

BUDHPURA

20 YEARS ON

The case for sustainable
sandstone mining







About the Mine Labour Protection Campaign (MLPC)

Mine Labour Protection Campaign: Advancing Ethical Business and Sustainable Development in the Natural Stone Industry

Born out of the urgent need to address the struggles of mine workers in the natural stone industry and Artisanal and Small-Scale Mining (ASM), the Mine Labour Protection Campaign (MLPC) took shape in 2007 as a dedicated institution committed to their welfare. With a vision of ensuring dignity, security, and sustainable livelihoods for these workers, MLPC has been at the forefront of advocating responsible practices that benefit both people and industry.

MLPC is committed to transforming the natural stone industry by integrating ethical business practices, ensuring responsible supply chains, and prioritizing the well-being of workers and their communities. Our approach goes beyond conventional interventions—we strive to connect mines to markets in a way that benefits all stakeholders, from artisanal mine workers to global buyers, ensuring transparency, sustainability, and social responsibility at every stage.

MLPC actively promotes the development of the natural stone industry while ensuring that the people behind it are not left behind. We work to secure workers' health rights through rigorous occupational health and safety measures, advocate for social security, and facilitate the establishment of cooperatives that empower workers to negotiate fair wages and working conditions. Additionally, we are dedicated to breaking the cycle of child labor by ensuring access to quality education for children in mining communities.

Recognizing that sustainable livelihoods require long-term investment, MLPC champions skill development through vocational training centers, enabling workers to diversify their income opportunities and build resilient futures. By prioritizing environmental stewardship, responsible extraction, and ethical labor practices, we create models that uplift not just industries but entire communities.

MLPC is not just another NGO—it is a movement for justice, dignity, and sustainable progress. Our cause is rooted in fairness, driven by the belief that ethical business and human rights must go hand in hand. Through strategic partnerships and innovative approaches, we are shaping a future where the natural stone industry thrives responsibly, ensuring that economic success never comes at the cost of human well-being.

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EXECUTIVE SUMMARY

In 2005, *Budhpura 'Ground Zero' – Sandstone quarrying in India* first drew our attention to the deplorable human rights situation amongst workers in Rajasthan. These include violations that can be described by terms now familiar to us, such as modern slavery and forced labour. Further reports done by several organisations over the intervening years, including Arisa and the American Bar Association (ABA), have led to increased awareness, recommendations, and in 2020 the inclusion of Rajasthan sandstone in the US Department of Labour list of goods produced by child labour or forced labour. Since 2005, the critical rate of silicosis amongst workers has also emerged, and in 2015 the Rajasthan state notified it as an epidemic under the Rajasthan Epidemic Disease Act 1957.

The intervening years have also brought for the first time, certain obligations on overseas businesses to monitor and mitigate human rights violations in their supply chains. This is relevant to the Rajasthan sandstone industry because **exports of sandstone from Rajasthan accounts for 5% of production and, in the cobblestone sector, exports to Europe are reported to account for 90% of the goods produced.** The major importers are the UK and the US, followed by France, Belgium and Canada. All of these countries either have, or have proposed, legal obligations to monitor their supply chains for human rights violations.

In 2020, the Covid-19 pandemic, illustrated the paucity of legal protection for the Rajasthan mine workers. Research done by the Mine Labour Protection Campaign (MLPC) found that mine workers had summarily lost their employment with no compensation provided. Further, workers were at risk of dying from Covid-19 because of the high rate of silicosis, and to date the number of workers who have died due to the combined effects of the silicosis epidemic and the pandemic is not known.

Now nearly 20 years on, MLPC have carried out further research in and around Budhpura village and surrounding districts and investigated the supply chains that emanate from there, to ascertain whether anything has changed, or could change, for workers. **The findings were bleak, but also provide renewed motivation to look at ways in which the state and business can take action to improve the situation for workers in Rajasthan.**

Two investigations were carried out in 2022 and 2023. One was an empirical survey of 92 women working in the cobblestone industry in Budhpura in August 2023. This method was chosen to provide incontrovertible data on which to base recommendations and policy initiatives. The evidence shows that if anything, the situation for workers has deteriorated since Budhpura Ground Zero. The respondents confirmed the high prevalence of silicosis amongst mineworkers, with **44% of the women reporting that their husbands had died from a diagnosed case of silicosis, thereby forcing them into the same dangerous occupation. The wages paid to the women could only be described as “starvation wages” with salaries ranging between Rs 100 to 250, with around one-third receiving Rs100 per day.** This led to the inevitable consequence of children working in the cobblestone industry to supplement the family’s income; and 62% of women reported that their children worked with them in producing cobblestones. Perhaps the most tragic statistic obtained from the survey was that 90% of the children of those surveyed had to drop out of school. The prevalence of silicosis meant all the women were shouldering a debt burden from their husband’s illness.

An investigation in July 2022 focussed on the upstream supply chain of an exporter of natural stone to the UK, USA and the EU. The supplier was chosen, not only because of its prominence in the industry, and business relationships with international retailers, but also because of the



Image courtesy of Madhavan Pillai.

company's claims to have put in place a mechanism by which it can monitor and maintain human rights standards in its supply chain. The investigation conducted interviews with those who worked in the supply chain. The investigation found that, not only were there serious labour and human rights violations in the first tier processing unit, including lack of safety equipment and the use of informal labour, but also that it is very difficult to trace the stone entering the processing unit because of multiple and undisclosed suppliers. The supply chains investigated, exhibited the types of human rights violations found in the Rajasthan stone industry, including low pay, debt labour, child labour and silicosis. The investigation found that this was not atypical, but represented the standard of many supply chains in the Rajasthan stone industry. In other words, **the claims made by importers of Rajasthan stone that their supply chains do not contain the widespread human rights violations prevalent in the industry, are likely to be untrue.**

The above paints a sombre picture, however, there are grounds for optimism. The expansion of Pneumoconiosis Boards in Rajasthan since 2014 has seen the diagnosis of over 30,000 mine workers, of which over 12,000 have received relief from the state. This has led to an increased knowledge of silicosis amongst workers, which lays the ground to better prevention. The state of Rajasthan also ordered the establishment of a Mine Workers Welfare Board in 2022. Whilst not yet operational, the Board will be the first in India dedicated to promoting and protecting the rights of workers in the mining sector. In addition, the growing momentum behind mandatory due diligence obligations with respect to human rights and environmental standards marks a sea change in how businesses approach adverse impacts in their supply chains.

The contributions in this report demonstrates that those working across the sandstone industry continue to suffer serious labour and human rights violations, with those in the lower tiers of international supply chains being at greatest risk. However, the chapters also explore the positive developments, both within Rajasthan and internationally, and illustrate that change is possible.

RECOMMENDATIONS

A series of
recommendations for
institutions as next steps of
action

For the Government of Rajasthan

- Urgently form the Rajasthan Mine Workers Welfare Board with the powers to:
 - Secure the provision of welfare to workers, including through direct payments and/or access to existing social protection legislation.
 - Monitor and enforce the registration of mines and workers.
 - Operate a grievance handling procedure to investigate complaints from workers, with the power to provide an effective remedy in the case of violations.
 - Compile and publish data on the status of labour and human rights standards in the industry.
- Take immediate steps to fully implement the Rajasthan Pneumoconiosis Policy 2019 with a particular focus on prevention and control plans.
- Amend the Rajasthan Minor Mineral Concession Rules 2017 so that the conditions for a grant of a mining lease or licence are aligned with the fulfilment of obligations under relevant labour and environmental standards.
- Take immediate steps to formalise working relations in the sector by, for example:
 - Mandating all applicants for a mining lease or license to register workers with the Central Labour Department prior to final grant.
 - Introducing stricter sanctions against lease or license holders that fail to register workers with the Central Labour Department by for example, terminating transit passes.
 - Introducing labour identification cards across the sandstone industry to record employment history.
- Take immediate steps to strengthen the Rajasthan Minor Mineral Concession Rules 2017 and the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules 2006, by:
 - Extending the eRawanna permit system to all mining sites.
 - Use digital geolocation to identify sites where minerals are extracted from.
 - Coordinating with the Labour Department, and the Mine Workers Welfare Board when established, to ensure that all mining leases are registered and all consignments are tracked through the eRawanna system.
 - Strengthening penalties for breaches of labour and environmental standards.
- Review and improve the functioning of the District Mineral Foundation Trusts to ensure funds benefit the people and areas affected by mining operations as intended under the District Mineral Foundation Trust Rules 2016.

For the Government of India

- Introduce legislation to establish mandatory human rights and environmental due diligence obligations on companies operating from and in India in line with the United Nations Guiding Principles and the OECD Guidelines for Multinational Enterprises.
- Take immediate steps to strengthen and expand the Business Responsibility and Sustainability Report requirements, which is currently only mandatory for the top 1,000 listed companies in India.
- Take immediate steps to ensure the effective coordination between the Central Labour Department and the Government of Rajasthan's licensing and enforcement authorities.

For states trading with India

- Introduce mandatory human rights and environmental due diligence obligations on companies and their subsidiaries throughout their global operations and value chains, including a civil remedy to obtain redress for violations in line with the United Nations Guiding Principles and the OECD Guidelines for Multinational Enterprises.
- Introduce mandatory human rights and environmental due diligence obligations for public procurement officials sourcing sandstone from Rajasthan, and incorporate corporate sustainability due diligence aligned contractual clauses in public procurement contracts.
- Take immediate steps to prohibit the import of products made or transported with forced labour, including, bonded labour and child labour, including the power to prohibit specified goods from countries where there are credible reports of wide-spread forced labour and the rebuttal of such prohibition through an effective due diligence system and substantive evidence that the product is not made with forced labour.
- Consider trade-based regimes, including granting an additional quota of imports or tariff-free access to India based on its adherence and implementation of labour laws and legislation covering workers' rights in the sandstone sector in Rajasthan.

For companies

- Companies sourcing and supplying goods from Rajasthan must carry out human rights and environmental due diligence and ensure access to remedies for violations in line with the United Nations Guiding Principles and the OECD Guidelines for Multinational Enterprises.
- Companies sourcing and supplying goods must take immediate steps to increase transparency and monitor and address grievances in their supply chains by harnessing new tools and technologies.
- Lead firms must drive responsible purchasing practices across the supply-chain, including by paying a living wage and developing and maintaining long-term and responsible contracts that promote respect for labour rights and the environment down the supply chain.
- Lead firms must incorporate corporate sustainability due diligence aligned contractual clauses, as set out in the draft European Model Contract Clauses for Responsible and Sustainable Supply Chains, that include:
 - A joint obligation to carry out on-going human rights and environmental due diligence.
 - A shared responsibility for human rights in the supply chain.
 - The prioritisation of human rights and environmental remediation.
- Companies sourcing stone from Rajasthan must take immediate steps to pool expertise, funds and technology to support good purchasing practices across the sector, including:
 - The harmonisation of standards and metrics used to assess environmental and human rights standards in supply chains.
 - The use of open-source systems and tools for tracing, auditing and assessing supply chains.
 - The establishment of an independent operational level grievance mechanism for workers.
 - The development of shared sustainable supply chains.
- Companies sourcing sandstone from Rajasthan must establish an independent operational-level grievance mechanism for workers to effectively address, prevent and remedy any adverse environmental and human rights impacts that may occur in connection with the extraction, manufacturing and sale of goods. Such a grievance mechanism should reinforce the role trade unions have in addressing labour-related disputes, and be jointly accountable to business enterprises, trade unions and worker representatives.
- Lead firms sourcing sandstone from Rajasthan must use their leverage to support the immediate formation of the Rajasthan Mine Workers Welfare Board and the introduction of mandatory due diligence obligations to ensure a level playing field.

