

Questionnaire for NGOs and other stakeholders on access to justice and remedy

Question 1

Please provide information on your organisation and its work on access to justice and remedy¹ for victims of contemporary forms of slavery, including the countries in which you work on this issue.

This questionnaire is submitted jointly by the following organisations:

READ: Rights Education and Development Centre based in India, Tamil Nadu, working for the eradication of the bonded labour system to enable an effective work place, and elimination of child labour and child trafficking. READ works with the community, government and textile industries with a major focus on dalits.

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DSN–UK: Dalit Solidarity Network United Kingdom campaigns for an end to caste discrimination worldwide. It brings together organisations and individuals in the UK who are concerned with caste-based discrimination and aims to link grassroots priorities with international mechanisms and institutions to make an effective contribution to the liberation of those affected by caste discrimination.

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READ organises a range of community based interventions for prevention, rescue and rehabilitation of the victims affected by bonded labour. Debt bondage is forced labour and a contemporary form of slavery. READ works with its partner the Dalit Solidarity Network UK (DSN-UK) to address and eliminate this modern form of slavery in the textile mills of South India and as a result can be found in the supply chains of major international retailers and brands across the world.

In Tamil Nadu, South India, textile and garment products for big brands and retailers are being made by girls and young women from low caste backgrounds under exploitative working conditions. The majority are Dalit (outcaste) girls (under 18) from poor families, lured with promises of a decent wage, comfortable accommodation and a lump sum payment upon completion of contract that may be used for their dowry. Trade unions are weak and face enormous opposition. Government enforcement of labour law is not robust.

READ and DSN-UK engage the Tamil Nadu state and Indian national and state Government, UK Brands, Indian factories and mills, local and international Trades Unions and NGOS, former Sumangali workers and others to drive real and sustainable change for workers in this sector. This change often starts with ensuring access to justice for the girls and young women who have had their rights violated. As part of our work, we support the victims and their families by filing First Information Reports (FIRs) at the police station to ensure appropriate compensation and due payments are made. We also follow up reported incidences with a Public Interest Litigation (PIL) request to ascertain the number of injuries and even deaths that have occurred in mills and factories, as well as reports of violence and sexual harassment. A PIL once filed has to be responded to in 30 days.

¹ For victims of gross violations of international human rights law, such as slavery and slavery-like practices, full and effective remedy may take the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition

Question 2

A. Please characterise the legal and/or policy frameworks relevant to access to justice and remedy in place in the country or countries that your organisation works in, as well as any global trends you would like to highlight. Please include information about provisions criminalising contemporary forms of slavery, those guaranteeing access to justice and remedy and measures to identify and support victims of contemporary forms of slavery.

India is part of the UN Convention on the Rights of the Child (CRC), which states that children everywhere should have the right to protection from economic exploitation (Article 32). India has not ratified the two main international Conventions focusing specifically on child labour, namely ILO Minimum Age Convention (No. 138) or the Worst Forms of Child Labour Convention (No. 182), although it has expressed commitment to do so. The Committee on the Elimination of all forms of Discrimination Against Women, the Human Rights Council and the Committee on the Rights of the Child have expressed their concerns over child labour and trafficking of children for labour.

India's current national legal framework establishes working ages and working conditions below international standards. The Constitution of India states that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment (Article 24). The Child Labour (Prohibition and Regulation) Act (1986) prohibits the employment of children below the age of 14 years in 18 occupations and 65 processes that are hazardous to the children's lives and health. The Factories Act of 1948 prohibits the employment of children below the age of 14 years and an adolescent aged between 15 and 18 years can be employed in a factory only if he/ she obtains a certificate of fitness from an authorized medical doctor. The Act also prescribes 4.5 hours of work per day for children aged between 15 and 18 years and prohibits them working during the night hours.

