



Southern Shrimp Alliance

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Sent via Electronic-mail

Matthew Fraterman
Office of Child Labor, Forced Labor, and Human Trafficking (OCFT)
Bureau of International Labor Affairs
United States Department of Labor
200 Constitution Ave., NW
Room S-5315
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Fraterman.matthew@dol.gov

Re: Comments on Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor; Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries; and Business Practices to Reduce the Likelihood of Forced Labor or Child Labor in the Production of Goods (Docket No. DOL-2021-0003)

Dear Mr. Fraterman,

On behalf of the Southern Shrimp Alliance, we hereby provide information and comments on the three reports issued by the U.S. Department of Labor's Bureau of International Labor Affairs (ILAB) regarding child labor and forced labor in certain foreign countries, consistent with ILAB's request.¹ Specifically, the comments herein address ILAB's discussion of various products originating in India included within ILAB's *2020 List of Goods Produced by Child Labor or Forced Labor* ("2020 List of Goods Report"), as well as products originating in India that were not included in that report.² Based on the information summarized herein, the Southern

¹ See Efforts by Certain Foreign Countries to Eliminate the Worst Forms of Child Labor; Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries; and Business Practices to Reduce the Likelihood of Forced Labor or Child Labor in the Production of Goods, 86 Fed. Reg. 56,293 (Department of Labor, Oct. 8, 2021).

² See https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPR_List_Online_Final.pdf.

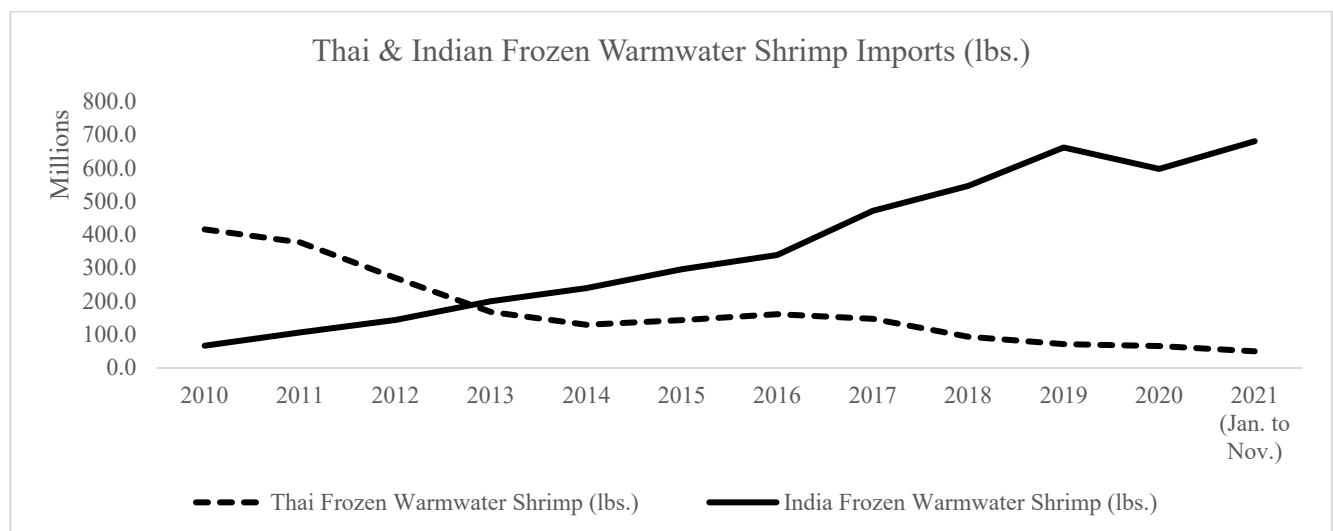
Shrimp Alliance requests that ILAB include vegetable seed, flowers (floriculture), cardamom, cashew, and tea produced in India in the 2022 *List of Goods Report* and that the agency update its discussion of forced and child labor practices in India to account for recent studies and analysis of the supply chains of goods currently included in the 2020 *List of Goods Report* that confirm the continuing existence of forced and/or child labor in the production of these goods.

I. INTRODUCTION

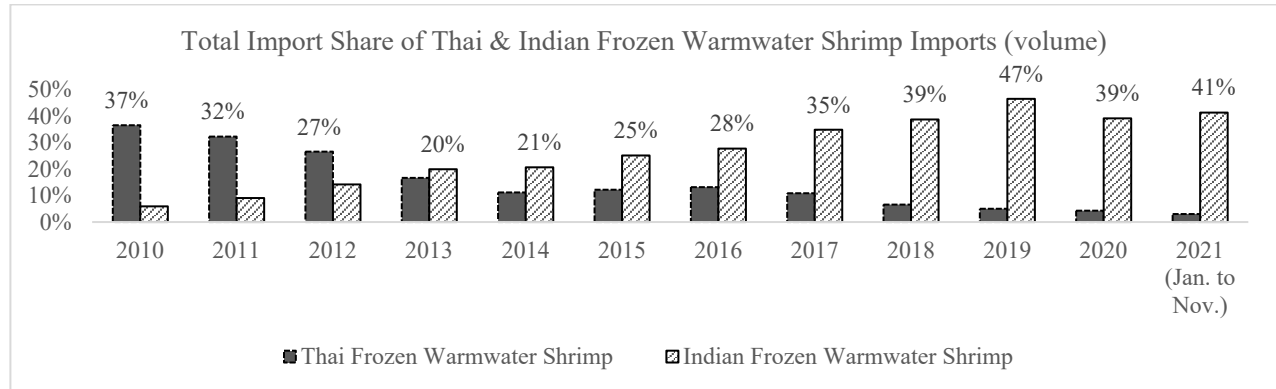
Founded in 2002, the Southern Shrimp Alliance is an organization of shrimp fishermen, farmers, processors, unloading docks, and associated shoreside businesses in the coastal states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. We are committed to enhancing the long-term viability of one of the nation’s most valuable commercial fisheries and delivering a healthy, wholesome food product to the American public. A thriving U.S. shrimp industry supports thousands of small and medium-sized family-run enterprises, employs tens of thousands of Americans, and is a vital contributor to the economies of coastal communities over a wide portion of this country.

For roughly two decades, the Southern Shrimp Alliance has worked to improve the industry’s understanding of how international trade impacts the prices fishermen receive at the dock. To that end, we have focused on educating ourselves and the public on non-market distortions of international trade, such as the unregulated use of antibiotics in aquaculture; export and fishery subsidies; illegal, unreported, and unregulated (“IUU”) fishing; market access limitations in other importing nations; as well as weak environmental standards in foreign countries.

