Rajasthan Stone Quarries

Promoting Human Rights Due Diligence and Access to Redress in Complex Supply Chains

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About this report series

This report is part of a series produced by the Non-Judicial Human Rights Redress Mechanisms Project, which draws on the findings of five years of research. The findings are based on over 587 interviews, with 1,100 individuals, across the countries and case studies covered by the research. Non-judicial redress mechanisms are mandated to receive complaints and mediate grievances, but are not empowered to produce legally binding adjudications. The focus of the project is on analysing the effectiveness of these mechanisms in responding to alleged human rights violations associated with transnational business activity. The series presents lessons and recommendations regarding ways that:

- non-judicial mechanisms can provide redress and justice to vulnerable communities and workers
- non-government organisations and worker representatives can more effectively utilise the mechanisms to provide support for and represent vulnerable communities and workers
- redress mechanisms can contribute to long-term and sustainable respect and remedy of human rights by businesses throughout their operations, supply chains and other business relationships.

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<td>Bharatiya Janata Party</td>
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Executive summary

1 This report examines the multiple barriers for vulnerable, informal quarry mining workers in Rajasthan to gain concrete improvements in their working conditions and redress for serious human rights harms suffered. It presents guidance about the role of non-judicial redress mechanisms that aim to hold transnational business who sell, buy and process stone mined in Rajasthan responsible for these conditions. It also provides proposals about ways that businesses can be encouraged to adopt practices of human rights due diligence in relation to their supply chains. Due diligence is an ongoing, proactive and reactive process through which companies can ensure that they respect human rights.1

2 Rajasthan is the second most mineral rich state in India. It has a wide spectrum of mineral deposits.2 It accounts for about 90 per cent of the country’s total natural stone production.3 There are 3403 mining leases for major minerals and 11 861 mining leases for minor minerals, as well as 18 249 quarry licenses in the state.4

3 In addition, there are a substantial number of unlicensed and illegal quarries in Rajasthan — rendering the exact scope of the industry difficult to gauge. Thousands of small, often individually owned mines operating on roadsides and informally employing men, women and children to hand-mine the stone. Stone is then bought – usually in cash — from the roadside, and it travels up the supply chain from there.

4 Human rights violations in Rajasthan’s mines are particularly egregious. A significant proportion of labour is bonded. Bonded labourers are extremely vulnerable to retaliation if they attempt to organise or otherwise agitate for enforcement of the law or human rights norms.

A Child labour is common, with as many as 375 000 child labourers working in Rajasthan’s mines.5 There are twice as many girls as boys labouring in India’s quarries.6 In addition to lower pay and greater abuse, they are subject to gender-specific forms of abuse from their employers, including rape.7 Dalit and adivasi children too are particularly vulnerable to exploitation in the mining sector. A national study conducted in 2010 found that districts which are entirely dependent on mining have a lower literacy rate than the national average. Further, malnourishment is rife, and the mortality rate of children under five is significantly higher in these areas.8

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2 Department of Mines and Geology, Government of Rajasthan, Geological Setting and Mineral Sources (http://www.dmg-raj.org/why-rajasthan.html).
7 Ibid.
Many sandstone workers die from silicosis, a fatal but preventable lung disease caused by the inhalation of dust containing crystalline silica during sandstone mining. Radiological investigations conducted by the Indian Council of Medical Research that 56 per cent of mine workers in Rajasthan are affected with silicosis or silica-tuberculosis. If these numbers are indicative of the general incidence of such diseases, then at least 800,000 workers in small mines and quarries might be affected just in the state of Rajasthan. This could be avoided if wet drilling were adopted.

Injury rates are extremely high. As many of Rajasthan’s quarries are small-scale and unregistered, the vast majority do not comply with the occupational health and safety standards.

Typically, workers in Rajasthan’s stone quarries do not have formal contracts of employment leaving them without formal redress after losing their work or if they are not paid for their work. There is no employer against which to make a claim.

Pay is precarious. Wages are calculated on a piece-rate basis. This means that labourers who are physically stronger (usually male teenagers) have a greater earning capacity than other workers. Older workers, who are already afflicted with musculoskeletal disorders caused by decades of gruelling physical labour, earn considerably less. Women are systematically relegated to the lowest-paying jobs.

These forms of human rights breaches are exacerbated by structural discrimination against women, ethnic minority and caste groups. A 2005 ILO working paper suggested as many as 95 per cent of the labourers in Rajasthan’s mines were members of Scheduled Castes and Scheduled Tribes. In India generally, scheduled caste members (the lowest castes, including dalits, comprising 29 per cent of India’s population) are twice as likely to be a casual labourer, and living below the poverty line.

The most problematic phase of stone production takes place at the quarry, where stones such as sandstone, limestone and marble is cut, predominantly by hand, from the earth. Workers in this unorganised economic sector face particular barriers to accessing local and transnational redress mechanisms for a number of reasons:

Frequently, the workers have no documentary evidence of identity or employment, so in cases where human rights violations occur, it is nearly impossible to hold any business responsible.

Supply chains are highly opaque, and it is very difficult to make connections from high-profile buyers, particularly international ones, to any particular quarry. This makes it very difficult to apply pressure to the upper end of the supply chain.

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The regulation of work by state labour departments is weak, particularly for informal workers, due to the low capacity of inspectorate and weak labour laws. Government regulation in this sector suffers from particularly high levels of confused and overlapping authority, as well as major loopholes. Furthermore, government officials responsible for visiting the quarries — those who would have most capacity to bring about immediate change for workers — are grossly under-resourced.

Trade unions in the stone sector are weak. Strengthening trade unions and encouraging adaptation to an informal and mobile workforce has the potential to substantially improve human rights protections in this sector.

The National Human Rights Commission of India (NHRC) is the primary mechanism through which some redress has been attained in this case. After an initial complaint about quarry workers suffering from silicosis was made to the NHRC in 2010, the Commission assumed a coordinating role in addressing the issue. Though the NHRC is non-judicial, it has interacted with the High Court of Rajasthan and the state government to provide compensation for hundreds of victims’ families. The Rajasthan State Human Rights Commission (RSHRC) has also made recommendations to the Rajasthan Government regarding endemic silicosis suffered in the state’s quarries, after taking suo moto cognizance of the issue (meaning it starts a legal process on its own) in 2012. This makes it a useful model for the types of functions that non-judicial mechanisms can play within systems of redress. Rajasthan now stands as an exemplar of a state-based model for providing some level of compensation to silicosis victims and their families.
It was only with considerable assistance (down to the level of filling out forms) from supporting NGOs that workers were able to access the National Human Rights Commission compensation.

The respondents to our research almost unanimously felt that government regulators have the greatest capacity to address the human rights problems facing the stone sector. Very few respondents felt that transnational companies or organisations could or should play any significant role in addressing the issues.

Any transnational mechanism that seeks to impact the sector needs to deeply engage at the local level, so as to:

A bolster government action;

B address compound barriers to redress that are the consequence of local socio-economic characteristics and discrimination; and

C educate stakeholders about ways to gain leverage from supply chain dynamics.

At the time of our research, Ethical Trading Initiative (ETI) and The Forest Trust (TFT) Responsible Stone Program were in the early phases of programs to improve human rights conditions for workers. Our interviews found very little evidence of awareness of either mechanism among quarry operators, workers or regulators. This may since have changed.

The report makes a number of proposals concerning steps that non-judicial mechanisms can take to assist access to redress and facilitate human rights due diligence in supply chains including:

- Establishing a **local grievance mechanism** which facilitates redress from transnational businesses in the supply chain.
- Assisting in the **formalisation and legalisation of quarry operations**.
- Encouraging the **formalisation of working relations**.
- Assisting the establishment of **traceability** and/or chain of custody systems in the supply chain.
- **Safety practices** that would vastly lower silicosis rates.
- **Building local trade union capacity** to organise and represent workers in accessing redress.
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Introduction

Stone mined in Rajasthan by precarious — often bonded — labour, is exported for use in bathrooms, kitchens and hotel lobbies around the world. To provide an example of just one stone: the UK was the leading buyer of Indian sandstone in 2011–12, accounting for 47 per cent of the total value of sandstone exported, followed by Australia’s 6 per cent. Most Indian sandstone comes from Rajasthan.

This report assesses access to human rights remedy for quarry workers in Rajasthan through transnational non-judicial grievance mechanisms. Most quarry workers in Rajasthan toil under informal conditions in small, unregistered mines. Human rights violations in Rajasthan’s mines are particularly egregious. A significant proportion of labour is bonded. Child labour is common, with as many as 375 000 child labourers working in Rajasthan’s mines. Many sandstone-workers die from silicosis, a fatal but preventable lung disease caused by the inhalation of dust containing crystalline silica during sandstone mining. Injury rates are extremely high. As many of Rajasthan’s quarries are small-scale and unregistered, the vast majority do not comply with the occupational health and safety standards. These forms of human rights breaches are exacerbated by structural discrimination against Scheduled Castes and Scheduled Tribes.

Human rights due diligence throughout supply chains is a key aspect of the United Nation’s Protect, Respect and Remedy framework and the OECD Guidelines for Multinational Enterprises. Due diligence is an ongoing, proactive and reactive process through which companies can ensure that they respect human rights. The 2011 version of the OECD Guidelines for Multinational Enterprises establishes new principles enabling the filing of complaints based on allegations related to business relationships. The inclusion of concepts such as due diligence and also business relationship (which replaced the concept of investment nexus) in the 2011 Guidelines has enabled consideration of cases involving complex supply chain and value chain relationships.

Despite the egregiousness and high incidence of human rights breaches amongst workers, and the links between business domiciled in OECD countries and these workers, there have been no cases of workers in Rajasthan accessing redress against businesses in the supply chain through non-judicial (or indeed judicial) human rights mechanisms. Indeed, this report finds that, to date, transnational human rights mechanisms in the OECD have had very little influence in promoting human rights due diligence or providing accountability for failure to conduct human rights due diligence.

This report shows that supply chain human rights due diligence in stone supply chains is particularly difficult. The sheer complexity of the supply chains has acted a significant barrier for retailers at the top of supply chains to gain visibility into the labour practices of suppliers many steps removed. Within the retail sector, businesses operate with a highly diverse supplier base scattered around the world.

12 Ethical Trading Initiative, Marshalls, above n 5; India Committee of the Netherlands, above n 5, 1.
13 Srivastava, above n 10.
Given the scale of human rights abuses suffered by those mining the stone bought by these businesses, however, it is simply not acceptable to pronounce the job too difficult. Far greater efforts must be made to improve due diligence in supply chains. Non-judicial human rights mechanisms have a vital role to play in providing redress when such due diligence does not occur and in promoting better business practices. It is clear that there is great scope for collective learning amongst businesses that trade or process stone about how to be more diligent about human rights in their supply chains. Non-judicial mechanisms have an important role to play in facilitating collective learning of this type.

The case study conducted in this report provides important lessons that can be applied to human rights due diligence practices in supply chains in mining around the world. Breaches of human rights in Rajasthan’s mines are particularly egregious, but they are not unusual in the global mining industry. Mining accounts for about 1 per cent of the world’s workforce, some 30 million people. It is estimated that a further 6 million people work in small-scale mines.15 Worldwide, more people are employed in small-scale, often informal, mining than in the formal mining sector. Many of these jobs are precarious and are far from conforming with international and national labour standards. Accident rates in small-scale mines are routinely six or seven times higher than in larger operations, even in industrialised countries. A special problem is the employment of children.16

16 Ibid.
The Rajasthan quarry case study also offers lessons regarding the difficulties for informal workers to access human rights remedy and measures that can be adopted to improve their conditions. According to the International Labour Organisation’s estimates, informal work, as a percentage of non-agricultural employment, continues to account for over 50 per cent of all employment in half of the countries with comparable data. In one-third of countries, it affects over 65 per cent of workers.17

A significant question for this report, and for our research on transnational non-judicial human rights mechanisms more broadly, is the extent to which supply chain dynamics can be harnessed in order to generate positive change for workers rather than acting as a barrier to redress. This is a question with high transnational significance given that today, over 80 per cent of global trade occurs in global production networks (supply chains) associated with a transnational corporation18, with around 453 million workers toiling within these complex arrangements at a conservative estimate.19 That is at least one in five workers globally.20 These statistics suggest that it is vital that supply chain dynamics are harnessed so as to promote decent work, rather than placing downwards pressure on workers’ pay and other conditions.

Box 1: The Stone Supply Chain

The process of bringing stone to the consumer market involves multiple actors and generally includes the extraction, transport, handling, trading, processing and refining, manufacturing and sale of end product. The term supply chain refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving the stone from the extraction site downstream to its incorporation in the final product for end consumers.

The report concludes by making a range of recommendations.

20 Ibid.
### Table 1: Summary of Rajasthan quarry mine case study findings

| **Mechanisms/claim making strategies** | • National Human Rights Commission — mandated compensation to be paid by state governments to widows of male quarry workers who died of silicosis, and initiated some whole of government preventive measures at Union and state levels.  
• Ethical Trading Initiative — not used  
• The Forest Trust Responsible Stone Program — not used  
• OECD National Contact Point — not used |
| **Human rights abuses** | • Occupational health and safety failures, especially risk and incidence of silicosis  
• Inadequate wages and other payments  
• No meaningful right to freedom of association and collective bargaining  
• Insecure work  
• Bonded labour  
• Child labour  
• Discrimination against women  
• Discrimination against Dalits and tribal people  
• Socio-economic impact from unsustainable land use |
| **Companies** | • Supply chain is difficult to identify, however some key importers involved in corporate accountability initiatives are:  
  • Marshalls ([http://www.marshalls.com](http://www.marshalls.com)) (UK)  
  • Beltrami ([http://www.beltrami.co.uk/en/home-6.htm](http://www.beltrami.co.uk/en/home-6.htm)) (Belgium) |
| **Affected people** | • Workers and their families in the stone sector in Rajasthan.  
• Stones: marble, sandstone  
• Districts: Jodhpur, Makrana |
| **Business activity / project** | Quarry mining is where the human rights abuses occur. Mined stone then goes through a very opaque supply chain (mining/quarrying; cutting/splitting; processing; sale to buyer/trader/middleman; supplied to builders/construction companies/exporters) and is eventually imported to the UK, Europe, Australia, etc. |
| **Connection to UK and Australia** | There are many businesses in Australia and the UK that sell stone from Rajasthan. |
Methodology

This report is part of a series based on the findings of a three-year Australian Research Council Linkage Project analysing the effectiveness of non-judicial grievance mechanisms in responding to human rights concerns in which transnational business activity is involved. We adopt a broad definition of non-judicial grievance mechanisms, namely, those that are mandated to receive complaints, but are not empowered to produce legally binding adjudications.

Research has sought to shed light on the range of factors that contribute to greater or lesser effectiveness and legitimacy in the functioning of transnational grievance-handling systems. A key objective of the project is to develop recommendations regarding how non-judicial forms of redress can better support communities who are adversely impacted by business operations to access justice and have their human rights respected. These recommendations are primarily aimed at those who participate in these mechanisms, including businesses, affected communities and civil society organizations, as well as staff and other members or stakeholders of grievance-handling mechanisms themselves.

Field research for the project as a whole has focused on human rights grievances in the garment and footwear, agribusiness and extractives sectors, with case studies for each sector drawn from two jurisdictions: India and Indonesia. Ten case study reports examine specific human rights grievances experienced by communities and workers and the strategies employed in their attempts to gain redress in the context of these specific sectors and regulatory environments. Five mechanism reports in this series have been developed to provide a better understanding of the effectiveness of individual non-judicial human rights mechanisms governing transnational business. In addition to these individual case-study and mechanism reports, the project’s overall findings are presented in four crosscutting reports which provide broader comparative analysis across the various case studies we examined.

This case study was initially selected because there was a planned complaint to National Contact Points and the Ethical Trading Initiative was involved in trying to improve conditions. The case also involves complex supply chains. It therefore allowed us to examine the difficulty or ease for workers and their representatives of attempting to gain redress for injuries to their health and improved working conditions via transnational mechanisms.

This report adopts a mixed methods approach to triangulate data. In 2013 one Australian researcher with a local interpreter and research assistance, and one Indian researcher conducted 54 interviews with stone workers, widows of stone workers, businesses at all points of the supply chain, government regulators, unions and NGOs working in the sector. Interviews took place in Jodhpur, Makrana and Delhi.