Prohibition of Forced Labour	Bonded Labour System (Abolition) Act; Juvenile Justice (Care and Protection of Children) Act
Prohibition of Child Trafficking	Criminal Law (Amendment) Act
Prohibition of Commercial Sexual Exploitation of Children	Protection of Children from Sexual Offence Act; Information Technology (Amendment) Act of 2008
Prohibition of Using Children in Illicit Activities	Narcotic Drugs and Psychotropic Substance Act
Compulsory Education Age	The Right of Children to Free and Compulsory Education Act
Free Public Education	The Right of Children to Free and Compulsory Education Act

Enforcement agencies:

National / State Commission for the Protection of Child Rights: Investigate cases that may involve a violation of a child's rights or a lack of proper implementation of laws relating to the protection and development of children, including those related to child labour.

State-level labour inspectors: Enforce state and national labour laws.

National Human Rights Commission: Monitor implementation of the Bonded Labour System (Abolition) Act. Monitor state level action against bonded labour through its review of quarterly reports by state governments on bonded labour and through exploratory and investigative missions.

Central Bureau of Investigation’s anti-human trafficking unit: Conduct operations to arrest traffickers of women and children.

Anti-human Trafficking Units (AHTUs): Investigate cases of human trafficking at the local level, including cases of child labour.

State and local police: Enforce laws pertaining to human trafficking.

Government Mechanism to coordinate the implementation of activities to combat worst form of child labour:

Child Labour Technical Advisory Committee	Recommend new occupations and processes to be added to the list of hazards occupations and processes under the Child Labour (Prohibition & Regulation) Act, 1986.
Central Advisory Board on Child Labour	Review, monitor, and suggest amendments to child labour policy and legislation.
Central Monitoring Committee	Supervise, monitor and evaluate actions of the National Child Labour Projects across India. Some State governments maintain State-Level Monitoring Committees to monitor the National Child Labour Projects in their states.
Core Group on Child Labour	Coordinate the convergence of social protection schemes to reduce child labour. Composed of members from the Ministries of Human Resource Development, Women and Child Development, Housing and Urban Poverty Alleviation, Rural Development, Social Justice and Empowerment, Panchayati Raj and Home Affairs and chaired by the Ministry of Labour and Employment (MOLE).
Ministry of Women and Child Development (MWCD)	Coordinate all anti-trafficking policies and programs for women and children.
Ministry of Home Affairs Anti-Human Trafficking Cell	Implement the Government’s nationwide plan to combat human trafficking by coordinating with states to establish AHTUs and training thousands of officials to combat human trafficking.

B. Please include specific references to the source of law when possible.

Here are some of the laws that attempt to reduce exploitative employment practices in Textile industry: Minimum Wages Act 1948, violations of the Weekly Holidays Act 1942, the Employees State Insurance Act 1948, the Employees Provident Fund Act 1952, the Payment of Bonus Act 1965, the Factories Act 1948, the Bonded Labour System (Abolition) Act 1976, the Apprenticeship Act 1961, the Contract Labour (abolition and regulation) Act 1970, the Child Labour (prohibition and regulation) Act 1986 are

Question 3

Please detail relevant jurisprudence, including any landmark cases, which demonstrate effective access to justice for victims of contemporary forms of slavery, and provide copies of any judgments if possible.

1. Tamil Nadu state Government² issued G.O.Ms.No.137, Labour and Employment Department, dated 22.6.2007, ordering the constitution of District Monitoring Committees in the Districts of Erode, Coimbatore, Dindigul, Madurai, Theni, Salem, Namakkal, Karur, Sivaganga, Ramanathapuram, Virudhunagar, Tirunelveli, Tuticorin, Dharmapuri, Krishnagiri, Trichy and Vellore. The Monitoring Committees constituted by this G.O 137, were to comprise of the respective District Collectors as their Chairmen and the Deputy Commissioners of Labour of the Districts, the Deputy Chief Inspectors of Factories of the Districts and the District Revenue Officers as their members. The Committees were assigned the task of identifying Mills where young girls are employed as apprentices, examining their working conditions and advising the measures to be taken for prevention of exploitation of young girls in the guise of apprentices. In the year 2013, it was understood through a petition under Right to Information Act, that only two committees were formed in the state.
2. In 2007, Chennai High Court³ verdict on a petition filed by the two state trade unions pronounced that the 'camp labor system' is against law: it reads "we are satisfied that the 'Camp coolie system', which also known as 'Thirumagal Thiruman Thittam' and Sumangali Marriage scheme' is per se illegal and amounts to bonded labour and the authorities are bound to take steps to abolish the system and regularize the services of the female workers working under the 'Camp Coolie system' and to ensure that they receive wages as per the law throughout". But the impact of this judgment is yet to be seen on the ground.
3. The term Camp Coolie has been accepted by the High Court of Judicature at Madras⁴ in its order on the two writ petitions filed by Trade Unions. It acknowledges that female workers in question were treated as bonded labourers.