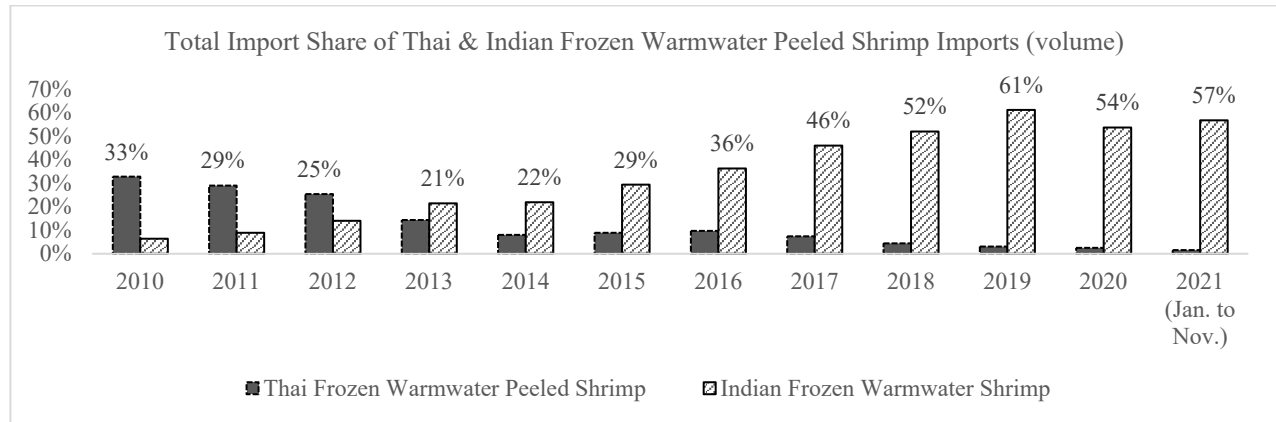
The continued existence of forced and child labor in seafood supply chains similarly distorts international trade. Over the last decade, the U.S. market has seen a massive decline in the presence of shrimp from Thailand, historically the single largest supplier to this market. As Thailand has exited the market, the volume of Indian shrimp exported to the U.S. market has exploded:



As an overall share of total frozen warmwater shrimp imports, India has surpassed the highwater marks reached by Thailand when that country had been preeminent:

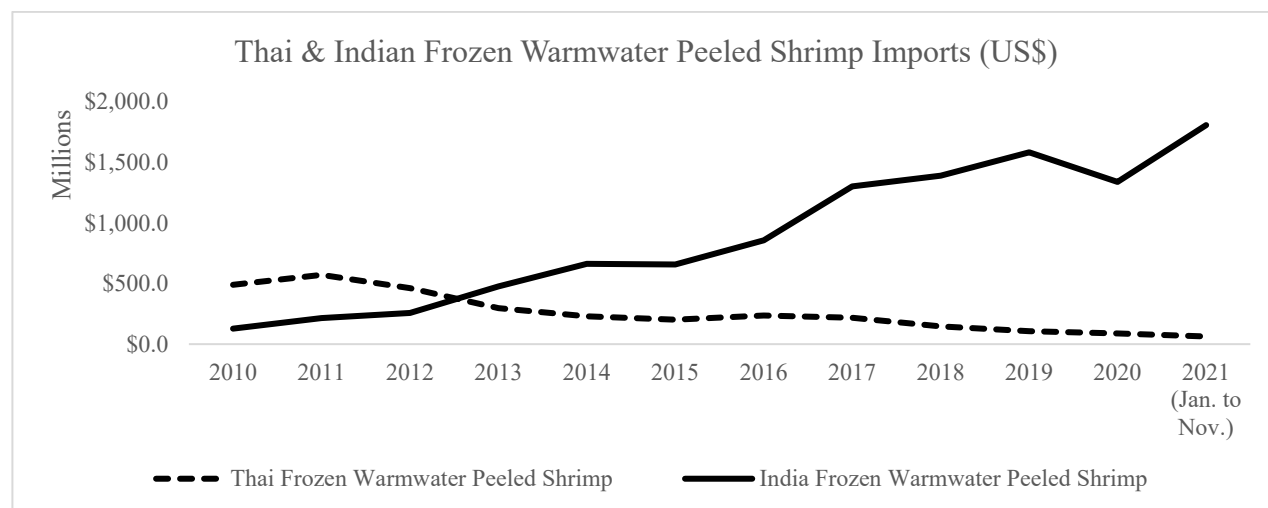


The market dominance of Indian shrimp is most pronounced in one particular product form: peeled shrimp. Currently, India accounts for more than one out of every two pounds of peeled shrimp imported into the United States, while Thailand – having historically accounted for one out of every three pounds of peeled shrimp imported into this country – now comprises less than two percent of the total volume of peeled shrimp imports.



The scope of these imports is massive, as India exported over \$1.8 billion in peeled shrimp to the United States over the first eleven months of 2021. In contrast, Thailand has seen over \$500 million in peeled shrimp exports disappear from the U.S. market.³

³ Official U.S. import data was obtained from the U.S. International Trade Commission’s *Dataweb*. Frozen warmwater shrimp import volume numbers are tabulated from Harmonized Tariff Schedule of the United States (HTSUS) numbers 0306.13; 0306.17; 0306.23; 0306.36; 1605.20.1010; 1605.20.1030; 1605.20.1050; 1605.21.1030; 1605.21.1050; 1605.29.1010; and 1605.29.1040. Frozen warmwater peeled shrimp import volume and value numbers are tabulated from HTSUS numbers 0306.13.0040; 0306.17.0040; 0306.17.0041; and 0306.17.0042.



The decline in Thailand's presence in the United States, and the ascendance of India, corresponds with scrutiny into labor practices in the Thai shrimp industry, including the inclusion of shrimp from Thailand in ILAB's *The Department of Labor's List of Goods Produced by Child Labor or Forced Labor: Report Required by Trafficking Victims Protection Reauthorization Acts of 2005 and 2008* in 2009.⁴ Particular practices in the Thai shrimp supply chain, such as the use of peeling sheds that contracted out work to entities that exploited foreign (*i.e.*, Burmese and Cambodian) workers, led to broad public backlash against continued sourcing from Thailand.