INTRODUCTION

“After my husband was diagnosed with silicosis, we had to borrow money from the mine owner to cover medical expenses in the hope of keeping him alive as the money from the government was not sufficient. To pay off the loan from the mine owner, I was not paid for a year.”

Cobblestone worker, Budhpura village, Rajasthan

Sometimes a tragedy is not just about the intensity of the suffering itself, but also about the failure of a society to make the alleviation of that suffering a priority. Anyone who has had any exposure to the situation of the Rajasthan sandstone mine workers through the now numerous reports and media coverage, should not have any doubt about the widespread sufferings of its mineworkers, and the fact that we as a society have failed them, and continue to do so. In a world in which we are bombarded daily with images of tragedy, from conflicts to migration, the image of a barefooted child, who should have the opportunity to be educated, instead toiling under the hot sun chiselling hard rock, still has the ability to shock us. It tells us of the fact that in a world preoccupied by artificial intelligence and technological solutions, there remain people whose lives have been largely unaffected by such changes for centuries, and unless our priorities change will continue to do so.

*Budhpura ‘Ground Zero’*¹ was the first report commissioned on the situation of mineworkers in Rajasthan. Budhpura is a village in Bundi District, near the city of Kota in eastern Rajasthan. It would probably have remained an unremarkable village in the state, if it wasn’t for the fact that it is in the centre of India’s sandstone industry, and therefore both typifies, and has since become synonymous with, the sufferings of its workers. As the introduction to the report states, it was chosen as the place of research, because it was discovered, unsurprisingly with some difficulty, that sandstone from Budhpura was used to repave the centre of the Dutch town of Kampen. The findings of the research on workers in Budhpura conducted in 2005 was termed “Ground Zero”, denoting a huge explosion of human rights abuses.

In the wake of *Budhpura ‘Ground Zero’* we have witnessed a growing silicosis crisis amongst workers, the continued intransigence of state authorities in not enforcing labour protections and the doublespeak of international buyers who claim to have exploitation-free supply chains. However, we have now reached a tipping point where the aspirations set out in domestic law and international frameworks must be fulfilled.

1 P Madhavan and Raj Sanjay, *Budhpura ‘Ground Zero’ Sandstone Quarrying in India*, commissioned by the India Committee of the Netherlands; CREM/India Committee of the Netherlands/SOMO (2005) <<https://arisa.nl/persbericht-051228/>>

The enormity of the challenge cannot be underestimated. India has inherited a fragmented legal framework from the colonial period that largely excludes informal workers from labour regulations; despite the fact that “informality” has been in the norm in India and dominates the stone sector. In addition, the division of powers between the central and state government, whereby the Director General of Mines Safety, has the authority to regulate labour and working conditions in all mines and the states regulate mineral concessions and illegal mining, contributes to gaps in enforcement. These structural difficulties are aggravated by the lack of resources and will to prioritise the rights and lives of those working in the industry over short-term profits. The complex and informal nature of the sandstone industry means that supply chains are obscured and goods are difficult to trace by domestic and international buyers. These obstacles have been well documented and in past reports and articles on the sandstone sector. The focus of this report is to contribute to the mythical task of Sisyphus and understand how workers’ rights can be better protected in this imperfect scenario.

The report does so by investigating the obstacles and solutions from multiple perspectives. In the Part One, Dr Devarajan, former member of the Rajasthan State Human Rights Commission, reflects on his role in mobilising state action to address and remedy the high rate of silicosis amongst workers and the practical steps required to eradicate the disease and promote the rights of workers. Based on field-research, Part Two illustrates how self-regulatory codes have failed to protect against abuses and the need for companies to integrate respect for human rights into their business practices in a meaningful way. Part Three widens the analysis further, by looking at the development of mandatory human rights and environmental due diligence obligations and reporting requirements in states where stone is imported, and the impact this can have on supply chains in India. What emerges from this survey is a clear message: states and companies alike cannot afford to ignore systemic violations in the sector any longer. Part Four includes a summary of the new initiative in the UK. Motivated by the urgent need to influence practices on the ground, a Roundtable was convened in London in June 2024. The initiative aims to bring together UK-based importers of natural stone from Rajasthan, together with NGOs and medical experts to develop a common set of standards and recommendations to meaningfully address the high prevalence of silicosis in the industry.

We hope that this report provides new ideas and impetus for effective action to be taken by states and businesses alike to protect workers’ rights and ensure the long-term sustainability of the Rajasthan sandstone industry. As soft law standards begin to harden across the globe, India and the UK must ensure the effective enforcement of both environmental and labour standards and international companies must move beyond words.

PART 1

THE GREY STONE:

Exposing the grey areas in
production and processing

By Dr. M. K. Devarajan

Introduction

As a member of the Rajasthan State Human Rights Commission (RSHRC) between 2011 and 2016, I was able to catalyse state action in response to the high-prevalence of silicosis amongst mine workers in the sandstone industry. As a result, the Government of Rajasthan established an institutional mechanism to detect pneumoconiosis and provide relief to those affected through their Pneumoconiosis Policy. However, further action needs to be taken to ensure the prevention and control of silicosis and regulate the industry.

State responsibility for the “Patthar ki bimari”, the “stone disease”

“Sir, why are you so worried about this issue? We have around 70,000 workers in our mines, even if 70 of them die of silicosis, what would the proportion be?” This is what the then President of the Jodhpur Mine Owners’ Association asked me minutes after I, as a Member of the Commission, concluded a meeting of all the stakeholders of silicosis-related matters in Jodhpur, India on 20 May 2014. These two questions were posed to me after I issued a stern warning to mine owners and enforcement authorities against ongoing violations of occupational health and safety standards in the industry. His question spoke volumes about the attitude of some mine owners towards the indigent people who are forced to work for them.

In my experience, mines are able to operate unlawfully largely due to the indulgence of the State government’s licensing and Union government’s enforcement authorities. At that meeting in 2014, I had not asked mine owners to comply with the dozens of mandatory provisions lease holders are required to follow; and which government authorities are required to enforce. I had simply asked them to comply with a life saving measure - using wet drilling - which can effectively prevent the development of silicosis among mineworkers; and to ensure that employment records and attendance are maintained so that workers who are unfortunate enough to become victims of the disease, and their dependents in case they die of it, can go to a Labour Court and get the compensation they are entitled to. Unfortunately, my request went largely unheeded.

I came across one exception however. The Director of Mines Safety of Ajmer region took my warning seriously and went on to inspect mines and recommended the prosecution of over 600 mine owners for serious violations of labour standards. The Director General of Mines Safety (DG of Mines Safety) of the Government of India, however, refused to sanction the prosecution of the offenders in each and every one of these cases. Following pressure from the RSHRC, the DGMS, appeared before it on 4 July 2016; he committed to take action in the 600 cases identified and to allocate more inspectors to carry out extensive inspections in three particular districts. Yet, when my tenure came to an end, he resiled from his commitments and neither the prosecutions and nor the inspection programme were carried out.

The Government of Rajasthan's response to the acute risk to workers in the mines and processing industries changed direction after the RSHRC presented its "Special Report on Silicosis" on 3 December 2014. The Special Report, submitted to both state and central authorities, contained 59 recommendations for prevention, detection, compensation and rehabilitation. Following the release of the Special Report, orders were issued by the state Director of the Mining and Geology Department (Director of Mining and Geology) – responsible for licensing mines at the state level– directing the cancellation of leases granted to owners that failed to register mines with the DG of Mines Safety, utilise dust control measures, such as wet drilling or maintain employment and attendance records. As a result, the Director of Mining and Geology cancelled approximately 825 leases. However, after the RSHRC and the Rajasthan High Court ceased actively monitoring silicosis issues in late 2016, the state Department has rolled-back on even these symbolic gestures. For example, on 26 August 2019, whilst the Director of Mining and Geology again ordered the cancellation of certain licences, this time the order was limited to leases of mines that use dry drilling methods and no action was taken on it by his subordinate officers. It is evident that the Department is not serious about preventing this incurable disease amongst workers, and is more concerned with revenue generated from the mining sector.

In May 2022, the State government took another symbolic measure by issuing an order constituting a Mine Workers' Welfare Board, fulfilling an election promise of the then ruling party, however, no further action has been taken to operationalise the Board. This is in spite of senior and influential leaders of the then ruling party's trade union taking up the matter at the highest level. Now that the



Image courtesy of Madhavan Pillai.

government that issued the above order has been replaced by another after the state's elections held in November 2023, the fate of the proposed board looks uncertain.

Yet, despite some difficulties, the success of the RSHRC's intervention is clear from the numbers. After the first 4 years working on the issue, 10,000 cases of silicosis, including over 250 deaths, had been certified and the Commission sanctioned the *ex gratia* payments of over INR 1044 million to silicosis patients and their dependents. In contrast, till 2016, all the states in India excluding Rajasthan had only provided INR 88.3 million in compensation for the dependents of 266 silicosis victims; and in one case where state government refused to comply with the orders of the NHRC, they had to seek redress from the Supreme Court. The RSHRC's work on the issue, with emphasis on setting up institutional arrangements to deal with various issues, can serve as a model of what can be achieved when political interests are put to one side and a problem-solving approach is adopted.

State response: Pneumoconiosis Policy announced in 2019

The cooperative efforts of some good NGOs, a few sensitive bureaucrats, and the RSHRC since 2012, resulted in the Government of Rajasthan, putting in place an extensive mechanism to detect and certify silicosis cases, and unveiling a detailed Pneumoconiosis Policy on 3 October 2019. Under the Policy, the state provides an *ex gratia* payment of INR 300,000 to persons certified as silicosis patients, another INR 200,000 to the dependents on the patient's death, and several social security benefits like monthly pensions etc. In place of the one Pneumoconiosis Board set up in 1967 to certify pneumoconiosis, which did not become functional until the RSHRC intervened in 2012, on the basis of the recommendations made by the Commission, six more were constituted in 2012 and today there are 34 such boards and another seven appellate boards. All these were made functional at speed due to the close monitoring done during the initial years by the Commission as well as by the then Chief Secretary.

Correct data about silicosis certifications is not available even with the government, however, as per rough estimates, around 41,000 persons have been certified as silicosis patients by the Pneumoconiosis Boards – more than 8,000 of them have since died – and around 1,80,000 suspected patients who have registered for screening on the Silicosis Portal of Rajasthan Government, launched in 2018, are still waiting for screening. The state government has disbursed around INR 16,000 million as relief payments to the patients or the dependents of the deceased in addition to giving pensions to the patients, and their widows after their death, and several other social security benefits.

In India, Rajasthan is the only state to have a comprehensive Pneumoconiosis Policy; two other states – Haryana and West Bengal – have Silicosis Policies, and these are the only three states of India that gives any financial help to a living silicosis patient. In the other states of India, the kin

of the deceased persons will have to approach the National Human Rights Commission – as per the order of the Supreme Court. Of course, both the patients and their kin can approach a Labour Court for compensation – a provision perhaps never used in Rajasthan. In Rajasthan, a person who suspects they have silicosis has only to go to a kiosk that offers various kinds of e-services on behalf of the state government and have their name registered for silicosis screening; the rest of the procedures will move automatically, though there are glitches often. The number of cases of silicosis detected and the amount of relief given to those affected by all other states in India together will only be a small fraction of what has been done in Rajasthan. From this, it cannot be concluded that Rajasthan has a much higher number of silicosis cases, it only indicates that it is among the few states that have adopted effective systematic measures to detect and certify silicosis.