Three example cases READ became involved in:

- a) "The inseparable sisters"⁵ case: complaints launched - Rajalakshmi 24/2014 on 23/01/2014 at Puchai Puliampatti Police Station, Erode District and Vanvizhi 4/2014 on 10/01/2014 at Morappur Police station, Dharmapuri District.

Two sisters were recruited to a Sumangali scheme through an agent to work in a mill and later transferred to a different mill without parents' consent. A month later, on 8 January 2014, the sisters informed their father they did not want to work there because they were abused by

² Government of Tamil Nadu issued G.O.Ms.No.67, Labour and Employment Department, dated 08.08.2006 (for inclusion in Part I of the Schedule to the Minimum Wages Act, 1948, of the employment in 'Textile Mills'), The Tamil Nadu Labour and Employment Department issued G.O.Ms.No.137 dated 22.06.2007 (directing 17 District collector to monitor through monitoring committees) and a draft notification in G.O. (2D) No. 26, Labour and Employment (J1) Department dated 16.05.2008, proposing to fix minimum rate of wages payable to the Apprentices engaged in the employment in Textile Mills at Rs.110/- per day, apart from Dearness Allowance specified in the Explanation to Notification.

³ The High Court of Judicature at Madras, [Tamil Nadu Spinning Mills.. vs. The State of Tamil Nadu](#), 31 October 2007.

⁴ The High Court of Judicature at Madras, [Tamil Nadu Spinning Mills.. vs. The State of Tamil Nadu](#), 30 April 2009 and The [Southern India Mills... vs. The State of Tamil Nadu](#), 11 December 2009.

⁵ This is a summary of the case "The inseparable sisters" shared in the READ and DSN UK publication *Sumangali Scheme In Tamil Nadu - Issues and Legal Remedies - Miles To Go* – 2014, paragraph 8, case number 5.

managers on the basis of their caste. Following this one of the sisters, Rajalakshmi, was taken to a hospital and died. Doctors stated that she had choked on her food. The parents intended to launch a complaint with police on suspicion that it was not a natural death based on two different statements they heard. But then they received serious threats from the mill management. On the day of Rajalakshmi's funeral the other sister, Vanvizhi, stated that her sister was raped by four mill managers. She then committed a suicide by consuming pesticides.

The parents requested a post mortem and later reported the rape incident in the mill. Police did not take actions to investigate. A number of complaints were sent for further investigation and action, and the case was filed in the High Court of Madras.

Many young girls have been given fake promises and taken to the mills by agents where they were exploited, which is not reported and rectified due to the lack of documentation such as identity cards proving their employment in a mill.

- b) Ms Kalavathi's case filed under Prevention on Children from Sexual Offences Act in Gobichettipalayam Police Station.

Ms Kalavathi was recruited via the Sumangali scheme on 28 August 2015, a few days after she asked her parents to take her back because she no longer wanted to work at the mill due to harsh working conditions. On 8 September her parents came to pick her up but the management refused to let her go stating they had to repay the money they received back first and additionally for accommodation and food for the days their daughter stayed at the mill. Alternatively they should find someone else to work at the mill instead. She was locked in a room without water or food and beaten by the mill managers.