As India has replaced, and surpassed, Thailand's position in the U.S. market, it has done so with a supply chain that is similarly dependent upon peeling sheds that contract out work to entities that also appear to exploit vulnerable populations. However, where Thai peeling sheds preyed upon foreign workers, Indian peeling sheds exploit internal migrants and domestic disadvantaged populations. The continuing prevalence of forced and child labor in the foreign production of goods exported to the United States from India has encouraged shrimp purchasers to concentrate on India in order to take advantage of systemic weaknesses in the country's protection of vulnerable populations and the widespread integration of abusive practices across supply chains. As a result, peeling sheds have proliferated and become an integral part of the Indian shrimp supply chain. In just the state of Kerala, the Department of Fisheries reports that there are 258 peeling sheds currently operating within the Coastal Regulation Zone.⁵

For this reason, the Southern Shrimp Alliance offers these comments in the hopes of augmenting the federal government's response to the corruption of supply chains in India through forced labor and child labor. ILAB has long recognized the vulnerability of Indian supply chains to labor abuse. Table 3 of the *2020 List of Goods Report* explained that India had the third highest number of goods produced by forced labor, at eight (8), behind only Burma (Myanmar) at thirteen

⁴ See https://www.dol.gov/sites/dolgov/files/ILAB/reports/TVPRA%202009_WEB_.pdf at pp. 20, 26, 167.

⁵ See Department of Fisheries, Government of Kerala, *Report: Integrated Fisheries Development Plan for Coastal Zone Management Plan 2019, Kerala* (July 2021) at 18. The *Report* provides a full list of these peeling sheds, their locations, and the relevant local self-government institution at Annexure X.

(13) and China at seventeen (17).⁶ Similarly, a review of Table 1 of the *2020 List of Goods Report* indicates that India has the third highest number of goods produced by child labor, at seventeen (17), behind only Brazil at eighteen (18) and Paraguay at twenty-three (23).⁷ Overall, India has the highest number of goods listed for child and forced labor of any country, at twenty-five (25), just ahead of both Brazil and Paraguay, for which twenty-four (24) products are listed.⁸

As detailed below, public information indicates that the *2020 List of Goods Report* significantly understates the prevalence of the use of forced or child labor throughout various industries in India. The ability of Indian industries to rely upon forced or child labor without accountability has market implications. Within the U.S. shrimp market, the Southern Shrimp Alliance has concluded that weak regulation of labor law violations and the existence of a substantial population vulnerable to forced and/or child labor practices in India has allowed U.S. importers to continue to obtain shrimp at distorted prices that negatively impact what our commercial fishermen are paid at the dock. This also harms U.S. consumers, who purchase and use products from India unaware of the abusive labor practices by which these products are made.

We believe that it is important for ILAB to provide a comprehensive account of how supply chains for merchandise in India have come to present significant risks of labor exploitation that should be directly confronted by all U.S. companies doing business in that country. Accordingly, the Southern Shrimp Alliance herein submits to the agency recent information pertaining to current labor conditions in India. We also present information regarding the use of child and/or forced labor in the production of specific merchandise in India for ILAB's consideration in the preparation of the *2022 List of Goods Report*. Further, the Southern Shrimp Alliance is additionally submitting recently published information regarding the continuing use of child and/or forced labor in the production of goods in India identified in the *2020 List of Goods Report* to demonstrate that the agency's concerns with respect to these products have not been meaningfully addressed.

II. LABOR CONDITIONS IN INDIA

A review of labor conditions in India indicates that the widespread presence of forced labor across a variety of supply chains is due to at least three significant factors. First, there are large populations of internally displaced persons in India that are vulnerable to exploitation. Second, there are millions of children in India that remain part of the country's workforce. Third, bonded labor practices remain prevalent in India and continue to be used to exploit vulnerable groups throughout the country. Because an understanding of these conditions has helped the Southern Shrimp Alliance identify where certain supply chains in India have been corrupted through forced and child labor, a brief overview of each of these factors is provided below.

⁶ See *2020 List of Goods Report* at 31.

⁷ See *id.* at 20-24.

⁸ See *id.*

A. Internally Displaced Persons in India Are Vulnerable to Victimization

The size of the labor pool created by internal migrants within India is massive. Per the 2011 Census, “there were 450 million internal migrants in India by the ‘Place of Last Residence’ metric, thus accounting [for] 37.7 per cent of the total population”⁹ Based on population trends within India, current estimates posit that there were roughly 600 million internal migrants in India in 2020.¹⁰ Studies of seasonal migrants in India indicate “that the bulk of these migrants also hail from marginalised sections of the country and from among the lower-income quintile groups”¹¹ “Available data suggest that while long-term migrants are more likely to be from rich and middle peasants, upper castes and those already in non-farm occupations, relatively developed regions; seasonal migrants mostly belong to the less-developed regions, scheduled caste and scheduled tribe communities and landless or marginal farmer households.”¹² While driven by economic need, the mass movement of people within India subjects large populations to potential abuse at the hands of contractors:

There is a substantial migrant workforce that is employed through labour contractors, even when the primary employers are large firms, often having ties with global production and distribution networks They remain invisible in the payrolls of the companies, and this invisibility is reinforced through various forms of social and political marginalisation. This large section of migrant workers, who work either as self-employed or wage workers in the informal sector or as informal workers in the formal sector, are vulnerable migrants Some of them, such as those working as bonded labourers, *daadan* labour or similar exploitative forms of labour relations, are part of the unfree labour force¹³

In his July 2021 report to the Human Rights Council of the United Nations General Assembly, *Nexus Between Displacement and Contemporary Forms of Slavery*, the Special Rapporteur on contemporary forms of slavery, Tomoya Obokata, observed that “[f]orced labor among displaced persons is a major concern,” explaining that displaced persons were particularly vulnerable to exploitation in “agriculture, construction, catering and hospitality, cleaning, domestic and household work, care services, street vending and the general service industry” due to the “casualization of the workforce” and the “informality” of these industries.¹⁴ The Special

⁹ Irudaya Rajan, P. Sivakumar, and Aditya Srinivasan, *The COVID-19 Pandemic and Internal Labour Migration in India: A ‘Crisis of Mobility,’* *The Indian Journal of Labour Economics* (Nov. 20, 2020) at 2 (unnumbered) (citation omitted).

¹⁰ *See id.*

¹¹ *Id.* at 3 (unnumbered) (citation omitted).

¹² Deepak K. Mishra, *Migrant Labour During the Pandemic: A Political Economy Perspective*, *The Indian Economic Journal*, 69(3) 410-421 (2021) at 413 (citations omitted).

