussed its inclusion in this article, as instances of forced labour. Yet, Krishnamachari drew a distinction between traffic and prostitution of women and the devadasi system and forced labour as proposed in the draft article, by stating that

what we could achieve in the matter of social reform by normal legislation, we need not seek to put into the fundamental rights, but if it is matter where the vested interests for the purposes of economic gain want to perpetuate a particular anti-social custom that obtains amongst us, well, I think it is perfectly right that we should put it into the Fundamental Rights.²

Clearly, the tenor of the argument was for the bifurcation of forms of exploitation, some which merited being considered in the chapter on Fundamental Rights in the yet-to-be adopted constitution and those that required not constitutional but mere legislative action. As it turned out, the eventual formulation of Article 23 dealing with forced labour and begar require Parliament to make a law to punish acts of forced labour or begar. While speakers in the debate talked of legislative actions as a substitute for constitutional inclusion, and some such as G. Durgabai talked of the Madras legislature's moves to ban the devadasi system as adequate, the articles of the constitution finally adopted gave Parliament alone the power to make laws with respect to the offences created in the constitution.³

It is also significant (given the current debates on new forms of bondage and unfree labour) that in the debates on Article 23, members expressed their concern that the word 'begar' had not been adequately defined. Some members sought to move amendments to clarify it in terms of slavery and involuntary servitude (Kazi Syed Karimuddin), while others sought to club it together with servitude and serfdom (Damodar Swarup Seth). Yet others sought to introduce the expression 'traffic in human beings' as a form of a modern, commercialized vice and distinguished it from slavery (Prof. K.T. Shah). What is interesting in the context of the interpretation of the term 'bonded labour' by the courts following the adoption of the Bonded Labour System (Abolition) Act, 1976 (BLSAA), is the vivid descriptions of begar by some members that did not focus on bonded labour but rather on forms of extraction of labour socially practised on 'Harijans' (S. Nagappa – Madras: General and Raj Bahadur – United State of Matsya). This has some relevance when we analyse

the manner in which bonded labour was defined several decades later in the BLSAA.

Forced and Bonded Labour: The Role of Wages

The BLSAA has a rather complex approach to the definition of the term bonded labour. We need to move from the definition of the term 'advance', to 'bonded debt', to 'bonded labour', to the 'bonded labour system' to understand the way in which the law has construed begar or bonded labour.⁴ The route taken to describe bonded labour tends to focus heavily on a creditor-debtor relationship as an important basis for bonded labour. Yet it must be remembered that the BLSAA also included in the definition of the bonded labour system forced labour, which could also be the result of any customary or social obligations or by reason of birth in any particular caste or community. This is why some scholars have argued that the framers of the constitution deliberately chose the word begar and forced labour instead of merely choosing to prohibit bonded debt as they did not envisage debt bondage as the only form of forced labour (Gupta 1991).

Cases that have come before the court under the constitutional provision and the BLSAA and the subsequent judicial interpretation of the notion of forced labour definitions initially focused on forced labour. Thus, in the early, celebrated *Asiad Workers' case*, the court under Justice P.N. Bhagwati made the critical link between the violation of minimum wage and forced labour under Article 23 of the Constitution. 'It may, therefore, be legitimately presumed that when a person provides labour or service to another against receipt of remuneration which is less than minimum wage, he is acting under the force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive.' Discussing the concept of 'forced labour' which is central to Article 23 of the Constitution, the Supreme Court has held that it may be physical force which may compel a person to provide labour or service to another or it may be force exerted through a legal provision for imprisonment or fine in case the employee fails to provide labour or service, or it may even be compulsion arising from hunger and poverty, want and destitution. Any factor which deprives a person of choice of alternatives and compels him to adopt one particular course of action may properly be regarded as 'force' and if labour or service is compelled as a result of such 'force', it would be 'forced labour'.⁵

The non-payment of minimum wages constituting forced labour and a violation of a fundamental right has been applied by the courts in subsequent decisions arising in different contexts, such as payment of a pittance to a part-time peon in a government school.⁶ Elaborating this connection between wages and forced labour further, the court in a later case held that 'Whenever any labour or service is taken by the state from any person, whether he be affected by drought or scarcity conditions or not, the state must pay, at the least, minimum wage to such a person on pain of violation of article 23.'⁷

Yet every violation of Article 23 obviously did not constitute a violation of the BLSAA; for instance in Sanjit Roy's case the question of BLSAA was not invoked. The implications of judicial interpretation lead one to conclude that Article 23 and the BLSAA occupy slightly different fields. Non-payment of minimum wages could be treated as forced labour but not necessarily as an instance of bonded labour. This distinction which has been blurred in other cases is a fine but important one. As we discuss later, the courts have held that wherever forced labour is shown to exist the courts may presume the existence of bonded labour.

In its first convention on the subject, the Forced Labour Convention, 1930 (No. 29), the ILO defined forced labour for the purposes of international law as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (Article 2(1)). By 2005 the ILO's *Global Report on Forced Labour* had distinguished forced labour in a manner very different from the way in which the Indian Supreme Court had characterized it in the *Asiad Workers'* case. The ILO now holds that:

Forced labour cannot be equated simply with low wages or poor working conditions. Nor does it cover situations of pure economic necessity, as when a worker feels unable to leave a job because of the real or perceived absence of employment alternatives. Forced labour represents a severe violation of human rights and restriction of human freedom, as defined in the ILO Conventions on the subject and in other related international instruments on slavery, practices *similar to slavery*, *debt bondage or serfdom*. The ILO's definition of forced labour comprises two basic elements: the work or service is exacted under the menace of a penalty and it is undertaken involuntarily. (ILO 2005: 5; Also see Lerche, this volume. Emphasis in original)

The ILO is also conscious that bonded labour is a form of forced labour which is peculiar mainly to South Asia. Yet it does point out that 'Most bonded labourers would fall within the ILO's own definition of forced labour, but there are arguably certain exceptions (ILO 2005: 8).'

The Indian position is thus much broader than the international one. The reluctance of the ILO to bring wage levels into the question of forced labour is related in part to the reluctance of the organization to treat wages as part of the basic human rights relating to labour. For several decades now, the ILO had characterized freedom of association, freedom from discrimination, and forced labour as part of what it had called basic human rights and identified the related conventions for this purpose. To this it has now added freedom from child labour and these four areas form the ILO's Declaration of Fundamental Principles and Rights at Work. Matters relating to wage levels, social security benefits, conditions of work, and other employment rights have not been treated as part of these fundamental principles on the ground that these standards would depend on the level of development of each country and cannot be universalized.

The de-linking of wage levels from the existence of forced labour may be partly echoed in the changing interpretation by the courts in India on this subject. In 2006, the Supreme Court, hearing a petition dealing with the non-payment of minimum wages to security guards in Karnataka, refused to hold that it was a case of forced labour or that there was any constitutional violation of Article 23 on the ground that the minimum wages notified in the state did not have security guards as a scheduled employment for fixation of wages.⁸ While this may be a strict textual interpretation of the law, it is certainly a far cry from the creative craftsmanship of Justice Bhagwati, who, more than two decades earlier in the *Asiad Workers'* case, had made the link between non-payment of minimum wages and the denial of a fundamental right, and therefore opened up the writ jurisdiction of the court to what would otherwise have been seen as a mere violation of a statutory right for which the only recourse would be the authority set up under the Minimum Wages Act, 1948.

The Link between Bonded Labour, Contract Labour, and Migrant Labour

In 1985, in an important amendment to the BLSAA added an explanation to the definition of bonded labour which sought to emphasize the overlap between bonded labour, contract labour, and migrant labour (refer to note 4).

The amendment itself was a result of the decision in the *Bandhua Mukti Morcha (BMM)* case where the court had noticed the overlap between

the three Acts.⁹ The law has now clearly made a connection between the systems of contract labour (that is, engaged through an intermediary for work with a principal employer), inter-state migrant labour (where a person is recruited through a contractor in one state to work in an establishment in another state), and the system of bonded labour.¹⁰ The question that arises is whether any advance given by such a *thekedar* or *jamadar*, while recruiting contract labour or inter-state migrant workman, would satisfy the requirement of the definition of bonded labour given in section 2(g) of the BLSAA of the person being a debtor. This would require that not only the advance be treated as a debt, but also that the conditions of work fulfil the requirements of forced labour. The latter would require at the very least working for nominal or less-than minimum wages (forced labour) and also perhaps accompanied with the loss of liberty of choosing employment elsewhere, or deprivation of liberty of movement or the bondage of the labour of family members, or the forfeiture of the right to sell produce at market prices, required under the definition of 'bonded labour system' under the BLSAA.

In the BMM case the court had also stated that whenever forced labour existed the court would presume that it was bonded labour. This presumption may be rebutted by the employer, as also by the state government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the court must proceed on the basis that the labourer is a bonded labourer.¹¹ The act states that whenever a debt is claimed by a bonded labourer or a Vigilance Committee to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.¹²

Unfortunately, decisions by the courts delivered after the amendment came into force in 1985 have not addressed the implications of this explanation nor sought to read the three Acts together. This is a significant omission because there have been questions raised amongst scholars regarding the changing nature of labour relations in rural and urban India, and how far exploitation, low wages, and deprivations could be characterized as bondage as traditionally understood. Thus Jan Breman has distinguished between feudal and capitalist labour bondage and argues that advances paid to labour to secure a committed labour supply (forms of neo-bondage) are distinguishable from the traditional forms of bondage (Breman 1996: 162–9; also see Introduction to this volume). The implication is that the advances paid to secure season-long

employment in agriculture or other sectors would not come within the scope of bonded debt. This view, based on field studies that point to the changing nature of unfree labour, seems to run counter to the direction of the amendments in the BLSAA.

The BLSAA on its part identifies the advance paid to a person as one of the ingredients of bondage, which could be coupled with other factors of 'unfreedom' (the absence of freedom of movement, employment elsewhere, family bondage, or lack of freedom to sell the products of one's labour as defined in section 2(g) of the act), to constitute bonded labour. The recent amendments would seem to include more contemporary forms of employment in agriculture as instances of bonded labour, provided the other forms of 'unfreedom' indicated in the definition are complied with.

The courts in India have been fairly reluctant in recent years to read into the systems of advance paid to the worker, the ingredients of bondage. What is disturbing is that the conclusion of the absence of bondage is reached without even examining if the advance is accompanied by the other aspects of unfreedom referred to in the law. The amendment to the BLSAA was clearly meant to cast a wider net and to bring forms of labour frequently seen amongst migrant and contract labour as forms of forced labour within the scope of the act. Yet, judicial decisions have not had a uniform approach to this question. Some courts seem quite unmindful of this 'deeming provision' of the law and have so read the provisions to require a prior creditor-debtor relationship among the parties before it would apply the law. Thus, forms of neo-bondage as characterized by Breman and others (refer Introduction to this volume) would fall outside the scope of the BLSAA according to this view being currently developed by some of the courts.

The Karnataka High Court was confronted with a case where the Executive Magistrate had launched criminal proceedings against a person who offered Rs 1,000, 2,000, and 1,650, respectively, in return for their children grazing their cattle. The court was of the view that while engaging child labour could be an offence, in the present case, providing food and clothing through such an advance would not be constitutive of the bonded labour system. This view was further buttressed by the argument that the parents had neither been compelled to send their children for cattle grazing, nor was there a creditor-debtor relationship in this case.¹³

In recent years, cases have come before the courts alleging payment of low wages and holding back of dues. Often these are accompanied by allegations of payment of a nominal advance/loan at the initial stages. The district administration often launches prosecution under the act for the existence of bonded labour. Where the victim/state is unable to establish the date of the advance/loan or where it is clear that the matter is related to a date prior to the enforcement of the act, the courts have refused to allow the matter to continue.

In a case from Orissa, the Sub-Divisional Magistrate (SDM) had initiated proceedings under Section 17 of the act on the ground that the person was performing bonded labour after a sum of Rs 150 was advanced, in return for which the employer was being paid Rs 120 and some paddy per year. Since it had not been proved when the advance was made, that is, before or after the commencement of the act (the act being prospective), the High Court quashed the proceedings under the act partly on this ground.¹⁴ The High Court further added that 'there is no material to show existence of relationship of creditor and debtor between the labourer and employer, and that for the discharge of the said debt, the labourer, had been engaged in the work either free or for a paltry sum.'¹⁵

The court has thus often been confronted with a question of whether payment of advance or loan received from the employers/owners amounts to establishing a creditor-debtor relationship that has been highlighted by judicial interpretation as forming the basis of a bonded labour system. We notice that the opinion of the courts have been quite mixed on this question. Dealing with a case in the handloom weaving industry in Tamil Nadu, the Madras High Court has emphatically held that 'The employees (Weavers) obtain advances (Advance Wages) that they adjust subsequently. This is the practice or custom in the Handloom Weaving Industry, which is prevalent for many decades. This system cannot by any stretch of imagination be considered or termed as "Bonded Labour".' The court in fact went on to doubt the credibility of the petitioner who had alleged the existence of the bonded labour system in this case with a devastating comment that 'it appears that in order to avoid the repayment of the advance wages received by him, this method of calling such persons as Bonded Labourers has been invented by this petitioner. It is nothing but contractual obligation.'¹⁶

The opposite, in some senses, of the advance payment scheme is the scheme where wages are paid in a lump sum at the end of the contract period. The High Court of Madras was recently petitioned to order a

survey into the *Thirumanna* (or *sumangali*) *thittam* scheme in Tamil Nadu, where young unmarried girls are given training and asked to work for three years in the textile mills with the promise that the wages would be paid in a lump sum at the end of the contract period.¹⁷ The court declined to admit the public interest litigation (PIL) and instead directed the trade union to approach the labour authorities under the different labour laws.¹⁸

Yet it must be pointed out that not all court decisions are wary of making the connection between the systems of advances paid and the possibility of violation of the BLSAA being made out. Where workers have been brought from another state under allurements, and the advance payments made to them by the contractor were reimbursable by deductions made from month to month, the workers were held as bonded labourers since the method of accounting was so manipulated that the debt never ended, and the workers were kept under confinement and restraint.¹⁹ In cases where advances have been made to Palamoori labourers in Karwar, the court has noted the violation of the rights of contract labourers who are also inter-state migrant workmen (from Mahabubnagar in Andhra Pradesh) and noted that there is evidence of the labourers being detained at their worksites against their wishes to realize the advances paid to them and to compel them to work until the project was completed. The court has severely criticized the district magistrate (who in turn had wanted exemplary cost to be imposed on the person who wrote the letter which was treated as a PIL) for dereliction of duty imposed under the law to detect and abolish bonded labour.²⁰

Clearly there are mixed signals from the courts regarding the manner of interpreting advances paid to the workers and whether or not these constitute forced labour. In none of these judgements have the implications of the 1985 amendment been gone into while deciding the matter. The amendment too, for its part, has not attracted the requisite academic or legal attention, and neither have the near contradictory trajectories of legal amendments and of current scholarship regarding forms of neo-bondage been delved into. While it may be argued that the system of advances to migrant and contract labour are forms of neo-bondage, the move to bring workers to whom such advance has been paid within the scope of the BLSAA was to provide an avenue for redressal for such workers, which is accorded the same priority and high profile remedy as is accorded to forced and bonded labour. It also serves to acknowledge that forms of bondage are also changing over time, and that the actual situation on

the ground for such migrant and contract labour is no less wretched than those of the more traditional forms of bonded labour.