Parents were encouraged to launch a complaint but were resistant. READ convinced them to do so and attempted to launch a complaint on several occasions but struggled as police were negotiating to find a compromise with the mill management. Eventually a complaint was registered due to persistence of READ staff. Ms Kalavathi was taken for medical examination and admitted to hospital for treatment. Recently Gobi Police Sub Inspector went to Theni and to investigate. As FIR (First Information Report) has been filed, now we are waiting for filing Charge Sheet, after which a Court Inquiry would commence. The case was reported by the local media.

- c) "In search of.." ⁶ case was not filed as the parents received a payment from the factory.

Ms. D. Soniya was recruited under the Sumangali scheme to work in a mill and often worked overtime and skipped holidays. She developed stomach pains and was diagnosed with anaemia on 11/03/2014. After that she went to work in a different mill but after two weeks got severe stomach pains. She was taken to hospital by a family member. Doctors found a stone in her stomach and advised her to have a surgery. Surgery was agreed in two days and her parents returned to their village. The next day they found out that a surgery was performed during the night (27/03/2014) and their daughter had died. Others present in the hospital reported that two litres of white liquid was removed from her stomach.

Some of the suspicious facts include: the scan states that a stone was found in the stomach but nurse reported that white liquid was removed from her stomach, the surgery was planned in two days but was performed in a hurry during the night, post-surgery stitches not done

⁶ "In search of .." case was in the same publication as footnote 6, paragraph 9, case number 6.

properly and after care done in a maternity ward for reasons not given, no equivalent to a regular death certificate issued by District Government Headquarters Hospital.

Question 4

Please describe specific support that is in place for victims of contemporary forms of slavery who seek obtain access to justice and fulfil their right to an effective remedy, including but not limited to, shelters, other forms of housing, legal aid, visa support, witness and victim protection measures, livelihood or financial support and counselling in the country or countries that your organisation works. Please also include information about global trends in the provision of such support that you would like to highlight.

Government Policies on (worst form of) child labour:

1. **National Policy on Child Labour:** Describes concrete actions for combating hazardous child labour for children under age 14, including implementing legislation and providing direct assistance to children.
2. **National Skills Development Policy:** Includes provisions for child labourers, including short-term skills training for children removed from the worst forms of child labour.
3. **National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children:** Aims to rehabilitate and reintegrate victims of trafficking into society.
4. **Twelfth 5-Year Plan (2012–2017):** Details how the Government should implement its vast array of social protection schemes, including provisions for education, health, and increased livelihood support.

Social Programmes to address child labour:

1. **National Child Labour Project (NCLP) Scheme:** MOLE scheme that operates at the district level to identify working children under age 14, withdraws them from hazardous work, and provides them with education and vocational training. Sets up and administers NCLP schools, mainstreams children into formal education and provides them with stipends, meals, and health check-ups.
2. **Bonded Labour Scheme:** MOLE scheme that rescues and rehabilitates child and adult bonded labourers. Each rescued bonded labourer is provided with 20,000 rupees and offered assistance through additional social protection schemes. Supports the funding of a survey at the district level every 3 years on the prevalence of bonded labour as part of this scheme. Rehabilitates bonded labourers identified through the survey.
3. **Food Security Scheme:** Ministry of Agriculture scheme that provides 5 kg of food grains at subsidized prices every month to families living under the poverty line every month.
4. **Midday Meal Program:** Ministry of Human Resource Development (MHRD) scheme that provides free lunch to children in government primary and upper primary schools as well as to NCLP students.
5. **Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS):** Ministry of Rural Development (MRD) scheme that provides 100 days of employment to every rural adult living under the poverty line. Research has shown that this program can lead to a reduction in child labour.