¹³ *Id.* at 415-416 (citations omitted).

¹⁴ Special Rapporteur on contemporary forms of slavery, including its causes and consequences (Tomoya Obokata), *Nexus Between Displacement and Contemporary Forms of Slavery*, Report to Human Rights Council, Forty-eighth Session, United Nations, A/HRC/48/52 (July 26, 2021) at 9.

Rapporteur noted that “[i]n India, for example, there are between 5,000 and 6,000 internally displaced workers in bonded labour in the tea gardens of Bihar and Rajasthan.”¹⁵

The Special Rapporteur’s reporting was based on a submission from Arise, “an anti-slavery [non-governmental organization (“NGO”)] headquartered in London and New York, and working to prevent slavery in India, Albania, the Philippines and Nigeria.”¹⁶ Arise’s findings were drawn from a survey issued by the NGO “on the nexus between forced displacement and contemporary forms of slavery to 11 religious sisters in our India network, working against slavery in their communities.”¹⁷ Arise received five responses to their survey with information regarding displaced persons in their communities, each discussing internally displaced persons (“IDPs”) within India.¹⁸ Arise’s respondents explained that “lower caste groups are more vulnerable to displacement and exploitation,” noting that the state seizes back land granted to lower caste groups leading to the subsequent displacement of these caste groups.¹⁹ They “argued that a lack of shared identity and documentation makes displaced people more vulnerable to exploitation than locals” and “that local authorities are not motivated to help displaced people” with the displaced being “unable to access social security schemes and benefits.”²⁰ An example was provided noting that “in the brick kilns of Haryana, local people work reasonable hours, while displaced people are forced to work much longer hours (10 – 12 per day).”²¹ Arise explained that “[f]orced labour was reported as prevalent amongst IDPs in Uttarakhand, Haryana and Assam (Amtola Village),” and that another respondent cited to statistics from the National Crime Records Bureau showing “that 5% of children between the ages of 5 and 14 in Assam is a child labourer; there are 280,000 child labourers in Assam, and in the Sonitpur district, 6.5% of children are child labourers . . .”²² Arise additionally observed that circumstances for IDPs have deteriorated, as “COVID-19 has worsened the exploitation of displaced people.”²³

B. Millions of Children Continue to Labor in Indian Supply Chains

The Constitution of India outlaws the practice of debt bondage and other forms of slavery and bars the employment of children below 14 years old in factories, mines, and other hazardous occupations that include the handling of toxic substances such as pesticides. It also requires the state to “direct its policy toward securing” the rights of children with regard to their health and

¹⁵ *Id.* (footnote omitted).

¹⁶ Arise, *Submission on the Nexus Between Forced Displacement and Contemporary Forms of Slavery* at 1 (unnumbered).

¹⁷ *Id.*

¹⁸ *See id.*

¹⁹ *Id.* at 3 (unnumbered).

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 2 (unnumbered).

²³ *Id.* at 4 (unnumbered).

their opportunity to develop themselves.²⁴ These protections listed in the Constitution of India are reinforced by the United Nations Convention on the Rights of the Child (UNCRC), which India is party to.

Article 32 of the UNCRC, emphasizes “the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.” With respect to this UNCRC Article, the Government of India has declared that implementation would be based on the circumstances within the country:

While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of Child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation; recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions 14 of Article 32, particularly paragraph 2(a), in accordance with its national legislation and relevant international instruments to which it is a State Party.²⁵

As a result, India’s continued reservation to the application of Article 32 of the UNCRC has been criticized as a lack of commitment to children’s rights.

The Government’s reservation continues to be reflected in India’s *Child Labour Prohibition and Regulation Act* which was amended in 2015. The approved amendments to the law make it allowable for minors under 14 years old to work in family businesses provided that the nature of the work is not hazardous and is not done during school hours.

India’s census has catalogued substantial growth in the number of child laborers in the country, from 11.28 million in 1991 to 12.66 million in 2001, to 21.39 million in 2011, with the largest number found in the state of Uttar Pradesh.²⁶ Some observers have estimated that there are

²⁴ *Child Labor Policies*. Vikaspedia. (n.d.) (<https://www.vikaspedia.in/education/child-rights/child-labour-policies>).

²⁵ *Reservations to the Convention on the Rights of the Child. A Look at the Reservations of Asian State Parties*, International Commission of Jurists (1994).

²⁶ Bhupen Barman and Nirmalendu Barman, *A Study on Child Working Population in India*, IOSR Journal of Humanities and Social Science, Vol. 19, Issue 2, Ver. 1 (Feb. 2014). *But see* Tanushree Pandey and Manisha Mondal, *Covid Made India’s Child Labour Problem Bigger. In Rajasthan, They Slog 19 hrs/day for Rs 50*, ThePrint (Sept. 13, 2021) (reporting that India’s census in 2011 found 10.1 million child labourers). Davuluri Venkateswarlu explains that the “2011 Census noted that there were 10.1 million child workers (main and marginal) in the age group 6-14 (3.9 percent of the total population of this age

“an estimated 33 million children under the age of 18 are engaged in work in various sectors across the country, from domestic service and agriculture, to textiles and mining.”²⁷ Uttar Pradesh accounts for roughly 15% of the entire child workforce in India, with children brought from outside the state, particularly from Bihar, into “the Uttar Pradesh carpet belt area and brick kilns industry”²⁸ Beyond Uttar Pradesh, the highest incidents of child labor in India are found in Bihar, Rajasthan, Madhya Pradesh, and Maharashtra.²⁹

As one UNICEF report published this year observed “[d]espite the existence of many laws and programmes for their protection, children in India continue to be engaged in hazardous forms of labour, including the worst forms.”³⁰ This report explains that “[w]hile child labour is prevalent in many sectors and occupations in India” it is particularly pernicious in certain segments with “the worse forms of child labour . . . concentrated in specific sectors and occupations: in the agricultural sector, in such activities as hybrid cottonseed and vegetable seed production; in the industrial sector, in garment making, imitation jewellery manufacture, beedi (handmade cigarette) rolling, leather goods production, diamond polishing, etc.; and in the services sector, in such areas as domestic help, hotel work, etc.”³¹ Moreover, hazardous child labor is concentrated in industries including “carpet weaving, beedi rolling, brick making, leather goods production, cotton ginning and spinning, garment production, the manufacture of incense sticks, matches and fireworks, the production of bangles, diamond polishing, natural stone quarrying and polishing, the mining of mica and construction activities,” while in the agricultural sector hazardous child labor is

group,” and further notes that “[t]here are no clear estimates of the number of children in the worst forms of child labour in India.” Davuluri Venkateswarlu, *The Worst Forms of Child Labour, with a Focus on Rural Settings in India*, UNICEF Office of Research (2021) at 3.