The advocacy done by some NGOs working for the welfare of mineworkers and silicosis victims and the publicity and awareness generated by the Special Report of RSHRC, resulted in the Rajasthan High Court taking *suo motu* cognizance of the issue and inviting me to assist the Court during the hearings. This PIL also played a significant role in the impressive figures of detection and ex gratia payments mentioned above, making of the “Silicosis Portal” by the state and the unveiling of a detailed Pneumoconiosis Policy on 3 October 2019.

The payment of financial aid given to silicosis victims by the state governments has its origin in the order of the Supreme Court dated 5 March 2009 issued in Writ Petition (Civil) No. 110/2006 that cast a duty on the state government concerned to give free treatment to people detected with silicosis and “to give compensation ordered by the National Human Rights Commission”. Viewed in this context, the record of Rajasthan government is quite remarkable – it has set up a mechanism for the affected persons and their dependents to get relief payment without recourse to the Human Rights Commission or a court.

‘Blood Money’ paid by the state

In spite of the above seemingly good work done in Rajasthan, the sad reality is that the states are paying “blood money” to the victims of silicosis and unfortunately that is what the courts and the various Human Rights Commissions have been prompting them to do. Among the tribal communities of southern Rajasthan there is a custom named “Mohtana” – whenever a member of the community has an unnatural death on the property of another person, the latter is forced to pay a compensation – Mohtana - to the deceased’s family. That is what the Indian authorities concerned are doing in the case of silicosis victims – the only difference being that, instead of the mine owners whose negligence is causing these deaths, it is the governments which are paying Mohtana on their behalf.

The general lack of resistance to the payment of Mohtana may be due to the fact that the officials

concerned recognise that their failure to enforce labour standards is directly contributing to the large number of workers developing silicosis – both in mines and processing industries. Further, they know that the failure to enforce mandatory rules that require employment records and attendance to be maintained prevents those affected from seeking adequate compensation from at court. Neither I, the government authorities or the NGOs with whom I have worked during the last eleven years have heard of any compensation claim being brought in any court, ever. The reason is simple: there are no employment records and no attendance records, and therefore “officially” there are no workers in any of the mines that produce sandstone, quartz or granite – the three main silicosis causing minerals mined in Rajasthan – or the thousands of small units that process these stones. The system is manipulated by those who own mines and processing units who circumvent regulations by using informal wage labour. Unfinished sandstone is often dumped outside homes, processed by “home workers” and then the finished products are collected. These operations are in plain sight, but the practices are unchecked by state or central enforcement authorities. Instead, the state is willingly paying financial aid to workers and their families, which is due from the mine or processing unit owner under the polluter pays principle.

Turning a blind eye to child labour and bonded labour

When I was a member of the RSHRC and received complaints from the NGOs working in the field, I directed the Central Government Labour Commissioner to inspect sandstone mines to identify cases of bonded and child labour. After carrying out inspections, the Labour Commissioner reported that there were no cases of bonded and child labour. I sent him again, and again he said the same. Yet, the evidence on the ground demonstrates that bonded and child labour persists. Following my retirement, two silicosis certificates were brought to my attention by MLPC: – (i) No. RJ1270251800011 issued on March 3, 2017, by Chief Medical and Health Officer, Kota, to “Ms Kusum”, and (ii) No. 109 issued on May 19, 2015, by the Pneumoconiosis Board, Government Medical College, Kota, to “Ms Radhika”.² These certificates are of serious concern as they were issued to two patients aged only 12 and 18 years old respectively, who contracted silicosis whilst engaged in making cobble stones near the mines – a comparatively low risk work – indicating the very young age at which they started working.

Whenever a journalist or an NGO worker visits mining areas, they regularly come across scores of workers like Kusum and Radhika, and bonded labourers; none of whom are paid the minimum wages prescribed and kept in perpetual indebtedness. The report of a recent study commissioned by the state government also has clearly established widespread prevalence of child labour and bonded labour. Prevention of employment of child labour, bonded labour and ensuring that minimum wages are paid are among the prime responsibilities of the Central Labour Commissioner, and somehow when his inspection teams visit these areas, they do not come across a single violation. This shows that the two organisations under the central Ministry of Labour and Employment, the

² The names used in this report have been anonymised.

DG of Mines Safety - responsible for enforcement - and the Central Labour Commissioner - who is responsible for welfare – are not concerned with their basic responsibilities and the serious problems affecting the mineworkers. Rather, the “ease of doing business” remains the key priority.

Who is responsible?

In my view responsibility for the silicosis crisis among mine workers lies with the Ministers and Secretaries heading the Ministry of Labour and Employment, Government of India, and DG of Mines Safety and the Labour Commissioner working under them. In the case of the workers of various processing industries, the blame has to be shared by the state governments’ Labour Departments and Chief Inspectors of Factories and Boilers.

It is quite natural that questions may rise in the minds of the readers of this chapter whether it is the failure of only the government authorities concerned – shouldn’t the other constituents of the supply chain also share some responsibility. Yes, they should. The primary responsibility to ensure that the work is carried out in a safe and healthy environment, as envisaged by the laws of the land, is that of the producers. However, due to the conditions that prevail in the sandstone sector, those operating mines, stockyards and processing units have been able to evade their legal obligations. The lack of trade unions and the means for collective bargaining means that profit maximisation is the guiding principle, and the licensing and enforcement authorities have failed to regulate the industry.

The way forward

Full implementation of the Pneumoconiosis Policy

When I look back, I have a sense of achievement, and alongside this, a sense of failure. A sense of achievement because I was able to play a role in establishing a system for the detection and certification of silicosis, and for victims to get financial aid, monthly pensions and a host of other social security benefits efficiently. However, I have a sense of failure because I was not able to prevent even one person from getting silicosis. In my Special Report there are several recommendations as to how this can be done; all these – and more – were included in State’s Pneumoconiosis Policy. Yet, not even a single measure for prevention contained in the Policy has been attempted during the last four years since its release. The fact that nothing has been done even 17 months after the Chief Secretary directed in a seminar organised on 12 October 2022, that the authorities concerned should immediately take up measures to prevent silicosis would indicate the lack of political and administrative will to tackle the problem head on.

Today, the main challenge for those working on silicosis is to ensure that the work done in Rajasthan continues and the Pneumoconiosis Policy is not abandoned altogether. With changes in government, there is a real risk that it is moved down the political agenda. Further, as silicosis is no

longer a priority area for either the NHRC or RSHRC, the sustainability of what has been achieved is a major challenge.

Second, we need to advocate for the full implementation of the Pneumoconiosis Policy, including by pursuing public interest litigation. Focus should be on the enforcement of preventive measures, ensuring that licensing and enforcement authorities fulfil their legal obligations, the rehabilitation of “silicosis widows” and special programmes for the “widow villages” in Rajasthan and generating alternate employment opportunities in the hot spot areas.

Enhance coordination between the central and state government

An important objective of advocacy efforts would be the cooperation between the Central and State government authorities. Measures that could enhance cooperation between the central and state government thereby ensuring the effective enforcement of labour standards include:

- The Director of Mining and Geology, Rajasthan should ensure that mining activities cease in cases where the central DG of Mines Safety issues a “prohibitory order” against a mine owner for a violation of the Mines Act 1952, and does not resume until the “prohibitory order” is lifted by the DG of Mines Safety or a court.
- The Director of Mining and Geology, Rajasthan should cease issuing “ravannas” (transit permits), issued under Rule 3 (2) of the Rajasthan Minerals (Prevention of Illegal Mining, Transportation and Storage Rules 2006, to mine owners against whom such prohibitory orders are in force and also to those who have failed to register their mines with the DG of Mines Safety.

Protect informal workers

Urgent steps need to be taken to enable workers across the supply chain in mines, stockyards and processing units to access compensation from employers and benefit from the protection afforded to the “formal” workforce under domestic law.

This must involve bringing public interest litigation in the Supreme Court and High Courts to ensure the enforcement of existing legislation and address gaps. For example, the courts could be requested to investigate the reasons for lack of cases brought under the Employee’s Compensation Act 1923. To address existing barriers to establishing employment relationships, directions could be sought for the state to issue biometric identity cards to workers that automatically record their employment history. Engaging a worker in hazardous occupation – as regular or contractual employee or on piece rate basis – who does hold a card should be prohibited. Along with this, the authorities should be directed to ensure that the owners maintain employment and attendance records, and this should be randomly verified by assessing the output and energy consumption of the mine or processing unit to minimize the possibility of circumventing these requirements.

Further, given the immense health risks in working in the sandstone industry, which is proved by the large number of workers who have died or are suffering from silicosis, all work across – from mining, to process to carving – must be declared as a “hazardous occupation” under the Employee’s Compensation Act 192 and Mines Act 1952, to maximise protection to workers under the existing regulatory framework, irrespective of the number of persons employed in each unit.

The courts may also be requested to involve the State and District Level Legal Services Authorities to monitor whether the authorities concerned are taking adequate steps to ensure the rights of the workers guaranteed under the Constitution, various laws and policies.

Pressure from buyers

The Ethical Trading Initiative and other such buyers’ collectives can also exert pressure on the Indian authorities to ensure compliance of provisions for the safety, security and welfare of the workers. As the mining, processing and export of natural stone generates significant employment – and crucially – vast revenues to the government, and accordingly the state would be responsive to commercial pressure to safeguard labour conditions.

Research and collaboration

The effectiveness of such strategies will depend on the quality and quantity of the data, collected through studies and use of Right to Information. In particular, more research should be carried out into the social consequences of the silicosis, including the study of workers of various silicosis-prone occupations; profiling of the victims of various types of exploitation; studying “widow villages” and examining in more detail how the mine and factory owners manage to circumvent regulations and design practical solutions.

Finally, I would request the NGOs working for the benefit of the workers engaged in these dangerous occupations, that they should cooperate more and form an NGOs’ collective to jointly take up the important issues with the authorities and the courts.

Final thoughts

The so-called “the grey stone” has provided subsistence to millions of families that belong to the poorest sections of Indian society. However, the extraction and processing of this essential material has also cast a shadow on the living and working conditions of the workers and families. These issues have been aggravated due to the mechanisation of the mining and processing industries. It is therefore crucial that effective measures are now taken to protect workers.

PART 2

FROM THE MINE TO THE MARKET:

Labour and human rights
risks in global supply chains

**By Geeta Koska, with research by Mr P. Madhavan and
Dr. Laavanya Vinayagaswami**

Introduction

This chapter looks at the sandstone supply chain in Rajasthan; penetrating below first tier suppliers used by international buyers to evaluate the labour conditions and practices in the sector. By assessing the findings of two investigations against the Ethical Trading Initiative Base Code (the ETI Base Code) and international labour standards, the analysis confirms that serious violations persist, and calls into question the effectiveness of voluntary self-regulation. The findings indicate that mandatory due diligence obligations are crucial for all businesses, regardless of size, as well public procurement officials operating in the public sector. Further, urgent steps need to be taken to protect the largely migrant workforce, who work on an informal basis. And, finally, states that import sandstone mined and produced in Rajasthan need to work to reinforce domestic implementation and compliance with labour laws.

Methodology

The findings in this chapter are based on a combination of fieldwork in Rajasthan and desk-based research. In April 2022, an independent researcher carried out an investigation into a processing unit in Bijolia, Rajasthan. The processing unit was identified as a key processing unit in the supply chain and first tier supplier to international buyers. Field visits were also carried out in the quarries and stockyards from which processing units and export companies based in and around Bijolia source sandstone blocks and products. In total, the researcher visited approximately 36 quarries³ and 50 stockyards.⁴ Interviews were conducted with workers and stakeholders in and around the quarries and stockyards to gain an understanding of the operation of the supply chain and the working conditions across it.

