

## **Human Rights Council – 18th Session**

### **14 September 2011 Item 3, Report of the Special Rapporteur on contemporary forms of slavery its causes and consequences**

#### **Child Slavery in Indian Mines and Quarries**

##### Introduction

Franciscans International (FI) welcomes the report of the Special Rapporteur (SR) on contemporary forms of slavery, its causes and consequences, and her ongoing commitment to address the issue of child slavery, with special focus on the mining and quarrying sectors.

With reference to the Report, FI would like to draw the attention of the Special Rapporteur to the matter of children working in mines and quarries spread across India.

In 2008, on the occasion of the review of India under the auspices of the 1<sup>st</sup> cycle of the Universal Periodic Review (UPR), it emerged that various Committees – CCPR, CRC, and CEDAW<sup>1</sup> – have already expressed their serious concerns with regard to the status of Indian children. Among the issues highlighted: violence against children, child abuses,<sup>2</sup> corporal punishments,<sup>3</sup> and child labour, including debt bondage.<sup>4</sup>

Our organization is deeply concerned that despite the fact that the Indian government has acknowledged that “[T]he problem of child labour continues to pose a challenge before the nation<sup>5</sup>” and that “[T]his brings with it huge responsibilities to protect their rights and prevent exploitation in all its forms (...),” India still does not have a minimum working age,<sup>6</sup> has not yet ratified the ILO Worst Forms of Child Labour Convention (No. 182) and therefore it still clearly fails to protect children working in mines and quarries.

##### The Current Situation

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<sup>1</sup> Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(B) of the Annex to Human Rights Council Resolution 5/1, India, A/HRC/WG.6/1/IND/2, 27 March 2008, para. 26.

<sup>2</sup> CCPR/C/79/Add.81, para. 33 and CRC/C/15/Add.228, paras. 3 (f), 50-51 and 66-67.

<sup>3</sup> CRC/C/15/Add.228, paras. 44 and 45.

<sup>4</sup> CCPR/C/79/Add.81, para. 34; CRC/C/15/Add.228, paras. 72 and 73; CEDAW/C/IND/CO/3, paras. 48 and 49; CERD/C/IND/CO/19, para. 23.

<sup>5</sup> See <http://labour.nic.in/cwl/childlabour.htm> and the National Report submitted by India on 6 March 2008, A/HRC/WG.6/1/IND/1.

<sup>6</sup> India has not ratified the ILO Minimum Age Convention of 1973 (No. 138).

The extractive industry represents a crucial sector for India's economic growth, however mining is increasing poverty and reinforcing social segregation.

States like Jharkhand, Chhattisgarh, and Orissa which heavily depend on mineral resources, show lower per capita incomes, lower growth rates and higher levels of mortality, malnutrition, and morbidity. The mineral districts of the country are some of the poorest and most underdeveloped of India. For instance, Keonjhar and Koraput (the first produces 1/5 of India's iron ore, the second more than 40% of the nation's bauxite) are respectively ranked 24<sup>th</sup> and 27<sup>th</sup> out of the 30 districts of Orissa, in the Human Development Index.<sup>7</sup>

People and in particular children working and living in mining environments are exposed to subhuman conditions, criminality, prostitution, dependency relations, AIDS, STDs, violent behaviours, and lack of law and order.<sup>8</sup> In addition to that, child-miners have to face other challenges, in term of access to food, education, displacement and impacts on their health.<sup>9</sup>

Moreover, children are exposed to caste-based discrimination and related abuses, given the fact that they are mostly migrants, foreigners, or Indians belonging to the Adivasi tribes or Dalit caste.

According to the Census 2001 there were 45,135 children working in mines and quarries in India. This data seem to grossly underestimate the issue, giving the fact that it is impossible to give accurate figures for the number of child-miners working in India.<sup>10</sup>

Throughout India and across the borders with Nepal and Bangladesh, children are trafficked and then exploited in all extractive industries (from coal to diamonds), in particular in small scale and informal mines. Despite the high prevalence of child trafficking, India fails to implement a broad anti-trafficking framework, including legislation and policy, which integrates the international legal definition of trafficking into national law. On average, children start working when they are around 12 years old. However, thousands of children of all ages are believed to work alongside their parents because their small bodies fit easily into the narrow coal seams.<sup>11</sup>

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<sup>7</sup> The Centre for Science and Environment (CSE), at <http://www.cseindia.org/node/384> (last visited 16 August 2011). See also Dhaatri Resource Centre for Women and Children – Samata, HAQ: Centre for Child Rights, India's Childhood in the "Pits". A Report on the Impacts of Mining on Children in India, 2010, 6.

<sup>8</sup> ILO, International Programme on the Elimination of Child Labour (IPEC), Eliminating Child Labour in Mining and Quarrying. Background Document, World Day Against Child Labour, 12 June 2005, 13.