²⁷ ORF Child Labour Study Group, *Retired at Eighteen: Political Economy of Child Labour in the Textiles and Allied Industries in India*, Observer Research Foundation (2020) at 2. See also *id.* at 4 (citing John Jacobs and Reeva Misra, *Child Labor: The Inconvenient Truth Behind India’s Growth Story*, The Washington Post (Aug. 21, 2017)).

²⁸ Courtney Julia Burns, Keiko Chen, and Hanni Stoklosa, *Pushing for the Same Thing on the Same Set of Tracks: A Qualitative Study Exploring the Anti-Trafficking Response in Bihar and Uttar Pradesh*, BMC Public Health (2021) 21:1204 at 2. But see ORF Child Labour Study Group, *Retired at Eighteen: Political Economy of Child Labour in the Textiles and Allied Industries in India*, Observer Research Foundation (2020) at 9 (“Uttar Pradesh is the hub of child labour: it employs 22 percent of all India’s child labour.”).

²⁹ See ORF Child Labour Study Group, *Retired at Eighteen: Political Economy of Child Labour in the Textiles and Allied Industries in India*, Observer Research Foundation (2020) at 9. A report issued by Save The Children in June 2021 claimed that “Rajasthan accounts for nearly 10% of the total child labour in the country within the age group of 5-14 and most of the children are engaged in mining, carpet weaving, brick industry, garment factories and agriculture etc.” Manish Godha, *Rajasthan Accounts for Nearly 10% of Total Child Labour in India: Study*, The Free Press Journal (June 17, 2021).

³⁰ Davuluri Venkateswarlu, *The Worst Forms of Child Labour, with a Focus on Rural Settings in India*, UNICEF Office of Research (2021) at 1.

³¹ *Id.* at 2.

“concentrated in the production of hybrid cottonseed and vegetable seeds, and the harvesting of sugarcane and tobacco.”³²

Children are also trafficked within India to work in other areas of the country. Reports from within the country repeatedly emphasize the prevalence of trafficked children working in Jaipur, but the problem is not exclusive to that city: “[w]hile Jaipur city in the western Indian state of Rajasthan has the highest demand for use of trafficked child labourers [] there are other places in India too like Telangana, Delhi, Mumbai and Chennai where demand is high.”³³ Reports further emphasize the significance of Bihar as being the origin of many trafficked children: “Gaya in Bihar stands high on the supply side of child trafficking. Seemanchal districts comprising Araria, Purnia, Kishanganj and Katihar in eastern Bihar, are also highly sought in the supply side of trafficking, with Gaya acting as a transit centre.”³⁴ Poverty, a lack of education, and limited economic opportunities combine to create circumstances where traffickers are able to find families that may be amenable to their offers: “Abdul Qadir, a Gaya based journalist and professor in Economics, said that the victims of child trafficking mostly comprise Dalits – Manjhi and Das – and the poor from [the] Muslim community where poverty is high and literacy is low. ‘That makes the job of traffickers easy,’ he said.”³⁵

The pandemic caused by COVID-19 has further worsened the problem of child labor, particularly amongst migrant populations. Noting that thousands of children have migrated to Rajasthan after the pandemic began, a recent report explained why child labor has become more prevalent:

The children are not just a source of cheap labour, but also at a lower risk of getting Covid. They have nimble fingers and feet, so they can be easily crammed inside small spaces, and most importantly, they cannot protest against the treatment meted out to them by the factory owners.³⁶

The same report observed that “[c]hildren who should be in school are working in Dickensian conditions across Rajasthan, a majority in bangle factories, and others in roadside dhabas, tyre shops and saree printing workshops . . .”³⁷ At least five children died in the state “between July 2020 and January 2021 due to abysmal working conditions and malnutrition.”³⁸ In the criminal cases resulting from the deaths, a twelve-year-old is quoted as reporting that “[o]ur *maalik* (owner)

³² *Id.* at 2-3.

³³ Sami Ahmad, ‘I Was Denied Food and Beaten,’ *The Unregistered Story of Child Trafficking in Bihar*, TwoCircles.Net (Apr. 23, 2021).

³⁴ *Id.*

³⁵ *Id.* Notably, Professor Qadir explained that “the best way to stop child trafficking is to take action against those factories where the victims are used as cheap child labour ‘like some countries earlier stopped the import of the Bhadohi carpet on account of child labour abuse.’” *Id.*

³⁶ Tanushree Pandey and Manisha Mondal, *Covid Made India’s Child Labour Problem Bigger. In Rajasthan, They Slog 19 hrs/day for Rs 50*, ThePrint (Sept. 13, 2021).

³⁷ *Id.*

³⁸ *Id.*

would force us to make lac bangles in the basement for 18-19 hours. He would not give us food on time and beat us.”³⁹ Although the number of child laborers rescued in Rajasthan in 2020 (1,500) was lower than the number (1,700) rescued in 2019, government officials have cautioned that “the count on paper does not reflect the actual situation, because they could not conduct rescue operations during the lockdown.”⁴⁰ And even when children are rescued, the chairperson of Rajasthan’s Child Welfare Committee observes that under current conditions, “many are sent back again to work.”⁴¹

C. Although Prohibited, Bonded Labor Practices Remain Prevalent in India

Bonded labor is “[a] long-term relationship between an employee and employer which is cemented through a loan, by custom or by force, which denies the employee various freedoms including to choose his or her employer, to enter into a fresh contract with the same employer or to negotiate the terms and condition of her/his contract.”⁴² India became the first country in South Asia to prohibit bonded labor through the enactment of the *Bonded Labour System Abolition Act* in 1976.⁴³ This *Act*, ostensibly, sought to address a historic system of economic organization within India that has nevertheless persevered:

We can identify that this system was prevalent in the country from the pre-colonial era characterised by class hierarchies. Such class hierarchies and high caste exploitations are continuing to function even in this democratic era and consequently[] has pushed certain groups of the society to be economically weaker; weak in terms of assets, income and bargaining power. Globalisation and industrialisation have only resulted in further exclusion of such groups of labour from mainstream jobs.⁴⁴

Bonded labor practices in India have changed over time, now taking more advantage of interstate and intrastate migrant laborers who are treated perhaps worse than they were under historic bonded labor arrangements:

Over the years, the system of bonded labour has existed and evolved under different names and forms across India. Bonded labour arising out of traditionally accustomed social relations is one of the oldest forms and is still prevalent in the country. For example, the system of “jajamani” wherein the workers receive food

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* (quoting Brijlal Meena, chairperson of the Child Welfare Committee of the Rajasthan government).