Members of the research team complied with the highest standards of ethical and professional conduct, including adhering to ethical obligations as laid out by the University of Melbourne Human Research Ethics Committee.
In addition, researchers conducted extensive documentary analysis of as many private and publicly available documents as could be acquired, including newspaper articles, company magazines, the assessments of legal and quasi-legal bodies and so on.

The scope of our research is limited in several ways. Our interviews only concerned marble and sandstone quarries, whereas the stone mined in Rajasthan is far more diverse. Further, our interviews with stone workers and businesses only took place in Jodhpur and Makrana. The difficulties in accessing stone workers, their families and business owners at the quarry-end of the supply chain meant our research in this respect was limited. Workers were fearful of backlash from employers, who themselves were wary of speaking with foreigners, so this research was conducted by our Indian researcher. Further research with these groups would add significant value to understanding barriers to accessing human rights remedy in this sector. Fieldwork was conducted in 2013, and thus much of the information in this report is only current to that date. This is of particular relevance to our findings about the ETI and TFT, which were both only in the very early stages of operation at the time of this research.
Profile Of The Sector

Stone mining in India, and Rajasthan in particular, deserves international attention not just because the labour conditions are amongst the worst in the world but because stone from India finds its way into the bathrooms and kitchens of homes, offices and hotels around the world. India has large reserves of sandstone, granite, marble and other stones: enough for mining and export to continue for many years to come. The following section provides a broad overview of the stone sector in India, and in Rajasthan in particular. It is hoped that a better understanding the sector will help to alleviate, in part, the opacity which surrounds the stone sector’s supply chain and can help to unlock the complex accountability landscape. In addition, this section provides a generalised picture of the political and economic context in which the stone sector in Rajasthan exists.

The profile shows that Western countries are major consumers of India’s stone. The UK was the leading buyer of Indian sandstone in 2011–12 with 47 per cent of the total value of sandstone exported, followed by Australia with 6 per cent. 90–95 per cent of the total granite produced in India is exported.21 Fifteen per cent of USA’s granite is imported from India. This increases the potential influence of redress mechanisms based in these countries over the conditions under which stone is mined in India. In comparison, most of the marble produced in India is consumed within the country,22 making the influence of global supply chains less significant.

This report focuses on Rajasthan partly because it is the second most mineral rich state in India, behind Bihar, and partly because working conditions in its mines are particularly egregious. As a later section of this report explores, bonded and child labour are common, and death following silicosis is distressingly common.

Overall stone production in India

Ethical working conditions in the stone production in India matter a great deal, because India is the largest producer of natural stone in the world. The country accounts for about 27 per cent of the world’s total natural stone production.23 However, the country lags slightly behind when it comes to exports: it is the third-largest exporting country of natural stone, behind Italy and China. The main types of stone exported by India are granite, marble, sandstone, limestone — which undergo multiple stages of processing and are used around the world for both interior and exterior construction, in both commercial and domestic properties. This creates enormously complex global supply chains, and renders it difficult to pursue corporate accountability against firms higher in the supply chain for the human rights abuses which take place at the quarry level.

In India, the governance of mines and minerals is bifurcated along the country’s quasi-federal lines. Minerals are classified as major or minor minerals under the Mines and Minerals (Regu-

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23 Madhavan and Sanjay, above n 3, 7.
Mineral concessions for major minerals are administered by India's central government, whereas minor minerals fall under the authority of individual state governments. Most of the stones cut from Rajasthan's stone quarries, such as sandstone, limestone, granite and marble, are designated as minor minerals. This means that the Government of Rajasthan has the power to make rules and regulations with respect to minor minerals, grant mineral concessions and prescribe and collect royalty rates and taxes, as well as the responsibility to control illegal mining. In addition, India has two major central government agencies controlling the mining sector more generally, namely the Directorate General of Mines Safety (DGMS), and the Indian Bureau of Mines (IBM). The DGMS, an enforcement agency created by the Indian Mines Act 1952, has authority over safety and labour conditions in all India's mines, regardless of the major/minor mineral distinction contained in the MMDR. The IBM is a subordinate office under the Central Government's Ministry of Mines, and as such it has no administrative or regulatory power over minor minerals.

India's annual export growth in the natural stone sector rate has been around 10 to 15 per cent over the last decade, although in the past years the export role of India has stagnated somewhat due to China's increased participation in the sector. India's relative weakness in the export of natural stones compared with China is attributed to the Indian government's poor import and export policies. For instance, J B Surana, President All India Granites and Stone Association, claimed that 'if the government is progressive, the industry will grow manifold and we can take on China easily'. Nevertheless, the Indian government expects that the dimensional stone industry is set to grow: anticipating that the demand for granite, marble, sandstone and other stone products will grow at around 15 per cent CAGR. The IBM suggests that improved quarrying, finishing and hauling technology, the availability of greater variety of stones and the rising cost of alternative construction materials are among the factors that suggest a consistent increase in demand for dimensional stones in future.

Recent economic growth in India has increased the demand for natural stones, resulting in the growth in the construction industry and greater investments made in high volume projects. The domestic consumption of dimensional stone in India exceeds Rs 50 000 million (USD1.163 million) per annum.

The mining of dimensional stone differs markedly from the processes undertaken to mine other types of minerals. In conventional mining methods, minerals are obtained in small-size fractions, whereas in dimensional stone mining, large-size intact blocks are extracted. This involves both machinery and manual work. The drilling and channelling is conducted using hand chisels and hammers. Many stone quarries now have mining machinery, such as compressors, drilling machines for drilling and blasting, cranes for lifting large blocks and dampers and trucks for transport. Once the stone is obtained, it is further processed for the next stage of production.

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24 Agrawal and Gaharwar, above n 21, 363.
25 Ibid 364
28 Madhavan and Sanjay, above n 3, 7.
29 Indian Bureau of Mines, above n 22, 5.
The trend over the past decade has been one of mechanisation and modernisation.\textsuperscript{31} For instance, quarrying of sandstone, which started some 40 years ago in Budhpura as a purely manual industry, is becoming increasingly mechanised. Technological upgrading is taking place in the sandstone as well as in the marble industry throughout Rajasthan in particular.\textsuperscript{32}

The government predicts that the dimensional stone industry employs over 1 million employees in India.\textsuperscript{33} However, given the high incidence of informal and undocumented workers in the sector, it is impossible to know the precise number of labourers who toil within the industry.

The following sections examine production of particular types of stone.

**Sandstone**

Sandstone in India is abundant and readily available.\textsuperscript{34} The value of production of quartzite and sandstone in 2010–11 in India was Rs 627 crore (USD93 984 792), up from Rs 534 crore (USD80 044 464) in 2008–09.\textsuperscript{35}

Supply chains extend from Rajasthan to around the world. In 2011–12, the exports of sandstone increased to 0.37 million tonnes from 0.3 million tonnes in the previous year. The UK was the leading buyer in 2011–12 with 47 per cent of the total value of sandstone exported, followed by Australia with 6 per cent.\textsuperscript{36} Other large importers of Indian sandstone include Belgium, Italy, Canada and France. The total value of sandstone exports in India was Rs 386 crore (USD57 859 856), up from Rs 321 crore (USD48 116 616) the previous year. Imports of sandstone into India per country in recent years have not been reported,\textsuperscript{37} although in 2009–10 the total value of sandstone imports into India was Rs 22 343 000 (USD334 913), with the main importing countries being Nepal, Saudi Arabia, Canada and Thailand.\textsuperscript{38}

**Granite**

India has one of the largest reserves of granite in the world, holding an estimated 20 per cent of the world’s granite resources. As the stone is declared as a minor mineral under the MMDR Act, it falls under the authority of the State Governments.\textsuperscript{39} This has implications for its regulation which are explored later in this report.

The global granite export market is dominated by a small handful of key players. In 2010, the principal producers of granite by volume were China, Turkey, India, Iran and Italy, which ac-

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\textsuperscript{31} Agrawal and Gaharwar, above n 21, 363.
\textsuperscript{32} Madhavan and Sanjay, above n 3, 15.
\textsuperscript{33} Indian Bureau of Mines, above n 22, 2.
\textsuperscript{34} Ibid 4.
\textsuperscript{35} Ibid 5.
\textsuperscript{36} Ibid 10.
\textsuperscript{37} Ibid 10.
\textsuperscript{39} Indian Bureau of Mines, above n 22, 4.
counted for around 73 per cent of the global production of granite. This means that if the conditions of workers could be improved in this small handful of countries, granite production could become markedly more ethical.

The dynamics of global supply chains are particularly significant for the granite industry because approximately 90–95 per cent of the total granite produced in India is exported. Its export value increased to 6,381 crore in 2011–12 from 5,593 crore the previous year. The natural stone market in the USA has increased in recent years, and has gradually become the second largest consumer of granite after China. Fifteen per cent of USA’s granite is imported from India. Germany and Italy each receive 5 per cent of India’s granite exports.

One reason global supply chains are so important is because although the import of granite (monumental and building stone) is restricted, the domestic consumption of granite in India is limited in comparison to other dimension stones. It is primarily used for decorative purposes and is costly in comparison with other materials. Thus, utilisation and trade within the country has been ‘low profile’ compared with its export market. Of the granite that is imported to India (predominantly crude and roughly trimmed granite), it is mostly received from China (36 per cent) and Norway (21 per cent).

### Marble

Most of the marble produced in India is consumed within the country, making the influence of global supply chains less significant. In India, marble tends to be the most highly regarded dimensional stone, often used in the construction of palaces and temples, including the Taj Mahal. It is not a prime export commodity like granite, and its internal demand within India has always remained high.

The total production value of marble in India increased to Rs 1,518 crore (USD 227,542,128) in 2010–11 from 1,279 crore (USD 191,716,984) in 2009–10. Rajasthan alone accounted for about 89 per cent of the production value of marble in India, followed by Gujarat (9 per cent). This makes labour regulation and other forms of governance of mining more important.

The total export value of marble from India in 2011–12 was Rs 386 crore (USD 57,859,856), up from Rs 326 crore (USD 48,866,096) in 2010–11. However, the exports of marble from India by volume actually decreased sharply to 325,241 tonnes in 2011–12 from 521,723 tonnes in the previous year. Exports were mainly to China (27 per cent), Egypt (16 per cent) and Nepal (14 per cent). Other major exporting countries of marble are China, Italy, India, Spain and Turkey.

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40 ibid 9.
41 Agrawal and Gaharwar, above n 21, 362.
42 Indian Bureau of Mines, above n 22, 9.
43 ibid 9.
44 ibid 8.
45 ibid 2.
46 ibid 2.
47 ibid 9.
Under India’s Export–Import Policy 2009–14, the import of many forms of marble into India is restricted. Licenses to import marble have been primarily granted only to Rajasthan. Imports of marble increased marginally to 635,962 tonnes in 2011–12 from 512,169 tonnes in the previous year. The main exporters of marble into India were Italy (46 per cent), followed by Turkey (19 per cent), China (8 per cent), Vietnam (6 per cent) and Oman (5 per cent).

Other stones

While India’s dimensional stone sector is mostly comprised of sandstone, granite and marble, there are other significant dimensional stones produced in India. The sector also consists of slate, limestone and quartzite, for example. These stones also serve as important export commodities for India.

Stone production in Rajasthan

There is good reason for those who are concerned with working conditions in stone global supply chains to focus their attention on Rajasthan. Rajasthan is the largest producer of dimensional stones in the country and a major supplier to international markets. Rajasthan is the second most mineral rich state in India, behind Bihar. It has a wide spectrum of mineral deposits, consisting of 64 different kind of major and minor minerals produced in the state, generating an annual revenue of more than 600 crore. It accounts for about 90 per cent of the country’s total natural stone production. There are 3,403 mining leases for major minerals and 11,861 mining leases for minor minerals, as well as 18,249 quarry licenses in the state. In addition, there are a substantial number of unlicensed and illegal quarries in Rajasthan — rendering the exact scope of the industry difficult to gauge.

Stone production in Rajasthan grew exponentially in 2010 due to increases in both domestic and international demand. The industry grew by more than 100 per cent to around 5 crore tonnes in 2009–10 from 2.15 crore tonnes in 2001–02. Rajasthan’s export of stone has seen considerable growth in the past decade — experiencing a rise of almost 50 per cent in the export of marble, granite and dimensional stones in 2011–12 from the previous year alone.

Estimates suggest that the Rajasthan natural stone industry alone employs around 500,000 workers, of the state’s total population of approximately 74.79 million — though informality within the sector makes such figures unreliable. The state government of Rajasthan’s Department of Mines and Geology’s official figures estimate there were 80,000 workers in quarries in Rajas-
Jasthan, although this figure would not take into account the amount of unlicensed quarries and informal workers. That figure also does not take into account the processing sector which employs more workers (both formally and informally), or the ancillary and infrastructural jobs dependent on the industry.

**Sandstone**

Rajasthan contributes around 10 per cent of the total production of sandstone in the world, and accounts for 70 per cent of total production in the country, or 6.5 million tonnes per year. Rajasthan produces around Rs 632 crore (USD94 734 272) of quartzite and sandstone annually. It is the largest sandstone-producing state by value, followed by Madhya Pradesh and the Andaman and Nicobar Islands. The ETI reports that the majority of sandstone produced in Rajasthan stays within India’s domestic market, although around 280 000 tonnes is shipped each year to the UK alone.

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56 Ibid.
57 Madhavan and Sanjay, above n 3, 7.
58 Indian Bureau of Mines, above n 22, 6.
Rajasthan’s sandstone conforms to the highest international standards, and has been used in well-known buildings all over the world.61 The surge in exports in the last two decades has led to increasing numbers of sandstone quarrying and processing units in Rajasthan. The total quantity of sandstone exported from Rajasthan in 2003–04 was 354,298 tons. Rajasthan’s earnings amounted to around Rs 1,994.13 million (USD 46.37 million).62 In Jaipur, the capital of Rajasthan, there are seven processing units, engaging in processing and polishing of sandstone to prepare for export international customers.63 In addition to these sophisticated processing units, it is also common for stones, once extracted from quarries, to be sent to the homes in villages, where women chisel the stone into smaller pieces for tiles by hand.

Huge deposits of sandstone in Rajasthan are associated with Vindhyan and Trans-Aravalli Formations, exposed over an area of nearly 35,000 sq km. The intensive quarrying activities in Rajasthan are in the districts of Bharatpur, Sawai Madhopur, Karauli, Tonk, Bundi, Jhalawar, Kota, Bhilwara, Chittorgarh, Jodhpur, Nagaur and Bikaner.64

**Granite**

Around 20 per cent of India’s granite reserves are located in Rajasthan. Production centres are mainly spread in the districts of Jalore, Pali, Sirohi, Barmer, Ajmer, Jaisalmer, Jhunjhunu and Jodhpur.65

Granite production has increased vastly in Rajasthan in recent years. In 2010–11, Rajasthan produced 757,620 tonnes of granite, compared to 358,213 tonnes in 2008–09. The total value of its exports in the 2010–11 period was Rs 1,294 crore (USD 193,965,424), up from 493 crore (USD 73,898,728) in the 2008–09 period.66 Rajasthan is the third highest granite-producing state after Andhra Pradesh and Karnataka.