6. **Education for All Scheme** (Sarva Shiksha Abhiyan): MHRD scheme that ensures the achievement of universal elementary education and addresses the education needs of children, including the provision of appropriate schooling facilities and qualified teachers. Linked to NCLP scheme to ensure children's smooth transition from NCLP schools into the formal education system.
7. **Integrated Child Protection Scheme** (ICPS): MWCD scheme that improves children's access to protection services, creates public awareness, increases accountability on child protection, enhances service delivery, and sets up a monitoring and evaluation system.
8. **National Rural Livelihoods Mission**: MRD scheme that enables poor households to access gainful self-employment and skilled wage employment opportunities through social mobilization, institutional building, financial inclusion, and livelihoods promotion.
9. **Skill Development Initiative Scheme**: MOLE scheme that provides vocational training programs and gives priority to children withdrawn from child labour and to the parents of child labourers.
10. **Anti-trafficking activities**: MWCD operates these activities in collaboration with NGOs and state governments. Anti-trafficking activities include raising awareness, maintaining assistance hotlines, rescuing victims and providing shelter homes, counselling, legal aid, medical care, repatriation, and rehabilitative services.

Question 5

Please describe national and/or global measures that you are aware of that allow victims of contemporary forms of slavery to pursue access to justice and remedy for violations of their human rights taking place in national or international supply chains.

The following laws and conventions are directly and indirectly supporting vulnerable community to seek justice and remedy at the national level and in supply chains:

ILO Convention 1 (Hours of Work – Industry) and Recommendation 116 (Reduction of Hours of Work)
 ILO Conventions 29 (Forced Labour) and 105 (Abolition of Forced Labour)
 ILO Convention 87 (Freedom of Association)
 ILO Convention 98 (Right to Organise and Collective Bargaining)
 ILO Conventions 100 (Equal Remuneration) and 111 (Discrimination – Employment and Occupation)
 ILO Convention 102 (Social Security – Minimum Standards)
 ILO Convention 131 (Minimum Wage Fixing)
 ILO Convention 135 (Workers' Representatives)
 ILO Convention 138 and Recommendation 146 (Minimum Age)
 ILO Convention 155 and Recommendation 164 (Occupational Safety and Health)
 ILO Convention 159 (Vocational Rehabilitation and Employment - Disabled Persons)
 ILO Convention 169 (Indigenous and Tribal Peoples)
 ILO Convention 177 (Home Work)
 ILO Convention 181 (Private Employment Agencies)
 ILO Convention 182 (Worst Forms of Child Labour)
 ILO Convention 183 (Maternity Protection)
 ILO Code of Practice on HIV/AIDS and the World of Work
 Universal Declaration of Human Rights
 The International Covenant on Economic, Social and Cultural Rights
 The International Covenant on Civil and Political Rights

The United Nations Convention on the Rights of the Child
The United Nations Convention on the Elimination of All Forms of Discrimination Against Women
The United Nations Convention on the Elimination of All Forms of Racial Discrimination
UN Guiding Principles on Business and Human Rights

Question 6

A. Please describe the main challenges and barriers identified in the country or countries in which your organisation works to ensuring that victims of contemporary forms of slavery have access to justice? Please also specify any global trends that you are aware of.

1. Workers without a valid identity card, struggling to prove their employment in textile industry or any other document necessary for a legal battle find it very difficult to access justice. Without a documented proof we are not able to get legal cases.
2. Government agencies which are implementing the laws do not have adequate redressal mechanisms – or the will - to support the victims and there is a serious lack of coordination among them. They also lack understanding of the issue and victims' vulnerability to effectively support them.
3. Our experience reveals that the follow-up process, which includes filing the case under the respective legislation for judicial follow up is stagnant.
4. Victim protection is a high risk process as local mafia often targets the families and those that help them
5. There is a lack of strong follow-up to initiate the rehabilitation process
6. India has severely restricted the roles of NGOs and the space for civil society has shrunk to such an extent that more than 20,000 organisations have had their funding withdrawn.
7. In at least one of the above cases, the organisation was accused of 'showing India in a bad light' by contributing to reports of Special Rapporteurs and UN Mandate holders.
8. Laws without implementation are no laws at all
9. Rights without remedy are rights in name only

B. Please elaborate on any specific challenges faced by vulnerable groups, for example women, children, those living in poverty and/or in rural areas, minority groups, indigenous people, women, children, people determined as being of low caste, and migrant workers, in obtaining access to justice and fulfilling their right to remedy.