⁴² American Bar Association Center for Human Rights, *India – Tainted Stones: Bonded Labor and Child Labor in the India-U.S. Sandstone Supply Chain* (Aug. 2020) at 15 (quoting Ravi S. Srivastava, *Bonded Labor in India: Its Incidence and Pattern* (ILO Working Paper No. 43) (2005)).

⁴³ See Anjana Sreelakshmi, *Bonded Labour in India: Prevalent, Yet Overlooked*, The Peninsula Foundation (Sept. 10, 2021).

⁴⁴ *Id.* at 2 (unnumbered).

grains in exchange for working as barbers and washermen for the upper caste. Labourers in agriculture, seasonal inter and intrastate migrants and child labour in informal sectors of brick kiln, rice mills, quarries, domestic work etc. are the other areas where debt bondage is currently more persistent. There has been a considerable shift from traditional debt bondage relation to a neo-bondage labour system among migrant workers. The former was characterised by an element of patronage amongst the considerable amount of exploitation. However the latter is at a higher tone of exploitation and eliminates patronage relations. This has made employers deny the responsibility of employee's welfare and the labourers have lost the minimum livelihood security which they had secured under the patronage system. The neo-bondage system is further manipulated by the role of intermediaries.

Thus, with structural transformation in the economy, the system of bonded labour has evolved into a much worse form of exploitation in the country and specifically marginal and backward communities are the main victims of this system.⁴⁵

Describing the role of intermediaries in creating a non-caste-based system of bonded labor in India, Professor Narendra Subramanian of McGill University explains that vulnerable populations “are often recruited into deceptive labor contracts in which they are advanced a small loan from labor brokers or employers and asked to migrate for work. Then, instead of being paid on a monthly or weekly basis, their labor is quantified as repayment for this loan. Often, bonded laborers work for little to no pay and have no say in the terms of their debt.”⁴⁶ In its investigation of bonded labor practices in the Indian sandstone supply chain, the American Bar Association Center for Human Rights observed that:

The presence of intermediaries (*Jamadars*) contributes to the practice of *peshgi* [a form of bonded labor achieved through the payment of an advance amount on wages]. As far back as the colonial period, intermediaries were used to hire bonded labor. Since the work is seasonal, owners compete to secure laborers at the beginning of each season by using the services of *jamadars*. *Jamadars* secure informal labor contracts and mine owners pay them a portion of the worker's *peshgi* as compensation.⁴⁷

The Center's investigation underscored how “debt bondage is exacerbated by the interplay of the Indian caste system as a close link between caste, social structure, and bondage is present in labor dynamics.”⁴⁸ The Center's report continues:

⁴⁵ *Id.* at 3 (unnumbered).

⁴⁶ Leina Gabra, *Will Bonded Labor in India Ever Come to an End?*, Borgen Magazine (Mar. 24, 2021).

⁴⁷ American Bar Association Center for Human Rights, *India – Tainted Stones: Bonded Labor and Child Labor in the India-U.S. Sandstone Supply Chain* (Aug. 2020) at 15 (footnotes omitted).

⁴⁸ *Id.* at 15-16 (footnotes omitted).

Most bonded labor systems are founded on a bedrock of social hierarchy; out of that hierarchy the lowest rung is occupied by Scheduled Castes and Scheduled Tribes who face economic and social discrimination. This group includes disenfranchised castes like the Dalits (or Untouchables) along with tribal orders who have faced historical discrimination from state and non-state actors alike. Studies indicate that across the South Asia region, 90% of bonded laborers belong to a scheduled caste or scheduled tribes. . . Workers belonging to marginalized and lower castes, such as Dalits, are more prone to exploitation and often face issues of bonded labor and child bonded labor.⁴⁹

Another recent report explained that tribal populations and indigenous people were pushed into forced labor through debts owed. As Narendra Bhadoria of Bandhua Mukti Morcha (Bonded Labour Liberation Front) described of what he had seen in his work in the Ghuna district within Madhya Pradesh, “[a]s they are not able to repay the debt, they are forced by moneylenders to work in the fields or sometimes given some other labor work. These people work day and night for years and are not paid any wages.”⁵⁰

The U.S. Department of State’s most recent *Trafficking in Persons Report* emphasizes that “[i]nternal forced labor constitutes India’s largest trafficking problem” as “traffickers use debt-based coercion (bonded labor) to compel men, women, and children to work in agriculture, brick kilns, rice mills, embroidery and textile factories, and stone quarries.”⁵¹ The *2021 TIP Report* underscores that bonded labor practices are extensive in India, that they impact a wide variety of industries, and that vulnerable populations were likely even more subject to exploitation in the wake of COVID-19:

NGOs have assessed at least eight million trafficking victims in India, the majority of whom are bonded laborers. Intergenerational bonded labor continued, whereby traffickers transfer the outstanding debts of deceased workers to their parents, siblings, or children. Traffickers often target those from the most disadvantaged social strata. The increase in economic insecurity and unemployment due to the pandemic places substantial burdens on economically vulnerable communities in meeting daily food and shelter requirements, thereby increasing their vulnerability to trafficking. In 2020, traffickers offered cash advances to attract workers who were unemployed, thus increasing the likelihood of debt bondage among economically vulnerable groups. NGOs reported a significant increase in child trafficking due to pandemic-related loss of parental employment and school closures. Traffickers force entire families into work in brick kilns, including children younger than 6 years old. In a 2017 study of brick kiln workers in Rajasthan state, researchers found more than 40 percent of seasonal workers from Uttar Pradesh, Chhattisgarh, Bihar, and Rajasthan states owed debts to kiln owners

⁴⁹ *Id.* at 16 (footnotes omitted).

⁵⁰ Shuriah Niazi, ‘*Debt Bondage Slavery in India Affects Tribal Population*,’ Anadolu Agency (Dec. 1, 2021).