**Marble**

India’s marble industry is largely concentrated in Rajasthan, which boasts the distinction of having the best among Indian resources of good quality marble in various colours and shades. The state is home to approximately 64 per cent India’s marble resources, yet accounts for approximately 89 per cent of the production of all marble in India.67

Out of the 32 districts in Rajasthan, 20 districts have marble in some form. The most important regions of marble occurrences in Rajasthan are the Udaipur–Rajsamand–Chittorgarh region, the Makrana–Kishangarh region; the Banswara–Dungarpur region, the Andhi (Jaipur)–Jhiri (Alwar) region; and the Jaisalmer region.68

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61 Madhavan and Sanjay, above n 3, 7.
63 Ibid 9.
64 Indian Bureau of Mines, above n 22, 5.
65 Ibid 4.
66 Ibid.
67 Ibid 5.
68 Ibid 2.
**Limestone**

Rajasthan is the leading producer of cement grade limestone and steel grade limestone. As a result, it is one of the largest cement producing states in the country, and the largest producer in north and west India. It has a capacity of over 44 million tons per annum.\(^{69}\)

**Minerals**

In addition to stones, Rajasthan claims to have a ‘virtual monopoly’ over a number of other minerals, such as calcite, rock phosphate, gypsum, silver and serpentine. It is the sole producer of garnet, jasper and wollastonite. Further, around 97 per cent of India’s production of zinc (concentrate).\(^{70}\) In addition, Rajasthan is the leading producer of ball clay (40 per cent), feldspar (70 per cent), fluorite (graded) (59 per cent), Kaolin (44 per cent), lead concentrate (80 per cent), ochre (72 per cent), phosphorite (79 per cent), silver (54 per cent), steatite (85 per cent), barytes (53 per cent), copper (34 per cent), quartzite (33 per cent) and silica sand (21 per cent).\(^{71}\)

In spite of such large mineral deposits, Rajasthan ranks only fifth in the production of minerals, producing only 5.74 per cent of total mineral production in India.\(^{72}\) In 1993–94, minerals worth 645 crores were mined, and the Government of Rajasthan earned revenue of 161 crores, although it is suggested that these figures could be much higher if illegal mining was accounted for.\(^{73}\) Most of the minerals mined go out of the state in the raw form. Only a few mining based industries, including cement factories have been established in the state.\(^{74}\)

**Rajasthan’s economic policy**

This section explores the economic and political reasons why Rajasthan has not been more active in promoting industrial upgrading in mining or its regulation. Although Rajasthan is a major global producer of stone, increasing the volume of stone production or its efficiency has not been a key feature of the state’s industry policy. One possible explanation for this is that Rajasthan’s impressive economic growth over recent years owes little to the mining sector. Rajasthan is one of India’s fastest growing states with the average growth rate of around 7.43 per cent (real gross state domestic product, GSDP) during FY05–FY11.\(^{75}\) Rajasthan’s economy is relatively well diversified, and has exhibited a healthy growth path during recent years. The GSDP of Rajasthan for 2016–17 is estimated to be Rs 767 167 crore (USD114 995 264 632), which is 13.5 per cent higher than the estimates for 2015–16. Notably, GSDP (at current prices) almost doubled from Rs1 17 274 crore (USD17 578 903 504) in FY05 to Rs 3 03 358 crore (USD45 472 150 768)- in FY11.

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\(^{69}\) Resurgent Rajasthan, above n 4.
\(^{70}\) Department of Mines and Geology, above n 2.
\(^{71}\) Ibid.
\(^{73}\) Ibid 65.
\(^{74}\) Ibid 65.
Mining and quarrying has only made minor contributions to Rajasthan's GSDP, despite the state's abundant mineral resources. In 2015, the entire mining sector contributed just 4.4 per cent to Rajasthan's GSDP. In comparison, the services sector accounts for approximately 50 per cent of Rajasthan's economy, followed by manufacturing (approximately 30 per cent) and agriculture (approximately 20 per cent).

Since 1951, the industry and mineral sector in Rajasthan has not attracted major attention from the state government in their 'Five Year Plans'. In 2010, the Government of Rajasthan announced the 'Rajasthan Industrial and Investment Promotion Policy' and the 'Rajasthan Investment Promotion Scheme 2010'. More recently, the state has developed the 'Rajasthan Mineral Policy 2015'. According to the government, these schemes are undertaken with the objective of achieving global competitiveness, accelerating the overall pace of industrial growth, increasing employment opportunities, ensuring sustainable development and strengthening small, medium and large industries.

The government of Rajasthan obtains revenue from the natural stone industry in the form of royalties and taxes, including royalties on excised and dispatched minerals, sales tax, surcharge on finished products, road tax and taxes on machines used by processing units. Also, the state government and the local administration obtain revenue in the form of dead rent and surface rent. However, the government obtains far less revenue from the sector than it could, given the high number of unlicensed quarries and mines in the state. The state therefore has an interest in regulating the industry and upgrading mines.

However, the political economy of mining is complex, with countervailing forces against regulation. Quarries are owned and managed by politically influential individuals. In many areas, lease ownership of quarries operates as a monopoly business, dominated by a few elite individuals who are granted valuable leases from the state government.

There have been numerous regulatory and administrative interventions in the industry to attempt to improve conditions. However, none of these have yielded major changes in working conditions. The Congress-led government of Rajasthan is reported to have attempted to alleviate some of the harsh humanitarian effects of mining and quarrying in Rajasthan. One report in 2010 noted that the government, ‘drawing inspiration from Nehru family scion Rahul Gandhi’s passion for egalitarian politics’, had attempted to bring in an ordinance which mandated that corporations set aside 26 per cent of their annual profits from each mining project for local people displaced by such ventures. The Rajasthan administration's efforts to encourage owners of

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78 Dead rent is tax payable on a mining lease in addition to a royalty, payable regardless of whether the mine is worked. Surface or ground rent refers to payments made by a holder of a leasehold property to the freeholder or a superior Leaseholder, as required under a lease: Madhavan and Sanjay, above n 3, 7.
79 Business Trading Ethically, above n 30.
80 Tiwari, above n 52.
legal mines to offer health insurance cover for people they employ also produced no results.\textsuperscript{81}

Many of the deleterious aspects of the state’s stone sector have also been noted by Rajasthan’s judiciary: in 2004, a Supreme Court judgment ordered the closure of 600 stone quarries in the state on ecological and health grounds.\textsuperscript{82}

There have also been significant non-regulatory interventions from the national government and international bodies. For example, the Centre for Development of Stones (CDOS), registered as a non-profit organisation, is the common facilities centre for the entire stone industry, being developed under the National Programme for Development of Stone Industry in India (NPDSI), which is a joint effort by the Government of India, and the United Nations Industrial Development Organisation (UNIDO). The CDOS was set up as an autonomous organisation by Government of Rajasthan and RIIco at Jaipur, with an objective to develop, promote and support the dimensional stone sector and related industries in India. It also has testing centre for testing of stones as per international standards.\textsuperscript{83} The IBM stresses that the CDOS in Rajasthan should be upgraded to a ‘national centre for excellence’ in order to popularise Indian stones in both traditional markets and explore avenues for new markets.\textsuperscript{84}

### Human rights violations

Human rights violations in Rajasthan’s mines are particularly egregious. This section describes how most labour is bonded. Bonded labourers are extremely vulnerable to retaliation if they attempt to organise or otherwise agitate for enforcement of the law. Children work along-side their parents, with as many as 375,000 child labourers working in Rajasthan’s mines.\textsuperscript{85} There are double the number of girls as boys labouring in India’s quarries.\textsuperscript{86} In addition to lower pay and greater abuse, girls are subject to gender-specific forms of abuse from their employers, including rape.\textsuperscript{87} Dalit and tribal children too are particularly vulnerable to exploitation in the mining sector. Further, malnourishment is rife, and the mortality rate of children under five is significantly higher in these areas.\textsuperscript{88}

The health and safety of workers is also examined in this section of the report. Injury rates are extremely high. As many of Rajasthan’s quarries are small-scale and unregistered, the vast majority do not comply with the occupational health and safety standards contemplated by the national Mines Act 1952. Many sandstone workers die from silicosis, a fatal but preventable lung disease caused by the inhalation of dust containing crystalline silica during sandstone mining. Radiological investigations conducted by the Indian Council of Medical Research that 56

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\textsuperscript{81} ibid.
\textsuperscript{83} Indian Bureau of Mines, above n 22, 6.
\textsuperscript{84} ibid 13.
\textsuperscript{85} Ethical Trading Initiative, Marshalls, above n 5; India Committee of the Netherlands, above n 5, 1.
\textsuperscript{86} Human Rights Watch, The Small Hands, above n 6.
\textsuperscript{87} ibid.
\textsuperscript{88} International Dalit Solidarity Network, above n 8.
per cent of mine workers in Rajasthan are affected with silicosis or silica-tuberculosis. If these numbers are indicative of the general incidence of such diseases, then at least 800 000 workers in small mines and quarries might be affected just in the state of Rajasthan.89

Typically, workers in Rajasthan’s stone quarries do not have formal contracts of employment leaving them without formal redress in the event of labour disputes and workplace injuries. Pay is precarious. Wages are calculated on a piece-rate basis. Labourers who are physically stronger (usually male teenagers) can earn much more than other workers. Older workers, whose bodies have been damaged by years of gruelling physical labour, earn considerably less.

Unsafe and unhealthy working conditions

Working conditions in Rajasthan’s stone quarries are most often brutal and exhausting. Over time, this takes its toll on the workers who spend their lives toiling over stone, violating the human right to health and the right to safe and healthy workplace conditions. The average life of a quarry worker is estimated to be between just 40 to 50 years.90 The manual processes involved in cutting large pieces of stone is physically taxing and hazardous, and workers face the constant threat of workplace injuries that cause the loss of limbs and death. Labourers are also exposed to serious health risks in quarries. Lung diseases are widespread in all types of stone quarries, and miners are prone to conditions such as pneumoconiosis, bronchitis and tuberculosis as a result of failures in occupational health and safety (OH&S) enforcement in India.

Many sandstone workers die from silicosis, a fatal but preventable lung disease caused by the inhalation of dust containing crystalline silica during sandstone mining. In 2015, a cross-sectional study of 126 sandstone miners in Sorya village, Karauli, Rajasthan found that all workers reported some combination of tuberculosis, silicosis, chest pain, back pain, chronic cough, musculoskeletal disorders, poor vision and hearing loss.91 Of these afflictions, the incidence of silicosis and lung disease has received the most attention from government actors. Radiological investigations conducted by the Indian Council of Medical Research that 56 per cent of mine workers in Rajasthan are affected with silicosis or silica-tuberculosis. If these numbers are indicative of the general incidence of such diseases, then at least 800 000 workers in small mines and quarries might be affected just in the state of Rajasthan.92 Research collected in the course of this study also indicated that many workers who suffer from silicosis are wrongly diagnosed with tuberculosis and thus given ineffective treatment. Under the Mines Act 1952, silicosis is a 'notified disease', requiring both the employer and doctor to give notice to the government authority in the event of a diagnosis. Tuberculosis, however, is not — leading to regulatory gaps, confusion and likely under-recording of silicosis amongst quarry workers. Furthermore, under the Workmen’s Compensation Act 1923, employees carry liability for occupational diseases pe-

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89 Lahiri-Dutt, ‘Digging’, above n 9, 231.
90 Madhavan and Sanjay, above n 3, 23.
92 Lahiri-Dutt, ‘Digging’, above n 9, 231.
cular to that employment (and the disease is deemed to have arisen in the course of the employment unless the contrary is proved). This liability attaches to silica-related diseases, but not tuberculosis, which means that misdiagnoses could be fatal to compensation claims of the workers and their legal heirs.

As many of Rajasthan's quarries are small-scale and unregistered, the vast majority do not comply with the occupational health and safety standards contemplated by the national Mines Act 1952. The continued prevalence of silicosis in Rajasthan's sandstone quarries is in many ways a regulatory failure. The disease is preventable if workers are given adequate personal protective equipment (PPE) such as helmets, eyeglasses or personal respiratory equipment (PRE) such as face masks. A quarry owner from Kali Beri interviewed during this study openly admitted that he supplied no PPE or PRE for his workers, adding that the workers 'have their own cloth to cover their mouth and nose, and wear shoes, if they want, helmets are not worn by any of the workers'. Recent government initiatives in Rajasthan and directives from the NHRC have urged quarry owners to undertake wet drilling, a process which prevents dust particles from being released into the air. However, one senior occupational health and safety official interviewed during this study suggested that only 10 per cent of mines in the Rajasthan conduct wet drilling, even though the quarry owners 'only have to spend about Rs 50,000 (USD749) to change the drilling system to wet drilling'. Another quarry owner responded simply that wet drilling 'does not work'. While DGMS officials are charged with inspecting mines and quarries to ensure compliance with OH&S requirements, corruption is rampant, and it is widely known that compliance certificates can be bought. Further, the DGMS inspection process does not extend to the large number of unregistered mines throughout Rajasthan.

In 2015, the Rajasthan Human Rights Commission (RHRC) called upon the central government to amend the Mines Act 1952 to respond to the high rate of occupational diseases and provide for an independent agency with powers to deal with widespread occupational diseases in the mining industry. Amongst other suggested interventions, the RHRC also called for mineworkers to be given identity cards, which could provide employment records and daily attendance in order to track responsibility for occupational illnesses and injuries.

**Bonded labour**

Bonded labour is endemic in India's stone quarries, and constitutes a modern form of slavery. Generally, bonded labour or debt bondage refers to a long-term relationship between an employee and employer which is cemented through a loan, by custom or by force, which denies the employee various freedoms including to choose his or her employer, to enter into a fresh contract with the same employer or to negotiate the terms and condition of her/his contract.

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93 Workmen’s Compensation Act 1923 s 3.
95 Interview with quarry owner (Kali Beri, Jodhpur, 20 July 2013).
96 Interview with occupational health and safety official (Ajmer, Rajasthan, July 2013).
97 Interview with quarry owner (Madore, Rajasthan, 22 July 2013).
98 Srivastava, above n 10.
The precise number of bonded labourers in India is unknown and heavily disputed, with NGOs suggesting there are as many as 20 to 65 million bonded labourers, including adults and children, working across a range of sectors in the country.99 Official government estimates are widely criticised as under-inclusive (a 2002 government survey identified just 1795 bonded labourers), and therefore forestall appropriate state action to address the problem.

The use of bonded labour breaches International Labour Organisation Forced Labour Convention.100 This Convention prohibits all forms of forced or compulsory labour, which is defined 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’.101 The convention also requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced. The prevalence of bonded labour is also in breach of ILO Convention on the Abolition of Forced Labour which provides for the abolition of all forms of forced or compulsory labour as a means of political coercion or education; as sanctions against the free expressions of political and ideological opinions; as workforce mobilisation; as labour discipline; as a punishment for taking part in strikes; and as measure of racial, social, national or religious discrimination. India has ratified both these conventions.102

Forced labour is prohibited by art 23 of the 1950 Constitution of India and the landmark national Bonded Labour System (Abolition) Act 1976 (‘BLSA Act’). Under this scheme, it falls upon individual states to enforce the BLSA Act, with the central government carrying secondary responsibility for ensuring that states enforce the Act and establish ‘vigilance committees’ to eradicate the phenomenon. Theoretically, the Act allows for a company to be found liable and punishable for violations of the Act, though there has been virtually no enforcement of this provision.103 Despite the robust provisions of the Act, as well as a number of landmark public interest litigation (PIL) cases before state and central Supreme Courts,104 little has been done to stamp out the practice of bonded labour in practice.

In Rajasthan, much of the State’s effort to rehabilitate bonded labourers has been focused on the remnants of agrarian bondage that has existed in Rajasthan for centuries, following the enactment of the Sagri System Abolition Act 1961. However, the state has largely failed to comprehensively address modern forms of industrial debt bondage. As such, the prevalence of

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100 Convention Concerning Forced or Compulsory Labour (ILO No 29), opened for signature 28 June 1930, 39 UNTS 55 (entered into force 1 May 1932). International labour standards are legal instruments drawn up by the ILO’s tripartite constituents. The system of international labour standards takes the form of conventions and recommendations.
101 Ibid art 2.
bonded labour remains widespread in Rajasthan’s stone quarries, where the government and businesses are reticent to even acknowledge the existence of the practice.\footnote{S Gunasekaran, ‘Debt Bondage in the Sandstone Quarries of Rajasthan’ (2014) 49(30) Economic & Political Weekly 1.}

There are certain identifiable characteristics which are common to bonded labourers in Rajasthan’s stone quarries. Typically, once an individual takes on a debt to an owner, it is accepted that the debt ‘can never be settled’,\footnote{Ibid.} and the debt bondage will pass to the labourer’s next of kin (including children) if the worker becomes ill or is otherwise forced to retire. If there is no one to assume the work, it is common for owners to seize the property of the labourer or their relatives in satisfaction of the debt. Many workers are provided accommodation in the quarry, and have limited mobility which is strictly controlled by the quarry owner.\footnote{Srivastava, above n 10.} Respondents to our research indicated that a quarry worker may have informal, bonded employment relationships with multiple quarry owners throughout their working life. Typically, a bonded labourer will change employer if the new owner agrees to assume the labourer’s debt obligation to the existing employer. These informal changes in ‘ownership’ make it difficult to pinpoint responsibility in the likely event that the labourer contracts a work-related illness such as silicosis, due to their years of work in multiple different quarries.