Criminal Prosecutions

The BLSAA not only extinguishes the bonded debt and provides for rehabilitation, it also allows for the prosecution of those guilty of perpetuating the bonded labour system. Such prosecutions are frequently challenged in the higher courts. The courts have quashed criminal proceedings launched under the BLSAA by the magistrates on petitions filed by the accused. For instance, in a case decided by the Orissa High Court, the court was of the view that the allegations that the parties had worked as domestic servants in the house of the petitioners and had not been paid their entire wages could not be brought within the scope of the bonded labour system if there was no relationship of creditor and debtor that could be established.²¹

In many of these cases criminal prosecutions have been launched under the act at the instance of the district collector or SDM since executive magistrates have been authorized under Section 21 of the act to do so to try criminal offences summarily. The courts have since struck down the constitutionality of this provision of the BLSAA on the ground that it violates the basic structure of the constitution that requires a separation of executive from judicial functions.²² The district collector is charged with several important executive functions relating to the enforcement of the act; yet is also conferred with judicial power to try criminal offences summarily. This fusion of powers is seen as violating an important constitutional principle of separation of powers of the state. (We await a final verdict from the Supreme Court on this matter.) The decision of the courts is all the more interesting because the BLSAA is one of those laws which has been placed in the Ninth Schedule to the Constitution that provides immunity from the power of the courts to declare a legislation to be unconstitutional. A recent decision of the apex court²³ has held that laws enacted after 1973 (the year the court declared certain basic features of the constitution to be immutable and beyond the amending power in the celebrated *Kesavananda Bharati* case) could no longer be immune to judicial scrutiny. Given this, it seems unlikely that the immunity enjoyed by laws such as the BLSAA placed in the Ninth Schedule to the Constitution would continue, and we could expect that any infringement of a feature such as separation of powers considered to be basic to the

constitutional scheme would be held unconstitutional. The implication for the BLSAA would of course be to curb the powers of the district magistrate, the most important figure in the enforcement of the law to prosecute for the breach of any the provisions of the law.

Monitoring of the Court's Directions

The BMM case and its continued monitoring stands out as an example of the doggedness of the court in monitoring its directions. The directions given in this case dealt, among other things, with the rehabilitation of the bonded labourers and the need to provide them with decent living conditions. The nature of the orders passed in continuing examination of the case may illustrate the manner in which the court, through successive benches, has monitored this case. The following are some instances of the regular and detailed monitoring by the apex court where the court monitors minute developments in the cases it is pursuing.

Of the several directions given in the initial BMM 1984 case one of them related to the electrification of the stone crusher's colony which was one of the aspects of the ongoing monitoring. In order to expedite, the court went to the extent of directing the state government of Haryana to provide all the necessary funds to the Municipal Corporation of Faridabad for this purpose and to get the job done through a state-owned corporation so that the necessity of floating tenders could be obviated.²⁴ Despite such a direction, tenders were invited for getting the job done. The Additional Solicitor General appearing on behalf of the state government assured the court that the job of electrification would be completed within the deadline set by the court, even if the work were constructed through the agency appointed by the purpose after the tendering process. The court held that in view of this assurance 'we are not inclined to initiate any action against the Haryana Government'.²⁵

The court has also been confronted with the need to provide security to those who carry out the monitoring on the ground. In the BMM case, the Assistant Labour Commissioner had pointed out to the court that the officers assigned the task of conducting the inquiry ordered by the court were getting anonymous threats via phone to submit a positive report to the court. The response of the court was that they would not tolerate any threat to anyone carrying out the directions of the court and that appropriate action would be taken against those found making such threats.

Limits of the Court's Monitoring

Yet, despite such detailed and meticulous follow-up, the court was constrained to observe,

Court's judgement to regulate such matters has inherent limitations. These are not schemes which could be conveniently monitored by a court—far less can the Apex Court keep track of the matter. Its Registry has congestion. To get attention for a matter of this type from the Court is bound to take some time... As a welfare State it is now the obligation of the State of Haryana to cater to these requirements of the area.... We hope and trust that if a direction is issued to the Chief Secretary of the State to regulate these aspects the reposing of trust by this Court would in turn not be misplaced.²⁶

Earlier, in another case dealing with bonded labour and their release, the Supreme Court had observed 'It is difficult for the court to entertain repeated complaints of this type and devote attention by way of monitoring the administration of the act.'²⁷

In an ongoing case related to bonded labour in Tamil Nadu, the Supreme Court appointed a commission to verify the declaration of the state government that there were only stray cases of bonded labour in Tamil Nadu. As reported by the ILO,

In an exhaustive report based on a large-scale survey, the Commissioners concluded that there were over 1 million bonded labourers spread over 23 districts and 20 occupations, of whom 10 per cent were bonded child labourers. Bonded labourers from the Scheduled Castes and Tribes and the Most Backward Castes comprised 76 per cent of the total. The bondage was almost invariably found to be based on debt. Attention has recently been focused on problems in rice mills in the state. In one area, over 1,000 immigrant families from other Tamil Nadu districts were in bonded labour, confined in the mill premises. (ILO 2005: 33)

This case resulted in the need to verify the existence of bonded labour in other states as well.

Confronted with such gigantic challenges, the court in recent years has handed over the task of monitoring and implementing its directions to the National Human Rights Commission (NHRC). The decision to 'outsource' this task to an independent body such as the NHRC indicates the recognition by the court of its inherent limitations in monitoring its decisions. *Amicus curiae* have also been appointed by the court to assist in the task. Various state governments have been asked to file their status report in the form prescribed by the NHRC every six months.²⁸ The NHRC has appointed a Monitoring and Administrative Committee and

a Group of Experts to suggest improvements in the implementation of the BLSAA.²⁹ The NHRC report dealing with identification, release, and rehabilitation of the bonded labour has been scrutinized by the courts. The court appears to be of the view that specialized, independent agencies such as the NHRC are better equipped for the task of monitoring the court's orders than the executive and its administrative machinery. However, by and large, it is the same governmental machinery that is eventually relied on, monitored in turn by the looming threat of punishment by the court using its inherent contempt power. This ultimate threat of judicial sanction has been used on a few occasions to hasten tardy implementation of court orders.

THE FUTURE

There is no denying that the Supreme Court, using its writ jurisdiction in public interest litigation, has greatly assisted the enforcement of the act. Through the appointment of commissions and detailed directions the court has ensured better identification, release, and rehabilitation of bonded labourers, and directed the Vigilance Committees as also the district magistrates to take the assistance of non-political social action groups and voluntary agencies for the purpose of ensuring the implementation of the provisions of the act.³⁰ The Supreme Court has appointed officers to ensure implementation of its order,³¹ direct the constitution of a committee with the Director General, Labour Welfare, as its convenor to assist the court to make further directions regarding the scheme to rehabilitate bonded labourers,³² and examine if there has been cause for initiating contempt proceedings against a state government for non-compliance of the court orders.³³ A high court can also issue directions to the district magistrates to identify and rehabilitate bonded labourers.³⁴

Yet, in recent years activists have been doubtful about the usefulness of approaching the courts using the PIL route. Matters challenging the economic policy of the government have met with little support from the courts. Exercising great restraint, the courts have refused to interfere in policy matters and shown little sympathy to slum dwellers in public lands,³⁵ banning of rickshaw pullers in several areas of Delhi,³⁶ refusal to stay ongoing projects or economic policies,³⁷ refusing the standing to a person to challenge such policies unless s/he was personally affected.³⁸ Commentators have noted the change from the earlier phase when many groups had easier access to the courts and attribute this to the effects of

globalization (Baxi 2007; Singh 2005). The use of PILs has gradually been seen to shift from matters covering the marginalized and the poor to matters affecting the middle class and what have been termed as governance issues. This has resulted in greater reluctance on the part of the activists to approach the courts, with the attendant expenditure of time and money when they are unsure of the outcome. As we earlier noted the trend of 'constitutionalization' of issues, which took place in the 1980s, when low wage issues were seen as forced labour ones, has also seen a shift, with courts adopting a narrow reading of such violations as labour matters. The special features of the BLSAA that permitted an executive magistrate to prosecute have been either constitutionally struck down or, where prosecutions have been launched, have been struck down by the court on a rather narrow reading of the creditor-debtor underpinnings of the law. Yet the cases begun over two decades ago continue to be regularly monitored, albeit with the help of the NHRC. It is in these cases that the capacity of the courts to act as a bulwark against governmental indifference stands out. While harking back to the 'good old days' one can echo the words of Upendra Baxi when he says, 'Perhaps, I may sound to you as calling for a Jurassic-park type revival of Indian judicial activism of the seventies and eighties. You may well want to regard me as a jurisprudential Dinosaur. So be it' (Baxi 2007: 36). Bonded labour eradication may well require a harking back to those times.

NOTES

1. *Constituent Assembly Debates*, 3 December 1948, p. 811. Henceforth referred to as CAD. The CAD gives the constituency and the category under which the person was elected in the debates following the name of the speaker.
2. *Ibid.*
3. Article 35 (a) (ii) dealing with Article 17 (offence of untouchability) and Article 23 (begar, traffic in human beings, and forced labour).
4. Section 2 (g) of the BLSAA defines bonded labour system as follows: (g) 'bonded labour system' means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that—(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or
(ii) in pursuance of any customary or social obligation, or
(iii) in pursuance of any obligation devolving on him by succession, or
(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for an specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

Explanation: For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-state migrant workman as defined in clause (e) of sub-section (1) of Section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is 'bonded labour system' within the meaning of this clause.

5. *People's Union for Democratic Rights v. Union of India* AIR 1982 SC 1473, (1982) 3 SCC 235, [1983] 1 SCR 456 (Asiad Workers' case).
6. *Awadharani (Smt.) v. Director of Education (Basic)* MANU/UP/1218/2002.
7. *Sanjit Roy v. State of Rajasthan* AIR 1983 SC 328.
8. *Lingegowd Detective & Security Chamber (P) Limited v. Mysore Kirloskar Ltd.* (2006) 5 SCC 180.
9. *Bandhua Mukti Morcha v. Union of India* AIR 1984 SC 802, (1984) 3 SCC 161, (1984) Lab IC 560.
10. The law appears to have come a full circle. See Prabhu P. Mohapatra, this volume, for an analysis of how early regulations required that granting of advances be compatible with the principles of free trade and freedom of contract.
11. *Bandhua Mukti Morcha v. Union of India* AIR 1984 SC 802, (1984) 3 SCC 161, (1984) Lab IC 560.
12. Bonded Labour System (Abolition) Act 1976 (Act 19) Section 15.
13. *Sannasomannara Somashekarappa v. Gorappa Rudraswamy* 2005 Cri L.J 1, MANU/KA/0359/2004.
14. *Narayan Mohanty v. State of Orissa* 1995 Cri LJ 788
15. *Narayan Mohanty v. State of Orissa* 1995 Cri LJ 788.

16. *A. Shanmugham v. Government of Tamil Nadu, rep. by its Home Secretary to Government and The District Collector*, MANU/TN/1363/2004, decided on 18.10.2004.
17. For details, see *Labour File*, May–June 2006, see <http://www.labourfile.org>.
18. *Centre of Indian Trade Unions v. Secretary to Govt. of Tamil Nadu, Labour and Employment Department, Chennai*, 2007 II LLJ 640 (Mad).
19. *Mukesh Advani v. State of Madhya Pradesh* AIR 985 SC 1363.
20. *Mahabubnagar District Palamoori Contract Labour Union v. M/s Nagarjuna Construction Company Limited, Mallapur Village, Karawar District* MANU/KA/0069/1998.
21. *K. Ramamurty Patro v. Sub-Divisional Officer and Ors.* 1989 Cri LJ 1036.
22. See decision of the Madhya Pradesh High Court in *Hanumantsing v. State of M.P.* 1996 Lab IC 1310 and the decision of the Bombay High Court in *Govind Shanwar v. Dattatreya* 1992 ri LJ 1228.
23. *I.R. Coelho. v. State of Tamil Nadu* AIR 2007 SC 861.
24. Order passed on 16 November 1999.
25. *Bandhua Mukti Morcha v. Union of India* (2000) 9 SCC 322 at 324, order dated 11.1.2004.
26. *Bandhua Mukti Morcha v. Union of India* (1991) 4 SCC 177 cited in *Bandhua Mukti Morcha v. Union of India* (2000) 9 SCC 322 at 325.
27. *P. Sivaswamy v. State of Andhra Pradesh* AIR 1988 SC 1863.
28. *People's Union for Civil Liberties v. State of Tamil Nadu* (2004) 12 SCC 381.
29. (2004) 12 SCC 385.
30. *Bandhua Mukti Morcha v. Union of India* AIR 1984 SC 802, (1984) 3 SCC 161, (1984) Lab IC 560. Also see *Bandhua Mukti Morcha v. State of Tamil Nadu* (1986) Supp SCC 541; *Mukesh Advani v. State of Madhya Pradesh* AIR 1985 SC 1363, (1985) SCC Lab 565, (1985) Lab IC 1895; *Neeraja Chaudhary v. State of Madhya Pradesh* AIR 1984 SC 1099, (1984) 3 SCC 243, (1984) Lab IC 851.
31. *Chackalackal T v. State of Bihar* (1999) 3 LLJ (Supp) 108 (SC). (Whether erstwhile bonded labourers were being paid wages in accordance with the Minimum Wages Act 1948 and whether, as alleged, they had been forced to refund the bonded debt, were directed to be investigated and for appropriate action to be taken.).
32. *Bandhua Mukti Morcha v Union of India* (1999) 3 (Supp) 99 (SC).
33. *Kameshwar Prasad Sharma v State of Bihar* (1993) 3 SCC 19, (1999) 3 LLJ (Supp) 1202 (SC).
34. *Champa Srivastava v State of Uttar Pradesh* (1999) 3 LLJ (Supp) 1588 (All) (HC).
35. *Almitra H. Patel v. Union of India*, decided on 15.02.2000.
36. http://www.itdp.org/index.php/projects/detail/cycle_rickshaw_advocacy_in_delhi/.
37. *Balco Employees Union (Regd) v. Union of India* (2002) 2 SCC 333.
38. *Balco Employees Union (Regd) v. Union of India* (2002) 2 SCC 333 at 381.

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14 A Global Alliance against Forced Labour?

Unfree Labour, Neo-liberal Globalization, and the International Labour Organization*

JENS LERCHE†

INTRODUCTION

Unfree labour has received an unusual amount of official attention during the last few years. Official commemorations of the abolition of slavery are very much in vogue. The United Nations (UN) declared 2004 to be the 'International Year to commemorate the Struggle against Slavery and its Abolition', and in the United Kingdom (UK) the bicentenary of the abolition of the slave trade act has been duly celebrated in 2007.¹ The continued existence of slavery and slavery-like practices has also received renewed official attention, including that of the UN Commission for Human Rights and its Working Group on Contemporary Forms of Slavery. Most notable among UN organizations is, however, the ILO, which has launched a campaign against 'forced labour', and, as part of this, has ventured an estimate of the extent of forced labour worldwide. For governments and the public in the developed world, the focus on illegal immigration and cross-border trafficking in people has also led to a renewed interest in forced labour in relation to trafficking.²

The recent ILO report 'A Global Alliance against Forced Labour' (ILO 2005a) represents the most coherent and most empirically informative international report on forced labour. This, and its intended policy implications, means that it deserves close scrutiny. The objective of this article is to provide that scrutiny, and, as part of this, to move towards a theoretically and empirically coherent analytical approach to unfree

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labour relations. Recent theoretical discussions relating to unfree labour will be surveyed, as will recent empirical literature relating to the most extensive and prevalent example of unfree labour in any country in the world: bonded labour in India. It will be argued that present-day unfree labour relations are best understood in conjunction with labour relations in general, neo-liberal globalization and country-specific conditions.