In August 2023, a further investigation was carried out in Budhpura. This focused on the women working in the cobblestone industry to understand what, if anything, had changed since *Budhpura 'Ground Zero'* was published in 2005. The research adopted a mixed methods approach, combining quantitative and qualitative data collection and analysis. Independent researchers carried out interviews with 92 women to understand their socio-economic situation and the impact of silicosis on them and their family. Following from the qualitative data collection, a field visit was carried out in Budhpura village to gather more detailed evidence on the day-to-day reality of women working in the cobblestone industry. All of the names used in this report have been anonymised to protect the identity of participants.

In addition, desk-based research was carried out to examine publicly available documents of companies operating in Rajasthan. Third party publications on the sandstone sector were reviewed, including those published by industry associations, NGO's, international organisations and news websites. Interviews with two investigative journalists who visited Budhpura were also conducted.

3 The quarries were located in Bhilwara district and Bundi district of Rajasthan.

4 The stockyards were located in Bhilwara district and Bundi district of Rajasthan.

Given the sensitivity of the issues in this report, there were limitations to the investigations carried out. Direct access inside the processing unit was prohibited and workers were hesitant to discuss the workplace and working conditions. Due to the lack of freedom of association, the fear of reprisals was reflected across the different groups and sites visited. Researchers also identified that the sexual exploitation of women was particularly prevalent in the lower levels of the supply chain; a hidden issue that requires targeted research. Lastly, the labour conditions in the stone carving sector and the environmental impact of the sandstone industry fell outside the scope of this study, but have been identified as key areas for further research.

“I took a loan from our employer for my daughter’s marriage, and I am repaying it by working in the cobblestone sector, and my son’s daily wages are used for survival.”

Cobblestone worker, Budhpura village, Rajasthan



Image courtesy of Madhavan Pillai.

Overview of the sandstone supply chain

Stone sourced from Rajasthan is part of complex global supply chain. From the extraction of the raw stone to the production of specific products such as paving slabs or cobblestones. The industry is not necessarily reduced to a simplified “tiered” system of production. However, what is crucial is that international lead firms have “business relationships”⁵ with entities and individuals operating in Rajasthan. Below is a simplified illustration of the supply chain.

Extraction

The raw material is extracted from the earth in quarries. This first requires the removal of soil overburden and rubble and accumulated water. Sandstone blocks are then extracted either manually or mechanically. The raw material is sold on to processing units, or split into smaller blocks to be transported to stockyards.⁶ Agents and contractors also buy waste sandstone and sell larger pieces of stone for cobblestone production.⁷

Processing

Processing units

Processing units are largely mechanised, where stone blocks from quarries and stockyards are cut, filled and/or polished according to the requirements of the buyer.⁸ Finished products are generally sold to wholesale traders, however, some processing units have direct relationships with international buyers.⁹

Stockyards

Stockyards are sites where raw slabs are split manually according to

5 The OHCHR defines the term “business relationship” as “relationships a business enterprise has with business partners, entities in its value chain and any other non-State or State entity directly linked to its business operations, products or services. They include indirect business relationships in its value chain, beyond the first tier and minority as well as majority shareholding positions in joint ventures.” See OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide* (2012), p.5; The OECD defines “business relationship” as including relationships with business partners, sub-contractors, franchisees, investee companies, clients, and joint venture partners, entities in the supply chain which supply products or services that contribute to the enterprise’s own operations, products or services or which receive, license, buy or use products or services from the enterprise, and any other non-State or State entities directly linked to its operations, products or services.” See OECD, *The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023), Commentary on Chapter II: General Policies, paragraph 17.

6 International Labour Organisation, *Challenges and opportunities for productive employment and decent work in the natural stone mining industry supply chain in Rajasthan* (2021) pp.16-18 (ILO, *Challenges and opportunities*).

7 ILO, *Challenges and opportunities* (2021) p.20.

8 Association for Stimulating Know-how, *Study of natural stone sector: Sandstone (Rajasthan) & black granite (Telangana)* (2020) p.24. (ASK, *Study of natural stone sector*).

9 Ibid., p.24; ILO, *Challenges and opportunities*, p.20.

specifications and sandstone blocks are processed by hand into cobblestones of different sizes.¹⁰ These products are exported through traders, sold in the domestic market or sold on to processing units.¹¹ As identified by the researcher in 2022, cobblestones produced in stockyards are not generally transported to processing units, but consignments are packed in wooden crates on site and directly transported to Kandla or Mundra Port for export; including to international buyers.

Export

Finished products are delivered to collection centres and warehouses where trader's goods go on to exporters or international buyers.¹² Exporters source products from traders, processing units and stockyards and sell on to international buyers.¹³

There are multiple levels of suppliers in the sandstone supply chain; from traders and processing units with direct trading relationships with international buyers, to sub-contractors in stockyards, and below that suppliers and sub-contractors in quarries. A lead company's ability to identify, prevent or remedy labour violations in its supply chain will therefore depend on the transparency of its supply chain, and capacity to monitor and control suppliers.

Questionable claims of ethical trade

Since *Budhpura 'Ground Zero'* was published in 2005, there have been numerous reports detailing chronic violations of fundamental human and labour rights in the sandstone sector in Rajasthan and the paucity of domestic enforcement of labour laws.¹⁴ Whilst international pressure for responsible sourcing and supply chain due diligence has grown, and in recent years there has been an expansion of reporting requirements and due diligence laws, a mandatory framework regulating transnational business operating in the sandstone sector is still missing.¹⁵ Instead, the landscape remains largely dominated by self-

10 ILO, *Challenges and opportunities*, p.20. The research conducted for this report observed that stockyards were of different sizes and sophistication, from a small plot of 50 square yards to several hectares, depending upon the investment and connection to export companies. Stockyards began operating on the waste land around mining areas, but the number of these establishments and processing centres have now grown significantly.

11 ASK, *Study of natural stone sector*, p.19.

12 ILO, *Challenges and opportunities*, p.20.

13 ASK, *Study of natural stone sector*, p.5.

14 See for example American Bar Association Center for Human Rights, *Tainted Stones: Bonded Labor and Child Labor in the India-U.S. Sandstone Supply Chain* (2020) (ABA, *Tainted Stones*); Arisa, *Between a rock and a hard place: Social and labour conditions in sandstone production in Rajasthan India* (2020) (Arisa, *Between a rock and a hard place*); ASK, *Study of natural stone sector*; ILO, *Challenges and opportunities*.

15 See for example, Centre for Research on Multinational Corporations, *Why all companies need to be included in due diligence and corporate accountability legislation: An analysis of the Dutch textiles and garment sector* (2021) <<https://www.somo.nl/wp-content/uploads/2021/07/SKC-SME-report-2021-1.pdf>>. The analysis carried out by Centre for Research on Multinational

regulatory systems and voluntary guidelines. The ETI Base Code is one example. The ETI was founded in 1998, and made up of companies, trade unions and NGOs, who seek to promote respect for workers' rights internationally. The Base Code is founded on the conventions of the International Labour Organisation ("ILO") and promotes itself as an "internationally recognised code of labour practice".¹⁶ Companies can join the ETI as full members or adopt the ETI Base Code unilaterally. The Code is often used to establish criteria across supply chains, evidence a business's adherence to labour standards¹⁷ and is used as a benchmark to conduct audits.¹⁸

The findings in this report, however raise serious questions about ethical claims made by companies sourcing stone from Rajasthan and the effectiveness of mechanisms in place to monitor compliance with the ETI Base Code. Importantly, there are real doubts as to whether voluntary schemes are a suitable response to address the serious human and labour rights violations that have persisted for decades in the sandstone supply chain.

The ETI Base Code

- Employment is freely chosen
- Freedom of association and the right to collective bargaining are respected
- Working conditions are safe and hygienic
- Child labour shall not be used
- Living wages are paid
- Working hours are not excessive
- No discrimination is practised
- Regular employment is provided
- No harsh or inhumane treatment is allowed

The ETI Base Code is not intended as a certification scheme,¹⁹ and the ETI seek to emphasise that being a member does not necessarily mean that labour violations have been eradicated from a company's supply chain.²⁰ In practice, however, membership of the ETI or the adoption of the ETI Base Code is used as a means to publicise "ethical" practices and products, and satisfy the demands

Corporations examined the scope of application under the French Duty of Vigilance Law (Loi sur le devoir de vigilance) and German Supply Chain Law (Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten) and concluded that high thresholds in regards to company size limits the utility of due diligence legislation. The sandstone industry is dominated by small and medium size firms, and the companies that operate in the sector are unlikely to fall within the scope of existing legislation, as well as the EU Corporate Sustainability Due Diligence Directive.

16 ETI, ETI Base Code <<https://www.ethicaltrade.org/eti-base-code>>.

17 ETI, Our members, <<https://www.ethicaltrade.org/about-eti/our-members>>.

18 ETI, The ETI Base Code (25 April 2016) p.2. ETI Base Code poster available from website at: <<https://www.ethicaltrade.org/resources/eti-base-code>> .

19 ETI, *Is ETI a certification scheme?* <<https://www.ethicaltrade.org/faq/eti-certification-scheme>>.

20 ETI, *Are ETI members 'ethical'?* <<https://www.ethicaltrade.org/faq/are-eti-members-ethical>>. As stated on their website, by joining the ETI, companies are required to demonstrate a commitment to ethical trade, integrate ethical trade into their business practice, take measures to address violations that arise in the supply chain and report openly and accurately on activities and achievements, see Ethical Trading Initiative, *What do you expect of members?* <<https://www.ethicaltrade.org/faq/what-do-you-expect-members>>.

of consumers who are increasingly concerned about abuses in the supply chain. Codes of conduct, such as the ETI Base Code, have been described as a “reputational asset”, and signal to consumers, investors and regulators that a company is socially responsible and engaged in addressing human and labour violations in their supply chains.²¹

Given the persistence of serious labour violations across the sandstone supply chain, including at production sites that international retailers appear to have business relationships with, reliance on the ETI Base Code and self-regulation is problematic. At best such voluntary schemes obscure the reality and at worst, they materially mislead consumers, mask the failure to address labour violations and can obstruct the introduction of mandatory and legally enforceable regulations.

Opaque supply chains

Labour and human rights violations in a company’s supply chain can of course only be prevented, mitigated and remedied if they are visible. However, the investigations for this report found there was a critical absence of transparency in the sandstone supply chain. Whilst the investigation focused on particular companies, production sites and international supply chains, the findings are illustrative of the wider issues in the sector that have been documented elsewhere.²²

A prominent processing unit and exporter in Bijolia was selected for the investigation as it is a first tier supplier for the international market. Through interviews, monitoring the processing unit and tracking consignments entering and exiting the site, the investigation concluded that it was not possible to identify exactly where the processing unit sourced stone from. This is due to two critical features: purchasing practices and the structure of the sandstone industry itself. First, the processing unit uses agents to scout for sandstone blocks from mines and stockyards depending on export requirements. The use of intermediaries makes it difficult to identify suppliers and monitor compliance with labour laws. Secondly, the structure and informal nature of the sandstone sector obscures the supply of materials beyond the first tier. The mining sector in Rajasthan is dominated by informal and unlicensed mines, and it is reported that the informal quarry sector could be as much as 80% of output.²³ The investigation confirmed that most mines were not readily identifiable or demarcated and there was no credible means to track and trace the precise origin of stone blocks and cut slabs delivered to individual processing units. In addition, stockyards have minimal registration requirements and operate outside the regulatory regime that govern mine workers, occupational health and safety or the prohibition of child labour.²⁴

The investigation in Budhpura village looked at the supply chain from the lower tier upwards.