Bonded labourers are extremely vulnerable to retaliation if they attempt to organise or otherwise agitate for enforcement of the law. Even requests for minimal improvements can lead to a violent response from employers. There are numerous reports of bonded labourers being severely beaten after asking for a raise of a few cents a day, or asking the employer to fulfil a promise to give them a few sacks of grain each year, or for other relatively mild ‘challenges’ to their status. The extent of the brutality is critically under-researched. In 1996, one activist from Rajasthan suggested quarry owners operate with impunity for ‘murder and mayhem’, suggesting workers are killed and buried in quarries if they complain about their employment conditions.\footnote{Human Rights Watch, The Small Hands, above n 6.}

**Child labour**

In addition to the widespread practice of bonded labour suffered by adults, Rajasthan’s stone quarries are also populated by hundreds and thousands of child labourers. There are two fundamental ILO Conventions, not ratified by India, that the prevalent use of child labour in Rajasthan mines is in breach of: the *Minimum Age Convention* and the *Prohibition and Immediate Elimination of the Worst Forms of Child Labour Convention*.\footnote{Convention Concerning Minimum Age for Admission to Employment (ILO No 138), opened for signature 26 June 1973, 1015 UNTS 297 (entered into force June 19, 1976); Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (ILO No 182), opened for signature 17 June 1999, 2133 UNTS 161 (entered into force 19 November 2000). There are some older relevant conventions, which have been ratified by India: Minimum Age (Industry) Convention (ILO No 5), opened for signature 29 October 1919, 38 UNTS 93 (entered into force 13 June 1921); Night Work of Young Persons (Industry) Convention (ILO No 6) opened for signature 29 October 1919, 38 UNTS 93 (entered into force 13 June 1921); Night Work of Young Persons (Industry) Convention (Revised) (ILO No 90) 10 July 1948, 91 UNTS 3 (entered into force 12 June 1951); Minimum Age (Underground Work) Convention (ILO No 123) opened for signature 22 June 1965, 610 UNTS 79 (entered into force 10 November 1967) (the minimum age being 18 years).}
An early comprehensive report by Human Rights Watch in 1996 found credible estimates of sixty to 115 million working children in India, of whom at least 15 million are bonded, while noting that precise figures are impossible without comprehensive birth registration or reliable nationwide surveys.\(^{110}\) It has been suggested that nearly 20 per cent of the workers in a typical Indian quarry are children, and in Rajasthan’s quarries alone this could amount to as many as 375,000 child labourers.\(^{111}\) The NGO Vedika, based in Andhra Pradesh, identified that children between the ages of 10 and 14 usually work from 8.00am to 4.00pm, and receive less than US0.50 per day.\(^{112}\)

As highlighted above, many of these child labourers become bound to quarry owners as a result of being forced to assume their parents’ or even extended family members’ debt. It is common for quarry owners to force an employee’s children to work in the quarry to cover the interest on an existing debt, while the principal amount loaned to the parent must be repaid in full in a single instalment in order for the child be released from servitude.\(^{113}\) Other children are forced to undertake their own debt as a result of their parents’ critically low wages (a daily average of Rs 40–50) (USD0.90–1.12), both in the quarries and other sectors. Moreover, in the absence of any social security measures or worker records, if a labourer dies, children must assume responsibility for the survival of the family. Their bondage precludes them from gaining an education, and thereby entrenches intergenerational poverty which is inescapable. One interviewee for our study suggested many children take up work in quarries because of the lack of schools or other shelter.

There are twice as many girls as boys labouring in India’s quarries.\(^{114}\) In addition to lower pay and greater abuse, girls suffer from the higher demands placed on them within the Indian household. Girls consistently earn less money than boys (as women earn significantly less than men in India), and they are subject to gender-specific forms of abuse from their employers, including rape.\(^{115}\) Dalit and tribal children too are particularly vulnerable to exploitation in the mining sector.

A national study conducted in 2010 found that districts which are entirely dependent on mining have a lower literacy rate than the national average. Further, malnourishment is rife, and the mortality rate of children under five is significantly higher in these areas.\(^{116}\)

**Inadequate wages and oppressive employment terms**

Workers in Rajasthan’s stone quarries receive extremely low wages and no employment benefits, leaving them immensely vulnerable and often heavily indebted. Studies have shown that miners

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\(^{111}\) Ethical Trading Initiative, *Marshalls*, above n 5; India Committee of the Netherlands, above n 5, 1.


\(^{114}\) Ibid.

\(^{115}\) Ibid.

\(^{116}\) International Dalit Solidarity Network, above n 8.
in Rajasthan’s stone quarries, for example, receive monthly incomes of less than Rs 3000 (USD44.00).\textsuperscript{117} This is in breach of the 1949 ILO Convention on Protection of Wages (No 95)\textsuperscript{118} which states that wages shall be paid in legal tender at regular intervals; in cases where partial payment of wages is in kind, the value of such allowances should be fair and reasonable. Workers shall be free to dispose of their wages as they choose, as well as the 1970 ILO Convention on Minimum Wage Fixing (No 131).\textsuperscript{119} India has not ratified either of these conventions.

Typically, wages are calculated on a piece-rate basis. This means that labourers who are physically stronger (usually male teenagers) have a greater earning capacity than other workers. Older workers, who are already afflicted with musculoskeletal disorders caused by decades of gruelling physical labour, earn considerably less. The daily wages for women and children are also lower, reflecting entrenched patterns of gender inequality and exploitation. An adult male worker only receives Rs 70–120 (USD1.46–2.50) per day, depending upon his skill, after 8–10 hours of gruelling work. Comparatively, the daily wage for a woman is Rs 45–55 (USD0.94–1.14), and a child receives Rs 30–40 (USD0.62–0.83) a day.\textsuperscript{120} These wages fall dramatically short of the government-approved minimum wage, and are merely a fraction of the market cost of the minerals which the labourers extract. Under the most recent amendment to Rajasthan’s Minimum Wages Act 1948, unskilled labourers have a right to a minimum wage of Rs 166 (USD2.49) per day, while a semi-skilled labourer is entitled to Rs 176–199 (USD2.64–2.98) per day. Many respondents to this study noted that the vast majority of quarry workers never raise claims regarding the payment of minimum wages, as they are unaware of their rights and reticent to stand up to powerful quarry owners. While employees are technically entitled to raise complaints regarding the non-payment of minimum wage with the central Labour Department, the mechanism is rarely utilised in practice. When asked why, one Labour enforcement officer noted, ‘[m]aybe because of illiteracy, [maybe] because they fear their employer. They use it much less than in the other sectors’.\textsuperscript{121} The lack of unionisation amongst workers was also a frequently cited reason why quarry workers do not initiate labour disputes. Furthermore, the workers have no holidays, no weekly days off, any medical leave, and no maternity leave.\textsuperscript{122}

\textbf{Insecure and precarious work}

Typically, workers in Rajasthan’s stone quarries do not have formal contracts of employment. One quarry owner interviewed for this study reported he had between 30–50 workers (less during monsoon season), all of whom were casual workers, and noted that their job security ‘depended whether the worker or employer wants him/her to continue’.\textsuperscript{123} For the workers who

\begin{footnotes}
\item[118]Protection of Wages Convention (ILO No 95), opened for signature 1 July 1949, 138 UNTs 225 (entered into force 24 Sep 1952).
\item[119]Convention Concerning Minimum Wage Fixing, with Special Reference to Developing Countries, opened for signature 22 June 1970 (entered into force 29 Apr 1972).
\item[120]Mine Workers and Their Predicament in India, Mine Workers and Their Predicament in India <http://www.mlpc.in/>.
\item[121]Interview with an enforcement officer of the government of India Ministry of Labour (12 Dec 2012).
\item[122]Madhavan and Sanjay, above n 3, 20.
\item[123]Interview with quarry owner (Kali Beri, Jodhpur, 20 July 2013).
\end{footnotes}
are not bonded to their owner, insecurity is high, and forces quarry workers to accept harsh working conditions.\textsuperscript{124} Further, work in stone quarries is seasonal, heightening the precarious nature of the work. During the rainy season, quarry activity ceases,\textsuperscript{125} which means that labourers do not receive a reliable, sustained income throughout the year. During these times of inactivity, many migrant workers may return home,\textsuperscript{126} though it is common for bonded labourers to remain at the quarry site even when there is no work to be done. Budharam Meghwal, of the Rajasthan State Mine Labour Union, reflected:

\begin{quote}
There is no strong employer–employee relationship. The employer can throw out a worker at any time and a worker can leave his/her employer at any time. This typical relationship also creates a sense of insecurity both in the workers and in the employers. The skilled workers join with a peshgi (advance) from the employer, thus ensuring that the employer will not throw him out. And the advance ensures the employer that the worker will not leave in a moment’s notice. Therefore, the workers are not united in the absence of unions and very individualistic and employers still have the ultimate control over the workers.\textsuperscript{127}
\end{quote}

### Gender discrimination

Discrimination against women in Rajasthan’s mines contravenes a number of international laws and norms. The \textit{Convention on the Elimination of All Forms of Discrimination against Women}\textsuperscript{128} (CEDAW) is an international women’s rights Treaty that imposes legal duties on member states to comprehensively protect women’s rights which came into force on 3 September 1981. The 2002 \textit{Berlin II Guidelines for Mining and Sustainable Development} (‘\textit{Berlin II Guidelines}\textsuperscript{129}’) recognise that small-scale mining requires specific regulatory attention under which the special needs of women, who often represent up to 50 per cent of the small-scale mining workforce, should be taken into consideration.\textsuperscript{130}

It is the women in Rajasthan’s stone quarries that face the most serious forms of exploitation of abuse. Both adult women and female child labourers receive lower wages than their male counterparts, in circumstances where wages are already egregiously low. They are allocated to ‘unskilled’ jobs, such as handpicking, loading and crushing stone, which pay less than the processes to which men are allocated. They often receive less than half the official minimum wage for unskilled labour.\textsuperscript{131} Though it is the legal duty of employers to pay equal remuneration to men and women workers for same work or work of a similar nature,\textsuperscript{132} these laws are not applied. Low

\begin{footnotes}
\item[124] Madhavan and Sanjay, above n 3, 12.
\item[125] Ibid.
\item[126] Hawkins, above n 55.
\item[127] Interview with Budharam Meghwal (Rajasthan State Mine Labour Union) (21 July 2013).
\item[128] Opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).
\item[130] Ibid 47. The \textit{Berlin II Guidelines} build on the first edition of Environmental Guidelines for Mining Operations that were the outcome of the 1991 Berlin Round Table on Mining and the Environment organised by the UN and the German Foundation for International Development. They are intended to provide general guidance for sound and sustainable management in mining, and are to be amended and improved according to the specific needs of each country.
\item[131] India Committee of the Netherlands, above n 5, 3.
\item[132] \textit{Equal Remuneration Act 1976} s 4.
\end{footnotes}
wages trap women in poverty, making them more vulnerable to other forms of exploitation. These practices are also in breach of the ILO Conventions on Equal Remuneration 1951 (No 100)\textsuperscript{133} and Discrimination (Employment and Occupation) 1958 (No 111),\textsuperscript{134} which have both been ratified by India.

They are frequently subject to more brutal treatment than male labourers, including rape and sexual harassment.\textsuperscript{135} They have no access to health care benefits, such as maternity leave, and often return to work a day after childbirth for fear of lost wages or coercion in the case of bonded labourers.

These forms of discrimination and gendered violence are exacerbated by the intersectional nature of the prejudice that is suffered by the women who work in Rajasthan’s stone quarries. Most of these workers are members of Schedules Castes and Schedules Tribes, including dalits, and as such face compound discrimination at the hands of the quarry owners. A 2005 study estimated that as many as 95 per cent of labourers employed in Rajasthan’s mining sector are from Schedules Castes and Schedules Tribes.\textsuperscript{136} This has led some commentators to reasonably hypothesise that the low visibility of the issue of bondage and worker exploitation is due precisely to the fact that its many victims have a low social ascription and fewer perceived rights in Indian society.\textsuperscript{137}

Special issues affecting migrant workers

Many of the workers in Rajasthan’s quarries are migrant workers from other Indian states, who are driven to the quarry sites due to unemployment in their villages or cities of origin. Commonly, the migration is undertaken on the basis of a lie, in which intermediaries lure in ill-informed workers from their home communities with advance payments and promises of decent work.\textsuperscript{138} Many workers come from Tamil Nadu, Kerala, Madhya Pradesh, Orissa, as well as from other parts of Rajasthan.\textsuperscript{139} In Budhpura, for example, it is estimated that as many as 80–90 per cent of the quarry workers are regular migrants.\textsuperscript{140}

This form of migratory labour is inherently vulnerable to predatory capitalism, as migrant workers frequently feel less able to assert their basic rights against their employers.\textsuperscript{141} It is also a central reason why so many of the labourers in stone quarries are bonded: they undertake debt with the owners to fund the initial move, and must work the impossible task of repaying it.

\begin{itemize}
\item \textsuperscript{133} Equal Remuneration Convention (ILO No 100), opened for signature 29 June 1951, 165 UNTS 303 (entered into force 23 May 1953).
\item \textsuperscript{134} Convention Concerning Discrimination in Respect of Employment and Occupation (ILO No 111), opened for signature 25 June 1958, 362 UNTS 31 (entered into force 15 Jun 1960).
\item \textsuperscript{135} International Dalit Solidarity Network, above n 8.
\item \textsuperscript{136} Srivastava, above n 10.
\item \textsuperscript{137} Ibid.
\item \textsuperscript{138} Ibid.
\item \textsuperscript{139} Madhavan and Sanjay, above n 3, 7.
\item \textsuperscript{140} Ibid 17.
\item \textsuperscript{141} Ravi Srivastava and S. K. Sasikumar, An Overview of Migration, Its Impacts and Key Issues, (Migration and Development and Pro-Poor Policy Choices in Asia No 2) (2003); Srivastava, above n 10.
\end{itemize}
Socio-economic impact from unsustainable land use

As noted above, illegal mining in Rajasthan is widespread. The large scale of illegal mining, conducted on an unscientific basis, which falls far short of international best practice in environmental management, has eroded soil, caused extensive water loss, degraded forests, pastures and biodiversity in the entire state. It has led to land degradation, polluted grazing lands, farms and water catchments. One study revealed that the surface of irrigated land has decreased by almost 50 per cent. Further, a considerable increase in cultivable wasteland has taken place.

Villages surrounding mines are severely affected by this environmental degradation. One impact is severe water shortages. Village are entirely dependent on ground water for farming and for drinking water, but the draining of quarries leads to siphoning off of groundwater from village wells. Local villagers are forced out of their traditional occupations, forcing them to migrate for a livelihood. Many have no choice but to take up to mining in order to survive.

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142 Mining Labour Protection Campaign (MLPC), The Communities that MLPC Works for and with, http://www.mlpc.in/inner_index.html.
143 Madhavan and Sanjay, above n 3, 12.
144 MLPC, above n 142.
Summary Of The Events In This Case

Despite the transnational nature of supply chains linking workers in Rajasthan with businesses in Australia, UK, the USA and across Europe, non-judicial grievance mechanisms at the transnational level have not been able to offer any redress or relief for the human rights abuses they face in their work. Thus, like a number of cases in this study, their struggle is a lesson in barriers to redress, rather than one which presents the successful (or even unsuccessful) use of a redress mechanism. Grievance channels which may have been open to workers in this case, such as the grievance mechanism associated with the Ethical Trading Initiative (ETI) and The Forest Trust (TFT) Responsible Stone Program, have not been utilised. Further, OECD National Contact Points (NCPs) have not been accessed, though this avenue was considered by one supportive NGO. International NGOs and initiatives such as the ETI and TFT Responsible Stone Program have focused their attention inward at some discrete abuses in the sector (such as bonded and child labour). Organisations representing workers have low levels of transnational mobilization, and have not sought to elevate their grievances beyond purely domestic spheres.