<sup>9</sup> A recent study revealed that more than half of the children working in a stone quarry in Moshi, Pune District (Maharashtra) have reduced lung functions and all the symptoms of asthma. See The Times of India, 50% Children at Moshi Quarry Have Asthma, 18 November 2009, available at [http://articles.timesofindia.indiatimes.com/2009-11-18/pune/28094577\\_1\\_stone-quarry-lung-function-moshi](http://articles.timesofindia.indiatimes.com/2009-11-18/pune/28094577_1_stone-quarry-lung-function-moshi) (last visited 16 August 2011).

<sup>10</sup> India's Childhood in the "Pits", note 7, 37.

<sup>11</sup> The Gazette, In northeast India, coal mining lures children, 21 May 2011, available at <http://www.montrealgazette.com/life/northeast+India+coal+mining+lures+children/4822525/story.html> (last visited 17 August 2011). See also Tehelka, Half-life of the Coal Child, 3 July 2010, available at

In some extractive sites, children work as deep as 90 metres beneath the ground and they use ropes or slippery ladders to climb in and out. The ventilation is inadequate and the lighting system nonexistent, so they have to use flashlights or candles when carrying out their duties as well as to find their way up to the ground.

In Northeast India, near Ladrymbai – district of Jaintia Hills, state of Meghalaya – children descend through precarious ladders into the numerous coal mines of the region to spend their days in “rat hole” conduits where sometimes even kneeling becomes impossible. They lie horizontally and hack coal from the walls with picks or their bare hands. They do not wear adequate clothing, nor any protective garments.

The National Human Rights Commission of India (NHRC) has opened a case (Case No. 22/15/3/2010) and asked the government of the state of Meghalaya to report on the allegation that about 70,000 children from Nepal, Bangladesh, and various Indian states (Assam, Bihar and Jharkhand) work in the private coal mines of Jaintia Hills.<sup>12</sup>

India’s major quarries and mines are spread across numerous Indian states. Besides Meghalaya, cheap child-mine-labour is present in Karnataka, Maharashtra, Rajasthan, Madhya Pradesh, Chhattisgarh, Jharkhand, Orissa, and Andhra Pradesh.

#### Conclusions and Recommendations

Recalling that India has ratified the Convention on the Rights of the Child and that its article 32 affirms the obligation of states parties to recognize the right of children “to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development,” Franciscans International urges:

The Government of India to:

- Clearly recognise the involvement of children in the mining and quarrying sectors and therefore carry out a comprehensive assessment to immediately address the most compelling matters affecting child-miners, such as food insecurity and lack of adequate health care;
- Set up an independent and genuine state commission of inquiry to deeply investigate the magnitude of the child-miners issue in mines and quarries privately as well as publicly owned;

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[http://www.tehelka.com/story\\_main45.asp?filename=Ne030710coalchild.asp](http://www.tehelka.com/story_main45.asp?filename=Ne030710coalchild.asp) (last visited 17 August 2011); The Morung Express, 70,000 child workers in the coal mines of Jaintia Hills: NGO, 19 March 2011, available at <http://www.morungexpress.com/regional/45491.html> (last visited 17 August 2011).

<sup>12</sup> The research has been originally conducted by the Impulse NGO Network, base in Shillong, Meghalaya ([http://www.impulseasia.org/index.php?option=com\\_frontpage&Itemid=1](http://www.impulseasia.org/index.php?option=com_frontpage&Itemid=1) ). The official web site of the NHRC does not display up to date information on the case, but just a short press release, available at <http://www.nhrc.nic.in/> (last visited 17 August 2011).

- Set up an independent and genuine state commission of inquiry to investigate illegal/informal and artisanal mines and quarries sectors, de facto employing most of the child miners;
- Ratify the major international instruments for the protection of child workers, eminently the ILO Minimum Age Convention of 1973 (No. 138);
- Adopt and implement an holistic national plan – encompassing international standards on child labor and mine labor – for the protection of child-miners, with the additional aim to stop the trafficking of children from across the borders with Nepal and Bangladesh;
- Mainstream child workers concerns into existing policies and laws on mining, included policies concerning foreign direct investments;
- Following the recent ratification of the UN Human Trafficking protocol, draft comprehensive legislation on human trafficking which covers trafficking into all labour sectors, including the mining and extractive industries and to establish a multi-sectoral oversight body for such legislation which includes the Ministries of Women and Child Development and Ministry of Labour.

The governments of the states of Meghalaya, Karnataka, Maharashtra, Rajasthan, Madhya Pradesh, Chhattisgarh, Jharkhand, Orissa, and Andhra Pradesh to:

- Investigate the magnitude of the child-miners issue in their respective territories;
- Establish state level and district level systems to monitor the implementation of central norms and guidelines on the protection of children working in mines;
- Support the National Human Rights Commission of India (NHRC) in its investigative work concerning child slavery in mines and quarries.