THE ILO ANALYSIS OF FORCED LABOUR

The ILO is the UN agency responsible for international labour standards, and is the only international organization pursuing labour rights issues at the international level. Its approach to labour issues is, by definition, consensual. Not only is it a UN organization, it also has a tripartite set-up, encompassing governments, employers, and labourers; a set-up which is unique within the UN system.

During the late colonial period, the ILO was involved in the abolition of forced labour organized by the colonial state (ILO 2001: 10–11). This was followed by a lull in anti-forced labour activities at an international level, especially during the last decades of the twentieth century. A labour rights programme did not sit well with neo-liberal globalization and the structural adjustment agenda of the international development community of the 1980s and 1990s. This development agenda went through a 'correction' in the late 1990s, as expressed through the new 'post-Washington' consensus, the UN-led Millennium Development Goals, and the World Bank-led Poverty Reduction Strategy Papers (PRSP) approach to development (Saith 2004). This enabled the ILO to regain some ground, though still the relationship between labour rights and the PRSP approach is uneasy, and labour rights were not included in the final UN Millennium Development Goals or MDG (ILO 2004; Rogers 2007).³

The ILO fight-back took place through a reformulation and refocusing of its efforts, centred on the 1998 ILO 'Declaration on Fundamental Principles and Rights at Work', following which the main ILO objective became 'decent work for all'. This has been pursued through a campaign for 'a fair globalization', internationally, regionally, sector specifically, and with regard to individual governments—see, among other texts, ILO (2002, 2003, 2004, 2006a, 2007a). Central to this were four 'core labour standards', namely, freedom of association and the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; and the elimination of discrimination in

respect to employment and occupation. Annual 'global reports' followed, each year covering one of the core labour standards. The 2001 and 2005 reports were on forced labour, and a general survey looking at the implementation of related ILO conventions was published in 2007 (ILO 2001, 2005a, 2007b). An ILO 'Special Action Programme to Combat Forced Labour' exists, and it has published several survey-based reports within the field of forced labour.⁴

The ILO defines forced labour as work or service 'exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (2005a: 5). In other words, forced labour involves involuntary entry to the labour relation, and coercion to remain within it. This is the internationally, legally accepted definition of forced labour, as laid out by international (ILO) conventions. It covers various types of forced labour, including slavery, serfdom, and debt bondage.⁵

The main ILO document on forced labour, containing its analysis of present-day forced labour and its strategy for its eradication, is the 2005 report 'A Global Alliance against Forced Labour' (ILO 2005a). This report seeks to create public awareness about the phenomenon of forced labour, through quantifying it. A similar strategy was used regarding child labour, a strategy that the ILO perceives to have been highly successful (ILO 2006b).

The 2005 report calculates that a *minimum* of 12.3 million people in the world work as forced labour. This is the first official estimate of the magnitude of forced labour worldwide, and it is emphasized that this is a minimum estimate.⁶ The main region for forced labour by far is Asia and the Pacific, with more than three quarters of all forced labourers, and with the highest incidence of forced labour (Table 14.1). However, regarding rate of incidence, the Latin America and Caribbean regions lag not far behind. The incidence in the industrialized countries, on the other hand, is only a tenth of that in Asia. This latter figure includes forced labour trafficked into the industrialized countries (Table 14.2).

Table 14.2 lists separately forced labourers who are also victims of trafficking (who are already included in the above categories 'forced labour for commercial sexual exploitation' or 'forced labour for private economic exploitation').

A number of important findings are clear from the figures. Firstly, regarding the different forms of forced labour as defined by the ILO, private economic exploitation is by far the most common (nearly two-thirds of all forced labour). This includes 'among other things,

Table 14.1: ILO minimum estimate of forced labour in the world, by form and region

	State or military imposed	Private economic exploitation	Commercial sexual exploitation	Mixed	Total	Incidence per 1,000 inhabitants
Asia and Pacific	2,186,000	5,964,000	902,000	434,000	9,490,000	3.0
L. America and Caribbean	205,000	994,000	115,000	3,000	1,320,000	2.5
Sub-Saharan Africa	70,000	531,000	50,000	13,000	660,000	1.0
Industrialized countries	19,000	84,000	200,000	58,000	360,000	0.3
Middle East and N Africa	7,000	229,000	25,000	-	260,000	0.75
Transition countries	1,000	10,000	10,000	103,000	210,000	0.50
Total	2,490,000	7,810,000	1,390,000	610,000	12,300,000	
Each category, per cent of total	20.2%	63.5%	11.3%	5.0%	100.0%	

Source: ILO (2005b: 2).

Table 14.2: ILO estimate of regional distribution of trafficked forced labourers, by region of destination

	Asia and Pacific	Latin America & Caribbean	Sub-Saharan Africa	Industrialized Countries	Middle East and Africa	Transition countries	Total
Trafficked	1,360,000	250,000	130,000	270,000	230,000	200,000	2,450,000
% of forced labour	14.3	18.9	19.7	75.0	88.5	95.2	19.9

Source: ILO (2005a: 14).

bonded labour, forced domestic work, or forced labour in agriculture and remote rural areas' (ILO 2005a: 10). In descending order, this is followed by forced labour imposed by the state, and forced labour for commercial sexual exploitation.⁷ There are also clear regional patterns. In the industrialized countries, forced labour for commercial sexual exploitation constitutes the bulk of the forced labour, whereas elsewhere private economic exploitation dominates, except perhaps in the case of the Transition countries, depending on what the 'mixed' cases are made up of. It is noticeable that in the industrialized world, the Middle East and the Transition countries, the majority of the forced labourers have been trafficked, while at the other end of the spectrum, in Asia and the Pacific region, trafficked labour is a minor part of the picture (15 per cent). At

least 43 per cent of trafficked forced labourers are in 'commercial sexual exploitation' (ILO 2005a: 14).

Quantifying a phenomenon such as forced labour is important, both for scholarly reasons and for political advocacy related reasons. However, it also opens the way for disputes over numbers and methodology. The only earlier estimate of forced labour *globally* (by Bales 1999), is more than twice the size of that of the ILO minimum estimate (27.9 million against 12.3 million forced labour).⁸ Bales' estimate is based on a less strict methodology, but, nevertheless, only differs significantly from the ILO figure with regard to Asia, more specifically South Asia. For India alone, Bales puts the number of forced labour at 22 million people (ILO 2005b, 34–7). This is an issue which will be returned to later.⁹ Regarding the subcategories 'state or militarily imposed forced labour' and 'commercial sexual exploitation' the ILO figures are broadly in line with various earlier estimates (*ibid.*).

The ILO 2005 report also serves to provide a descriptive and analytical overview of forced labour across the world. These high quality sections are based on commissioned studies and general academic literature. Regarding state or militarily imposed forced labour, the focus is, understandably, primarily on Myanmar (state/military) and China (prisons). Regarding private economic exploitation, the report highlights the changing nature of forced labour, with new forms emerging in modern commercial sectors of the economy, be it commercial agriculture, industries, and even in export processing zones. A trend towards use of migrant labour from impoverished regions in such 'modern' relations is noted, in Latin America, South Asia, and Southern Africa. Links between poverty and the occurrence of forced labour are pointed out, as is the prevalence among forced labourers of groups already discriminated against, for example low castes, religious minorities and indigenous people. Within the forced labour category debt-bonded labour dominates in many regions of South Asia and Latin America. In Sub-Saharan Africa, previous master–slave relations have been modernized but have not been replaced with free labour relations in some regions, whilst in conflict and post-conflict areas abductions followed by slave-like relations or enrolment as child soldiers are the main forms of forced labour.

Regarding trafficking and forced labour, the distinction made between these two categories is welcome. The frequent tendency to conflate trafficking and forced labour tends to take away the focus from the incidence of forced labour among non-trafficked migrants. Not everyone

who is trafficked ends up as forced labour and concurrently non-trafficked international migrants may also become forced labour.

The ILO *analysis* of forced labour is however restricted. Obviously the ILO does not critique capitalism *per se* but it nevertheless does state that it places today's forced labour in the context of the global economy, that is, in relation to the specific characteristics of capitalism today. Disappointingly, however, of the report's eighty-seven pages, only three are devoted to 'forced labour and the global economy' (ILO 2005a: 63–5). These three pages provide a brief list of core issues, but these are not pursued in a coherent, analytical manner. Some of the most important points made are the following. Trafficking for forced labour is labelled the 'underside of globalization'. Commodity chain links between global retailers, suppliers, and labour contractors, leading to employment of forced labour at the end of global chains so as to compete on cheap and stable production, are noted. It is stated that, in order to compete on the world market, employers in transition countries may make use of forced labour; and it is pointed out that deregulation of labour markets, downsizing of labour inspections, and increased supply of migrant labourers all enable forced labour.

These issues are listed as stand-alone points, de-linked from a general analysis of globalization, let alone of capitalism. At first glance, it is unexpected that not more is done to link forced labour to present-day capitalist development. Recall that an important part of the post-1998 ILO agenda has been to work towards a 'fairer globalization', and that this has been pursued with vigour and in some detail (for example, ILO 2004). Its reformist approach, seeking not to challenge capitalism but to reform it, is unlikely to succeed, but that is not of direct concern in the present context. The point made here is different: it is that, in the main ILO report on forced labour, little is done to link forced labour to present-day capitalist development, and to the general ILO strategy for decent work in this context.

As it turns out, this de-linking is in fact part of the ILO strategy. The strategy of the ILO is to isolate the worst forms of 'un-decent labour', so that these incidents can be dealt with in isolation, without challenging the overall system that created the conditions for their occurrence in the first place.¹⁰ The focus is on dealing with what is seen as 'exploitation', namely, forced labour, child labour, etc.—standard 'free' labour relations, on the other hand, are not seen as exploitative.

This cocooning of the forced labour issue makes it relatively safe for governments and international organizations to deal with. It enables

the ILO to run anti-forced labour programmes in collaboration with governments in several countries. However, the difficulties in rehabilitating forced labourers, not the least the difficulties in stopping them from returning to forced labour relations, indicate that such relations cannot be dealt with in isolation from the wider social and economic context. The ILO report shows, in some sections, that it understands this relationship, but that its very status as an international, albeit tripartite, organization means that politically this cannot be pursued (ILO 2005a: 80–1, 83). The ILO may wish to raise a global movement against forced labour, but it has to be a limited movement. Certain aspects of modern capitalism are seen as abhorrent whereas capitalism is not questioned. This means that the ILO Report depoliticizes forced labour issues, isolates them as an 'unnatural' element of capitalism, and avoids any politicization that could lead towards a general critique of capitalism.

Nevertheless, the rejuvenation of the ILO does lend international legitimacy to the struggle against forced labour, without which it is likely that even less action would be taken. Politically, what we have here is a contradiction between what is useful in order for the labouring classes to achieve a limited improvement of their *practical* position here and now, and what is useful in a longer term, strategic perspective. It would be a mistake not to acknowledge any practical benefits while critiquing the strategic perspective.

AN ONGOING THEORETICAL DEBATE

This section explores the relation between forced labour and globalization and the underlying relationship between forced labour and capitalism. This will be done through concentrating on what the ILO labels 'forced labour for private economic exploitation'. This not only represents the largest chunk of forced labour today, but is also at the core of classical discussions regarding capitalism and forced labour. This does not mean that forced labour related to commercial sexual exploitation, or other types such as those related to trafficking, are unimportant. Within the limitations of this article, however, it is not possible to cover these areas as well, in any meaningful way.

The discussion regarding forced labour and capitalism here is organized around existing debates between Tom Brass and a number of other authors, most notably J. Mohan Rao and Jairus Banaji. The focus will be on their differing theoretical positions, certain lacunae within their writings, and the implications of this for the study of forced labour today. This leads

on to a discussion of the literature concerned with globalization and forced labour.

There are important similarities between Brass, Rao, and Banaji. They all locate their work in relation to that of Marx, and distance themselves from liberal views that argue that labour relations such as bonded labour are free *and* equal, since they are freely entered, contractual relations. They all share the basic Marxist understanding that the sheen of equality provided by contracts covers the fact that all labourers are exploited through their production of surplus value. Exploitation is not something reserved for forced labour, and free labour does not exchange equal values through the exchange of their surplus value producing labour power for wages as liberal economists, and the ILO amongst others, would have it.¹¹

Regarding the relationship between forced labour and capitalism, for Marx, commodification of labour power and, thus, free labour were essential to capitalism. The commodification is based on labour being doubly free: freed, or dispossessed, from the means of production, and free to sell his/her labour power to any capitalist who wishes to buy it. It is axiomatic for Marx that labour will be commodified and hence doubly free, in the above sense, under capitalism.

In the debate on free/unfree labour, Brass proposes that unfree labour and capitalism are compatible. A prolific writer on unfree labour in the 1990s (for example, Brass 1997, 1999), Brass sums up most of his articles in his 1999 monograph. He argues that the creation of unfree labour is an essential part of modern capitalism. It represents class struggle from above, as labour is disciplined through being robbed of/losing the control of the sale of its own labour power, and labour power is thus cheapened. This is theorized in relation to the Marxist categories class-in-itself and class-for-itself, that is, a proletariat defined solely through its relations to the means of production, and a proletariat which has gained proletarian class consciousness, respectively. Imposition of unfree labour relations from above is a means to halt the formation of a proletarian class consciousness, hence the term de-proletarianization. Brass explicitly argues that the phenomenon of de-proletarianization is not limited to the early stages of capitalism (1999: 12–4, 300).

Brass' theory provides a general and seemingly progressive framework for understanding present-day unfree labour relations. Empirically, he focuses mainly on debt-bondage relations, where the labourer mortgages his/her future labour power against a loan from a creditor–employer. It enables

him to argue that debt-based labour relations are unfree, irrespective of duration and ideological dressing. This enables him to conceptualize new forms of seasonal labour relations in capitalist agriculture in India as being unfree, as the relations involve the mortgaging of future labour power against loans.

The theory is not without problems, though. First, there is the issue of theoretical lineage. Brass claims that the de-proletarianization theory is within the Marxist tradition, but he does not seek to address the obvious discrepancy between Marx's insistence on the *generalized* commodification of labour power in capitalism, and his own theory of decommodification and de-proletarianization (Brass 1999: 151–8). In this respect it is hard to see much difference between Brass' position and that of Wallerstein and other world systems theorists who famously viewed accumulation through the sphere of circulation, and not the organization of the labour process and the class relations springing from this, as being at the core of capitalism, a point also implied by Rao (1999b: 108, 115).