To date, the only mechanism which has been able to deliver some redress to victims has been the Indian National Human Rights Commission (NHRC), an institution which has largely failed to offer redress in any other of our case studies in India. So far, the extent of the NHRC’s intervention has been limited to pushing state governments towards compensating the labourers who contract silicosis and their next of kin, rather than addressing the full gamut of human rights abuses that take place in stone quarries with concrete measures. Though the provision of redress remains unsatisfactory, and a number of further steps are needed to comprehensively reform the sector, the NHRC has made some contribution to providing compensation for victims of these human rights violations, and is beginning to highlight the need for systemic change in the sector to prevent further violations.

Table 2: Avenues for Redress

<table>
<thead>
<tr>
<th>Mechanism</th>
<th>Barriers</th>
<th>Use</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>NHRC (India)</td>
<td>In the early days of mobilisation, the NHRC was primarily concerned with individual cases of quarry workers suffering from silicosis; More recently, the NHRC has taken silicosis on as a systemic issue. NGOs and unions have also begun assisting workers to make complaints.</td>
<td>Hundreds of individual complaints. Three key complaints. Taken on as a systemic issue by NHRC (unusual).</td>
<td>Prompted the government of Rajasthan to offer a tangible remedy (financial assistance) for workers living with silicosis, and for hundreds of widows of whose husbands died from the disease. Also placed pressure on government to advance other preventive and remedial efforts relating to silicosis.</td>
</tr>
<tr>
<td><strong>NHRC (India)</strong></td>
<td>Note that NHRC complaints deal with rights abuses by the state, rather than companies. As such, supply chain mapping or proof of employment are less of a barrier for NHRC than other mechanisms.</td>
<td>Limited impact in terms of prompting enhanced corporate due diligence / supply chain reform.</td>
<td></td>
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<td>--------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Ethical Trading Initiative (stone program)</strong></td>
<td>Only in very early days of operation in India. Supply chain mapping.</td>
<td>None. None identifiable.</td>
<td></td>
</tr>
<tr>
<td><strong>TFT Responsible Stone Program</strong></td>
<td>Only in very early days of operation in India. Supply chain mapping</td>
<td>None. None identifiable (but early days).</td>
<td></td>
</tr>
<tr>
<td><strong>Legal channels</strong></td>
<td>Evidence is difficult to obtain for informal employment.</td>
<td>Occasional, largely limited to a small number of individual compensation payments. Case-by-case significance.</td>
<td></td>
</tr>
<tr>
<td><strong>OECD NCPs</strong></td>
<td>Evidence connecting OECD home-country companies to human rights violations at quarry end of supply chain.</td>
<td>None.</td>
<td></td>
</tr>
</tbody>
</table>
National Human Rights Commission (NHRC) claims

Since 2010, India’s NHRC has played a pivotal role in prompting the central and state Governments to offer a more comprehensive response to the silicosis epidemic in the country’s mines and quarries. It has played a strong coordinating role, providing a mechanism for both individual complaints as well as a forum for dialogue on the issue between all levels of government in India. The NHRC, as an institution, is uniquely positioned to engage with both the judiciary and executive branches of government, opening up channels for response and redress where they have not previously been available.

The issue of silicosis in Rajasthan’s stone quarries first came to the attention of the NHRC in 2009, when MLPC filed a complaint on behalf of 60 silicosis-affected workers and the relatives of deceased workers.145 In response, the NHRC deployed a team of investigators to Rajasthan in January 2010, and consequently directed the State Government to provide a 1 lakh payment to 44 workers and 22 widows whose husbands had died from silicosis.146 When the state government stalled, the NHRC sent reminders to the Chief Minister demanding payments for the victims. In September 2010, the Government of Rajasthan fulfilled the order, paying the victims from the Chief Minister’s Relief Fund.

In 2010, the NHRC also issued an India-wide set of ‘Recommendations on Preventive, Remedial, Rehabilitative and Compensation Aspects of Silicosis’,147 and tabled a landmark report on the issue before Indian Parliament in 2011. The report noted, ‘[s]ilicosis is both a health issue and a human rights issue. It has an impact not only on the right to life but also on the right to live with dignity of all those affected and their families’.148 It urged both central and state governments to ensure healthcare and compensation to workers employed in quarries. By this time, the NHRC had received 72 individual cases by NGOs in various states, and NHRC had taken suo moto cognisance in some additional cases.149

Although it took some time to follow the recommendations for a standardised payment scheme, in 2013 the Government of Rajasthan began to confront the issue of silicosis-affected workers. It empowered the Rajasthan Environment and Health Administration Board (REHAB) to make payments of 1 lakh to silicosis-affected workers, and payments of 3 lakh to the next of kin of workers who had died from the disease. It was the first state in India to establish such a compensation scheme in response to the India-wide NHRC directive in 2010. These payments were termed ‘ex gratia’ payments, denoting that the government saw the provision as a gesture of goodwill rather than the fulfilment of a legal obligation to the workers and their families.

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149 Ibid 18.
While the initial payments were made from the Chief Minister’s Relief Fund, starting in March 2013 the payments to be sourced from the Environmental and Health Cess Fund (derived from taxes paid by quarry and mine owners). This funding structure tends to reflect a commonly held perception that became evident in the course of this research, that responsibility for workers’ compensation in the sector is an issue of state-responsibility, supplemented by mining royalties.

To make a claim for the payment, workers must be certified as suffering from silicosis by one of the state’s Pneumoconiosis Boards:

*The potentially affected worker comes to the K N Chest Hospital on the designated day, includes his/her name in the list of patients to be investigated by the Board. Then tests are conducted and the Board after diagnosis and investigation of the results and medical tests, sends their investigation and diagnosis report to the Medical College, with a copy to the District Collector.*

Once the District Collector’s Office receives the certification, it is then to disburse the payment. For widows, they must submit a certificate of death and a medical certificate that the cause of death was silicosis. While these documentation requirements may have presented barriers for some widows, it should be noted that one advantage of the payment scheme was that widows do not have to provide a record of their husband’s employment. Many of the respondents in this study remarked their husbands had worked for dozens of quarries in their working life, and they had no paper records of any employment.

As many of the workers and widows seeking compensation have low literacy levels, MLPC and the Rajasthan State Mine Labour Union became actively involved in facilitating the compensation process — helping the claimants fill out the forms and submitting them to the state authorities on their behalf. To do so, the workers must pay a Rs 100 (USD1.50) membership fee to the Union, which then helps to move the compensation process. Rana Sengupta of MLPC indicated that the union also takes Rs 5000 (USD74.95) of the widow’s 3 lakh compensation package. Widows we interviewed recounted that the Union helped the workers fill in documentation and submit it. The MLPC too has been heavily involved in spreading awareness of the entitlement, by conducting outreach to workers and their next of kin. In 2011, for example, MLPC conducted a postcard campaign targeted to over 900 patients admitted to the government chest hospital and diagnosed with silicosis — informing them of their right to compensation. Dr Gopal Purohit, a doctor on a Pneumoconiosis Board in Jodhpur, noted the essential role of the unions and MLPC — ‘After the setting up of the Board, a particular trade union working with quarry workers and the MLPC has been in touch with us and they are helping in enlisting the name of affected workers to be investigated by the Board.’ While this support is advantageous for potential claimants with access to unions, it may allow workers and widows without access to union support open to slip through the cracks. Budharam Meghwal, of the Rajasthan State Mine Labour Union, noted with concern:

150 Interview with Dr Gopal Purohit (Jodhpur, Rajasthan, 23 July 2013).
151 Interview with Rana Sengupta (MLPC) (Rajasthan, 11 December 2012).
152 Confidential interview with female respondent (Jodhpur, Rajasthan 19 July 2013).
153 Mine Labour Protection Campaign, above n 146.
154 Interview with Dr Gopal Purohit (Jodhpur, Rajasthan, 23 July 2013).
Many families will benefit [from the process], the implementation will be difficult as in many places there are no unions to facilitate the process. So, the district authorities have to be proactive in reaching the victims. Which is not happening. There has to be some mechanism of mass awareness to reach the victims and let them know of such an order which can benefit them.155

Many of the recipients interviewed in this study noted that their chief complaint was long delays between the initial application and disbursement. A lack of uniformity seems to be the norm. One widow interviewed in the course of this study lost her husband in December 2012, and had received the ex gratia payment in May 2013. Others had gaps as long as eight years between losing their husband and receiving payment. For many, the onset of their illness forced them into taking loans to pay medical bills — increasing their indebtedness and exacerbating cycles of bonded labour for themselves and their family members. Many recounted that the payment was insufficient to cover the extent of the debt they had incurred as a result of the illness. One worker, for example, lamented he was forced to sell his land to pay for his medical treatment.156 Another widow explained that she had incurred Rs 200 000 (USD2998) debt during her husband’s treatment, and felt the payment was insufficient to cover the debt as well as her daily needs.157

In recent years, REHAB has provided assistance to an increasing number of recipients as the payment scheme has picked up pace. In 2013, the Board had offered assistance to just 13 recipients, which increased to 304 recipients by the close of 2014.158 In 2016, it was reported that the Jodhpur district of Rajasthan alone had documented 2047 silicosis cases since 2010, but only 463 of the patients have received assistance.159

In addition, the Board has initiated a number of related measures in an attempt to make the compensation more accessible and to address systemic issues in the sector, though significant barriers still remain. For instance, the Board has provided Rs 22.64 lakh (USD33 936) for procuring equipment and other healthcare facilities in the worst affected districts,160 and sanctioned Rs 50 lakhs (USD74 948) for the purchase of dusk masks to be provided to labourers.161 It has also established mobile medical units to identify silicosis victims and refer them to the 33 Pneumoconiosis Boards now active in the state.

In May 2016, the State Government passed the ‘District Mineral Foundation Trust Rules, 2016’, establishing a trust for the benefit of mining-affected persons. According to the Rules, every holder of a mineral concession in the State (whether major or minor) must make contributions

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155 Interview with Budharam Meghwal (Rajasthan State Mine Labour Union) (21 July 2013).
156 Confidential interview with male respondent (Jodhpur, Rajasthan 19 July 2013).
157 Confidential interview with female respondent (Jodhpur, Rajasthan 19 July 2013).
161 Maru, above n 159.
to the trust ‘in respect of any mineral removed by him/consumed within the area allotted/permitted to him’. For owners of minor mineral concessions (encompassing quarry owners), the concession holders must pay 10 per cent of their total royalties directly into the trust. One of the priority areas for the utilisation of the Trust funds is ‘the welfare, improvement and protection of health conditions of local mine workers affected by mining operation related health hazards, [and] ex gratia payments to the eligible patients and their legal heirs’. 

In addition to prompting the compensation schemes at the state level, the NHRC has played a facilitator role by increasing dialogue across levels of government in India. It has conducted a number of national-level meetings on silicosis, highlighting the Rajasthan scheme as an exemplary model in particular in July 2016. It has interacted significantly with the Supreme Court of India, which has recognised the role the NHRC is playing in addressing silicosis and directed the concerned government departments to provide all necessary assistance to NHRC in doing so. 

In mid-2012, the Rajasthan State Human Rights Commission also took suo moto cognisance of the silicosis issue, and has been focused on sector-wide reform. In December 2014, SHRC presented a special report on silicosis, with a list of 59 recommendations for governments at the centre and state, and also specifically for the central government’s Department of Mines.

As a redress mechanism, it must be noted that the NHRC functions as a body to hear complaints about government-perpetrated human rights abuses under the Protection of Human Rights Act 1993. Therefore, the harm is framed in terms of the government’s failure to provide workers’ compensation for its citizens, rather than recognising the role played by the quarry owners and transnational business linkages which profit from the cheap labour. Thus, the individual complaints to the NHRC do not perfectly capture the nature of the harm, or adequately allocate responsibility for the injuries suffered. In addition, the ex gratia payments do little to vindicate the individuals’ human right to a remedy, as the payment is viewed as a welfare entitlement rather than a rights-based recognition of harm. S A Azad, Founder of PRASAD (Peoples’ Rights and Social Research), contested whether the REHAB payment should even be termed ‘compensation’, explaining, ‘It’s not compensation … It’s just welfare. A lot of them say it’s compensation, but I didn’t go to court for compensation. It’s a duty of the welfare state.’

Mahesh Bora, a prominent senior advocate at the Rajasthan High Court, noted that while the NRHC-process has been celebrated, it does not put enough pressure on the quarry owners to reform their labour practices:

> Basically, why should the government pay? … The major thing is this that those quarry employers who have taken work from them, they have taken huge money out of their labour. As per law, the employer is responsible to make the payment if there is any mismanagement in the quarry.

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165 Rosamma Thomasi, ‘NHRC to Take Lessons from Rajasthan’s Attempt to Contain Silicosis, The Times of India (Mumbai), July 20, 2016.  
166 Interview with S A Azad (PRASAD) (Delhi, 17 December 2013).  
167 Interview with Mahesh Bora (Rajasthan, 12 Dec 2012).
In addition to the silicosis issue, the NHRC has also played a role with respect to the bonded labour issue, though state and central Governments have been much slower to introduce concrete measures to overcome the phenomenon, which they are largely reticent to acknowledge. Since 1997, the NHRC has been charged with monitoring the implementation of the Bonded Labour System (Abolition) Act 1976 and in ensuring that the directives of the Supreme Court are followed by the central and state governments. In 2000, the NHRC constituted an Expert Group in 2000, chaired by Mr S R Sankaran, for identification of bonded labour-prone districts, industries and occupations and for various aspects relating to legislation and implementation.168

With respect to the silicosis compensation, the NHRC (and RSHRC) have been able to accomplish, at least in part, what transnational mechanisms have not been able to. The workers and widows themselves had no awareness or inclination to bring their struggles beyond the domestic arena, and did not have strong transnational linkages with INGOs. This is not to suggest that direct action played no part in their struggle. Although union officials noted that workers in the informal quarry sector rarely strike, the women seeking compensation on behalf of their deceased husbands did resort to direct action when it seemed their payments were not forthcoming. Organised by unions and MLPC, many widows recounted sitting outside the District Collector’s Office (the office in charge of final disbursements), conducting dharnas (non-violent sit-in protests) and hunger strikes to demand payment. ‘Better to strike near the offices — the best thing is to sit outside their office — this is what they respond to’, one widow recalled.169 Others told of travelling to the Chief Minister’s office in Jaipur and to Delhi to participate in rallies. This direct action has been organised largely by MLPC and the RSMLU. When asked of his Union’s role in pushing for the compensation, General Secretary of the RSMLU Bansilal Bijnana explained: ‘To ensure that the state government establishes a mechanism to implement the order, our union has put pressure on the government, and we have organised some protests and dharnas’.170

Around 2011, Mine Labour Protection Campaign (MLPC), a mining justice NGO, contemplated making a complaint to the UK and Belgian OECD NCPs concerning working conditions within the supply chains of Marshalls and Beltrami, two prominent stone importing companies in UK and Belgium respectively. However, no concrete action has been taken by MLPC thus far. At the time of this research, MLPC was concerned that it will not be able to provide sufficient evidence of a connection between these companies and quarries where there are abuses, due to the difficulties mapping supply chains.

**Ethical Trading Initiative**

Established in 2012, the Ethical Trading Initiative’s program on ‘Sandstone from Rajasthan, India’ has a ‘programme of action’.171 The ETT’s website explains that:

> We are working with key stakeholders to establish a joint programme of action, focused on the priorities of workers and challenges faced by the industry in accordance with the UN Guiding Principles on Business and Human Rights (UNGPs).172

168 See Srivastava, above n 10.
169 Confidential interview with a female respondent (Rajasthan, July 2013).
170 Interview with Bashilal Bijnana (Rajasthan State Mine Labour Union) (21 July 2013).
171 Ethical Trading Initiative, Marshalls, above n 5.
A local multi-stakeholder forum, the State Forum on Natural Stone, has been established which engages government bodies and others on a range of issues including worker health, safety and welfare, particularly the prevalence of silicosis across the sector, formalisation of labour as well as worker needs and priorities. The ETI’s aim is to help to build the capacity of business to address elements of the ETI Base Code, by developing an Ethical Sourcing Guide and toolkit for the sector. There is no redress mechanism associated with the local multi-stakeholder forum.

At the time our research was conducted, the ETI’s program had no impact in the sector, and in fact most people were entirely unaware of it. This may be explained by the short time it has been operating at the time we conducted our interviews.