21 James J. Brudney, *Envisioning Enforcement of Freedom of Association Standards in Corporate Codes: A Journey for Sinbad or Sisyphus* (2012) *Comparative Labour Law & Policy Journal*, vol. 33, no. 4, p.558.

22 See for example ABA, *Tainted Stones*; Arisa, *Between a rock and a hard place*; ASK, *Study of natural stone sector*; ILO, *Challenges and opportunities*.

23 ILO, *Challenges and opportunities* p.16.

24 ASK, *Study of natural stone sector* p.19.

Budhpura was selected as it was central to the 2005 report. The prevalence of child labour in Budhpura in particular has been known to the industry for many years and been reported on widely.²⁵ The investigation in Budhpura found that the supply chain in cobblestone industry was similarly opaque. All the women interviewed were employed by contractors and it was difficult to establish the supplier or exporter further up the chain.

Compliance with the ETI Base Code and international labour law

Companies, their subsidiaries and subcontractors that operate in Rajasthan must of course comply with Indian domestic law that regulates labour issues in the country.²⁶ In addition, those companies that are members of the ETI, or who have adopted the ETI Base Code, are expected to comply with the Code and should work with their suppliers and subcontractors to meet “...all aspects of the Base Code in full”.²⁷ The ETI Base Code is intended as a minimum standard; and therefore where national or other applicable law apply, member companies are expected to apply the provision that affords the greater

protection to workers.²⁸ For this report, the conditions found across the sandstone supply chain in Rajasthan was assessed against key provisions of the ETI Base Code and the ILO Conventions. What is revealed is the disconnect between the aspirations set out in such voluntary codes and the reality.



Image courtesy of Madhavan Pillai.

25 See for example, ETI, *Guide for the ethical sourcing of natural stone from Rajasthan, India* (2014) p.14; Devendra Pratap Singh Shekhawat, ‘Widow villages’ are emerging across India – here’s why, *The Telegraph*, (15 May 2023) <<https://www.telegraph.co.uk/global-health/women-and-girls/india-mines-pollution-lung-disease/>>.

26 For a detailed outline of applicable laws and regulations see ASK, *Study of natural stone sector and ILO, Challenges and opportunities*.

27 ETI, *The ETI Base Code* (25 April 2016) p.2. ETI Base Code poster available from website at: <<https://www.ethicaltrade.org/resources/eti-base-code>>.

28 ETI, *ETI Base Code* <<https://www.ethicaltrade.org/eti-base-code>>.

The prohibition of bonded labour

Clause 1 of the ETI Base Code requires that employment is freely chosen and prohibits the use of forced, bonded or involuntary prison labour.²⁹ The term “bonded labour” or “debt bondage” is understood as arising when a person’s labour, or the labour of a person under their control, is demanded as repayment of a loan or of money given in advance, and the value of their labour is not applied towards the reduction – in whole or part - of the debt.³⁰ In line with international standards, the ETI guidance on clause 1 makes clear that debt-bondage/bonded labour falls within the definition of forced labour, and is prohibited.³¹

The investigations carried out for this report confirm that forms of debt-bondage continue to be practiced in quarries and stockyards. The system of bonded labour is sustained by the informal nature of employment relations and the high rate of silicosis amongst workers. Workers are not provided with written contracts,³² which means they cannot access employment benefits. In addition, the prevalence of migrant workers in the industry increases their vulnerability and means that they become dependent on contractors for loans. Given their precarious position, workers are forced to take on loans for silicosis treatment, meet daily living costs or cover additional expenses. However, there is a clear manipulation of credit and debt and, whilst the loan is meant to be deducted from their wages, workers do not receive a formal record and they remain bound in a cycle of debt. If the worker passes away, the debt is often passed down to their children and family members.³³

The research conducted in Budhpura village found that around 4.4% of women work in the cobble-making industry without the payment of wages as a means to repay loans received from their employer. The absence of records, transparency and accountability point to this being a form of bonded labour.

29 ETI Base Code, Clause 1.1. The term “forced labour” is defined in the ILO Forced Labour Convention, 1930 (No. 29) Article 2(1) 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.” The definition has three key elements: 1) work or service, 2) menace of any penalty and 3) involuntariness. The ILO Committee of Experts has explained that the definition is broad and encompasses forms of debt bondage, see ILO, *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, Report of the Committee of Experts on the Application of Conventions and Recommendations* (2012) ILC.101/III/1B, para. 272.

30 Special Rapporteur on contemporary forms of slavery, including its causes and consequences, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences* (4 July 2016) A/HRC/33/46, para. 6.

31 See ETI, *Base Code Guidance: Child Labour* p.5 <<https://www.ethicaltrade.org/resources/base-code-guidance-modern-slavery>>. The term “bonded labour” is defined by the ETI as labour that is demanded “as a means of repayment of a debt or a loan and can apply to a whole family and be inherited through generations”.

32 This is in breach of ETI Base Code clause 8 that requires as that: “to every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice”.

33 The issue of bonded labour has been widely documented, including in ABA, Tainted Stones and Arisa, *Between a rock and a hard place*.

“We keep working without any daily wages until we are told the employer has repaid our loan.”

Cobblestone worker, Budhpura village, Rajasthan

Women are compelled to take on loans due to the high rate of silicosis in the sandstone industry and the loss of their husbands. The pervasiveness of bonded labour is directly linked to the absence of health and safety measures in the industry, and compounded by the lack of compensation from employers and affordable healthcare. As a result, all the women surveyed in Budhpura village stated that they are still repaying a loan connected to their spouse’s illness.

Inadequate safety and workers health

Mining is recognised as one of the most dangerous industries, and carries a significant risk of developing lung diseases such as silicosis. Due to the number of people affected by silicosis in Rajasthan, in 2015 the state notified it as an “epidemic” under the Rajasthan Epidemic Disease Act 1957. The ETI Base Code, clause 2, requires the provision of safe and hygienic working conditions, and includes taking adequate steps to: “...prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.”³⁴

Despite the dramatic rate of silicosis in Rajasthan however, appropriate measures to prevent injury and the risk of silicosis across were found to be critically absent from the supply chain. At the first tier processing unit and exporter that was investigated, the researcher observed that workers lacked personal protective equipment (PPE) and many wore a towel around their neck, which was used as a face mask. Similarly, in the stockyards and home-based production sites that were visited, PPE was not provided nor was equipment to minimise the risk of inhaling crystalline silica dust used. The survey conducted in Budhpura village found that almost all the women reported some symptoms of respiratory diseases, but had not been formally diagnosed. Children working in these sites are also exposed to potentially critical levels of silica dust. Lower down the chain, workers in mines and quarries, which generate a significant amount of dust while drilling, blasting, splitting, and transporting, were are not supplied with PPE to protect themselves. Again, prevention programmes and techniques that minimise the release and inhalation of crystalline silica dust, such as wet drilling, are not generally used in the extraction process.

The severe impact of silicosis across communities in Rajasthan is starkly illustrated by the experience of women in the village of Budhpura, which has become known as the “village of widows”.³⁵

34 ETI Base Code, clause 3.1.

35 Sunaina Kumar, *Curse of silicosis haunts ‘village of widows’ in India*, Aljazeera, 12 November 2017 <<https://www.aljazeera.com/features/2017/11/12/curse-of-silicosis-haunts-village-of-widows-in-india>>; Adil Bhat, *‘India: Lung disease turns Budhpura into ‘village of widows’*, DeutscheWelle, 7 July 2023 <<https://www.dw.com/en/india-lung-disease-turns-budhpura-into-village-of-widows/a-66159058>>.

The generational impact of poor conditions

The experience of Ms Kala illustrates how the practice of paying low wages, discrimination and child labour, all in breach of the ETI Base Code, locks generations of workers in the exploitative cobblestone industry.

Ms Kala is a silicosis widow. She started working in the cobblestone industry after her husband was diagnosed with silicosis to provide for her four children, her husband and her mother-in-law, and to pay for her husband's medical expenses. Ms Kala's two daughters, then aged 10 and 11, also started to work with their mother in the cobblestone industry to supplement the family's income. Later, when Ms Kala's grandson was nine years old, he too started cobble-making to share the burden. All of Ms Kala's daughters are married and their husbands also work in the cobblestone industry along with their children. Unfortunately, one of her daughters died, the cause of death is unknown, leaving behind her two children to be cared for by Ms Kala.

Prohibition of child labour in hazardous working conditions

The presence of child labour in the Rajasthan sandstone sector is widely known. Since *Budhpura 'Ground Zero'*, numerous investigations have reported the use of child labour in the supply chain.³⁶ As a result, sandstone goods from India have been added to the List of Goods Produced by Child Labour or Forced Labour under the Trafficking Victims Protection Reauthorization Act 2005, USA. The investigations carried out for this report show that the use of child labour persists.

The ETI Base Code, clause 4, prohibits the recruitment of child labour.³⁷ Reflecting international standards, clause 4.3 specifically prohibits the employment of people under the age of 18 in hazardous occupations.³⁸ The ILO Worst Form of Child Labour Convention 1999 No. 182 governs the "worst form of child labour"; which, under Article 3(d), includes "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children". Given the risk of children and young people under the age of 18 being exposed to crystalline silica

³⁶ See for example, ABA, *Tainted Stones* pp.18-19.

³⁷ ETI Base Code, Clause 4.1. ILO Minimum Age Convention 1973 sets out a general prohibition against the employment of people under the age of 15: Article 2(3). In the case of countries whose economies and educational facilities are insufficiently developed, the minimum can be lowered to 14 years: Article 2(3). Children can engage in light work from 13 years of age (or 12 as a transitional measure), provided that it does not interfere with their education or vocational training and that it does not have a negative impact on their health: Article 7. Children under the age of 18 are prohibited from doing any hazardous work; work which is likely to "jeopardise the health, safety or morals of young persons": Article 3(1)

³⁸ ETI Base Code, clause 4.3.

dust, work in the sandstone sector is a form of child labour prohibited by Convention No. 182 and Clause 4.3 of the ETI Base Code.

There has been an increasing shift from using child labour in quarries, to employing children in stockyards.³⁹ The investigation found that the production of cobblestones in Budhpura in particular is reliant on informally employed women and children, many of whom have often migrated to the area for work and belong to scheduled castes and scheduled tribes. Stockyards have been established where women and children produce cobblestones using small hand-held instruments and it is common to see children of all ages, from 10 to 17 years old. The survey conducted in the village established that 62% of women workers work alongside their children.

Child labour in Budhpura village

Maya is a silicosis widow. She had two sons and one died as a result of a respiratory disease he developed from working in the cobblestone industry. Maya's grandson, who is now aged 15, left school and began working in the cobblestone industry to support the family after his father became ill. Maya's daughter-in-law, who migrated to Budhpura after marriage, works as a tailor in the area to contribute to the family's finance, however, she fears that she may also be forced to into the cobblestone industry.

Whilst there are complex social and economic factors that contribute to child labour, the investigation in Budhpura documented how low wages, the absence of health and safety measures and a lack of alternative sources of income, force generations into working in the cobblestone industry. Of the women surveyed, 90% reported that their children have dropped out of school to support their families.