Second, there is the issue of extra-economic coercion. While Brass accepts the classical view that unfree labour relations are always based on non-economic coercion (if not they would not be unfree), in practice he disregards this, since coercive relations may be difficult to identify empirically. Instead, in practice, he claims that all labour relations involving an advance loan can be understood as unfree (Brass 1999: 10–13, 20–1). This proxy definition *de facto* excludes the existence of labour relations not based on extra-economic coercion (and thus free), but involving advance payments.

Third, there is no placing of the theory into the historical context. Brass' theory operates at a high level of abstraction. His is a theory of a new aspect of capital's struggle to maximize surplus value extraction. It is a model for what could happen under capitalism, but it is not an explanation of actually occurring phenomena. Brass shows that various cases fit his model, but that does not amount to an explanation of causal relations (for example, Brass 1999: 160–3). In order to do this, he would need to theorize the historical conditions for the occurrence and development of de-proletarianization. He does provide two clues: first, that de-proletarianization is not limited to early phases of capitalism, and, second, that it occurs when class-for-itself consciousness is about to develop. He also applies his general theory to several specific case studies. This, however, does not amount to historical contextualization, and without such a grounding the theory does not contribute to an

understanding of the development of unfree labour relations in specific historic contexts, such as, for example, neo-liberal globalization.

In some respects, Rao represents the opposite view to that of Brass. In two articles (1999a, 1999b), he develops the classical Marxian tenet that capitalism requires doubly free labour. He points out that 'free labour' is a nebulous concept. As with all class-based modes of production, capitalism rests on class-based non-economic coercion. It is only possible to distinguish between free and unfree labour if a distinction is made between this underlying class-based coercion, which in general is taken for granted, that is, the 'given' coercion on the one hand; and 'non-given' coercion, that is, coercion over and above the taken-for-granted coercion on the other. Such a distinction, Rao argues, can only be made in specific historical contexts.¹²

Rao takes the classic Marxist view that while during early phases of capitalism unfree labour may be present, in mature capitalism free labour will have replaced unfree labour. In the long run, capitalism and unfree labour are not compatible. Existence of unfree labour relations means co-existence between capitalism and pre-capitalist modes of production. In the long run, such social formations will be less economically effective than those where proper capitalist labour relations exist (commodification of labour and, conditioned on that, generalized competition and capitalist accumulation), and will lose out. Brass, by contrast, appears to claim that unfree labour is beneficial to capital in the long run, a position he takes without addressing the obvious contradiction inherent within it.

Regarding debt bondage, it follows from Rao's focus on non-economic coercion that he does not view this relation as necessarily unfree. Such a relation would be free if the labourer were free to leave the relation after the end of the contract, that is, after having paid back the loan/advance through delivering his/her labour power. Regardless of whether this would happen after one season or several years, this would be a free labour relation. An advance payment does not in itself amount to extra-economic coercion, and neither does tying in *during* the contract, which in fact is a normal condition of a contractual relation.

Where Brass argues that debt bondage signifies unfree labour, Rao states this is the case only under specific, semi-feudal circumstances. Where semi-feudal power relations at the local level exist, this may involve the 'fusion of political power and economic wealth' to the extent that, in reality, the local ruling classes routinely would exercise non-economic coercion to maintain labourers in debt-bondage labour relations, resulting

in unfree labour relations. Rao nevertheless accepts that bonded labour relations, even when not unfree, involve abysmal conditions for the labourer. He argues that (free) bonded labour relations tend to be highly unequal, and often based on monopoly—but that does not make them unfree. Further, they are also based on the absence of restrictions in property rights, expressed through the ability of creditors to continue to reclaim the debt of debt-bonded labourers beyond what in the developed capitalist world would have been the point of bankruptcy. So, both Rao and Brass view bonded labour relations as an outcome of class relations where the balance of power is tilted heavily against the labourers. For Rao, in mature capitalism, it is just that: labour relations in the context of a very skewed balance of power. For Brass, however, it is always a process of de-proletarianization/unfree labour.

Banaji (2003) makes a number of points similar to those of Rao, not the least regarding the relativity of 'freedom' under capitalism. Nevertheless, his analysis takes a different path. Banaji's argument is based on a distinction between total social capital and individual capital.¹³ At the level of total social capital, he states, capital accumulation cannot be based on generalized unfree labour. However, at the level of individual capital, it is the drive for surplus value (accumulation) that defines capitalism, not the presence/absence of 'free' labour. He suggests that at this level capital may be working through a multiplicity of forms of exploitation, based on but not limited to free wage labour: a) exploitation of peasant family labour; b) 'more or less coerced/ more-or-less free' forms of wage-labour'; and c) unfree labour (Banaji 2003: 80, 83).

This clearly goes against 'canonical' Marxism. However, Marx also did not foresee the prolonged survival of the peasantry as petty commodity producers in the face of continued polarization processes. Readers of this volume will be familiar with the theorization of this phenomenon, not least by Bernstein (for example, Bernstein 1994).

Banaji's argument gains strength through the parallel made with the issues regarding the peasantry. It would need to be stressed though—and Banaji does do this, but not consistently—that capitalism means, by definition, generalized free labour.¹⁴ As Banaji puts it, 'the 'sale' of labour-power for wages is mediated and possibly disguised in more complex arrangements'.

Compared to Brass' position, Banaji's understanding of forced labour succeeds better in theoretically contextualizing forced labour within capitalism, not the least because it deals head-on with the contradictions

involved. However, as with Brass, Banaji provides an a-historical model, and, compared to Rao, he avoids dealing with the problem of the impact of forced labour on the dynamism of capitalism, an issue which is important also for the long-term viability of forced labour under capitalism.¹⁵

The absence of historical analysis is also noteworthy in 'popular' books on forced labour. A number of recent books deal with the full spectrum of forced labour. Bales (2004, 2005) and Sage and Karsten (2006) deploy terms such as 'global slavery' and 'new slavery', and state that trafficking is a 'dark underworld' of the 'global economy', but none of them provides an analysis of the globalization aspect, nor of why 'new slavery' has emerged. Instead, these books are descriptive, liberal accounts of various forms of forced labour, life histories, and the international legal, institutional, and advocacy-related environment.

One paper by Bales (2006), though, argues that slavery has increased since 1945, as the price of 'slaves' (by which he means all categories of forced labour, including chattel slaves, bonded labour, and serfs) has fallen compared to the centuries before, and the profits of slave-owners have increased, due to a) population growth; b) global increased economic disparities and impoverishment in the developing world, linked to changes in the global economy; and c) the absence of rule of law in many countries. It is problematic to infer any kind of causal relationships from this kind of multi-variable statistical analysis but the focus on profitability is interesting and deserves to be taken further. It resonates with the general view regarding the role played by unfree labour/highly unequal labour relations held by the texts just discussed, namely, that such relations increase levels of exploitation.¹⁶

The only recent book dealing explicitly with forced labour and globalization is an edited volume by van den Anker (2004). It argues explicitly that globalization has caused increased levels of 'slavery', as increasing poverty has made some groups of people more vulnerable to slavery. However, the empirical basis presented for this claim is weak: it is supported by a number of examples, but only one, from India, is clearly based on proper empirical research (ibid.: 22–8).

At the general level, we are back where we started: it is the ILO figures on forced labour which stand out. They show that forced labour (which with the above discussion in mind may be reformulated as forced labour/highly unequal labour relations) *is* common in some countries, though far less so in the most developed capitalist countries. This indicates that that there *is* a need to relate forced labour to differences within capitalist

development. Little has been done to this effect, though. This is clearly so in the theoretical texts reviewed here, as they are more concerned with the overall relationship between capitalism and unfree labour relations than with establishing an understanding of the role played by these in specific historical contexts.

UNFREE LABOUR IN INDIA

Bonded Labour Relations

A discussion of bonded labour in India is likely to be useful, both in relation to theoretical issues and regarding issues relating to the historical development of forced labour and capitalism. It is commonly accepted that India has the highest number of unfree labourers of any country in the world, and much of the theoretical debate regarding unfree labour draws on evidence from India.

In India, the phenomenon of debt bondage is at the core of the unfree labour discussion. Here, debt bondage and related labour arrangements will be discussed in some detail, followed by the issue of the relationship between bonded labour and forced labour. Bonded labour is well researched in India. Recent publications include ten ILO-funded case studies (2002–6), an ILO-funded bonded labour in India literature review (Srivastava 2005), as well as several major academic works.

The number of debt-bonded/unfree labourers in South Asia is disputed between independent organizations and governments (Table 14.3).¹⁷ Bonded labour is mainly found in Pakistan and India, especially since Nepal outlawed bonded labour in 2000, followed by a relatively effective rehabilitation campaign.¹⁸ The ILO figure covering the most comparable ground (six million forced labourers related to private economic exploitation, in the whole of Asia and the Pacific, but with the

Table 14.3: Bonded labour in South Asia

	India	Pakistan	Asia and Pacific
Government	251,000	5–7,000	–
Independent estimates	20 million	2.5–7.5 million	–
ILO estimate	–	–	5,964,000

Source: Anti-Slavery (2001); ILO (2005b: 2).

Note: The ILO estimate is for the category 'private economic exploitation' which includes bonded labour.

bulk of cases relating to South Asia) is in-between non-official figures and government numbers.

One reason for the discrepancy between the figures is that they measure slightly different things, revealing, in the process, different concerns. The ILO takes a position close to the analytically stringent view held by Rao: that, for a labour relation to be unfree, it must involve coercion. To receive an advance/loan in lieu of labour yet to be performed does not equal unfreedom. In the absence of evidence of threats, means of coercion or other violent acts, some short-term relations, which others might classify as bonded labour, have not been counted as unfree by the ILO.¹⁹ The Indian government's definition of bonded labour is outlined in and around its 1976 legislation banning bonded labour. It states that debt bondage, combined with wages below the statutory minimum wage, constitute forced labour (it reasons that force must be required in order to compel labour to work for such low wages) (Lamba 2007). The independent estimates tend to equate debt bondage with forced labour. However, where the India government tends to stick to long-lasting debt-bondage relations, the independent estimates include shorter, that is, seasonal relations. This is quite similar to Brass' looser definition of bonded labour.

It is commonly accepted that, in India since the 1950s, there has been a move away from traditional debt bondage, while new types of bondage, consistent with the capitalist economy have emerged. During colonial times, landowners used to employ one or more male bonded labourers on a permanent basis, as well as their wives, to undertake core agricultural tasks as well as certain household chores. These bonded labourers were predominantly from the lowest ranking, at that time untouchable castes and tribes, as were most other agricultural labourers. They tended to be bonded, not the least through debt, for significant numbers of years, sometimes for a lifetime; and hereditary relations, including hereditary debt relations, were common.

From the 1950s onwards the occurrence of classical bonded labour declined dramatically. This was related to land reforms, new agricultural production methods, increased availability of non-agricultural occupations for rural labourers, and some increase in the political power of the lower castes, not least through the introduction of universal suffrage. Today, lifelong year-round agricultural bondage is mainly found in the least developed pockets of the Indian countryside, including the so-called 'tribal' belts, that is, areas which are outside the purview of mainstream

economic and social development. The continued existence of this kind of bonded labour has been reported recently in the states of Andhra Pradesh (Chakravorty 2004; Subrahmanyam et al. 2003), Karnataka (Mani 2002), Orissa (Nayak 2003), Uttarakhand (Jain 2005), and Uttar Pradesh (Ruthven & Kumar 2002). For studies from the 1990s, see Srivastava (2005).

The development away from classical bonded labour relations has been charted most thoroughly by Breman, for example (Breman 1974, 2007). Breman is probably the foremost scholar on bonded labour and related issues in India, having undertaken fieldwork-based research in West India for more than forty years. Breman argues convincingly that already during colonial times bonded labour shed the vestiges of patron–client relations, relations which used to include certain, modest, benefits for the labourers. Towards the latter part of the colonial period, this was replaced with hard-nosed modern economic relations, more exploitative than those that previously existed. When, during the decades following Independence, most classical bonded labour relations ceased to exist, rural employers turned to new and for them more effective labour relations, often involving migrant labour, instead of employing the ex-bonded labour as free labour (Breman 1990, 1999). The breakdown of classical bondage has been charted in other parts of India as well, for example, in Bihar (Jha 2004), Uttar Pradesh (Lerche 1999), Andhra Pradesh (da Corta & Venkateswarlu 1999), and Haryana (Jodhka 1994).

In many parts of rural India, more-or-less free labour relations have developed within agriculture, with the main labour-related strategy of the employers being to restrict employment of labour as much as possible, through moving away from labour intensive economic activities (for example, Kannan 1999; Lerche 1999; Rogaly et al. 2001; Srivastava 1999). However, especially where labour is required in numbers, be it in capitalist agriculture or in rural or semi-rural industries, bondage has often been modernized into a relation which aptly has been termed neo-bondage by Breman (1994). Often this involves seasonal migrant labour, the incidence of which has increased during the last decades. The migrant labour force tends to be more effectively exploited, through longer working hours, lower wages (lower in terms of wage in relation to workload, and sometimes also in absolute terms) and less labour unrest (see, for example, Prakash [this volume]; Breman 1996; Guérin [this volume]). It is estimated that around thirty million labourers, or between 6 and 7 per cent of all Indian labourers, are seasonal migrants (Srivastava [this volume],

Srivastava & Sasikumar 2003). Most of them work in the unregulated or informal economy which, in 1999–2000, provided employment for between 86 and 93 per cent of Indian labourers (depending on method of estimate) (NCEUS 2007: 24–5).

Neo-bondage involves the tying in of prospective labourers through loans/advances given during the lean season before the start of the (mainly) seasonal employment relation. During the employment period against which the labourer has pledged his/her labour power, the labourer may only be paid a minimum allowance, while the overall payment is settled at the end of the seasonal employment. This compels the labourer to stay in the employment relation after the advance has been paid off. Depending on the size of the original advance, and on the extent to which the employer has manipulated the payment accounts during the employment period—which is often the case—the labourer may in fact leave with little pay, or, maybe, with a debt that needs to be repaid through next year's seasonal work. This kind of labour relation has been identified within agriculture (Brass 1999), sugar cane harvesting and processing (Bremant 1990; Guérin et al. 2004), rice mills (Roesch et al. [this volume]), construction (Olsen & Murthy 2000; Picherit [this volume]), brick kilns (Bremant 1996; Guérin et al. 2007; Prakash [this volume]), stone quarries, mines (Lahiri-Dutt n.d.), weaving (De Neve 1999, 2005), *bidi* (cheap cigarette) making, fish processing, silver works, mat weaving, salt pans, and other areas (see Srivastava 2005 for an overview).

Men and women and children may all be bonded. In some sectors such as brick kilns, rice mills, and the construction sector, where different aspects of the production process may be covered by different family members, family bondage is common. It is nevertheless the male head of the household who represents the family unit, and who receives the advance and the payments. The extent to which wives participate of their own free will is bound to vary, along with the generally male dominated decision-making pattern within the labouring households. In other sectors such as *bidi* making and fish processing, women labourers form the bulk of the bonded labourers (Srivastava 2005). Da Corta and Venkateshwarlu's case study from Andhra Pradesh shows how wives were forced to take over the debt-bondage obligations of their husbands as they found better-paid work (da Corta & Venkateshwarlu 1999).

Children are also bonded by their parents, to work in their own right against an advance to their fathers. This is common in, among other places, the silk industry, the outsourced carpet industry in north India,

and on hybrid cotton seed farms in Andhra Pradesh (Srivastava 2005; Venkateswarlu 2003).