**Responsible Stone Program**

The Forest Trust’s ‘Responsible Stone Program’ is a certification scheme, also in its early years. It is a membership based organisation that aims ‘to ensure the sourcing of natural stone respects the environment and improves the lives of the people working in quarries and factories’. Members include retail buyers, importers and factories across Europe, China and India. The program encourages incremental improvements at mine sites. The RSP is supported by the Dutch sustainable trade initiative, IDH. Our research also found low levels of awareness and impact related to this program in Rajasthan, again possibly explicable by it being in its very early days of operation at the time of research.

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172 Ethical Trading Initiative, Sandstone from Rajasthan, above n 60.
Parties involved

Local and international NGOs and unions

The stone sector in Rajasthan is largely unorganised in terms of unionisation, and under-serviced by civil society groups. A handful of small unions operate at the state level, and have had some success in assisting workers in asserting their rights, but they remain marginal. While there are a few NGOs involved in provision of welfare activities, including through CSR programs, only two NGOs have been significantly involved in taking grievances through formal channels to pursue redress: the MLPC dominates this space in Rajasthan, and PRASAR (Peoples’ Rights and Social Research Centre) at the national level.

Amongst the widows interviewed for this study, each reported that the role of the MLPC and District-level unions was absolutely integral to facilitating their access to NHRC compensation. Many were told by friends to contact MLPC or the Rajasthan State Mines Labour Union, which then helped them fill out forms, collect documentation and access the payment scheme.

As I got news from other women that government is paying compensation I went to the office of the union who assisted me in filling up forms, documentation and applying for compensation. They helped me a lot.175

National-level unions have played less of a role in advocating on behalf of the workers and their families, perhaps demonstrating the disconnect between national unions and informal workers. H Mahadevan of the All India Trade Union Congress (AITUC), for instance, noted in 2013 that

AITUC per se have not played any role in the case. But, we have submitted our views on silicosis to the Parliamentary Standing Committee on Labour, ILO OHS Committee some four years back.176

Mahadevan did feel that there was much more scope for national level unions to connect with informal workers — indicating it was these workers who need the most protection from unions, due to their inability to rely on court processes and conventional enforcement mechanisms — ‘Informal workers though have less avenues and capacity to take up violations through the enforcement machinery and the courts. Without unions it is difficult’.177 Many respondents were concerned about the lack of unionization for informal workers in the stone sector, and noted the ‘vast difference between organising a labour in the [formal] sector and organising workers in the [informal] sector.’178 One of the key issues in Rajasthan’s stone sector is that labourers work in small quarries, across a huge area, and thus organising people on a mass scale is problematic.

175 Confidential Interview with female respondent (Rajasthan, July 2013).
176 Telephone interview with H Mahadevan (AITUC) (11 September 2013).
Mine Labour Protection Campaign (MLPC)

**Focus:** community development, advocacy, income generation and policy advocacy.

**Slogan:** ‘Regulating mining, empowering workers, developing cooperatives and sustaining environment’.

MLPC promotes ‘environmental justice through organizing the unorganized mine workers in the state of Rajasthan and building their capacities to protect their rights and environment’.179

MLPC works in 11 districts across Rajasthan. Namely, Jaisalmer, Barmer, Jodhpur, Nagaur, Ajmer, Rajsamand, Udaipur, Kota, Bundi, Bhilwada. MLPC has brought forward cases of asbestosis in mine workers. It filed a writ petition to the Rajasthan High Court seeking medical assistance, treatment and full compensation for the victims of asbestosis. The High Court issued notices to the mining department, labour department and health departments for further review of the hazardous nature of Asbestos mining, and the plea to lift the ban on asbestos mining in Rajasthan was dismissed.

MLPC has also pressured the National Human Rights Commission (NHRC) on the state of silicosis in Rajasthan. MLPC advocates making mandatory provisions to issue identity cards to mine workers and for incorporation of mine workers in the social security schemes of the government, ie insurance and pension plans. It works closely with the state of Rajasthan to ensure that child labour in mining and quarrying work is curbed. MLPC advocated that 1 per cent of the net profit be spent on welfare of mine workers via the Rajasthan Mineral Policy.

From the picture painted by the many respondents to our research, MLPC carries the most name recognition in terms of NGOs in the sector. This may have been due to their strong interventionist approach in the silicosis issue. For instance, one worker reported that MLPC staff members had visited the Kamla Nehru Chest Hospital in Jodhpur to collect the names of workers receiving silicosis check-ups.

Aside from being invited to one ETI consultation, MLPC do not have a significant relationship with any companies.

India Committee of the Netherlands

The India Committee of the Netherlands works on issues of labour rights, especially child labour. It was involved as a partner in the 2008 MLPC survey of mineworkers, revealing widespread health problems — the ‘Ground Zero’ report.180

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178 Interview with Mahesh Bora (advocate) (Rajasthan, 11 December 2012).
180 Interview with Rana Sengupta (14 Dec 2012).
PRASAR (Peoples’ Rights and Social Research Centre)

PRASAR led the NHRC case.

Rajasthan State Mine Labour Union

The Rajasthan State Mine Labour Union (SMLU) represents only informal quarry workers and stone mining workers. It has 15,000 members. Formed in 2003, it initially operated informally, and was registered in 2009. Since its inception, it has lobbied for the preferential treatment for women in allocation of leases, separate identity documentation and insurance for each mine worker, training programs about mining techniques and safety measures and medical facilities that have already been budgeted for in state budget.

It claims not have any political affiliation. Its members undertake a variety of tasks at the quarry level, including cleaning and disposing of mine waste, carrying and loading and breaking and cutting stone.

As noted above, the Rajasthan SMLU was instrumental in helping to facilitate widows’ access to Rajasthan silicosis compensation. Typically, the women paid an initial Rs 100 (USD1.50) membership fee and would receive assistance from the Union in filling out the forms and collecting documentation. Most of the Union’s members are female.

The Rajasthan SMLU frequently takes cases to court on behalf of mine workers, numbering around 1000 cases so far. Most of the complaints are related to wages, holidays, termination of work, non-payment of compensation for accidents, medical treatment. It also conducts negotiation and mediation processes with employers, as General Secretary of the Union Bashilal Binjana explained:

> When workers come for complaint we note down the nature of complaint in detail, the quarry or mine the worker is engaged, the name of the owner or employer and when the incident happened or the period. We try to find out if we can establish some kind of employer–employee relationship, [if there are] some cards issued by the employer, or some relevant documents. If we can establish they we take resort to the relevant labour law or provisions of the Mines Act, file complaint to the labour enforcement officer and/or the Additional Labour Commissioner and go for reconciliation. If reconciliation fails, which is mostly the case — the owners do not turn up, we go to labour courts. If there is no scope to pursue the above steps, we try to negotiate and mediate with the employer. But, in those cases, once the employer know that his worker has complained there is very little scope for the worker to work again in the same quarry or with the employer. There is no employment document with the workers.

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181 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (21 July 2013).
182 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (14 Dec 2012).
183 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (21 July 2013).
184 Ibid.
Factors that act as barriers to improving working conditions and access to redress

There are a number of factors that exacerbate the difficulties that stone workers face when attempting to improve their working conditions or seek redress for harms suffered in the course of their work. The illegal status of mines is a significant cause of the informality of workers and their inability to demand regulation of their working conditions. Around 88 per cent of the sector’s total output is conducted in informal or illegal mines. The problem of illegal and unregistered quarries in Rajasthan is also one of the root causes of the opacity which characterises modern supply chains in the stone sector. In addition to the illegality of the mines in which the workers toil, the absence of an employer–employee relationship leaves them unregulated by labour laws. Informality in the stone sector is closely tied to the seasonal and migratory nature of the work, as many labourers are poor landless farmers and other rural workers who seek supplemental cash income on a temporary basis during non-farming seasons. As many as 95 per cent of the labourers in Rajasthan’s mines are members of Scheduled Castes and Scheduled Tribes who suffer great discrimination. These factors are explored in greater detail in the following sections.

Illegal mining in Rajasthan and India

The unregistered, illegal nature of stone quarries in Rajasthan exacerbates many of the existing human rights abuses which are prevalent within the sector. Quarries and mines in India that operate without a license or concession are also referred to as ‘informal mining’, which is by its nature, an elusive, unquantifiable and uncertain section of the mineral economy. According to some experts, informal stone quarries in India could be as high as 88 per cent of the sector’s total output. They are carried out without a quarry license or after the expiration of a valid license, and also take place at old and abandoned mine sites.

One of the reasons that labour conditions are worse in unregistered mines than those that are registered, is because the reach of the DGMS labour inspectorates do not extend to unregistered quarries, which means the unsafe and unhealthy working conditions go unchecked. Illegal mining more broadly also causes widespread and uncontrolled environmental degradation, and results in an immense loss of revenue from the non-payment of taxes and royalties by illegal operators. The scope of illegal mining in India is thought to encompass both artisanal and small-scale mining and quarrying, which commonly occurs in the absence of a state-granted

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186 Srivastava, above n 10.
188 Deb, Garima and Lahiri-Dutt above n 186, 194.
189 Ibid, 195.
190 Stephens Kambani, Key Issues in Illegal Mining and Marketing in the Small-Scale Mining Industry’ in Gavin M Hillson (ed), The Socio-Economic Impacts of Artisanal and Small-Scale Mining in Developing Countries (A A Balkema, 2003).
concession, although is not seriously prevented by the government because such activities are seen to provide subsistence to those in India living below the poverty line.\textsuperscript{191}

The problem of illegal and unregistered quarries in Rajasthan is also one of the root causes of the opacity which characterises modern supply chains in the stone sector. Many pieces of stone are picked up by middlemen from the quarries on the side of the road, and the owner is paid in cash on a piece-rate basis with no formal documentation. Since the origin of stones in the supply chain cannot be traced, it becomes nearly impossible to link specific companies or importing countries to individual quarries that are unregistered and do not document their workers — rendering any attempts to pursue corporate accountability largely futile. As a result, workers who suffer human rights abuses in the quarries have little opportunity for leveraging actors and firms higher in the chain. Therefore, workers come to depend on government actors, such as the state and national level human rights commissions, to provide channels of redress for their harms. It also makes it difficult for companies, in performing their due diligence, to properly map out their supply chains and assure consumers their stone products have been ethically sourced.

In recent years, the prevalence and severity of illegal mining in India has prompted a more considered response from the central government and the IBM, even with respect to minerals that are the property of the State Governments, ‘due to the fact that illegal mining has ramifications for the ecology, internal security and proper management of the sector’\textsuperscript{192}. In 1999, the central government amended the \textit{MMDR Act}, empowering states to enter and inspect any mine, confiscate illegally mined materials and penalise the transportation and storage of illegally mined minerals. These powers were not actively used by the states which appeared, for the most part, less concerned with eradicating the practice. After 2005, the Central Government adopted a new approach which forced state governments to set up task forces at district and state levels, amend their local mining rules, and submit regular reports on cases of illegal mining detected by the state governments. The IMB reported that as a result of this strategy, ‘a total of 157057 cases of illegal mining were detected, 117 lakh tonnes of mineral seized, 90431 vehicles seized, 3791 FIRs registered, 22980 court cases filed, and Rs325 crore realized as fines by State Governments’.\textsuperscript{193} More recent approaches have focused on enhanced technological capacity to stamp out illegal mining, such as the use of satellite imagery to detect unauthorised mining activity.

Undocumented and informal labour

Arguably, informal labour and the lack of documentation in Rajasthan’s quarries is a central reason why transnational mechanisms have not offered significant leverage in this case. The Indian economy is characterised by a high level of informal work which comprises 93 per cent of the country’s workforce.\textsuperscript{194} In India the term ‘unorganised labour’ is often used in preference to the term ‘informal’. Informal workers typically escape the legal categories that determine

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\textsuperscript{193} Ibid.
\textsuperscript{194} Centre for Education and Communication, \textit{Feasibility Study for Setting Standards in Natural Stone Sector in Rajasthan} (Centre for Education and Communication and Terre des Hommes Germany, 2009).
the applicability of labour law, are explicitly excluded by labour law coverage (in whole or in part) or are subject to special regulations with lower levels of protection.195 Informality also means that workers are typically not documented. There is little data on these workers. There are fewer legal cases that draw attention to practices than for formal workers. As Budharam Meghwal, of the Rajasthan State Mine Labour Union, explained, ‘in absence of any employer–employee relationship, the law does not support the workers. So, they do not have any means to assert the rights’.196

There are a number of reasons for informality in the stone sector. It is closely tied to the seasonal and migratory nature of the work, as many labourers are poor landless farmers and other rural workers who seek supplemental cash income on a temporary basis during non-farming seasons. In Rajasthan in particular, severe droughts force many farmers to migrate in search for other work in times of agricultural stress.197 This informality is heightened where the quarries are located in rural areas, where the sites are isolated and less likely to conform to any formalised structures of employment.

196 Interview with Budharam Meghwal (Rajasthan State Mine Labour Union) (21 July 2013).
197 Lahiri-Dutt, ‘Digging’, above n 9, 225.
Workers move from farming labour to mining work depending on the season. Ongoing labour circulation and lack of representation reinforce each other in a vicious circle. The constant movement in and out of the workforce undermines the cohesion and mutual trust that workers require to engage in collective action. Workers also frequently move from mine to mine. Keeping the workforce in a constant state of flux stops the creation of solidarity between workers. It is often the case in such conditions that workers compete against each other in the narrow bargaining space left to them.

Though quarry miners ought to have been the focus of efforts to formalise work, they have been left out of policy efforts. This possibly because of the poor social understanding of the Rajasthan mining bureaucracy which often equates ‘informal’ with ‘illegal’.198

Discrimination against Scheduled Castes and Scheduled Tribes

The vast majority of workers in Rajasthan’s stone quarries are members of Scheduled Castes and Schedules Tribes, including dalits. A 2005 ILO working paper suggested as many as 95 per cent of the labourers in Rajasthan’s mines were members of Scheduled Castes and Scheduled Tribes.199 Research from the MPC echoed similar findings, surveying mine 55 000 mine workers in the Bundi district and finding that of these, 85 per cent were migrant labourers, and 94 per cent were Scheduled Castes and Schedules Tribes.200 In India generally, scheduled caste members (the lowest castes, including dalits, comprising 29 per cent of India’s population) are twice as likely to be a casual labourer, and living below the poverty line (BPL).201

Because the majority of quarry workers are members of Scheduled Tribes and Scheduled Castes, they are vulnerable to the most egregious forms of abuse. It is common for the most hazardous forms of unskilled labour to be reserved for these groups. As mentioned above, women in the quarries face compound discrimination by virtue of their gender and caste status. They are often illiterate and their extreme poverty leading to further exploitation by employers.

In Indian society, one’s status as a Scheduled Caste or Scheduled Tribe can operate as a critical barrier to any form of human rights redress, despite being reserved for special protection under India’s 1950 Constitution. These groups are still widely perceived as possessing fewer rights and entitlements than citizens of higher castes, despite increased social movements and political mobilisation by dalits in recent years. As such, it is common that their rights-claims receive less traction. This fact helps to explain the low visibility of human rights abuses that take place in the stone quarries, despite some outside intervention by INGOs and more recent attention from the NHRC.

Land dispossession drives migration and informality

The dynamics of colonial and post-colonial law making, combined with more recent patterns of land displacement, play a strong role in the creation of patterns of labour circulation and in-

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198 ibid 218.
199 Srivastava, above n 10.
200 Bahar Dutt, Organising the Unorganized (Mine Labour Protection Campaign, 2005).
201 Harriss-White and Gooptu, above n 11, 99.
formality. Legal frameworks that shape patterns of land use, labour and credit markets shape the dynamics of labour supply and demand.

The revenue collection methods of the British administration reinforced feudal land tenure patterns. To extract revenue from their colony, the British implemented two major land tax systems and fundamentally altered the nature of existing property rights in India. In some regions, property rights and taxes were assigned to zamindars or landlords whereas in others they were assigned to ryotwars or cultivators.202 The introduction of sole proprietary ownership by the British further altered the rights of property previously held by lower castes, including varying overlapping rights to occupancy and rights to shares of crops as defined by local custom and kinship.203 Peasants were now ‘free’ of to sell their labour and were given land to till at the discretion of the landlord.204

In the post-colonial period, throughout Rajasthan in particular, increasing amounts of agricultural land has been converted for mining and quarrying activities. A study undertaken in 2010 revealed that, across all the districts, farmers who had previously relied upon agriculture or livestock grazing for their survival, were now working as daily wage labourers in the mines due to lack of available land.205

In Rajasthan, the landlessness experienced by much of the rural population (and, primarily dalits) has driven patterns of labour informality. Studies have suggested that roughly 75 per cent of Scheduled Castes are landless or ‘near landless’ (owning less than 1 acre),206 and form the great mass of the rural workforce. Most work as agricultural labourers, who are reduced to wage-dependency and informality as a result of their landlessness. In the 1990s, Northern India saw a flurry of strikes over wages, humiliating treatment by employers and strenuous working conditions, and in fact saw the dalit-based Bahujan Samaj Party has been voted into power in the state of Uttar Pradesh.207 As discussed earlier in this report, fluctuations in demand for agricultural labour due to droughts in Rajasthan forces many wage-dependent farmers into other forms of informal labour, including quarry work.