**"If parents die, what else can their children do?
They have to work on the cobblestones.
Each one of us is struggling to meet our daily needs to survive."**

Budhpura village, Rajasthan

Low wages

The payment of a living wage for work is a fundamental aspect to the employment relationship, and essential to realising other rights. The dominant methodology for protecting wages in India, and internationally, is the national minimum wage. However, there is often a significant gap between minimum wage protection and the cost of living, and the concept of a “living wage” is therefore crucial. The living wage recognises that wages must be adequate to maintain a reasonable standard of living for the worker and their family.⁴⁰ Accordingly, clause 5 of the ETI Base Code mandates that “living wages” be paid to workers. Companies are required to ensure that wages and benefits paid for a working week meet, at a minimum, national legal standards or industry benchmark standards, *whichever is higher*, and wages should always be enough to meet basic needs and to provide some discretionary income.⁴¹

In the context of Rajasthan, under clause 5.1, companies are required to ensure wages are in line with living wage benchmarks, rather than domestic minimum wages, which are lower. For example, the minimum wages set by the Government of Rajasthan at the time of the investigations and writing this report were:

Unskilled labour	Semi-skilled labour	Skilled labour	Highly skilled labour
INR 285 per day (INR 8550 per month)	INR 297 per day (INR 8910 per month)	INR 309 per day (INR 9,270 per month)	INR 359 per day (INR 10,770 per month)

In the absence of an industry benchmark standard for the calculation of a living wage in the sandstone sector in Rajasthan, two reputable benchmarks have been used for this report. First the living wage calculated by the Asia Floor Wage Alliance (AFWA)⁴² in 2022 at **INR 33,920 per month** and the Rainforest Alliance living wage benchmark in 2022 at **INR 14,001 per month**.⁴³ As reflected in the figures, calculating a living wage is challenging and each methodology will generate a different figure depending on location, timing and parameters. That is why, whilst the notion of minimum wages, living wage and benchmarks are important, as highlighted by the ILO, these cannot replace freedom of association and collective bargaining.

The evidence gathered by the investigators found that the wages paid to many of the workers fall far below living wage benchmarks, with those in the bottom tiers, women and workers carrying out menial work, being paid the lowest wages. In the first tier processing unit that was investigated,

40 See for example the definition of “living wage” used by Global Living Wage Coalition, Global Living Wage Coalition, *What is a Living Wage?* <<https://www.globallivingwage.org/about/what-is-a-living-wage/>>.

41 ETI Base Code, Clause 5.1.

42 Asia Floor Wage Alliance, *Living Wage* (2022) <<https://asia.floorwage.org/living-wage/>>

43 Rainforest Alliance, *Living Wage Benchmark* (2022) <<https://www.rainforest-alliance.org/resource-item/annex-s10-living-wage-benchmarks-per-country-list/>>

workers employed to cut and polish natural stone are paid on average INR 12,000 to INR 15,000 per month whilst those carrying out other manual jobs in the factory, such as packing goods, are paid INR 8,000 to INR 10,000 per month. In the quarries, male workers employed to cut and split sandstone are paid approximately INR 8,800 and tractor and crane operators are paid on average INR 16,000 and INR 18,000. The female workers who are employed to remove debris and unload and load goods and waste onto trucks are paid approximately INR 3,000 to INR 4,000 per month. It is of note that the rate paid to female workers, whose work would fall into the unskilled labour category, is less than half the minimum wage set by the Government, which is set at INR 8550 per month.

The research carried out in Budhpura village shows that wages paid for cobblestones is significantly below both the national minimum wage and the living wage. Paid on a piece-rate basis, the women surveyed earn between INR 100 to INR 250 per day, on average INR 2000 to INR 5000 a month. The majority, 36% of women surveyed, reported that their daily wage was only INR 100.

Whichever metric is used for calculating wages, the level of remuneration for workers across the supply chain cannot be considered as fair or sufficient to meet basic needs and to provide some discretionary income for a decent standard of living for workers and their families.

Discriminatory practices

The ETI Base Code 7.1 prohibits discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation. The ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ILO Discrimination Convention) addresses discrimination in the workplace. Pursuant to Article 1(a) of the ILO Discrimination Convention, the term "discrimination" includes "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation."

There is a clear overlap with the breaches of the ETI Base Code discussed in this report, and the particular detriment experienced by women workers across the supply chain. In the quarries, women are hired to carry out menial and hazardous work including removing debris, cleaning the mining area, supplying drinking water to other workers and carrying goods and waste, loading and unloading waste, goods and materials onto tractors. They are the lowest paid workers in the quarries, earning between INR 150 and INR 200 per day, approximately INR 3,000 to INR 4,000 per month. On average, women work between 08:00 to 18:00, with a two hour break. Further, quarries were found to lack clean toilet facilities,⁴⁴ which has a disproportionate impact on women. In the

absence of facilities, they are forced to use “hideouts”, seeking some privacy behind a barrier sandstone boulders.

The gender-based discrimination in the industry intersects with caste discrimination. In Budhpura village, the majority of the women identified as being a member of a caste, categorised as scheduled caste and scheduled tribe. The survey revealed that the daily wage for the woman in the cobblestone industry in Budhpura village ranges from INR 100 to INR 250. It was reported that 36% of women receive a daily wage of INR 100 and 34% of the women receive a daily wage of INR 150. Female children are also disproportionately impacted by the conditions prevalent in the industry, and are more likely to accompany their mothers to work in the cobblestone industry. Following the death of a husband, women become the main breadwinners and do not want to leave their female children home alone.

The failure of voluntarism and corporate social responsibility

One publicised corporate social responsibility (“CSR”) initiative that is been designed to tackle child labour in and around Budhpura is the “No Child Left Behind” project.⁴⁵ In response to *Budhpura “Ground Zero”*, which highlighted the prevalence of child labour in the cobblestone industry in 2005, the project aims to challenge the social norms that normalise child labour by promoting education.⁴⁶ The project has designated particular areas as “Child Labour Free Zones”,⁴⁷ and companies that source from these area market their goods as being free from child labour.⁴⁸ However, the investigation found that that the so-called “Child Labour Free Zones” are not effective and inspectors that carry out audits are evaded; and can in fact contribute to further exploitation. As described by one interviewee:

**“Yes, there are boards that say children mustn’t work.
However, when an inspection takes place, children are asked to hide in their
houses and then told to return late in the evenings to work.”**

Budhpura village, Rajasthan

45 No Child Left Behind <<http://nochildleftbehind.co.uk/>>; India Committee of the Netherlands, *Child Labour Free Zones in India and Africa* (17 September 2018) <http://www.indianet.nl/clfz_e.html>.

46 No Child Left Behind, *How a great vision became a great project*, <<http://nochildleftbehind.co.uk/project/>>.

47 Ibid.

48 Ibid.

PART 3

MANDATORY DUE DILIGENCE:

Implications for the
sandstone mining industry

By Krishnendu Mukherjee

Introduction

20 years is usually taken as the maximum period of exposure required to contract silicosis; an occupational lung disease caused by the exposure to fine silica particles. In India, the disease is often terminal due to significant exposure, and lack of treatment, with the victim suffering a painful and prolonged death. 20 years is also the length of time that the Rajasthan natural stone mining industry has been investigated for the significant human rights violations that exist there. Very little has changed for the better, and if anything, the prevalence of silicosis, once hidden, has been revealed through better screening and diagnosis. This chapter seeks to highlight the failure of both state and non-state actors to enforce laws and take even the first step towards improving the situation in their supply chains. Whilst there is no substitute to better enforcement, the proliferation of human rights due diligence laws indicate that those states believe that companies have a part to play even, or perhaps because of, the absence of enforcement. The chapter seeks to argue that the laws create an enabling and facilitating environment, where there are no mandatory obligations, to risk assess through stakeholder engagement, responsible purchasing practices, and targeted remedy. Our experience through the interaction with importers of Rajasthan natural stone, is that even companies that do not have mandatory obligations, recognise that the business-as-usual approach to addressing violations in their supply chains, through inaction and misrepresentation, is no longer sustainable. It is this, and a genuine benevolent desire to improve the lives of the most marginalised, that is the motivation in seeking to find a way forward to address this situation. We are working in this space, it is challenging, but the interaction has already created learnings and avenues for due diligence that we did not know existed. However, the most compelling motivations will always remain through the voices of those affected themselves.⁴⁹



Image courtesy of Madhavan Pillai.

49 South China Morning Post, *India's 'village of widows'* (8 September 2024) <https://www.youtube.com/watch?v=uyoAEkCsA-4>

In March 2024, the Guardian published article entitled *How child labour in India makes the paving stones beneath our feet*.⁵⁰ It was a result of a five-month investigation into the Rajasthan natural stone industry centred around the village of Budhpura, where *Budhpura - 'Ground Zero'*,⁵¹ the first report on forced labour and child labour in the Rajasthan stone industry, was also centred. The nearly 20 years since *Budhpura - 'Ground Zero'* was published is also the length of time that Anita, mentioned in the Guardian article, has been working in the stone industry. Anita and Sonu, her eight-year-old son, work eight hours a day, usually six days a week, making small paving stones, which are mostly exported to the UK, North America and the EU. Sonu began working in the industry two years ago, after his father died of silicosis, and his mother also now has symptoms of the terminal disease. The investigations done for this report in 2022 and 2023, provide further startling statistics, which are worth repeating. In an empirical study of 92 women working in the cobblestone industry conducted in Budhpura in August 2023, 44% of the women reported that their husbands had died from a diagnosis of silicosis, and when forced into the same dangerous occupation they were paid between Rs 100-250 a day. This led to the inevitable consequence of 62% of women reporting that their children worked with them in producing cobblestones. Tragically, the survey also found that 90% of the children surveyed had to drop out of school, and so the cycle of low-paid work, debt, forced labour and exposure to poor working conditions has continued. Why does it continue, when there are so much sustained evidence of serious human rights violations taking place? Clearly it is the state that has the primary responsibility in ensuring that the existing laws that protect children from working in hazardous occupations,⁵² and ensuring that workers are not subject to debt labour,⁵³ are properly enforced, and MLPC has been campaigning since 1993 for that to happen with some success, especially in relation to silicosis detection (see Part 1, by Dr M.K Devarajan), and is currently campaigning on trying to improve enforcement under the auspices of a state-sanctioned Mineworkers Welfare Board (MWWB). The MWWB is envisaged to operate as an operational-level grievance redressal mechanism, where grievances are forwarded to the appropriate body and their response monitored so that enforcement can be improved, but what role do companies have, especially those who import stone into developed countries?