Caste relations are also an issue. The vast majority of bonded labourers continue to belong to the lowest, ex-untouchable, caste groups, and tribes. The social oppression and political powerlessness of the ex-untouchable groups is one of the social structures that has become part and parcel of Indian capitalism. Without this social and political division—enabling neo-bondage both at the individual (poverty and powerlessness) and societal level (powerlessness)—neo-bondage might well have been less widespread. At the societal level, since debt bondage is prohibited, it requires a degree of collusion by the authorities to operate. In states politically dominated by strong landowning groups, such as Haryana and Gujarat, employers have no reason to fear government restrictions (Breman 1999; Lerche 1995). In Andhra Pradesh (Rustagi 2004) and Tamil Nadu (Guérin [this volume]), where somewhat more populist regimes tend to rule, case studies show how employers have bought impunity through donations to political parties.

Entry into debt bondage is generally not due to extra-economic compulsion. The classic ILO convention on forced labour operated with a definitional double clause of coerced entry *and* extra-economic constraints upon exiting. Most observers and agencies, including the ILO itself, now only focus on the exit clause, or accept that extra-economic coercion at either end of the labour relation makes it unfree. This also means that the always largely irrelevant debate, in an Indian context, regarding the 'tricking' of labourers into debt bondage has now been rendered fully superfluous.²⁰ In India, male labourers enter into neo-bondage due to *economic* compulsions, and they tend to do so with eyes open, well aware of the pay and conditions which await them, as they follow in the footsteps of others from the same village and caste group. They do so because, in income terms, in spite of the extremely low pay, and in spite of the extreme conditions of work, this is the best option available to them (Breman 1996; Guérin [this volume]; Lerche 1999; Ruthven & Kumar 2002). Female bonded labourers, and children, may or may not enter the relationship voluntarily, see above.

In most cases, it is the availability of the advance payment that is the most important factor. The labourers view the advance offered as a necessity. Case studies quote labourers stating that they would not work if no advance were given (Guérin and Picherit, this volume). The advance sees the labourers through the lean season before the start of the job, and

also provides the security that a job will actually be available to them at the end of the migratory journey.²¹ As a rule of thumb, labourers want as large an advance as possible, although it has been noted that some labourers are careful to avoid advances that will tie them in for more than a season. It is common that the advance increases as the greater the number of family members (that is, wife and children of the male labourer) join in, since the input of labour will be higher (Chakravorty 2004; Guérin et al. 2007).

It should be noted that advances, even in 'free' employment relations in India, are commonplace. Most labourers will ask for an advance. This may be due to their economic predicament, and also because such advances provide an incentive for employers to keep the labourers in employment. Case studies also show that employers are acutely aware of the advantage for themselves of bonding labourers for several years. It ensures a dependable workforce, both in terms of the workforce actually being there, and in terms of the docility of the workforce. Labourers know this as well, hence the strategy by some to avoid long-term ties (De Neve 2005; Guérin et al. 2007; Picherit [this volume]). Most, however, are not in a position to take such precautions since they do not earn enough to provide themselves and their family with a decent living, without taking loans. For many, loans are necessary simply to survive the slack season. With 27.5 per cent of the population living below the Indian poverty line (*Economic and Political Weekly* 2007: 1067), which is set at the near-absolute minimum calorie intake, i.e. around Rs 12 or 0.26 US\$ per day in rural areas (Guruswamy & Abraha 2006), this is unsurprising. For others, what is required for a 'decent living' may be over and above the calorie minimum of existence, and includes the cost of life cycle rituals, etc. Informal debts are rampant among poor people, and labourers will often have multiple debts: towards family members, moneylenders, and employers (Chakravorty 2004; Dhan Foundation 2006; Mani 2002; Nayak 2003; Picherit [this volume]). A recent case study of neo-bondage found that the labourers concerned viewed an advance from an employer as the preferred option, compared to other types of loan, since such a relationship offered a possibility of paying off the debt (Guérin et al. 2007).

In most cases reported, the debt-bonded labour relation is organized through jobbers or contractors, who will provide the advance, organize the migration, and be the manager at the workplace. The jobbers will be working for one or more employers, or for a main jobber, who will fund,

or part-fund, the advances, and rely on them to deliver labourers. The jobbers allow the actual employers to divest themselves of some of the risks of the production process, letting the jobber carry a part of the cost of the advances, and the responsibility of finding work for 'his' labourers should the expected end-employer decide to shift to other jobbers.

Labourers are often in long-term debt relations to their jobber. The labourers are bonded to the jobber, not the end-destination employer (Breman 1990, 1994; Guérin et al. 2007; Olsen & Murthy 2000; Picherit [this volume]; Srivastava 2005; NCEUS 2007). The poorer a labourer is, and the less alternative employment opportunities there are, the more likely it is that long-term debt bondage will prevail. Some recent case studies document a trend towards increased long-term debt bondage (Guérin [this volume]; De Neve 2005; Picherit [this volume]). Sometimes, however, labourers manage to avoid long-term debt bondage. Guérin et al. (2007) shows how, in Tamil Nadu, brick kiln labourers from a better-off village, with more alternative job opportunities, tended to avoid long-term debt, while those from a village with no other income earning options ran up large debts. Long-term debts and casual labour relations may also alternate over time. Picherit (this volume) argues that among construction workers in Andhra Pradesh, over a decade or so, some labourers would complete a cycle of bonded and casual labour relations, paying off debt after being debt-bonded for several years, only to return to debt bondage after some years as casual construction workers.

Jobbers tend to be from the area of origin of the migrant labourers, and form part of the power relations built into the local social order, for example, in kinship relations, caste hierarchies and relations, and village hierarchies, ultimately based on a latent threat of violence. This enables them to enforce loan- or advance-based labour relations over several years.

Long-term debt-bonded labourers do not always see themselves as unfree. They compare themselves to the traditional bonded farm servants, and point out that they are free to change their jobber (provided the new jobber will take over any outstanding debt), something which may happen fairly regularly (Guérin [this volume]), and that they engage in negotiations with the jobber regarding the size of the advance. They also have some opportunity to leave the relationship by simply not paying back the loans—or simply not turning up at the onset of the employment period (Breman 1996). This probably depends upon how closely the labour–jobber relationship is tied in with other power relations.

The official classification of work undertaken through jobbers or labour contractors is 'contract labour'. Contract labour is widespread. An estimated 10.7 million labourers in construction alone are contract workers, comprising 83 per cent of all construction workers (NCEUS 2007: 74). NCEUS also finds that all labourers in the unorganized brick kilns sector are contract workers (estimates regarding number of brick kiln workers vary between 5,00,000 and four million (Prakash [this volume]), and that contract work is widespread in unorganized sector activities such as stone quarrying, bidi rolling, rice shelling, and construction (NCEUS 2007: 74). It is easy to see how one may reach a higher number than that proposed by the ILO regarding the incidence of bonded labour in Asia. First, it appears that the majority of all the estimated thirty million seasonal migrant labourers are being organized by jobbers. Second, advance payment by the jobbers is standard practice. Third, there is evidence of debt bondage across numerous sectors. Taken together, this means that relations involving debts clearly exceed the ILO minimum estimate.

There are also cases of debt bondage which do not involve jobbers. This is particularly the case where no migration is involved, that is, where employers are in a position to enforce debt-related employment pledges through local power relations. The old-style, year-round debt bondage in agriculture, where it exists, tends to be of this kind.

Milder forms of possibly unfree relations are also noted. Other types of interlocked relations than debt-labour relations occur in agriculture, for example, sharecropping conditioned on the acceptance by the sharecropper of labour service duties; performance of some unpaid labour throughout the year in order to be given work during the harvest season; free labour services in exchange for access to grazing land/fodder for a milch animal, etc. (Lerche 1999; Raval 2006; Srivastava 2005). At the other extreme, much harsher unfree relations are also reported. Some involve the actual confinement of the labourers in the work location, be it a brick kiln, a rice mill, or a stone quarry, sometimes under armed guards. Such conditions have been reported from the 1980s onwards, and still exist, for example, in some types of rice mills in Tamil Nadu (Roesch et al. [this volume]).

The above outline of the workings of bonded labour and other related labour relations in India points towards a particular interpretation of the free/unfree divide. All the relations involve some degree of unfreedom/inequality over and above that characterizing standard 'free' labour

relations, but the analysis would lose its nuances if these relations were collapsed into one undifferentiated category, be it 'unfree labour' or 'unequal labour relations'. Guérin's distinction between milder and harsher forms of bonded labour points towards a continuum from more-or-less free labour relations to fully unfree relations, that is, degrees of unfreedom and/or of inequality underlying the labour relations. A categorization operating with such a continuum instead of a bi-polar definition better reflects the character of the labour relations discussed. The overall implications of this approach to free/unfree labour relations will be returned to below. First, however, the Indian example will be completed by locating the labour relations within the general Indian social and economic context.

India's 'Low Route' of Development and Labour Relations

India's development trajectory has been summarized as a 'low route' of development, based on cheap labour, and not leading to a 'social democratic' development pattern based on high productivity, and a well educated, well skilled, and well paid labour force, as experienced in the so-called 'developed world' and to some extent also in many of the newly industrialized countries (Banerjee 2005: 35–8; Srivastava [this volume]). Harriss-White and Gooptu point out that the four most distinctive features of Indian capitalism are a) a dominant unorganized sector, contributing more than 60 per cent of GDP; b) work being mainly unskilled, enabling use of casual labour and flexible employment relations; c) the absolute poverty of the informalized labourers (36 per cent of the population were below the official poverty line in 1993–4 (*Economic and Political Weekly* 2007: 1067); and d) while work is unregulated by the state, it is highly structured, to the detriment of the creation of a unified working class, especially by social institutions such as caste and gender (Harriss-White & Gooptu 2001: 90).

Since 1975, the year of the emergency declared by the then Prime Minister Indira Gandhi, Indian employers and governments have been on the offensive in their attempt to discipline the labourers and restructure production to achieve the maximum of flexibility and a docile and cheap workforce. Government support for the private sector, anti-union policies and activities by companies weakened organized labour, and the more overt liberalization government policies from the early 1990s onwards have strengthened the anti-labour hand further. Since 1980, the number of person-days lost in the organized industry due to lockouts has

outnumbered the loss due to strikes, and organized labour has seen its bargaining power reduced to what has been called concession bargaining, where restraint in wage demands is promised in return for maintenance of jobs or creation of new jobs (Banerjee 2005: 123–5; Datt 2002; Harriss-White & Gooptu 2001: 107).

Government policies have favoured encouraging flexibility and informalization (Harriss-White 2003), which have taken place across the formal sector (Harriss-White & Gooptu 2001: 90; Ghosh 2002). One example of the informalization process is the textile industry, where industrial restructuring and specific government legislation for the sector has moved to favour the small-scale powerloom sector. Textile production moved from the formal towards the informal sector, that is, to workshops outside the realms of labour legislation, and most often also beyond the reach of the unions, with the loss of hundreds of thousands of formal sector jobs (Breman 2004: 143–5). A study from south India shows that the rise of the small-scale powerloom industry not only led to lower paid jobs in the informal economy, but also, in this particular case, to debt-bonded labour relations for the powerloom workers (De Neve 2005).

Overall, unorganized sector employment as a share of total employment was constant from 1977/78 to 1990/91, and grew during the 1990s: from 92.2 per cent to 93 per cent (NCEUS 2007: 24). During 1999–2005, actual employment in the unorganized sector grew by 4.7 per cent annually, while actual employment in agriculture grew at less than 1 per cent annually, while actual employment in the organized sectors decreased (Planning Commission 2006: 72). These changes in employment pattern also involved increased seasonal migration. No reliable government figures are available regarding seasonal migration, which, as stated previously, is estimated to involve now approximately thirty million labourers each year. While seasonal migration has a long history, case studies indicate that much of present-day migration patterns took shape in the 1960s or later, including migration of agricultural and rural labourers from Bihar and east Uttar Pradesh, to the Green Revolution states of Punjab and Haryana, and migration to the sugar cane fields in Gujarat (Ansari 2004; Breman 1990; Olsen & Murthy 2000; Srivastava & Sasikumar 2003).

The Indian 'low route' of development has been enabled by the poverty and powerlessness of a major section of the labouring classes. Indian employers in the informal economy have always relied on extremely cheap labour. This has been facilitated by the government, which has increased its support for such a development strategy since the 1970s,

and only accelerated this process since the liberalization of the 1990s. In this context it is hardly surprising that minimum wages are very low and very often not adhered to. Minimum wages are set at different levels in different states, and different industries, and not all industries are covered. In some cases they appear to have been set so as to reflect the actual wages in a given industry, even when this may be below survival rates. It has been calculated that 69.4 per cent of all casual labourers are paid below a notional national minimum wage, set to be equivalent to a minimum physical survival rate (Guérin [this volume]; NCEUS 2007: 83–8).

Debt bondage organized through jobbers is one step further down the line of the cheap labour strategy. This is also facilitated by the collusion of governments, and by the desperate poverty of the labouring classes. The role of caste in power relations and employment relations, that is, the continued oppression of the ex-untouchable castes and tribes, is likewise a major facilitating factor.

The development pattern is also a reflection of the characteristics of capital and the regulatory framework in India. Harriss-White suggests that the 'intermediate classes' are the politically dominant classes in India (2003). While aspects of this approach might be disputed, it does highlight the fact that a fully hegemonic capitalist class in a classic sense does not exist in India (see also Kaviraj 1988). Specifically for the case of the informal economy, Breman argues that the composition of capital in this area serves to further debt bondage. Informal economy producers are often themselves dominated by traders, who supply raw materials and buy their products. Access to markets is controlled by the traders, making the conditions for the actual producers less secure. This leads to a risk minimizing strategy among producers, a strategy that includes subcontracting and the avoidance of investment in machinery, and reliance on jobbers (Breman 1996: 123). A 'low route' of development is the result. A recent case study from south India supports this argument. It shows how, in the local rice mill industry, the liberalization of rice mill licensing laws in 1999 led to an increased dominance of paddy merchants in the mill sector, squeezing the profits of some of the mill owners and putting pressure on them to exploit their labourers, who were already kept in confinement, even more. However, rice mills owners with available capital had been able to choose a different strategy, selling directly to markets, investing in more effective technology and using free, non-bonded and better-paid labour in the production process (Roesch et al. [this volume]).

The extent to which, and how, the structure of capital in the informal economy influences investment patterns and labour regimes needs further investigation. Until now the main picture is one of producers and regulators working together in order to maintain the existing 'low route' strategy, but examples such as that of the rice mill do point to the possibility of a more productive strategy, not based on the extreme conditions of bonded labour.

It is difficult to say if the 'low route' of development in India has involved an increase or a decrease in bonded labour relations. What is certain is that while the old-style, year-round, intergenerational bondage relations have lost their overall importance, the development of new bonded labour relations, and other labour relations involving degrees of unfreedom, compatible with capitalism, has been facilitated.