1. With more than 80% of workers in the informal economy – and therefore unprotected by the laws that exist, bonded labourers and others will continue to remain the most vulnerable.
2. We are involved in rescuing of girls and young women in slavery / bonded labour conditions. However getting Release Certificate from government authorities and subsequent financial help for the victims is challenging. The complex procedure involved in rehabilitation of released victims is acting as a barrier in smooth settlement to the victims.
3. Dalit workers are most susceptible to bonded and forced labour and suffer further discrimination based on caste prejudice at police stations and under the judiciary, where their cases are either not filed or do not come to court. Despite protective laws, legal remedy is practically non-existent.
4. Dalit women suffer further as a result of intersectional discrimination and patriarchy. In cases of violence and sexual assault they are more likely to be subjected to further criminal acts in the hands of the police.

5. Dalit children are often forced to work under age to provide for their families – and with little access to education, this is the norm rather than the exception. Loopholes in the Right to Education Act allows children to ‘work for family enterprises’. In rural areas – owners of enterprises suddenly become ‘uncles!’
6. 80 – 90% of workers deemed to be ‘forced labourers’ are Dalits in India. Under designated contemporary forms of slavery fall such schemes as the Sumangali and Camp Coolie.
7. More than 80% of bonded labourers in countries such as India, Pakistan and Bangladesh are Dalits.
8. In Nepal, the term for such labourers are ‘Haliya’ and this term refers specifically to bonded labour and despite having been officially abolished in 2008, the system remains today. The Haliya are agricultural labourers in the hills of Nepal and most inaccessible to protective laws and remedy.

Question 8

Please describe any projects delivered by your organisation or other civil society organisations to ensure access to justice and remedy for victims of contemporary forms of slavery.

1. READ provides support to the victims of slavery through an assistance in filing legal cases against the employers. READ established a Help line where victims can register their complaints regarding the issues in their work place, incidents of human rights violation, sexual harassment issues and cases of child trafficking and slavery.
2. We are working with adolescent girls to facilitate formation of Peer Groups and Community Support Groups to enable them fight against slavery practices in work place.
3. Lobby and advocacy with key stakeholders is major activity to sensitise the stakeholders and to seek justice and remedy for incidents of human rights violations at work place.
4. Rescue and Rehabilitation of bonded labourers employed in textile sector and providing legal support to make claims for their losses.
5. Networking with like-minded organisations at State and National level to eradicate slavery / bonded labour practices, Educational and livelihood support are some of the ongoing activities of our organisation.
6. We provide psychological counselling to the victims of slavery/bonded labour practices to overcome the trauma. Counselling sessions include victims and parents and this approach has been very useful to the victims and family to manage the situation and to prepare them for future living.

Question 9

In your view what are the necessary components of a comprehensive human-rights based approach to ensure that victims of contemporary forms of slavery can have access to justice and fulfil their right to an effective remedy?

1. Simplification of the existing procedures at state and national level to seek justice and remedy for human right victims.
2. Uniform definition of age of child in laws in India so that there is no contradiction in fixing the age of child. For example, age limit of child varies in Factories Act, Child Labour Act and Juvenile Justice Act. This contradiction is in favour of employers and not to the victims.

3. Stringent implementation and continuous monitoring of existing labour laws and other related Acts by officials.
4. Responsible business by employers and active role of trade unions in protecting the human rights of workers.
5. Convergence of all line departments and effective coordination to ensure justice and remedy to the victims.
6. Educational programmes to vulnerable communities about their rights and entitlements that are enshrined in our constitution.
7. We support victims to avail the legal services to claim their rights and support them to file legal cases in appropriate courts.

Question 10

Please provide any research, data or other information that your organisation has produced or is aware of relating to access to justice and remedy for victims of contemporary forms of slavery.

Sumangali Scheme In Tamil Nadu - Issues and Legal Remedies - Miles To Go – 2014. READ and DSN UK (this publication is available in a hard copy, we are working on getting it online).

Thank you for your cooperation. Please feel free to include any additional pertinent information on access to justice and remedy that you think would help the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.