Companies with transnational supply chains in India have traditionally taken no real responsibility for the violations that take place within them. In *Charan Lal Sahu and others v Union of India and others 1480*⁵⁴ ("the Bhopal Gas Tragedy case"), the Supreme Court of India lamented the lack of accountability for transnational corporations, the court stated:

50 Romita Saluja, *How child labour in India makes the paving stones beneath our feet*, The Guardian (28 March 2024) <<https://www.theguardian.com/news/2024/mar/28/how-child-labour-in-india-makes-the-paving-stones-beneath-our-feet>>

51 P Madhavan and Raj Sanjay, *Budhpura 'Ground Zero' Standstone Quarrying in India*, commissioned by the India Committee of the Netherlands; CREM/India Committee of the Netherlands/SOMO (2006) <<https://arisa.nl/persbericht-051228/>>

52 As required under the Child and Adolescent Labour (Prohibition and Regulation) Act 1986.

53 As required under the Bonded Labour System (Abolition) Act 1976.

54 Charan Lal Sahu and others v Union of India and others [1989] Supp. (2) S.C.R. 59, <https://digiscr.sci.gov.in/view_judgment?id=MTkxMDM=>

“In the context of our national dimensions of human rights, right to life, liberty, pollution free air and water is guaranteed by the Constitution under Articles 21, 48A and 51(g) it is the duty of the State to take effective steps to protect the constitutional rights guaranteed. These rights must be integrated and illumined by evolving international dimensions and standards, having regard to our sovereignty as highlighted by Clauses 9 and 13 of U.N. Code of Conduct on Transnational Corporations. Such a law may provide for conditions for granting licence to Transnational Corporations, prescribing norms and standards for running industries on Indian soil ensuring the above said constitutional rights of our people. A Transnational Corporation should be made liable and subservient to laws of our country and the liability should not be restricted to affiliate company only but the parent corporations should also be made liable for any damage caused to the human beings or ecology. The law must require transnational Corporations to agree to pay such damages as may be determined by the statutory agencies and forum constituted under it without exposing the victims to long drawn litigation. In order to meet the situation, to avoid delay and to ensure immediate relief to the victims, the law should provide for constitution of tribunals regulated by special procedure for determining compensation to victims of industrial disaster or accident, appeal against which may lie to this Court on the limited ground of questions of law only after depositing the amount determined by the Tribunal. The law should also provide for interim relief to victims during the pendency of proceedings. These steps would minimise the misery and agony of victims of hazardous enterprises.” [710H; 711A-F]

The failure of the companies to take responsibility for violations in their supply chains, has led ultimately to the UN Guiding Principles on Business and Human Rights (UNGPR) (2011) and its core concept of human rights and environmental due diligence (HRDD), which is defined as, “a way for enterprises to proactively manage potential and actual adverse human rights impacts with which they are involved”. This involves several steps which companies should continuously undertake to identify and mitigate human rights violations to which they have directly or indirectly contributed, but also provide a remedy where appropriate. As the purpose of HRDD is the prevention of adverse impacts on people, one of the main mechanisms through which this should be done is meaningful stakeholder consultation, where stakeholders including, workers and members of the community are continuously consulted over their grievances. Through this process a “human rights culture” is injected into supply chains in situations where there is poor legal enforcement, where there is not even any acknowledgement of the widespread human rights violations, but where this process can ultimately improve the situation. Importers have a crucial role to play in this process, because they can apply disproportionate economic leverage and oversight of suppliers in their value chain. This is acknowledged by the UK Home Office in its *Transparency in supply chains: a practical guide*.⁵⁵

55 Home Office, *Transparency in supply chains: a practical guide* (13 December 2021) <<https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide/transparency-in-supply-chains-a-practical-guide>>.

Despite the concept of HRDD being in existence for over a decade, and the OECD providing a complaints mechanism to support its implementation,⁵⁶ the evidence indicates that there remains a significant gap in the actual practice of HRDD amongst companies. A report entitled *Closing the Gap, Evidence for Effective Human Rights Due Diligence From Five Years Measuring Company Efforts To Address Forced Labour*⁵⁷ finds that one-third of companies in certain high risk sectors, do not show any evidence that they are assessing human rights risk, and four out of five provide no evidence that they are adopting responsible purchasing practices to mitigate the risk of forced labour in their supply chains. A report by the British Institute of International and Comparative Law (BIICL) for the EU Commission indicates that regulation requiring mandatory due diligence as a standard of care, with proper monitoring and enforcement, would have the most positive impact, including in relation to increasing leverage in their business relationships.

There are already mandatory human rights due diligence laws in France,⁵⁸ Germany,⁵⁹ the Netherlands,⁶⁰ and Norway,⁶¹ and due diligence laws are under consideration in Austria, Belgium and Luxembourg. On the 15 March 2024, the Council of Europe agreed the Corporate Sustainability Due Diligence Directive (CS3D),⁶² in order to harmonise this patchwork of existing and future laws. The CS3D is part of a number of EU laws which impose due diligence obligations on companies, including the Deforestation Regulation,⁶³ and the Critical Raw Materials Regulations,⁶⁴ Forced Labour Regulation.⁶⁵ In other parts of the world too, countries are proposing to adopt HRDD laws, including Australia, Brazil and the United States. The UK, once at the forefront of the global campaign to combat modern slavery, with the implementation of section 54 of the Modern Slavery Act 2015,⁶⁶ a reporting requirement, is now an outlier in terms of due diligence obligations to mitigate human rights violations in supply chains. However, despite there being no Government

56 Know the Chain and Business & Human Rights Resource Centre, *Closing The Gap: Evidence for Effective Human Rights Due Diligence from Five Years Measuring Company Efforts to Address Forced Labour* (2022)

57 European Commission, Directorate-General for Justice and Consumers, Torres-Cortés, F., Salinier, C., Deringer, H. et al. *Study on due diligence requirements through the supply chain final report* (2020) <<https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>>

58 *Loi 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre* [Law 2017-399 of 27 March 2017] <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/> (Duty of Vigilance Law).

59 Gesetz fiber unternehmerische Sorgfaltspflichten in Lieferketten 22 July, 2021, Elektronischer Bundesanzeiger [eBAnz] at 2959 2021 (Ger.) (Supply Chain Due Diligence Act).

60 *Wet Zorgplicht Kinderarbeid* (Child Labour Due Diligence Law).

61 *Wet zorgplicht kinderarbeid* van 24 oktober 2019, Stb. 2019; Act Relating to Enterprises' Transparency and Work on Fundamental Human Rights and Decent Working Conditions (Transparency Act), LOV-2021-06-18-99

62 Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence <<https://eur-lex.europa.eu/eli/dir/2024/1760/oj>>.

63 Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023R1115&qid=1687867231461>>

64 Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401252.

65 Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market <<https://data.consilium.europa.eu/doc/document/PE-67-2024-INIT/en/pdf>>

66 Modern Slavery Act 2015 <<https://www.legislation.gov.uk/ukpga/2015/30/section/54>>

proposal to pass a HRDD law in the UK, due diligence obligations are increasing, the Procurement Act 2023⁶⁷ has mandatory and discretionary orders for disbarment for bidding for procurement which include both money laundering and modern slavery offences, and the recent UK Court of Appeal case of *R on the application of World Uyghur Congress v National Crime Agency* [2024] EWCA Civ 715,⁶⁸ may expose companies that are not aware of forced labour in their supply chains to criminal prosecution.

The due diligence laws themselves differ in relation to scope, but they all require, or propose, that companies should be mandated to have a due diligence obligation to do a risk analysis, communicate with affected stakeholders, and provide a remediation mechanism. The European Coalition on Corporate Justice has done a useful table⁶⁹ outlining the main provisions of the EU laws, but how does that translate into the activities that companies in the small-scale mining industry should be doing to do effective due diligence in relation to forced labour? The *Know the Chain* report provides the elements required for this to be done.

Traceability and Supply Chain Transparency

The Know the Chain Report requires that: “Stakeholders should be able to access truth and complete information”. This requires companies to disclose what they know, and more importantly, what they don’t know about their supply chains. For instance, the Report states that companies should provide “transparency on the full list of countries from which a company sources, so (stakeholders) can connect companies to the full list of abuses faced by workers in their supply chains”. If stakeholders were aware that a company sources from Rajasthan, they may be directed to the US Department of Labor’s 2020, and subsequent listings of Rajasthan sandstone as a good produced by child labour or forced labour. More importantly, it would assist in creating a strategy to address these issues, and other the risk factors that could also be disclosed, including silicosis, sexual harassment and environmental degradation as highlighted in the American Bar Association report on Rajasthan stone in 2020 *Tainted Stones: Bonded Labor and Child Labor in the India-US Sandstone Supply Chain*.⁷⁰ One of the main issues in the Rajasthan natural stone industry in the informality of the workforce beyond the tier one supplier. The Report further indicates that information on gender and migrant ratios, and the level of unionisation in suppliers is necessary for companies to take appropriate action to address specific risks in this sector.

67 Procurement Act 2023 <<https://www.legislation.gov.uk/ukpga/2023/54/schedule/7>>

68 World Uyghur Congress v National Crime Agency [2024] EWCA Civ 715, <<https://caselaw.nationalarchives.gov.uk/ewca/civ/2024/715>>.

69 European Coalition for Corporate Justice, *Comparative table: Corporate due diligence laws and legislative proposals in Europe* (21 March 2022). <<https://corporatejustice.org/publications/comparative-table-corporate-due-diligence-laws-and-legislative-proposals-in-europe-2/>>.

70 American Bar Association Center for Human Rights, *Tainted Stones: Bonded Labor and Child Labor in the India-U.S. Sandstone Supply Chain* (2020)

Risk Assessment and Stakeholder Engagement

The Report indicates that any evaluation of the potential risks to workers, as well as the actual impacts, through human rights assessments, should consider the spectrum of risk factors and abuses leading to forced labour. This requires meaningful engagement with local stakeholders, labour rights experts, and workers themselves. It is particularly important to conduct meaningful engagement in sourcing countries, with local worker rights organisations and unions. Such engagement could focus on different categories of workers, for instance in the Rajasthan context this could be workers who work in the mines specifically, widows and migrant workers.

Responsible Purchasing Practices and Freedom of Association

The Report focusses on responsible purchasing practices, like prompt payment, accurate forecasting, and reasonable lead times, as a necessity for responsible business. A lack of such practices creates the conditions which make it difficult or impossible for suppliers to comply with supply chain policies on human rights and working conditions. In the Rajasthan context this would include knowledge about the minimum wage of workers in their supply chain, which could then be disclosed and updated on company's websites, so that stakeholders are aware that companies are having due regard to labour costs in the sourcing countries and how much they are paying for the natural stone.

Worker-Orientated Grievance Mechanisms

Worker-orientated grievance mechanisms play a central role in the identification of risk, and are a necessary instrument to ensure workers have access to remedy. Companies should demonstrate that such grievance mechanisms are fit for purpose by engaging workers on the design and implementation of such grievance mechanisms, but also disclose data on its usage to demonstrate its effectiveness. In the Rajasthan context this provides challenges, but technology and innovative ways could be used to compile the data and provide analysis for policymakers and other stakeholders.

Conclusion

The recommendations of the various reports on the human rights violations in the Rajasthan natural stone industry mentioned here, and others such *Between a rock and a hard place*, published by Arisa in 2020,⁷¹ state that companies in the supply chain should conduct HRDD as a way of mitigating and preventing serious human rights abuses. Despite the UNGPs providing voluntary guidelines in 2011, the OECD providing a complaints mechanism for a breach of those requirements under the OECD Guidelines, and the increasing legal requirement to conduct HRDD in various jurisdictions, companies largely fail to comply with even the minimal standards. This is

further compounded by significant levels of misrepresentation of the true human rights situation, and companies' engagement with it. It is hardly surprising therefore that in the Rajasthan natural stone industry this deplorable status quo situation has maintained since the first report nearly 20 years ago. The failure of a state to protect its own citizens, is compounded by a company's failure to take any steps itself to improve the situation. As the above shows, there are steps which individual companies can take alone, or as an industry, and can be judged on their actions and not their rhetorical commitment. The future of Sonu, and children like him remains bleak, but the cycle can be broken if there is a will to do so.