INDIA AND THE INTERNATIONAL CONTEXT

Development in India should be viewed in its international context. The introduction of anti-labour policies in India coincided with the deep capitalist world crisis of the 1970s, and its solution through the termination of what Silver and Arrighi called the 'development-friendly regime of the preceding thirty years in favour of a capital-friendly international regime'. For developing countries, this brought with it the 'resurgence of a labour-*unfriendly* regime' (italics in original). It is this US-induced new international regime, and not specific 'repressive Third World elites' that is the main cause of 'any observable *worsening* in the(ir) working and living conditions over the last 20–30 years' (Silver & Arrighi 2001: 56, 61).

No general studies link the impact on the labouring classes of what others call neo-liberal globalization to that of unfree labour (for general studies, see, for example, Kaplinsky 2005; Kiely 2007; Munck 2004). This is not the time or place to enter into the general debate regarding neo-liberal globalization. Suffice it to state that while disagreements exist regarding whether or not capitalism may in the long run lead to 'canonical' capitalism across the world, the empirical evidence is that this is not on the cards in the foreseeable future, or at least as long as neo-liberal globalization rules. In spite of the industrialization of East Asia and now China, overall, industrialization in the developing world has been stagnant since 1960, especially due to a decline in Latin America and stagnation primarily in Sub-Saharan Africa. A recent study of forty-six developing

countries at different stages of industrial development between 1980 and 1998 showed that twenty had had rapid export growth, but twenty-three had experienced a degree of deindustrialization (Kiely forthcoming). For the labouring classes, the main pattern is that of global fragmentation (Bernstein 2004), shaped by initial conditions and the means and ways in which they have been incorporated into the global economy.

The anti-labour activities of Indian capital, and government, from the mid-1970s onwards, are best seen as part of the new international labour-unfriendly regime, or neo-liberal globalization. It is no coincidence that the informalization process in India gained renewed impetus in the 1990s, when India moved into its present liberalization phase. The specific way in which India is incorporated into the international political and economic system provides its capital and government with an unusually high degree of room for manoeuvre, but this has been used not to oppose but rather to promote anti-labour policies. The *specific* reasons why the new labour-unfriendly international regime led to the proliferation of neo-bondage to an extent not seen elsewhere in the world (with Pakistan as the only possible exception) include issues such as the power and character of its ruling classes, and possibly the issue of the specific character of capital in the informal economy. It also relates to the specific Indian combination of extreme poverty, engrained structural inequality and oppression of sections of the labouring classes, and the availability of labour through their release from agriculture.

The Indian case provides pointers towards an analysis of the specific relationship between neo-liberal globalization and unfree labour in Latin America, Sub-Saharan Africa, etc. It is difficult to see how unfree labour could develop without the presence of at least some of the balance of class power, and deprivation, characteristics uncovered in India, but the exact combination, and their interaction with the international labour-unfriendly regime, is yet to be investigated.

Earlier it was shown how the different theorizations of unfree labour by Brass, Rao, and Banaji were tied in with how each of them understood the relationship between capitalism and unfree labour, and capitalism itself, while they were less concerned with the understanding of unfree labour in specific historical contexts. The latter issue has been dealt with above, and it is now time to return to the issues of the relationship between capitalism and forced labour.

Brass ignores the contradiction inherent in his view that capitalism and unfree labour are immediately compatible. His position is made more

difficult by the claim that it is in keeping with that of Marx, when Marx in fact saw free labour as a core aspect of capitalism. Opposed to this, both Banaji and Rao acknowledge the problematic relationship between 'canonical' capitalism and unfree labour.

Empirically, unfree labour is mainly of importance in some developing countries. For Rao, this would either be due to an (extended?) phase of early capitalism/semi-feudalism here, or due to the fact that these relations were not unfree but, in fact, were free labour relations based on extreme inequality and monopoly. As Rao acknowledges might be the case, the evidence from India points towards the existence of proper unfree labour relations. The implication is that India, and by extension possibly most of Latin America, etc. are semi-feudal social formations. While this standpoint is internally coherent, it does not contribute towards an understanding of the dynamics that drive the labour relations, if it is accepted that these dynamics are inherently capitalist, and presently related to neo-liberal globalization.

Opposed to this, Banaji's proposal is that capital is working through a multiplicity of forms of exploitation, of which unfree labour is but one. This allows for an analysis of the dynamics leading to the existence of today's unfree labour relations, in a world driven by capitalist dynamics, but where, in many parts of the developing world, anything like 'canonical' mature capitalism is not likely to be achieved, at least not in the foreseeable future. On the other hand, in mature capitalist formations, the evidence suggests that unfree labour is generally a fringe phenomenon, implying that unfree labour would tend to disappear (along with the peasantry) where mature capitalism develops.

However, when looking at the level of historical specific analysis, none of the above theories provide much by way of analytical clarity or insights. There is a need to move away from unhelpful dichotomies, and acknowledge the fluidity of the actually occurring levels of unfreedom. There is also a need to build a fully-fledged, historically specific analysis of unfree labour relations and their relation to neo-liberal globalization, building on the work of those such as Breman who have already contributed towards such an analysis in an Indian context.

Returning to the ILO forced labour report, the difficulties inherent in the overall ILO 'decent work' approach should be clear from the above analysis of neo-liberal globalization. It should now also be clear why the analysis of forced labour cannot be separated, ILO style, from the analysis of the processes generating the development of all labour

relations. Such shortcomings of the ILO approach were to be expected. It is more problematic that the alternative, general analytical approach on offer is so weak.

NOTES

1. In these celebrations there has been less focus on the fact that slavery was not abolished in the British Empire until 1834, except in India where the abolition legislation was not passed until 1860.
2. The international Trafficking Protocol of 2000 defines trafficking as 'the recruitment, transport, harbouring or receipt of a person by such means as threat or use of force or other forms of coercion, of abduction, of fraud or deception 'for the purpose of exploitation'. Exploitation includes, as a minimum, 'the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs' (ILO 2005a: 7).
3. 'Labour issues' were part of the precursor to the MDG, namely the 'development goals' agreed at the UN Social Summit in Copenhagen in 1995. Regarding the PRSP process, the ILO has lobbied for the inclusion of labour issues, and of the views held by labour unions, in that process, and has provided technical support for the inclusion of employment and labour issues into national PRSPs (ILO, n.d.). Today, most of the important development agencies do pay at least lip service to labour rights inclusion in the process (see, for example, DFID 2004).
4. Its website contains thirty-four mainly survey-based ILO supported publications on forced labour between 2001 and 2006.
5. The original international slavery definition is: 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.' To this was added 'practices similar to slavery', including debt bondage, serfdom, compulsory marital arrangements, and sale of children into labour. It defined debt bondage 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 these services as reasonably assessed is not applied towards the liquidation of the debt of the length and nature of those services are not respectively limited and defined'. Serfdom is 'the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate services to such other person, whether for reward or not, and is free to change his status' (ILO 2001: 11).
6. The methodology for the estimate ('double sampling' or 'capture-recapture') is in accordance with standard estimation practices, and similar to that used in previous calculations of the number of child labourers in the world, and laid out in a separate paper (ILO 2005b).
7. Forced labour imposed by the state includes 'forced labour exacted by the military, compulsory participation in public works, and forced prison labour'.

Forced labour for commercial sexual exploitation 'includes women and men who have involuntarily entered prostitution or other forms of commercial sexual activities, or who have entered prostitution voluntarily but who cannot leave. It also includes all children who are forced into commercial sexual activities' (ILO 2005a: 10).

8. Bales' higher figures have been widely used, for example, by anti-slavery organizations such as 'Anti-Slavery' and 'Free the Slaves'. Bales is director of 'Free the Slaves' and a trustee of 'Anti-Slavery'.
9. Comparisons are hampered by the fact that the ILO does not disaggregate any of its figures to country level. The reason for this is stated to be technical, but it is probably also political, so as to not offend any particular government. For technical reasons it also only provides a cumulated figure for trafficked forced labour by forms of exploitation, that is, no such figures are provided for the regions.
10. Of the 127 paragraphs in the report's section on 'global action to combat forced labour', only one relates to forced labour and 'fair globalization'. This paragraph states that targets for dealing with forced labour related to globalization are yet to be developed, and will follow in the four years following the report (ILO 2005a: 85).
11. See Rao (1999a, 1999b) for a critique of the liberal understanding of free labour.
12. The 'given'–'non-given' bifurcation has its own problems (Rao 1999a: 249).
13. A basic error in Brass' argument, he suggests, is that his analysis solely takes place at the level of individual capital (Banaji 2003). Brass denies this, and shows how aspects of his analysis implicitly make this distinction (Brass 2003). Banaji's analysis nevertheless gains from having made this distinction explicit.
14. For example, he does not make a distinction between slavery before the world dominance of capitalism, and during capitalism (Banaji 2003: 81).
15. A final contribution to the discussion around Brass' position is that of Surinder Jodkha (2004). Jodkha finds that Brass' theory might be correct in principle, but that an objective theory cannot be applied to the subjective reality in the way that Brass does. Jodkha's concern has some similarities to what here has been termed the non-historicization inherent in Brass' model, but, as should be clear by now, the argument presented here is that the theory in itself is also problematic.
16. The paper also provides a correlation analysis, covering all countries in the world, estimated incidence of 'slavery' (forced labour), and seventy-six economic, social, and political indicators. The main result is that low levels of slavery correlate with high GDP per capita, a high human development index, and low levels of corruption, something which resonates with the distribution of forced labour across the world, which the ILO arrived at.
17. The independent estimates of the incidence of bonded labour in India and Pakistan are based on extrapolation of surveys of selected regions, and undertaken by reputable organizations. The Pakistan surveys were funded by the ILO, while

- in India, one was organized by the state government of Tamil Nadu, and another by the Gandhi Peace Foundation and the National Labour Institute (Anti-Slavery 2001).
18. Forced labour is still an issue in Nepal but at a much lower level than was previously the case (Shrestha et al. 2003).
 19. On the other hand, the ILO explicitly states that although brick-kiln contracts are seasonal and short-term, many cases were treated as forced labour because of the reported evidence of threats, violence, and lack of freedom (ILO, personal communication, 2007).
 20. The Thorners (1962) were instrumental in introducing the 'double' clause into the Indian context. In fact, the 'trickery' debate still lives on at the margins, as a recent contribution by Villanger (2006) shows. The sidelining of this debate is useful also in that it enables a discussion of the subjective consciousness and choices made by of the labourers, since they are no longer deemed incapable of understanding the debt-bondage labour relation they may enter.
 21. The advance may be up to Rs 20,000, which, for example, is more than half the full pay for a season's (six to eight months) work in a brick kiln (Guérin et al. 2007).

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Index

- Abolition of Bonded Labour Act (1976) 10, 19, 92, 127
Act of IX, of 1860 112
adangal 51
Adi Dravida 60–1
 agricultural labourers 62
 and Congress 61
adimais, in Tamil Nadu 38n, 178
advance system, and individual and collective trajectories 179–83
 to labourers 341, 361, 369, 371
 in Andhra Pradesh 268, 278
 cases on 342–3
 and forced labour 342
 in rice mills 294, 295
 in cane sugar sector 237, 242, 247–9, 254
 in Tamil Nadu 173, 174, 176, 178, 184–6, 190, 192, 193
 wages and bondage 14, 371
Advasis, borrowings by 211
 exclusion of 219–20
 landownership in Punjab by 205
agrarian capitalism 71
 and *atiyama* in Malabar 78–81
 and labour attachment 136
agricultural labour, debt and bondage of 1, 2, 5, 19–20, 135, 140
 and landlords in Andhra Pradesh 280n
 status in Tamil Nadu 64
 union in Malabar 90–1
Agricultural Labour Enquiries 19, 39n
 of 1950–1 35
agriculture(al), bondage 365
 commercialization of 36
 coolies 292
 employment in 198
 ‘feudal’ economy of 166
 modernization of 3
 practice/relation in Malabar 71, 85–6
 protests in Tamil Nadu 63
 relations 134
 shifting 1
agrestic servitude 24, 25, 28, 29, 44
 in Tamil Nadu 44–65
 weakening signs of 52–60
Ahuja, Ravi 117
alcoholism, among labourers 244, 298
All India Harijan Sevak Sangh 61
All India Trade Union Congress (AITUC) 319
Amherst, Lord 105
Amicus Curiae 346
Anavil Brahmins 64
Andhra Pradesh, labour middlemen and lower castes in 259–79
Andrews, Adam 48
anti-labour policies 375, 376
anti-slavery, legislation in Calcutta 27
 movements, in Britain 26
‘armed free peasantry’ 165
Asiad Workers’ Case (1982) 132, 337, 339
Assam, indentured labour in plantations 316
 See also plantation labour
atiyal, markets/trade 74, 75
atiyaama (agricultural servitude) 72–8
 import-abolition of, in Malabar 69–93
 trajectories of 92–3
attached labour (*bali*) 4, 36, 44, 93n, 130, 135, 200, 230n
Autonomous Gorkha Hill Council 328
Ayyappa Swami 259, 261

Bahadur, Raj 336
bataidars (sharecroppers) 156
Banaji, Jairus 358, 359, 362, 363, 377
bandhua (bonded labourers) 156

- Bandhua Mukti Morcha (BMM) case 132, 133, 340, 345
- Bardhan, K.P. 200
- Basu, Raj Shekhar 5, 44
- bauri* caste 154, 155
- Baxi, Upendra 348
- begar* 337
- Bengal, British control of 23
- poverty in 24
- Bengal Regulation VII, 1819 117
- Bentinck, William 105, 107
- bhagela* system (bonded servant), in Andhra Pradesh 273
- Bhagwati, Justice P.N. 337, 339
- Bhandela Hali*, in Gujarat 73
- Bharat Coking Coal Limited (BCCL) 158, 161
- Bharat Mazdoor Sangh (BMS) 212, 214
- Bharati Trust (NGO), Tamil Nadu 305-7
- Bhattacharya, Neeladri 96
- Bhowmik, Sharit K. 7, 8, 312
- Bhukhut, Augendra 233
- bhumija* caste 154, 155
- Bhuniya caste, of untouchables in Bihar 31
- Bihar, bonded labour in 64
- debt servitude in 34
- unfree labour in 30
- Bihar-and-Orissa Kamiauti Agreements Act, of 1920 33
- Board of Revenue, Tamil Nadu on mirasi system 50-1
- Board of Trade 103
- Boétie, Etienne de la 259
- bondage 1, 45-6, 97, 129-43, 147-68, 257n, 261
- and alcoholism 158
- and cheap and loyal labour force 173-6
- colonial assessment of 14
- contemporary forms of 127-8
- evolution of 167-8
- old and new 1-16
- problem of 15
- prohibition of 10
- relationship in Andhra Pradesh 265-6, 269
- spatial and housing conditions and, in coal mines 162-4
- in Tamil Nadu 65
- trap 304
- bonded labour/workers 5, 34, 44, 97, 122, 237, 273, 277, 279n, 284
- caste hierarchy and 164-6
- in coal mines 163
- collapse of, in Tamil Nadu 60-5
- contract labour and migrant labour 339-44
- and courts 335-48
- decline in 54
- definition of 131, 337, 339, 348-9nn, 365
- emigration of 54-5
- forced labour, and role of wages 337-9
- legislation on 190
- in Malabar 69
- prohibition of 148
- in rice mills 284-311
- eradication of 308
- as survival strategy 304
- versus casual labour 288-91
- status, in Tamil Nadu 64
- Bonded Labour System Abolition Act (BLSA) 1976 33-4, 131-2, 140, 142, 228n, 333, 336-8, 340, 345, 347
- amendment to 341
- criminal proceedings under 344
- definition of bonded labour 339, 348n
- violation of 343
- Bourdieu, Pierre 259
- bourgeois ideology, of freedom 31
- Brahmin landowners 64
- Brass, Tom 358, 359, 360, 361, 362, 363, 365
- 'Breach of Contract' Bill, of 1862 113
- Breach of Contract laws 122
- Breman, Jan 1, 44, 64, 130, 131, 170, 171, 193, 201, 234, 252, 284, 340, 341, 366, 374, 377
- brick kiln sector, bonded labour in 170
- case study of 198-226
- class structure in Punjab 217-18
- employees standpoint in Tamil Nadu 173-6
- housing status in Punjab in 206-7
- laws governing workers in 215-16
- markets, exclusion and debt bondage in Punjab 222-6