⁵¹ U.S. Department of State, *Trafficking in Persons Report* (June 2021) at 287 (“*2021 TIP Report*”).

that were greater than the amount workers earned over the entire season. In some states, the exploitative contractors that trap workers in bonded labor are local government officials or politically influential. Some traffickers severely abused bonded laborers, including those who asked for their rightful wages, and some bonded laborers died under traffickers' control. Traffickers exploit adults and children, including entire families, into bonded labor in carpet production in Jharkhand and Uttar Pradesh states, and in mica mining and textiles, sometimes requiring adults to leave children behind as collateral when they leave the premises for any reason. State-owned tea estates in Assam pay workers much less than the state-mandated minimum wage and do not provide workers with pay slips to document their debts and expenditures. Indian law allows estates to pay workers in both cash and in-kind benefits, but researchers noted the quality and quantity of the food rations constituting part of the workers' salaries were inadequate and disproportionate to the amount deducted. Thirty-seven percent of workers across 50 tea estates in Assam had daily expenditures that exceeded their daily income, making workers extremely vulnerable to debt-based coercion. In some cases, the "Provident Funds" or Sumangali scheme in which employers pay young women a lump sum for education or a dowry at the end of multi-year labor contracts, often in Tamil Nadu's spinning mill industry, may amount to bonded labor, and some employers subject these women to sex trafficking. Traffickers exploit children as young as 8 in forced labor in agriculture (coconut, eucalyptus, ginger, and sugarcane); construction; domestic service; garment, steel, and textile industries (tanneries, bangle, and sari factories); begging; criminality; food-processing factories (biscuits, bread-making, meat-packing, and pickling); floriculture; cotton; ship breaking; and manufacturing (wire and glass).⁵²

Despite the scope and widely recognized nature of the problem, the State Department notes that the Indian government's "identification and protection for bonded laborers remained inadequate."⁵³ The scale of the lack of enforcement is staggering. As the *2021 TIP Report* notes "[d]espite some estimates of eight million Indians in bonded labor, the Ministry of Labor and Employment reported to Parliament in 2019 that the government had only identified and released 313,687 *since 1976*."⁵⁴ The State Department explains that this might, in part, be due to disincentives unintentionally created by the *Bonded Labour System Abolition Act* ("BLSA") requiring compensation to be paid to victims, offering the following anecdote in support of this view: "in June 2020, Tamil Nadu district officials did not charge a brick kiln owner with violating bonded labor laws because the district administration did not have the funding necessary to compensate victims as mandated by the BLSA, due to pandemic-related budget shortfalls."⁵⁵

⁵² *Id.* at 287-288.

⁵³ *Id.* at 284.

⁵⁴ *Id.* (emphasis added).

⁵⁵ *Id.* at 283. The *2021 TIP Report* further notes that child labor enforcement may also be done without reference to child labor laws, observing "Tamil Nadu police and local government officials removed 173 children (mostly young girls) from a private spinning mill. The children, ages 13-18, worked 14-hour days with no days off. Police did not file charges under the Child Labor (Abolition and

Moreover, even where enforcement actions were taken, such actions did not prevent exploited workers from being returned into bonded labor: “Moreover, due to lack of law enforcement efforts against traffickers, one NGO working in 10 states reported that more than 60 percent of released victims were subjected to bonded labor again following their release.”⁵⁶

The estimate that eight million Indians live in debt bondage was made by the Walk Free Foundation in its *2018 Global Slavery Index*.⁵⁷ Notably, this estimate was substantially lower than what the NGO had estimated just two years prior: “the 2016 Index estimated that around 18.3 million people were in modern slavery in India, whereas the 2018 Index estimates that there are around 8 million people living in modern slavery.”⁵⁸ Others working in India, including the Mamidipudi Venkatarangaiya Foundation, were critical of the substantial revision in estimates, arguing that it undercounted the number of victims and falsely gave the impression that forced labor concerns had been meaningfully addressed by the Indian government.⁵⁹ “Campaigners say that more than 20 million Indians are trapped in bonded labor, working in brick kilns, garment factories and other sites, while many more victims of modern slavery work on farms or in family homes.”⁶⁰ The *World Population Review* estimates that there are a total of 46 million people in 167 countries living as slaves, of which 18.4 million of them were in India (40 percent).⁶¹

Whatever baseline number is appropriate, the pandemic has worsened the problem of bonded labor in India’s supply chains. As the Borgen Foundation has observed,

The COVID-19 pandemic has exacerbated the issue of debt bondage in India. As millions of migrant laborers were forced to move during the pandemic, factory owners scrambled for cheap labor to keep production going. Many companies recruited child laborers with promises of steady employment until the country reopened.

Regulation) Act or the BLSA and instead filed an [First Information Report (“FIR”)] under [Indian Penal Code (“IPC”)] Sections 269 and 271 for negligence ‘likely to spread infection of disease dangerous to life,’ an enforcement provision resulting from the pandemic.” *Id.*

⁵⁶ *Id.* at 284.

⁵⁷ See Walk Free Foundation, *The Global Slavery Index 2018*. The methodology employed by the Walk Free Foundation led to the conclusion that there were 7,989,000 victims of modern slavery in India, a prevalence estimated to be the equivalent of 6.1 victims per 1,000 in the country’s population. See *id.* at 88 (Table 15). Nevertheless, the total number of victims of modern slavery in India far exceeds the Walk Free Foundation’s estimates for any other country in sheer size, with China coming in a distant second at 3,864,000. See *id.* at 178-181 (Table 4).

⁵⁸ *Id.* at 32.

⁵⁹ See Roli Srivastava, *Ten Million Slaves Go Missing from Survey in India*, Thomson Reuters Foundation (July 31, 2018).

⁶⁰ *Id.*

⁶¹ See Shuriah Niazi, ‘Debt Bondage Slavery in India Affects Tribal Population,’ Anadolu Agency (Dec. 1, 2021).