Our experience with importers of Rajasthan natural stone indicates that they understand the business-as-usual approach is no longer sustainable in light of media coverage highlighting the deplorable situation that exists amongst mineworkers, and the move away from voluntarism. Where the EU leads, the UK must follow, especially given the renewed desire to have better relations. We were encouraged by the importers' enthusiasm to learn and to seek answers to their questions on how human rights violations in the industry could be addressed. There is an opportunity here to move things forward in an environment which we are all aware has a multiplicity of complex challenges but could provide a showcase not only for similar industries in India, but all over the world.



Image courtesy of Madhavan Pillai.

PART 4

THE ROUNDTABLE:

A forum for change

**By Sandhya Drew, Geeta Koska and
Krishnendu Mukherjee**

Introduction

Multi-stake holder initiatives are intended to strengthen a company's leverage, be a source of advice and experience and provide effective mechanisms for dealing with human rights issues or grievances. **Yet, despite the UK being a major importer of Rajasthan natural stone, there is currently no common platform to share knowledge, experience and strategies to address labour and human rights concerns in the natural stone sector. In this chapter, we describe a recent initiative to restore sectoral standard setting.**

To fill this gap, a group of UK-based importers of Rajasthan natural stone were invited to a series of confidential Roundtable meetings at the City Law School in London. The purpose of such confidentiality in the content of the meetings was to encourage candid exchange between competitors. Confidentiality did not attach to the outcomes. The aim was to provide a platform to develop a common set of standards and recommendations to address a particularly serious concern in the industry: silicosis. Going beyond the broad commitments of the ETI Base Code, and informed by the practical challenges faced by workers and communities as identified by the research carried out for this report, the initiative aims to achieve concrete action to promote occupational health and safety amongst suppliers, enhance supply chain transparency, and identify new ways to use leverage, both domestically and abroad.

With input from MLPC, experts in the fields of disease prevention and business and human rights, including - Professor Mohan Sodhi at Bayes Business School of City St Georges, University of London; Professor Pankaja Raghav, Head of the Department of Community Medicine Family Medicine, All India Institute of Medical Sciences, India and Professor Mohamed Jeebhay, Head of Occupational Medicine, University of Cape Town, South Africa - the meeting of the Roundtable presented a unique vehicle for action.

Engagement

This initiative has been led by Pavestone Ltd, who had also been involved in the ETI initiative. The first meeting provided an opportunity to discuss the challenges and opportunities to prevent silicosis in the industry. In attendance were representatives from Pavestone Ltd, Marshalls Plc and Talasey Ltd.

Almost 20 companies had been invited on the basis that they imported or sell stone from Rajasthan into the UK, and were members of the ETI,⁷² the Ethical Stone Register⁷³ and/or make ethical commitments on their websites. In spite of significant efforts to engage businesses, participation was limited. It is hoped that as the project gathers profile and momentum, further companies will join.

⁷² <https://www.ethicaltrade.org/who-we-are/our-members>

⁷³ <https://ethicalstoneregister.co.uk/>

A new initiative

Through the Roundtable process, MLPC aims to promote the concrete steps companies can take to address silicosis in the supply chain, increase transparency and accountability, generate greater collaboration and knowledge sharing between suppliers and UK-based importers, remedy affected communities and to strengthen enforcement in Rajasthan, India and the UK.

We know from experience that voluntary initiatives, such as the ETI Base Code, can have had a limited impact on business practices. Regrettably, multi-stake initiatives can be used as a mask behind which companies can portray their supply chain as “ethical” and “clean”. However, in circumstances where workers in Rajasthan are facing a silicosis epidemic and the UK government is yet to introduce mandatory due diligence obligations or other regulatory mechanisms to effectively promote safe and fair labour practices in supply chains: something has to be done.

In this vacuum, the Roundtable initiative seeks to learn from the past-lessons, and concrete and time-bound outcomes have been established for participating companies to adopt. Businesses that commit to the action plan are expected to meet regularly to confirm progress and for updates in respect of implementation to be routinely published on company websites. A summary of the sectoral standards developed by MLPC at the heart of the initiative are set out on the following pages.

In light of the evolving regulatory framework in respect of supply chain responsibility in the European Union and globally, there is a growing need for companies in the UK to also fulfil due diligence obligations. The standards represent a real opportunity for UK businesses to take the lead, and for the formal sector to exercise leverage either collectively or through their suppliers. It is hoped that the sectoral standards will soon be widely signed up to by companies who have expressed an ethical approach to business.



Image courtesy of Madhavan Pillai.

Action plan for stone importers

1: Transparency

- Working together with direct suppliers in Rajasthan, UK importers will ascertain the way direct business partners and suppliers along the supply chain use the rawanna system – the royalty receipt system – to fulfil obligations under domestic tax regulations in India.
- With input from the direct business partners, MLPC and trade unions develop practical guidance and digital software to use the royalty receipt scheme to track their supply chain from extraction to the exporter.
- Contribute to training on how the royalty receipt scheme could be used to track a supply chain.

2: Silicosis prevention

- Ascertain and review the measures taken by direct business partners to prevent silicosis.
- With input from direct business partners, experts in occupational health and safety and trade unions, UK importers will develop industry-wide best practice technical guidance on addressing silica dust exposure in the supply chain, designed specifically for the working and environmental conditions prevalent in Rajasthan (“the technical guidance on silicosis prevention”).
- Contribute to training for workers across the supply chain on how to use equipment and PPE as set out in the technical guidance on silicosis prevention. For instance, the Mine Labour Protection Campaign (“MLPC”) has a partnership with the Mining Engineers Association of India (“MEAI”) and relevant training institutions to design skill development programmes for quarry workers.
- Develop and contribute to a scheme for the purchasing and/or hiring of recommended equipment and personal protective equipment (“PPE”) to align with the technical guidance on silicosis prevention across the supply chain.

- Ensure that natural stone products are only sourced and purchased from suppliers that adhere to the technical guidance on silicosis prevention, and all workers have been registered and duly trained. Assurance of supply chain integrity to be guaranteed by Outcome 2, concerning the traceability of natural stone products.
- Develop a mechanism to monitor the implementation of the technical guidance on silicosis prevention along the supply chain. Buyers commit to supporting suppliers in all tiers towards full adherence with the technical guidance through responsible contracting practices, including responsible purchasing practices, reasonable technical and financial assistance and strict rules on sub-contracting. Such monitoring can be provided for through Outcomes 3 and 4(2)(a) and (b).
- Develop a mechanism whereby suppliers are required to provide a remedy to a stakeholder if they cause or contribute to an adverse impact through the failure to fulfil the technical guidance on silicosis prevention. Where the UK buyer caused or contributed to the adverse impact (e.g., through its purchasing practices), then the buyer commits to participate in providing remediation to stakeholders affected. Such a mechanism can be provided for through Outcomes 3 and 4(2)(a) and (b).

3: Action in Rajasthan

- Write an open letter to the Rajasthan State Government highlighting the need to establish the MWWB with immediate effect with the powers to: (a) secure the provision of welfare to workers in mines, stockyards, proceeding units and other sites where natural stone is extracted, including through direct payments and/or access to existing social protection legislation, (b) monitor and enforce the registration of workers and (c) operate a grievance mechanism to investigate claims by workers, with the power to provide an effective remedy in the case of labour and human rights violations.
- Develop practical guidance on how the MWWB could be used to meaningfully engage with stakeholders.
- Contribute to a “stakeholder engagement hub” through which importers, suppliers, state institutions, worker representatives, NGOs and trade unions can discuss issues and identify solutions to enforcement gaps and ensure better protection of labour and human rights standards in the natural stone sector.

4: Action in UK and routes to remedy

- Set up an EU-UK Ethical Stone Initiative with EU companies importing from Rajasthan.
- Work on initiatives to strengthen due diligence, stakeholder engagement, and remedy, including:
 - (a) Developing a digital tool for stakeholders to access information about their rights, state and non-state based routes to remedy and tracking of grievances in the supply chain.
 - (b) An industry-wide operational level grievance mechanism designed in collaboration with worker representatives, trade unions and NGOs.
 - (c) The pooling of expertise, funds and technology to support good purchasing practices across the sector.
 - (d) Using collective leverage to promote the introduction of mandatory due diligence obligations in the UK to ensure a level playing field.

FINAL THOUGHTS

The response to widespread labour and human rights violations in the Rajasthan sandstone sector has failed workers and the most vulnerable members of society. The continuation of the status quo will fail to alleviate conditions and urgent steps need to be taken by states. As has been recognised by the Rajasthan Department of Mines and Geology: “mineral wealth is finite and non-renewable”.⁷⁴ Yet, the labour that supports the industry has not been treated as such and for too long, both workers and the raw materials drawn from the earth have been over-exploited.

The adoption of self-regulatory codes has not been sufficient to protect against abuses in global supply chains. Whilst some companies are taking some steps to improve conditions in the first tier and carry out audits, sourcing remains price-driven⁷⁵ and the logic of competition and the market suppresses wages and directly leads to exploitative practices.⁷⁶ Moreover, the challenges of operating complex and opaque supply chains, means that there is a real risk that those at the bottom are not seen. Confronted with the complexities of operating in Rajasthan, what is the appropriate response from international businesses? It is not suggested that international buyers immediately cease their business relationships with risky suppliers; international standards stipulate that companies should only terminate a business relationship as a last resort.⁷⁷ The first step is to work closely with suppliers to encourage greater transparency across their own supply chain, so that steps can be taken towards prevention and remediation. Where a business has caused or contributed to an adverse human rights impact, steps should be taken to cease or prevent the

74 Rajasthan Department of Mines and Geology, *Foreign Investment in Indian Mineral Sector*, available from: <https://mines.rajasthan.gov.in/dmgcms/page?menuName=SLddcYVmS26EaT;455611:9zpMQTg==>>

75 International Labour Organisation, *Challenges and opportunities for productive employment and decent work in the natural stone mining industry supply chain in Rajasthan*, (2021) p.xii, p.22.

“International top-market buyers may perform audits to check working conditions, presence of child labour, OSH standards, and fair wages, or may expect suppliers to report on these areas against a specified standard. Usually, these buyers procure the product only from identified processing units and quarries, which generally maintain international standards and work in coordination with exporters.[...] The exporters surveyed did not report receiving premium prices from top-market international buyers. The incentives mentioned to keep working with these buyers were continued business, large volume orders, timely payments, and the satisfaction of following ethical practices. Some respondents reported feeling resentful towards industry actors that did not adhere to the same set of standards.” p.22

76 ETI, *Base Code Guidance: Child Labour*, p.9 “The most effective way to avoid homeworkers passing on inappropriate work to their children is to pay a fair piece rate (and to check that a fair rate is being paid).”

77 OHCHR, *Implementing the United Nations ‘Protect, Respect and Remedy’ Framework*, p.22.

impact and leverage used to mitigate harm.⁷⁸ In the context of Budhpura, this could mean ensuring that living wages are paid to workers and occupational health and safety is improved, to reduce the risk of children being forced into work. Further, where a company has caused or contributed to the violation of labour or human rights – for example through their buying practices - they should engage in providing a remedy.⁷⁹ Businesses must also work together to manage their risks in their own supply chain, and use their collective influence to ensure domestic enforcement to improve conditions across the sector.

The current situation falls way below these international standards, and it is clear that the domestic enforcement of labour and mining laws, together with the regime of self-reporting and monitoring are failing to deliver changes in supply chains. Collaborative and creative thinking by industry, mandatory due diligence obligations, together with stricter regulation in home and host states alike is now required. By all pulling in the same direction, sandstone mining in Rajasthan can be made more sustainable.



Image courtesy of Madhavan Pillai.

78 OHCHR, *Implementing the United Nations 'Protect, Respect and Remedy' Framework*, p.21

79 Ibid, p.24-25

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