- transaction in 225
- moulders, in Punjab 202
- in Tamil Nadu 182
- owners' alliance with political parties 191, 192
- in Punjab 204–5, 207–8
- relationship with workers 218
- trade unionism in 8, 9
- unpaid workers in Punjab 217–21
- women and child labour force in 10
- Brick and Tile Manufacturers Association, Tamil Nadu 189
- Britain, ban on slave trade in 314
- British colonial administration 22
- British East India Company 315
- Bruce, Robert 315
- Buchanan, Francis 25, 74
- Byres, Terence 14
- Calcutta, by-laws of 117
- Calcutta Tradesmen's Association 119
- Cambridge School 92, 69
- cane cutters, in Tamil Nadu 233–56
 - as bonded labourers 234
- cane sugar labour market 237
- Canning, Lord 111, 112
- capital
 - formation 15
 - labour relationship 189, 199–201, 225
- capitalism 129, 375
 - bondage and 8
 - and forced labour 359, 362
 - and labour 37, 199
 - and unfree labour 361
- capitalist labour market 199
- capitalist mode of production 3, 36, 37
- captive labour 32, 325
- Caribbean plantation system 27
- caste
 - and bondage 64, 164–8
 - hegemony 72
 - profile of Dhanbad 154–5
 - relations in Andhra Pradesh 268–9
 - role of, in power and employment relations 368, 374
 - sanctions 57
 - status 269
 - system/order 1, 21, 29, 31, 35, 279
 - and inequality 152
 - and unfree labour 200
- casual labour
 - in agriculture 3
 - bondage and 370
 - free 30, 60
 - in tea plantation 326
 - versus bonded labour 288–91
- Cauvery delta, rice export from 53
- Cederlög, Gunnel 45
- Census of Travancore* 75
- Centre of Indian Trade Unions (CITU) 294, 319
- Charter Act of 1813 105
- Charter Act of 1833 105, 106, 107
- Chatterjee, Indrani 28
- Chatterjee, Partha 97
- Chaudhury, B.B. 53, 54, 60
- Chettiars, rice mill owners in Tamil Nadu 293, 300, 310n
- Chhota Nagpur, bondage in 153
- child
 - bondage 135, 367
 - education 286, 295, 306
 - labour 135, 306, 339
 - in Punjab 212–14
 - in Tamil Nadu 177–8, 191, 297
 - slaves 25
 - and working child 227n
- Christianity, conversion to, in Malabar 88, 92
 - in Tamil Nadu 47
- Civil Code of India 116
- Civil Diwani *adalats* 102
- Civil Procedure Code, of 1859 38n, 114
- civil rights, exclusion of 6
- civil society
 - concept of 188–9, 286
 - intervention of 193
 - performance of 8
- classical bonded labour relations 365, 366
- Coal India Limited (CIL), 157, 158
- coal mines/ industry
 - case study of Dhanbad 8, 153–4
 - bonded labour in 149
 - subcontracting in 157
 - unfree labour in 158, 160–1
 - employment in 55–6

- nationalization of 157–8
- reserves in Dhanbad-Jharia area 153
- coffees 23
- 'colonial discourse' theory 96
- colonialism 44
 - and plantation 312
- Commission of Inquiry on the Condition of Tea Plantation Labour in India and Ceylon 1944 317
- communism, in Kuttanad 91
- Communist Party, -led trade unions in Malabar 70
- Communist Party of India 319
- Communist Party of India (Marxist) 319
- communists, alliance with DMK 62
 - and mirasidars in Tamil Nadu 63
 - strategy in Tamil Nadu 62
- 'communitarian' system 270
- community development 306
- Comprehensive Law of Contract 114–15
- Congress Party 161
 - and Adi Dravidas 61
 - ministry in Tamil Nadu 65
 - trade unions of 156
- Constitution of India, Article 23 of 337, 339
- construction sector 8
- contract, notion of 2
- contract labour 10, 12, 57, 371
 - in agriculture 3
 - and migrant labour, and bonded labour 339–44
- Contract Labour (Regulation and Abolition) Act 1970 228n, 349n
- contract law, for indigo 108–9
- coolie labour 7
 - in British colonies 28
- Cornwallis code of 1793 102
- cotton textile export sector, crisis in 104
- courts, bonded labour and 335–48
- credit, markets, local 172
 - system 6
- Criminal Breach Contract provision, in indigo cultivation 109, 110, 111
 - repeal of 108, 109
- dadni* system, in weaving 100
- Dalits
 - exclusion of 219, 220
 - landless brick workers in Punjab 205, 211
 - movements of 168
- Darjeeling Hills, education among plantation workers in 323
- Darjeeling tea, export of 330
- debt, bondage 29–32, 97, 132, 138, 139, 140, 168, 171, 200, 201, 295–6, 341, 356, 361, 374
 - in brick kiln 208–9, 222–6
 - and confinement of sugar mill workers 295–9
 - induced, labour attachment 136
 - migration 139, 217
 - relations 122, 134, 359, 369, 371
 - between jobbers and workers 172
 - servitude 30–1, 32–4
 - trap 6, 7, 255
- dependence 7, 97
 - system of advance and, in Tamil Nadu 178–83
- 'depressed groups', emigration of 59
 - house sites for 57
 - servitude of 44
- Depression of 1930s 53, 65, 91
- detrribalization 1
- devadasi system 336
- development 375
 - and bondage 45
- Dhanbad, agriculture in 151
 - bondage in unorganized sector in 167
 - caste
 - profile of 154–5
 - as social organization in 165
 - coalfields 147, 153
 - unemployment in 150–1
 - unfree labour in 148
 - working population of 150
- dignity 3, 6
- dispossession, agrarian bondage and 1
 - process of 65
- domestic slavery 28, 38n
- Dravida Munnetra Kazhagam (DMK), alliance with Congress 62
- Durgabai, G. 336
- Dutch settlements, in Cochin 74
- Dutch Trade Federation (FNN) 329
- East India Company 25, 27, 98, 99, 104
 - regulations on weavers 100–2

- eastern India, servitude labour in 23–6
 education, of tea plantation workers 330
 Emergency Act (1975–7) 19, 20, 33, 157, 160, 372
 emigration, in Tamil Nadu 56–7
 employee–employer relations 130, 216
 Employment Provident Fund and Miscellaneous Provisions Act (1971) 195n, 227n229n
 Enlightenment 23, 31, 32
 Equal Remuneration Act 1976 228n
 equity, notion of 2
 ESI Act 1948 228n
 European traders, in Bengal 23
 evangelicals 27
 exclusion, and discrimination 219
 economic, in Punjab 223
 social and economic 142, 222–6
 exploitation, economic 262
 of human labour 2, 22, 153, 164, 166, 199, 362
 in brick kilns 217
 in rice mills 284
 of women brick workers 212–13
 Ezhava caste, in Malabar 72
 landlords 87

 Factory Act (1948) 195n, 227n, 228n, 318, 319
 fair labour standards, in Europe 329
 Fairtrade Labelling Organizations (FLOs) 329
 famines 155
 of 1770 100
 farm servants, bondage of 1–2, 4
 family labour 131
 ‘feudal’ relations 152, 161, 166
 Food Corporation of India (FCI) 303
 ‘forced labour’ (*begar*) 10, 132, 178, 335, 336, 378n
 and bonded labour, and role of wages 337–9
 global alliance against 352–78
 Forced Labour Conventions 1930 338
 ‘formal’ sector
 bondage practice in 8
 employment 136
 forest communities, in Wynad 93
 France, ban on slave trade in 314

 ‘free’ labour 3, 35, 223
 criminalizing (1800–1920) 116–21
 and unfree workers 225, 236
 ‘freedom of trade’ regulation 101
 French settlement, in Mahe 74
 Fundamental Rights 335, 336

 Gandhi, Indira 10, 16n, 33, 372
 anti-poverty policies of 19
 Gandhi, Mahatma 15, 60–1, 161
 Gandhi Peace Foundation, survey on bonded labour 135
 gender
 discrimination 187
 relations in brick kiln markets 220
 See also women
 Gladstone, John 314
 globalization 141, 333
 forced labour and 358
 neo-liberal 352, 353, 361, 375, 376, 377
 Golla caste, in Andhra Pradesh 259, 279n
 political rise of 262, 274, 277
 social changes and mobility of 272–7
 gomastas 102
 Gooptu, Nandini 186
 Gorkha Hill Council 322
 Gorkha National Liberation Front 319
 Gorkhaland movement 328
 gorakhpuri labour (unfree) 156
 Goudie, William 49
 Gounder caste 45
 Government of India Act 1935 62
 Government Order 1892 51
 Grant, J.P. 111
 green revolution 36, 373
 Guérin, Isabelle 1, 12, 170, 233, 284, 372
 Gujarat
 labour migration in 137
 labour relations in 130
 gumpupampupedda 265, 267–8, 274
 gurudwara, and practice of ritual in Punjab 218

 Haitian revolution 104
 Hali relationship, with employees 139
 ‘Harijans’ 336
 Harrington, H. 114
 Harris-White, Barbara 291
 hereditary bondage 122

- Heuzé, Djallal 6, 8, 147
 hierarchical society 6, 32
 Himalayan Plantation Workers Union 319
 Hind Majdoor Sangh (HMS) 161
 Hindu brickworkers, in Punjab 205–6
 Hindu Common Law 49
 Hindu social organizations 22
 Hindu Tract Society (HTS) 47
 Hindu upper caste, social network of 219–20
 Hossein, Hamida 103
 household slavery 25
 human rights, denial of 10, 14
 human sacrifice, in Malabar 82
- identity
 individual and collective 6
 of workforce 9
 income, of brick kiln workers in Tamil Nadu 175, 177, 185
 indebtedness 2, 5, 25, 33, 34, 46, 179, 181, 235, 237
 indentured labour 28, 313
 of Indian origin 314
 legalization of 316
 in plantations in Assam 352
 and slave trade 314
 Indian diaspora, spread of 314
 Indian Labour Conference 1951 318, 326
 Indian Law Commission 1833 118
 Indian National Trade Union Congress (INTUC) 161, 162, 163, 319
 Indian Penal Code 47, 118
 indigo
 contracts in Bengal 98, 104–13
 cultivation, 'ilaka system' of 105–6
 nij cultivation of 105
 mania 106
 Indigo Commission 105, 110, 111
 individual property, notion of 2
 Industrial Disputes Act 1947 318
 Industrial Revolution 121, 314
 industrialization, in developing countries 375–6
 industries
 labour bondage in 3–4
 seasonal migration in 138–9
 inequality
 and bondage 148, 371
 caste and 152
 informal sector
 economy of 13, 374
 vulnerable segment of 15
 workers in 137
 Inland Immigration Act of 1963 316
 'interlopers' 101
 intermediaries 9, 100, 137, 244
 for labour recruitment 134
 International Labour Organization (ILO)
 11–12, 19, 150, 188, 189, 286, 306, 307, 312, 334, 346, 352, 371
 Convention 129, 368
 core labour standards 143
 Declaration of Fundamental Principles 339
 on forced labour 338–9, 353–8, 363, 377
 Right at Work 339
 international organizations, role in maintaining labour standards 12, 328–30
 Interstate Migrants Workmen Act (1979) 149, 195n, 228n, 349n
 irrigation canals and dams, labour for 264
 Irschik, Eugene F. 46, 61
 Irular community, bonded labour in Tamil Nadu 285, 292, 293, 307
- Janata government (1977–80) 157, 160
 Janata Mazdur Sangh (JMS) 163
janmi upper caste, in Malabar 70
jasandars 103
 Jawahar Rozgar Yojana 150
jeethagallu 273
 Jeeva Jothi (NGO) 306, 307–8
 Jharkhand, demand for 164
 job brokers, and cane cutters in Tamil Nadu 233–56
 jobber system 263, 369–70
 in cane sugar sector 234–6, 238, 255
 in labour market 4, 6, 8, 9, 370
 relations between workers and 172, 253
 judicial activism 333
 juridical free labour 97, 98, 116
 Justices of Peace 116, 117, 118
- 'kadama' 72
kamai-malik relationship 32, 97
kamais, bonded labourers in south Bihar 31–2, 96

- kamiauti* system, in Bihar 31–2
- Kamraj Nagar, case study in Tamil Nadu 183–7
- Kapadia, Karin 14
- Karimuddin, Kazi Syed 336
- Karnataka High Court, case on child labour 341–2
- Karr, W. Seton 110
- Kesavananda Bharati case 344
- 'Khattaband' Company weavers 101
- khus khareed* 100
- Kisan movement, in Tamil Nadu 62
- Kisan Sabhas 62, 63
- kiz-maistry*, role in sugar cane sector 250–4
- koima* 72
- Krishnamachari, T.T. 335, 336
- Kumar, Dharma 69
- Kurmi caste 155
- Kuttanad, Malabar, colonialism and capitalism in 79
- ecology, economy and technology in 81–4
- reclamation technology in 81–3
- tenancy in 80–1
- labour, bondage
- in brick kiln, debt dependence of 177–9
- bureaus of state governments 318
- casualization of 151–2
- commodification of 37
- contracts 4, 5, 36, 55
- cost compression 192
- demand for 6, 45
- force management, on advances 173–4
- freedom 153
- landowners and 45–6
- laws, in colonial India 96
- management in rice mills 288–91
- middlemen in Andhra Pradesh 259–79
- mobility 33
- bondage and 140, 141, 142
- movements 137
- power 1
- protection of 3, 293
- recruitment, by *maistries* in Andhra Pradesh 261–4
- relations 171, 261, 262, 278, 360
- in colonial India 2, 37, 96–122, 134
- development and 372–5
- in Gujarat 130
- between landlords and landless 226n
- shortage 55–7
- standards 12
- in plantations 328–30, 333–4
- transaction 138
- See also* bondage; bonded labour
- labour contractors 202, 207–10, 214–15, 220–1, 223–4
- Labour Department, in Tamil Nadu 59
- labour markets 7–8, 133, 148–52, 292
- gender relations in 220
- for plantations 313
- in Tamil Nadu 59, 174
- (un)freedom of workers in 198–226
- Labour Tribunals 319
- labour unions, in Punjab's brick kilns 211–12
- Labour Welfare Board, Tamil Nadu 194n
- land, access to 1
- grants 58
- reforms 36
- and bondage 142
- in Kerala 70–1, 92, 93
- in south India 50
- rights in Tamil Nadu 62
- Land Reforms Committee 62
- landlessness and landownership in Tamil Nadu 46–52
- landowners
- and labour relationship 5, 44–50, 60
- and landless 2
- in Tamil Nadu 46–52, 57–8
- income from agriculture to 59
- Law of Contract, in colonial India 28, 116
- Law Commission, England 99, 114
- Lerche, Jens 7, 10, 13, 14, 237, 352
- liberalization 141, 372, 374
- loan, default and labour 28
- repayment among workers in Tamil Nadu 181
- See also* advance system
- London Missionary Society (LSM) 47
- lower castes, social mobilization of, in Andhra Pradesh 259–79
- Macaulay 118
- Madhari labour, bondage of, in Tamil Nadu 40n, 45
- Madhya Pradesh, labour bondage in 136