**Low enforcement of labour laws and regulation of bonded labour**

The application of labour laws for Rajasthan’s mine workers is low. Though there are well-articulated labour laws in Rajasthan these are rarely applied to stone workers because of problems establishing an ‘employer–employee’ relationship. Even where such a relationship could be established, enforcement of labour laws is extremely limited, one representative of a multi-stakeholder initiative explained:

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204 Alavi, above n 203.
207 Harriss-White and Gooptu, above n 11.
208 Anonymous interview (Rajasthan, 2013).
We have too many labour laws, [some] fairly well articulated labour laws, but the problem is in implementation, with the labour department and the enforcement getting weaker every passing day. And where informal sector workers are concerned where [an] employer–employee relationship is difficult to establish, the implementation is poorest, we need more supporting instruments and mechanisms for better implementation of laws.\textsuperscript{208}

Low levels of enforcement by the state government is an obstacle to the eradication of bonded labour and other forms of exploitation in quarry mining. Part of the problem is government-wide ignorance of the problem. According to a NHRC study in 2001:

\begin{quote}
The top administration in almost every State is reluctant to admit that the problem of bonded labour still exists. Most of the States hold the view that with the coming into force of the Bonded Labour System (Abolition) Act, 1976, all the bonded labourers have been released and that the problem has been solved forever.\textsuperscript{209}
\end{quote}

For example, between March 1993 and March 2001 no new cases of bonded labour were reported from Andhra Pradesh, Orissa, Rajasthan, Kerala, Haryana and Gujarat.\textsuperscript{210}

Rajasthan was one of the states ordered by the Supreme Court in 1995 to report on the incidence of bonded labour within its jurisdiction. The government of Rajasthan submitted an affidavit denying that bonded labour occurred there. The Supreme Court questioned the veracity of these reports and, on 7 August, 1995, assigned teams of investigators to independently investigate the phenomenon of bonded labour. It was found that bondage was extensive in the state, despite government claims otherwise.\textsuperscript{211} The NHRC found in its 2004–05 Annual Report that the State Labour Committee on Bonded Labour in Rajasthan had not met since September 2001.\textsuperscript{212}

\textbf{Confusion about applicable laws}

There is significant confusion regarding the laws that apply to labour in quarry mines in Rajasthan. There is not just one labour code that is relevant to working conditions, but many overlapping and sometimes contradictory sources of law.

As one interviewee put it:

\begin{quote}
Because there are so many overlaps, even the exporters and buyers also are many a times confused as to what applies to this particular sector; in terms of minimum wages, now for the mines, it is not the state administered minimum wage that is applicable, it is the sector government administered minimum wages is applicable … Then you have interstate migration: a lot of workers come from other states, they are brought from other
\end{quote}

\begin{footnotes}
\item[209] Centre for Education and Communication, above n 195.
\item[210] Human Rights Watch, above n 6.
\item[211] Upadhyaya, above n 113, 7.
\end{footnotes}
states to work in quarries ... Similarly, all the aspects under the mine site, in terms of provision of drinking water, work sheds.213

Box 2: Sample of Applicable Laws

The Equal Remuneration Act 1976; Bonded Labour System (Abolition) Act 1976; the Factories Act 1948 (regarding hazardous material that workers can be exposed to); the Rajasthan Silicosis Rules 1955; and the Rajasthan Workmen’s Compensation (Occupational Diseases) Rules 1965; Workmen Compensation Act 1923 s 32 (occupational diseases have now been classified under various categories, with pneumoconiosis covering silicosis as well as asbestosis or any disease accompanied by pulmonary tuberculosis); the Child Labour (Prohibition and Regulation) Act, 1986; the Mines Act, 1952; and the Constitution of India art 23, which forbids the use of forced labour.

Small scale mines fall outside regulation

Most people working in quarry mining in Rajasthan work in small-scale mines. These mines often fall outside existing regulations. The legal frameworks established during the colonial period aimed at the control of mineral resources by the British state. Colonial mining also brought in European models of labour relations and management techniques. Consequently, traditional artisanal mining gradually ended up outside the legalised sphere of resource governance, becoming invisible and in many cases even illegal as per the current mode of mineral classification.214 Many of the mines operating in Rajasthan are illegal.

Low capacity of labour departments

The responsibility for enforcement of OH&S provisions of the Mines Act 1957 lies with the DGMS. In 2012, Rakesh Thanvi, a Regional Labour Commissioner, noted that the DGMS had ‘one officer for the whole of Rajasthan’215 One occupational health and safety official stated it was ‘physically impossible to inspect [all the mines]’, due to the fact that Rajasthan was home to thousands of small mines and quarries.216 The Inspectorate branch has been noted for having too few officers to conduct inspections, is notoriously underfunded and has minimal capacity to conduct inspections and enforce laws:

You don’t have adequate resources in terms of the implementation of these laws are concerned. You have one or two officials, which will be looking at four or five districts, and it becomes very hard to reach.217

213 Interview with member of multi-stakeholder initiative (2013).
214 Lahiri-Dutt, ‘Digging’, above n 9, 217–44.
215 Interview with Rakesh Thanvi (State Labour Department, Regional Labour Commission) (Jodhpur, Rajasthan, 13 December 2013).
216 Interview with OH&S official (Ajmer region, Rajasthan, July 2013).
217 Interview member of multi-stakeholder initiative (2013).
This lack of capacity in labour departments is compounded by informality within the stone sector. Mr J K Gurbaxani, a mining engineer with the Department of Mining, noted:

> There are about 60 000 miners in 12 000 quarries, and they’re not regularly employed. They shift around — 15 days to one month in a quarry, then they move. So the mine owner is not able to keep an attendance record, which makes it difficult for us to fix liability.\(^{218}\)

More broadly, labour law enforcement machinery in India is ‘extremely thin on the ground’ and only conducts formal sector inspections.\(^{219}\) Further, the fines they do issue are minimal. This means that a large portion of stone quarries in Rajasthan, which are informal and operate without a quarry license, are not subject to any labour inspections. It is also the case that the current trend in India is towards further deregulation and simplification of labour laws and inspections, not towards the implementation of the existing regulatory framework or expanding it to informal workers.\(^{220}\) One official from the Ministry of Labour and Employment noted the difference on the ground between enforcing labour laws in informal and formal sectors:

> The organised are receiving all the government benefits properly because trade unions are there, and they have regular interaction with the government. Unorganised workers are having problems. The mine owners are not identified, the workers are not identified, they work for contracts of only one or two months … There are local bodies — district collectors, etc — who are publicising the rules and regulations, and state government welfare schemes — to encourage workers to know their rights — but they are not all satisfactory. The possibility to safeguard mine workers in unorganised sector is hard.\(^{221}\)

The chronic underfunding of the DGMS Inspectorate makes officials more susceptible to bribery, making enforcement less likely. Rather than seeking the enforcement of even the most basic OH&S laws, it is common for labour inspectors in India to point to violations of anachronistic laws ‘at their convenience’ in order to seek bribes.\(^{222}\) The ‘Inspector Raj’ system, in which predominantly small enterprises face extortion and rent-seeking from an army of corrupt labour inspectors,\(^{223}\) is reportedly still alive and well in India.\(^{224}\)

For labour complaints, workers must make complaints in writing to the Central Labour Department (CLD) based in Delhi. In addition to mines, the CLD is charged with investigating labour complaints from many national sectors, such as the railways and the postal service. Many respondents noted that there was a lack of cooperation and communication between the central

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\(^{218}\) Interview with Mr J K Gurbaxani (Department of Mining) (Jodhpur, Rajasthan, 13 December 2012).


\(^{220}\) Ibid.

\(^{221}\) Interview with welfare administrators (Goi) (Ajmer, Rajasthan, 12 December 2012).


\(^{223}\) See Bibek Debroy, ‘India’s Segmented Labour Markets, Inter-State Differences and the Scope for Labour Reforms’ in Bibek Debroy, Laveesh Bhandari, Swaminathan S Anklesaria Aiyar and Ashok Gulati (eds), Economic Freedom of the States of India (CATO Institute, 2012).

Labour Department and the state-level authorities responsible for revoking quarry licences. Rana Segupta, of MLPC, helped to explain the complicated and overlapping dynamics at play:

Labour enforcement is supposed to be from the central government, but they don’t know where the mines are. This is because the state Mining Department does not pass on information about concessions. It’s like tax — it’s self-reporting.  

Dependency on employers and lenders and limited awareness of legal rights amongst workers

This report has shown that the nature of the work is temporary in mines in Rajasthan. As the rains hit this region, mining comes to a halt with the rainwater collecting in the mines. It is in this period that the workers who do not leave to conduct farm labouring get tied to the mine owners or the middlemen for daily existence through loans. This creates a dependence on the employer that is difficult to escape. The fear of eviction and the struggle to survive in times of unemployment act as primary barriers to unionisation. Informal workers, especially in employment relations that they are socially dependent on, find it difficult to respond to direct organising efforts.

Many workers in Rajasthan’s stone quarries have an extremely limited awareness of their legal rights, which operates as a major barrier to redress. As a result, they are rarely apprised of their right to demand basic entitlements, such as compliance with OH&S laws. It is broadly agreed amongst NGO and union representatives interviewed for this project that this is a particularly urgent area for training and education:

There is a huge need to build awareness among workers about these laws and their rights … [to eventually have success] in terms of workers demanding or raising issues with regard to what their entitlements are and what they are getting.

Most of the workers who had suffered work-related injuries or complaints surveyed in this study did not have any awareness of avenues of redress beyond their immediate employer. One worker, who had suffered an eye injury while cutting stone, was not provided with treatment or compensation from his owner, and indicated the owner ‘was the only one that I know’ to approach. In the absence of any form of unionisation or linkages NGOs, many workers have no reasonable way of knowing how to navigate the complex legal framework for lodging complaints and seeking compensation from the state and quarry owners.

Difficulties in attaining a legally recognised diagnosis of silicosis

Although some redress in this case has been rolled out in Rajasthan, in the form of compensation for victims of silicosis and their widows, there are still significant barriers to the implementation of the scheme. Many labourers are incorrectly diagnosed (and treated) for tuberculosis when they present with lung-related symptoms. It is unclear whether this is due to incompetent diagnoses, or a deliberate downplaying of the incidence of silicosis. Sanjay

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225 Interview with Rana Senupta (MLPC) (Rajasthan, 11 December 2012).
226 Interview with member of multi-stakeholder initiative (2013).
227 Interview with male labourer (Jodhpur, Rajasthan, 19 July 2013).
Parikh, a lawyer interviewed for this study, indicated that ‘many medical centres and doctors are not willing to issue diagnosis certificate for silicosis’. Another respondent suggested that doctors needed to meet government-mandated tuberculosis ‘diagnosis targets’, so tended to diagnose TB when patients presented with any respiratory symptoms.

Further, the Pneumoconiosis Board — which is charged with issuing certifications of silicosis so that workers can claim compensation — has been criticised for being ineffectual, inexperienced and lacking any real expertise on the disease. Thus, many people have been unable to retain redress because they are not diagnosed or are unable to attain a legally recognised form of diagnosis. As one report succinctly described:

The potential hazards from silicosis have been known for a long time, and a number of state governments [in India] have passed legislation to address this. … [However, such developments have] meant nothing in practice … Besides the fact that almost none of the workers are aware of the regulations and laws, the procedure for filing a compensation petition is very complicated. The biggest hurdle in the whole process is the difficulty in obtaining a certificate from the Pneumoconiosis Board. With the board inordinately delayed — and even then largely idle — actual relief for the mineworker remains out of reach.

Low capacity of trade unions to organise stone workers

This case study shows that the strategies currently being used to organise workers are not resulting in either the formalisation of workers or the active membership of workers in trade unions or other worker organisations. There remains a significant division between ‘organised’ and ‘unorganised’ workers with little solidarity between them. New organising strategies are required for informal workers. Research and practice in other industries shows that traditional union organising strategies are often ineffectual with informal workers.

When speaking about activities of trade unions in representing workers to access redress against abuses in the stone sector, H Mahadevan, of the All India Trade Union Congress, noted that ‘things are moving slowly, national trade unions have much more to do’. Mahadevan noted that national level unionists have limited awareness about the informal quarry sector and further, that most of the most marginalised workers ‘are not aware of many rights and entitlements’.

Bashilal Binjana, General Secretary of RSMLU, noted of the compensation process in 2013:

This is only the first step. We have many more miles to go. The district administration and its officials still remain insensitive, there are bureaucratic delays. We have to reach the actual victims. We alone cannot do that. The government has to develop and an awareness and information dissemination programme, more reach out programmes and NGOs like MLPC also has its role to play.

228 Interview with Sanjay Parikh (New Delhi, 10 October 2013).
230 Interview with H Mahadevan (All India Trade Union Congress) (11 September 2013).
231 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (21 July 2013).
Binjana noted that local unions have started taking more active approaches in attempting to reach rural and isolated workers, such as the RSMLU establishing an accident support helpline for those with access to mobile phones. When the union receives a complaint, it ‘immediately connects with the worker, arranges for required treatment, and files complaint with the district collector.’

**Little incentive for NGOs to represent aggrieved workers in complaint to a transnational grievance mechanism**

We began this research in part because MLPC planned to make a complaint to an OECD National Contact Point against a major buyer of Rajasthan’s stone. After years considering making a complaint to an OECD NCP, MLPC decided, for the time being, not to submit a complaint on behalf of quarry workers. MLPC is aware of the potential benefits of making a complaint, and has received training from SOMO in making complaints, so knowledge of the mechanism is not the primary barrier here. The reasons that MLPC has not yet made a complaint include the cost of putting together a complaint combined with the problems of tracing supply chains in order to make the argument that a company in an OECD country is in breach of its obligations under the OECD Guidelines for Multinational Corporations. During this study, one representative from a multi-stakeholder initiative expressed some concern that ‘international [players] can only drive so much change when there is a huge domestic market for dimensional stones.’ Additionally, though there may not be lodgement costs for the NCP, putting together a complaint would require many staff hours in order to establish a link between the buyer’s actions and the conditions of workers.

**Difficulties tracing supply chains and exercising leverage over buyers**

Though large volumes of stone are exported, there are no major buyers whom against whom leverage can be applied to bring about change within supply chains. Instead, there are thousands of small buyers. In other words, stone supply chains are not ‘buyer-led’ using Gereffi’s terminology.

Without being able to tie the offending labour practices to a specific country or consumer-facing brand, it is difficult to make strong legal arguments in favour of enhanced transnational accountability. One representative of a multi-stakeholder initiative noted the particular difficulties in attempting to map the supply chain in Rajasthan’s stone sector:

> It’s so complex in the sense of you’ll get to your exporter or processor and then they could be buying for a number of businesses. It’s a very informal structure for buying stone, so it can just see somebody going to market and looking for a particular colour … there’s very little trail in terms of actual documentation and people recording it of where the extraction quarry may be.

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232 ibid.
233 Interview with member of multi-stakeholder initiative (2013).
235 Interview with member of multi-stakeholder initiative (21 October 2013).
The structure of supply chains, with thousands of small buyers, in addition to the problem of lack of documentation of sources of stone and the illegality of mines, all combine to create significant barriers to tracing the supply chain or utilising supply chains to bring about change.

Our research provides important insights and cautions with regards to supply chain due diligence. Interview data collected in the course of this study indicates that many actors, both local and international, have significant blind spots in relation to many levels of the supply chain. Any future attempts to better map and understand the supply chain must take this into account. While international actors are often well versed in mapping the upper end of global supply chains (such as exporters and sellers in the UK and Australia), one critical issue is making sure that leveraging firms in the supply chains in India’s stone sector takes into account the enormous domestic market for dimensional stone. This is an important lesson for international NGOs and actors attempting to influence the sector from outside. A representative from ETI suggested that the biggest challenge for NGOs and trade unions is how to better engage with firms in the domestic supply chain.