- madiga* caste 259, 274
- Madras High Court, on case in weaving industry in Tamil Nadu 342
on *Thirumanna thittam* case 343
- Madras legislature, move to ban devadasi system 336
- Madras Missionary Conference 47
- Maine, Henry 96, 99
and indigo contract controversy 113–16
- maistries*, authority of 262–4, 268, 269, 274, 278
in cane sugar sector 235, 240–5, 243, 245
and contractors 271
as financiers 247–9
and intermediary chain in Tamil Nadu 250–4
labour recruitment by 261–2, 265, 272
and *peddamaistries* 266
and social advancement of labour to 184
trust and commitment of 269–72
and workers relation 245–6, 271
- Malabar, *atiyaaymaa* in post-abolition 69–93
labouring lives in 84–8
mechanical pump-sets, introduction of 88–90
reclamation in 81, 88
- mamul* payment, in cane sugar sector 251
- Maoist movements 92
- marriage expenses, of workers in Tamil Nadu 185–6
and bondage 187
- Marius-Gnanou, Kamala 233
- marvari* caste, moneylenders 155
- Marx, Karl 359, 377
class theory of 37
- Marxism 362
- Marxists 37, 360
- master, and slave relations 29–30, 44
- Master and Servant Law, England 1867 115–17, 121
- Maternity Benefit Act 1961 228n
- Max Havaaler Stichtung, Netherlands 329
- media liberations 189
- Merchant Seaman's Act 117
- microcredit, access to 210, 211, 255–6
- migration/migrant labourers 3, 9, 10, 45, 137–9, 366
bonded labour 135
and contract labour 339–44
to brick kiln works, in Punjab 203, 213
in Tamil Nadu 182
debt-induced 139, 224
and dependence in Tamil Nadu 170–94
from Malabar to Middle East Asia 71
network 193
to plantations 317
rural to urban 134
seasonal and circulatory 4, 9, 137–9, 141, 261, 367, 373
in sugar cane sector in Tamil Nadu 233–56
wages of 243, 245
- Millennium Development Goals 353
- minimum wages principle 143, 190, 374
violation of 337–8
- Minimum Wages Act 1948 62, 228n, 229n, 339
- mirasi*, definition of 48
rights 50, 52
system 47–9
- mirasidars* 46–7, 49, 53, 56, 58
- missionaries, and conversions 47
- Mohapatra, Prabhu P. 2, 14, 96
- moneylenders 65, 247, 255
- Moses, Brindavan 58
- moneylending
between families 180–1
informal 36, 147, 155, 163, 186
- Mudaliars, as rice mill owners 293
- mukhadam*, authority of 263
- Muslim workers, in coal mines 154
- Nadars, as rice mill owners 293
- Nagappa, S. 336
- Naidus, as rice mill owners 293, 310n
- Nambudri Brahmins, in Malabar 64, 72, 73
- National Coal Mines Development Corporation (NCMD) 157
- National Commission on Enterprises in the Unorganized sector (NCEUS) 12, 14, 136–7, 143
- National Commission on Labour, report of 317
- National Commission for Rural Labour (NCRL) 135
- National Human Rights Commission (NHRC) 346, 347, 348
- National Labour Institute (NLI) 19

- survey on bonded labour 135
 nationalization, of coal mines 157–8
 Nayar caste, in Malabar 73, 83
 'neo-bondage' 6, 14, 140, 171–3, 179, 201,
 284, 366–8, 376
 and cane cutters in Tamil Nadu 233–56
nerkalams, in rice mills in Tamil Nadu 286–9,
 293–5, 302–3
 marginalization of 304–10
 non-governmental organizations (NGOs)
 286
 in Andhra Pradesh 265, 266
 on bondage in Tamil Nadu 189, 191, 306

 opium trade, from Bengal 105
 Ordinance of 1843 27, 28
 Oreme, Robert 100
 Orissa High Court, on debt and forced labour
 case 342
 Other Backward Caste (OBC), in Punjab
 205
 social network of 211, 219
 Paddison, George 56
 paddy, *mandy* 302
 merchants 302, 303
 purchase network 299
 and rice marketing, liberalization of 302
palarmur system, in Andhra Pradesh 264–5,
 273–4
Panchayama settlements 48, 56, 58
 panchayats 61
 Panikkar, K.M. 78
pannai labour 56
paraicheri 58
 Paraiyan caste, and agrestic servitude in Tamil
 Nadu 44–65
 in brick kiln work 177
 conditions of 48–50
 conversion to Christianity 47
 housing plots for 51
 'sedentary' 46
 Parayas (untouchable caste), in Malabar 69,
 71, 72, 79
 Conversion to Christianity 88
 Patni lease 105
 patron–client relations 2, 133, 136, 199–201,
 224, 226n
 patronage 2, 179, 201
 Payment of Bonus Act 1965 318, 227n
 Payment of Gratuity Act 1972 227n
Pazhanila krishi practice, in Kuttanad 83
 Penal Code of 1861 27
 Penal Contract Law of 1926 111, 115
 Permanent Settlement of 1793 105
 permanent workers, status of 178
 Picherit, David 4, 8, 9, 259
 piece rate wages 4, 17, 173, 176, 297
 piracy 83–4
 Place, Lionel 50
 Plantation Labour Act (PLA) 1951 319, 321,
 322, 331
 plantations
 colonialism and 317
 labour, captive 325
 import for 313
 in India 315–17
 marginalization of 320–4
 and planters relationship 319
 recruitment for 316
 unfree, in 312–31
 wages of 314–15, 318, 326–7
 working conditions of 319, 321–3
 Police Act of 1852 118
 political organizations, of workers 8
 pollution rules/tax 22
 in Malabar 73–5
 practice 87
 Pouchepadass, Jacques 2, 21
 poverty 24, 166, 194n
 and forced labour 356
 traps 187
 Prakash, Aseem 9, 10, 198, 252
 Prakash, Gyan 2, 8, 31, 32, 96, 97
 Prohibition of Child Labour in Hazardous
 Industries Act (1970) 195n, 228n
 property rights 2
 public interest litigations 343, 347, 348
 Puliyas (untouchable caste), in Malabar 73,
 69, 71, 72, 78–9
 conversion to Christianity 88
 movements 91
 Punjab, case study of brick kilns in 202–16
 political affiliations in 218

 quasi-slavery 28, 30

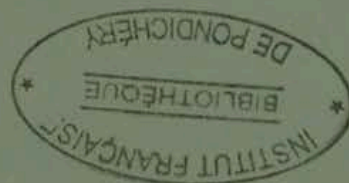
 Raghavaiyengar, S. Srinivasa 55
raiya cultivation, in Bengal 105, 106

- naiyats* 105, 106
 Rajagopalachari, C. 61
 Ramdin, Ron 313
 Rammohan, K.T. 3, 5, 69
 Rao, N.T. Rama 273
 Rao, J. Mohan 358, 359, 361, 362, 365, 377
 Rashtriya Collieries Mazdoor Sangh 156, 161
 Red Hills system 289–93
 as a 'win-win' model in Tamil Nadu 293–5
 Reddiar landlords 55
 Reddy caste, as dominant in Andhra Pradesh 262, 274
 Rege Commission 317
 rice
 cultivation 85–6
 economy and *atiyaama* labour 76
 mandy 304, 311n
 markets 300–2, 304
 mills
 absence of freedom in 7, 298
 bonded labour in 284–311
 labour in 287–8, 291, 305
 liberalization of 374
 in Tamil Nadu 9, 287–8, 295
 types of 302–4
 wages in 309
 working conditions in 297–8, 309–10
 trade 52
 Rice Mill Owners Association, Tamil Nadu 286, 294, 306, 307, 310
 ritual
 expenses 6
 relations 21, 60, 200
 services and pollution 22
 status 35
 Roesch, Marc 284
 Romilly, Lord 114
 Roy, Sanjit, case 338
 Rudra, Ashok 199
 rural development policies 36
 rural labour market 3, 229n
 relations 14
 rural power structure, in Tamil Nadu 53
 rural–urban migration 137
ryots 48
ryotwari system 48, 58
 Sadhu Jana Paripalana Sangham, Malbar 91
 Sankaran, Kamala 10, 335
 Santal tribes 155
 Santhal Paraganas, bondage in 135
 Saradamani, K. 64
sardar 263, 275
 scheduled castes, bonded labourers 135
 scheduled tribes, bonded labourers 135
 Schendel, William Van 53, 60
 self-employment 15, 151, 158, 159
 self-help groups, in Tamil Nadu 183
 Sepoy Mutiny, of 1857 29, 109–10
 serfdom 336
 servitude/servile labour 21–2, 28, 32, 44, 69, 336
 in eastern India 23–6
 import market in 76
 status 25
 Seth, Damodar Swarup 336
 sexual exploitation, forced labour for 355
 Shah, K.T. 336
shakta cult 154
 Sindri, fertilizer factory at 150
 Singh, Surajdeo 160–2
 sirdar system, in coal mines 159
 abolition of 162
 slaves/slavery 21, 22, 69, 92, 152, 313, 336, 378n
 abolition of 31, 29, 93n, 134, 314
 by birth 25
 'caste' in Malabar 75
 European representation of 23
 in south India 24
 in tea plantations 325
 trade in 23, 27
 trafficking 28
 Slavery Abolition Act, Britain 1843 26–9, 31, 32, 77–8
 social identity 5, 218–19, 224
 Social Insurance Act 62
 social justice 34
 social mobility 193
 caste-based, in Malabar 70
 social movements 3, 92
 social network/relations, role of 7, 142
 social security, absence of 188
 social status, of depressed class 28
 social structure, and customs 132–4
 socio-economic reforms 35

- socio-economic relations, and exploitative market 224–5
- South Asia, labour bondage in 1, 364
- specific performance provision 114, 115
- Sri Narayana Dharma Paripalana Yogam, and trade union 90–1
- Srivastava, Ravi 5, 10, 129, 235, 237, 285
- Subaltern school 69, 92
- subjugation, of landless 1
at work 153, 161
- Subramaniam Committee. *See* Land Reform Committee
- sugar barons 13
- sugar cane sector
dependence on jobbers 234, 235
exploitation of workers in 234, 246
landowners, sugar mills and public authority in 238–40
'local labour' in 238–9
recruitment policies in 252–3
rights of workers in 237
starvation wages in 235
in Tamil Nadu 245–6
- Supreme Court of India 339, 345–7
on *Asiad Workers'* case 338
on labour relationship 132
use of writ jurisdiction 347
- sustainable livelihood 15
- Syrian Christians, in Malabar 73, 88
- talookdars* 105
- Tamil Nadu, agrestic servitude in 44–65
bonded labour in 11, 346
dry and irrigated areas in 182–3
landownership and landlessness in 46–52
migration and dependence of brick kiln workforce in 170–94
rice mills in 285
sugar cane sector, labour for 234, 235, 238–40
tenure system in 62
- Tamil society 40n
- Tanjore, landlords in 55
- Tanjore Pannaigals Protection Ordinance 62–3
- Tanjore Panniyals Protection Act 63
- tanti* caste 154, 155
- tea
auction of processed 324
industry 315, 316
prices of 324
See also plantation
- tea planters, and labour force 7, 8, 313, 317
- Telugu Desam Party (TDP) 262
- Terai, plantations in 323
- textile industry, and labour legislation 373
- thikedars* (contractors) 157, 164
- tied labour 36
- Tinker, Hugh 314
- Tiruvallur district/system, in rice mills 289, 290
- tobacco plantation, in Indochina 314
- trade unions 8, 9
in coir factories in Malabar 90
in mines 148, 156
movements in Malabar 72
oppressive 167
in tea plantations 319, 326, 328
- trafficking
and forced labour 355, 356, 357, 363
'slaves', abolition of, in Malabar 70
- Trafficking Protocol of 2000 378n
- Tremenheere, J.H.A. 48, 49, 50, 51
- tribal communities 1
exploitation 135
position of 134
in tea plantations 316, 321–3, 328
- Trysem 150
- unemployment
in Dhanbad 150–1, 161, 167
in Punjab 222
- 'unfree' labour 10, 21–7, 30, 32–7, 97–8, 142, 352, 361, 360, 364–72, 377
eradication of 33, 35
in plantations 312–31
- 'unfreedom' 31, 97, 130, 136, 140
- unskilled labour 173
- United Kingdom, abolition of slave trade in 352
- United Nations 352
Commission for Human Rights 352
- United Trade Union Congress (UTUC) 319
- 'untouchable castes'/untouchability 21, 22, 24, 58, 64, 69
- Vanniar workforce, in Tamil Nadu 292

- Varamdars* 62
- Venkatasubramanian, G. 12, 170, 233, 284
- vetti* system (free labour), in Andhra Pradesh 273
- vigilance committees 11, 347
- Villupuram district/system, rice mills in Tamil Nadu 289, 290
- bonded labour in 291-3
- Viraraghavacharya Committee, recommendations of 61
- wages
- advanced 4, 7
- of agricultural workers 2, 55, 59, 87
- of bonded workers 147, 337-9
- in brick kiln workers 190, 202-7, 211-12, 214-15
- in rice mills 290-1, 296-7, 309
- in sugar cane sector 235, 239, 242
- of tea plantation workers 314, 315, 318, 326-7
- See also* piece rate wages
- Wallerstein, Immanuel 37, 360
- Washington Consensus 353
- weavers/weaving, free trade in 101
- regulation on, in Bengal 98
- Weavers Contract, Bengal (1770-1800) 99-104
- Wesleyan Methodist Mission (WMM) 47
- West Bengal
- plantation labour in 320, 323
- casual labour in 326
- tea growing areas in 320, 321, 323
- trade unions in 319
- Whipping Act 57
- women
- brick workers 212-14
- and children sold as slaves 24
- exploitation of 212-13
- labourers, as bonded 367, 368
- in plantations 327
- in sugar cane sector 252
- trafficking and prostitution of 336
- workers in Malabar 84-5
- Wood, Charles 112, 113, 114
- working population, in India 150
- Workman and Journeyman's By-law of 1814 117
- Workmen's Breach of Contract Act 1859 38n, 99, 111, 316
- Workmen Compensation Act, 1923 228n
- World Bank, Poverty Reduction Strategy Papers (PRSP) 353
- Yanagisawa, Haruka 52, 54
- zamindars 105, 155, 156

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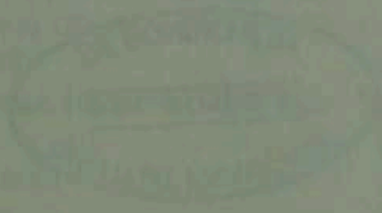
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