The second key dynamic that became apparent in the course of this study was that local respondents did not feel that the transnational elements of the supply chain could play a large role in addressing sector-wide reform or responding to workers’ grievances. When asked which parties should bear responsibility for silicosis in the stone sector, one union representative gave a typical response: ‘First the employer, the labour enforcement machinery and then the government’. When prompted about the responsibility of transnational buyers of stone products for workers’ welfare, one processing plant owner, for example, simply stated — ‘How could they do so? We pay taxes and CESS [a type of levy], workers’ welfare should be the responsibility of the government’.

A third factor is the difficulties in identifying the human rights abuses taking place at the quarries. Penham Basu of MLPC highlighted the issues faced when Beltrami, a UK stone importer, conducted site visits to ensure ethical sourcing:

> *Once in a while a consultant comes, but with advance notice, and it is the responsibility of management to show him around. Every time we took out the camera, the child labour stopped working. It’s just like in carpets — child labour is going underground. Bonded labour — people won’t [speak of it]. You can’t get evidence. Even labourers know the politically correct thing to say now.*

Thus, increasing supply chain transparency is not just a matter of mapping the companies and quarries involved in the stone production. It is a matter of understanding the complex dynamics of labour exploitation in India, where the full scope of human rights abuses may not be immediately apparent when conducting site inspections and could be hidden by invisible but deeply embedded patterns of bondage, discrimination and oppression.

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236 Interview with member of multi-stakeholder initiative (2013).
237 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (21 July 2013).
238 Interview with Luvjeet Singh Sankla (processing plant owner) (Mandore, Rajasthan, 22 July 2013).
239 Interview with Pekham Basu (14 December 2012).
Lessons and recommendations

Lessons for the design and operation of non-judicial human rights mechanisms

Non-judicial human rights mechanisms should take steps to assist business to conduct due diligence in supply chains. The ETI is operating in the Rajasthan, but it is a UK mechanism. A more international approach is required, given the international scale of supply chains.

There is immense scope for non-judicial human rights mechanisms to encourage human rights due diligence throughout supply chains. We propose that non-judicial mechanisms have an important role to play in working with central and Rajasthan governments to:

Create a due diligence guide for stone supply chains

A due diligence guide for stone supply chains, along the lines of the ‘The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas’, should be developed which addresses the particular risks of stone supply chains.

Formalise stone quarries

The illegal, informal and unregistered nature of many stone quarries in Rajasthan is one of the largest barriers to the improvement of working conditions and worker access to redress. A non-judicial human rights mechanism should assist the government with the formalisation of quarries in Rajasthan by undertaking the following steps:240

1. Assist in the formalisation of operations, including through:
   a. Investigating the causes of informality in existing small-scale production and trading systems, in order to identify the best strategies for incentivising and enabling formalisation.
   b. Providing technical assistance to help formalise artisanal and small-scale miners.

2. Assist in the legalisation of operations by:
   a. Providing assistance to artisanal and small-scale miners to obtain mining rights and other related authorisations through legitimate processes. Where there are challenges regarding illegal mining on mining concessions, all stakeholders concerned are encouraged to facilitate constructive dialogue between titleholders and artisanal and small-scale producers, where those parties are acting in good faith. In case of title disputes, mediated solutions should be sought through cooperation with government and other stakeholders.

240 These steps are adapted from the Appendix to Organisation for Economic Co-operation and Development, The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas (2nd ed, 2013), which aim to ensure that international standards do not further marginalise workers of the informal sector.
Develop traceability and/or chain of custody systems in supply chains

A non-judicial human rights mechanism could take the lead in the establishment of traceability and/or chain of custody systems that enables data collection on all stone from assessed mine sites. Traceability systems should progressively collect and maintain information for every stone shipment from assessed mine sites.

This may require financial support to i) multi-stakeholder commissions to assess mine sites, transportation routes and points where stone is traded; and ii) chain of custody and/or traceability schemes.

Establish a local grievance mechanism

A grievance mechanism should be set up in Rajasthan which allows claims to be brought against parties higher in the supply chain for breaches of human rights due diligence.

Bolster the capacity and leverage of local institutions

The efforts of non-judicial mechanisms should be focused on bolstering the state regulation of mines. Many of the factors that contribute to the extreme conditions of quarry workers extend beyond the quarries themselves, including for example migratory labour, discrimination against Scheduled Caste and Scheduled Tribes, and deeply entrenched discrimination against women.

Particular attention needs to be given to increasing the safety of mines so as to reduce the incidence of silicosis and other injuries. Wet drilling, a process which prevents dust particles from being released into the air, is now compulsory in Rajasthan under the law. Non-judicial mechanisms should support the government in ensuring that wet drilling becomes the norm.

Support the recommendations of the Human Rights Commission

In 2015, the Rajasthan Human Rights Commission (RHRC) called upon the Central Government to amend the Mines Act 1952 to respond to the high rate of occupational diseases and provide for an independent agency with powers to address widespread occupational diseases in the mining industry.

Urgent support should be provided for the setting up of such an independent agency.

Build local trade union capacity

Non-judicial human rights mechanisms should also strengthen the expertise and power of local worker representatives so that workers can be aided to access redress. The sector is currently dominated by NGOs, and the two international initiatives that are in operation are coordinating predominately with NGOs rather than trade unions. While there is a role for NGO assistance, particularly in terms of welfare provision, this should not be at the expense of worker organisations which are democratic and represent workers.
The focus of building trade union capacity should be on organising the informal sector, education about supply chains in the stone industry and ways to better leverage its power.

**Harness the power of trade agreements and international organisations**

Home countries (the countries in which transnational business is domiciled) can make a significant difference to the conditions of workers in India by making preferential trade access for the import of sandstone, marble and other stones conditional upon evidence of improved labour conditions, monitored by a reputable mechanisms such as the ILO, with a role for bodies such as the ETI to play in the UK.

The Better Factories Programs, which had its genesis in a trade agreement between the US and Cambodia which linked preferential trade access with improvements in labour conditions, may serve as a possible model for international assistance in the stone sector of Rajasthan.\(^{241}\) The aim of this program is to strengthen local institutional capacity and ensure that thorough monitoring occurs of supply chains. The labour performance of local companies is published publicly, and reports are given to buyers of labour conditions. The program is not without its problems, but can still provide useful lessons for ways that trade agreements and labour monitoring can be linked.\(^{242}\)

Following the success of the ILO Better Factories Cambodia project, the ILO and International Finance Corporation (IFC) launched a Better Work partnership, which currently operates in nine countries, focusing on compliance assessment activities, continuous improvement and reporting, and stakeholder engagement. Under this scheme, international garment buyers pay for factory audits and related activities.\(^{243}\) A similar model could be undertaken to improve conditions in stone quarries in India, which could seek buy-in from firms higher in the supply chain to enhance auditing and supplement the weak labour inspectorate system which currently operates in India. The benefit of a program is that it brings together workers’ and employers’ organisations, as well as government stakeholders and prominent international buyers to address root causes of non-compliance with labour standards and laws.\(^{244}\) Leveraging international businesses in the stone supply chain, on the basis of their human rights and due diligence obligations with regard to the entire sector, may help to solve the problems faced by attempting to link individual firms to specific quarries.

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Lessons for international NGOs

Partner with local groups

This report has found that workers have only accessed redress with considerable assistance from local worker organisations. Further, the opacity of this sector makes it impossible to navigate without local assistance. International NGOs must partner with local groups in order to contribute to improvements in working conditions.

Local worker organisations require considerable assistance gaining leverage from supply chains. One interviewee noted that the biggest challenge for NGOs and trade unions is how to better engage with firms in the domestic supply chain.\(^{245}\) This is particularly important within India’s marble industry, which caters almost entirely to the domestic market.

Build the capacity of trade unions to organise Informal workers and access redress

Trade unions in Rajasthan are doing a poor job of organising informal workers. We found very little evidence in this research of any workers having strong relationships with any organisations, whether trade union or NGOs.

Many of the women interviewed for this study, who were seeking NHRC compensation, had only heard about their right to payment through friends and widows in similar circumstances. More expansive access to this redress mechanism could be facilitated by trade unions playing a greater role and helping to educate workers and their families of their rights.

Trade unions require assistance from organisations with expertise and knowledge organising informal workers and bonded labour.

Lessons for local NGOs and trade unions

Adopt new organising strategies appropriate for informal workers

Unionising is very difficult in informal work. NGOS and trade unions attempting to organise informal quarry workers should work with groups that have successfully organised informal workers elsewhere in India, in other industries, to find new strategies. There are many workers organisations in India that have been highly successful in organising informal workers.

The ILO proposes that participatory democratic methods to involve workers in formulating demands for the workplace would: (i) build confidence in their collective identity; (ii) build confidence of workers in their capacity to articulate problems and hence demands; (iii) develop organic leadership from among the workers to negotiate with employers on the demands raised by the workers.\(^{246}\) It recommends that unions begin organising mines by:

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\(^{245}\) Anonymous interview (Rajasthan, 2013).

• Assisting workers to identify their problems. Conduct workplace-mapping exercises with workers engaged in each task with an aim to identify workplace related health problems and linking it to their work.

• Assist workers to identify social problems linked to their work and employment relations.

• Prioritise problems with workers through a democratic consultation.

• Negotiate/collectively bargain with employers/government on the identified issues. It is important to win small victories. These provide confidence to workers to negotiate in the next round for other demands.

Bring claims to the NHRC and courts

This case study shows that the National Human Rights Commission of India can sometimes deliver redress for aggrieved community members.

Efforts should also be made to use NHRC claims to bring attention to and address systemic issues that exacerbate human rights breaches, and increased leverage through supply chains. Though it provides important redress to victims, compensation by the state does not increase the operating cost for businesses in the same way as court cases against mining businesses would. It does not, therefore, address supply chain dynamics. Nor does it address wider problems that cause human rights injury.

Demand coverage by Welfare Boards using successful models from other states in India

There may be merit in demanding mechanisms that have been highly successful in improving the livelihoods of informal and unorganised workers in other states. These include the Welfare Boards of Kerala and the Mathadi Boards of Maharashtra. Information about these is provided in the section for government below.

Lessons for the Indian and Rajasthan governments

Conduct across-government action

Respondents to our research highlighted the need for a range of government agencies to coordinate and take action to address the compound discrimination experienced by stone quarry workers:

Though the owners-employers have to be blamed for their direct connection with the issue, a lot of institutions being allocated millions of rupees have failed the workers also. There are institutions who have failed to do proper follow up and develop a mechanism within the administrative and enforcement mechanism, the central trade unions have failed, the medical colleges try all their tricks to not write down in black and white that the worker is suffering from silicosis. And to top it all the respective state governments
have completely ignored this issue for years. Even the technology institutes have failed to develop proper safety gear and equipment to protect workers. This is a vicious cycle.247

Urgent action is required on behalf of the Indian and Rajasthan governments across all departments that can contribute to better conditions for stone workers.

Enact the recommendations of the Human Rights Commission

The Mines Act 1952 should be amended to respond to the high rate of occupational diseases. An independent agency with powers to deal with widespread occupational diseases in the mining industry should be established.

Implement new regulations for informal workers

Currently, workers in Rajasthan’s mines are mainly informal. It may be that it will not be possible to overcome gaps in the regulation of labour through conventional labour law based on the employment relationship. There is a large volume of scholarship in the field of labour law that recommends the decoupling of labour regulation from the employment relationship.248 A number of schemes in India have successfully by-passed or augmented the employment relationship and developed new mechanisms for regulating non-traditional workers. Indeed, India is an international leader in this regard. The state of Rajasthan would be well advised to explore the establishment of similar schemes to improve the conditions of informal quarry workers. Perhaps the most successful of these is the Mathadi Boards.249 The Kerala Welfare Boards have also made a big difference to informal worker conditions.

Box 3: Mathadi Boards

Following a concerted campaign in the 1960s, a tripartite regulatory system was introduced to overcome many of the problems historically faced by headload workers (Mathadi workers) in the state of Maharashtra, such as a lack of job security and access to social security. The Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act 1969 (‘Mathadi Act’) was the first regulatory method of its type in India to develop a method “to secure basic protective social security for the unorganised workers by “regularising” their intermittently available continuous work.”250 The Act provides a comprehensive regulatory system for the Mathadi workers.

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247 Interview with Bashilal Binjana (Rajasthan State Mine Labour Union) (21 July 2013).
Lessons for businesses buying, selling or processing stone from Rajasthan

Ideally, stone should only be purchased from mines that:

- Pay 'living wages'.
- Allow unions to organise and encourage freedom of association.
- Ensure working conditions meet international standards as well as legal requirements.
- Have a proactive approach to stamping out discrimination on the basis of gender, ethnicity, caste and tribal status resulting in no discrimination in the workplace.

Because of the vast gap between current conditions at mines in Rajasthan and these preferred conditions, businesses that respect business and human rights have a great deal of work to do in order to assist the Rajasthan stone industry to meet these conditions for purchase. It is proposed that businesses should contribute to the following vital steps towards more ethical stone production:

**Undertake supply chain due diligence**

As a first step, businesses that trade in or process stone from Rajasthan should undertake due diligence in their supply chains:

1. Identify the factual circumstances involved in the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing or selling of products that contain stone from high-risk areas in their supply chains;

2. Identify and assess any actual or potential risks by evaluating the factual circumstances against standards set out in the company’s supply chain policy, based on international human rights and labour standards;

3. Prevent or mitigate the identified risks by adopting and implementing a risk management plan. These may result in a decision to continue trade throughout the course of risk mitigation efforts, temporarily suspend trade while pursuing ongoing risk mitigation, or dis-
engage with a supplier either after failed attempts at mitigation or where the company
deems mitigation not feasible or the risks unacceptable.

Generate collective pressure

Even if businesses have good intentions, they do not always have sufficient leverage on their own. The level of influence a business can have on its suppliers depends on how significant the entity is for the supplier as a customer. Working in partnership with peer companies and industry groups is an effective way of expanding bargaining power and leverage, and effecting change.

The EIT’s Rajasthan Sandstone Programme and the Responsible Stone Program are two examples of collective action amongst businesses in the supply chain. Subject to further evidence that the two programs are making headway in addressing the human rights breaches outlined in this report, these programs could offer avenues for businesses to join together to pressure mines to improve working conditions.

Place pressure on suppliers to ensure that mines are formalised

- Stone should not be purchased from unlicensed mines. It is imperative that buyers demand evidence that stone from Rajasthan that it was mined from a quarry with a valid licence to operate.

Place pressure on mines to facilitate access to quarries for monitoring

- Currently mines go largely unmonitored. Monitoring needs to become far more commonplace, with unannounced monitoring the norm.

- Ideally such monitoring should be conducted by state inspectorate together with international bodies such as the ILO, in preference to private monitors.

Publish supply chains

- In many other industries — particularly in the apparel industry — many companies are taking the lead by publishing their supply chains. Given the opacity of stone supply chains, buyers should at least require that Tier One suppliers identify their suppliers, and publish these lists on company websites.

Develop robust relationships with suppliers

- Long-term relationships with suppliers enable businesses to communicate their standards and expectations related to labour rights. Investing in training and building the capacity of suppliers can support them in implementing supply chain tracing and monitoring.

Demand documentation showing that stone was sourced from a licensed mine

- Far better documentation is required in the stone industry. As a starting point, a documentation system should be developed that shows that stone is sourced from licensed mines.
Set up and contribute funds to compensations schemes

- To date, the state has taken responsibility for paying compensation to workers and their families following injury and death. In keeping with the UN Business and Human Rights ‘remedy’ principle, buyers of Rajasthan stone should contribute to this compensation. Such compensation schemes might be overseen by the NHRC.

Invest in health and safety

- Investigate ways to invest in the health and safety of mines so as to prevent further injury and death. The ILO’s WISE program could be drawn on for assistance.\(^2\)

Support the establishment of a grievance mechanism

- A grievance mechanism should be established in Rajasthan that allows claims to be brought against businesses domiciled outside of India for breaches of supply chain human rights due diligence.