Moreover, many states in India have loosened labor laws to offset the effects of COVID-19 at the expense of the laborers. Punjab and Gujarat amended their Factories Act, which increased the work hours to 72 hours each week. Rajasthan has increased working hours from eight per day to 12. Uttar Pradesh has exempted companies from almost all labor laws for the next three years, including the ones related to occupational safety, health, working conditions, contract workers and migrant laborers. As a result of its secondary consequences, COVID-19 keeps Indian laborers in debt bondage and further restricts laborers the freedom to escape.⁶²

The research done by GoodWeave International in 2020 across the region of South Asia supports these conclusions, as the NGO confirmed “that impacts of COVID-19 have resulted in extreme hardships for informal workers and their families” such that “there will be an uptick in child, forced and bonded labor conditions.”⁶³ GoodWeave’s survey of Indian workers in the carpet industry found that 18 percent were working through debt owed to their employers, with migrant workers far more likely to be in debt than local laborers (27 percent versus 10 percent).⁶⁴

Further highlighting the enhanced risks of bonded labor practices in the wake of the pandemic, other NGOs have reported on recent incidents of the rescue of children from bonded labor after being trafficked across states. For example, Bachpan Bachao Andolan (BBA) publicized the rescue of fifteen children last year that had been trafficked from Bihar to Karnataka in order to work as bonded laborers in the construction industry:

BBA reported that the Railway Protection Force (RPF), Women Development and Child Welfare (WD&CW) Department and the Government Railway Police (GRP), rescued fifteen children being trafficked all the way from Bihar in the northeast to Karnataka in the southwest. BBA State Coordinator G. Tirupati Rao said the children were being taken as bonded labourers to work in the construction sector. The children were aged between 14 and 17 years old, Mr. Rao said. “The rescued children hail from poor families. Police are trying to find out the brokers in the racket,” said RPF CI Chandrashekar Reddy.⁶⁵

III. GOODS PRODUCED IN INDIA THROUGH CHILD AND/OR FORCED LABOR THAT ARE NOT CURRENTLY LISTED IN THE TVPRA REPORT

The Southern Shrimp Alliance’s review of labor conditions in supply chains in India indicates that child and/or forced labor practices have corrupted the production of several goods

⁶² Brooklyn Quallen, *COVID-19 Keeps Indian Laborers in Debt Bondage*, The Borgen Project (Mar. 30, 2021).

⁶³ GoodWeave International, *Hidden and Vulnerable: The Impact of COVID-19 on Child, Forced and Bonded Labor* (2020) at 4.

⁶⁴ *See id.* at 15 (Table 7).

⁶⁵ Rajulapudi Srinivas, *Child Trafficking Bid Foiled, 15 Boys from Bihar Rescued*, The Hindu (July 6, 2021).

that were not included in the *2020 List of Goods Report*. Accordingly, we provide below an overview of available evidence regarding child and/or forced labor in the vegetable seed, floriculture, cardamom, cashew, and tea industries in India. We also identify anecdotal evidence of child and/or forced labor in additional industries not included in the *2020 List of Goods Report*.

Of these various industries, practices in India's cashew supply chain appear to most closely parallel our understanding of the supply chain for frozen shrimp in India. As with peeling sheds for shrimp, unregulated cashew processing units allow exporters, and their customers, to distance themselves from the labor-intensive aspects of production. The utilization of cashew processing units creates an environment wherein vulnerable populations are subject to abuse that is not accounted for on the books and records of exporters, as is true with peeling sheds.

A. Vegetable Seed

ILAB reports that over half (56.4 percent) of all child laborers in India work in the agricultural sector.⁶⁶ While information regarding the number of individuals working under forced labor conditions as well as the number of children employed in specific Indian industry sectors is difficult to amass, the 2021 UNICEF report explained that such data were available for child labor involvement in hybrid cottonseed production and vegetable seed production.⁶⁷ Citing a separate study commissioned by Arisa in 2020 completed by the same author, the UNICEF report explains that time series data were available for the number of children laboring in the hybrid cottonseed production since 2006, with “a total of around 150,000 children below the age of 14” employed in cottonseed farms throughout India in 2018-2019, while “nearly 23,000 children aged below 14 (10 per cent of the total workforce) were employed in vegetable seed production in Maharashtra and Karnataka states” in 2018-2019.⁶⁸ As in other sectors of India's economy that present high risks of child and forced labor, the supply chain is characterized by the contracting out of risks: “Seed production is done through contract farming with companies entering into agreements with farmers that involve buy-back arrangements.”⁶⁹ While cottonseed (hybrid) was included in the *2020 List of Goods Report*, vegetable seeds were not listed.

Dr. Davuluri Venkateswarlu has explained that although there has been “undeniable improvement” in reducing the use of child labor in Indian agriculture and the related seed industry, “children are still preferred to adults due to the activity itself. Emasculation and pollination are done manually and require preciseness, delicacy which can only be obtained by children's fingers.”⁷⁰ Because “[p]roducing hybrid seeds involves cross pollination of two plants – stamens

⁶⁶ See <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/india>.

⁶⁷ See Davuluri Venkateswarlu, *The Worst Forms of Child Labour, with a Focus on Rural Settings in India*, UNICEF Office of Research (2021) at 4-5.

⁶⁸ *Id.*

⁶⁹ Rosamma Thomas, *MNC's Taking Over Vegetable Seed Production. So What If Child Labor Shows Declining Trend?* Maktoob (June 16, 2021).

⁷⁰ Ressources Humaines Sans Frontières (RHSF) Human Resources Without Borders, *Davuluri Venkateswarlu: The Battle of a Lifetime* (Dec. 10, 2020). “Emasculation is the process of removing the stamens (anthers) or the killing of pollen grains of a flower without damaging the female reproductive

are manually removed from the flower” this is “a task children with their nimble hands are able to perform well.”⁷¹ Thus, in seed production, child labor is concentrated in the “hybridisation process” for both cotton and vegetables.⁷² Dr. Venkateswarlu’s research “found that farmers preferred children, particularly girls in hybrid cottonseed production and vegetable seed production for seed companies.”⁷³

Dr. Venkateswarlu traces the adoption of child labor in seed production to the entry of multinational corporations into the Indian market:

In the early 1970’s, the hybrid seed production entered the Indian market. For their agility, children were frequently hired but this trend remained on a small scale. In the 1990’s, India opened its market to multinational companies which rapidly settled to benefit from the availability, the low price of labour force as well as optimum soil and climate. This is when child labour became endemic. The financial background of the family obviously played a key role, but so did the increase of demand and the pressure to minimize the cost of production. Children are less expensive and more productive than adults.⁷⁴

As the market grew, recruitment networks for migrant laborers, including children, developed:

The employment of agricultural labourers, particularly migrant workers including children, happens through a network of middlemen, who are often from the same villages as the labourers. These agents are approached by farmers with their need, paid to bring in labour, and they in turn offer advances and loans to parents and recruit workers.⁷⁵

Dr. Venkateswarlu explains that the marginalized populations recruited for this work vary by region, “in states such as Gujarat and Madhya Pradesh, children employed were almost exclusively *Adivasi*, of Indigenous Peoples, while in south India, the labour included those who are from lower castes as per the Hindu caste system.”⁷⁶

organs. This process prevents the self-fertilization of the female parent.” Davuluri Venkateswarlu, *Growing Up in the Danger Fields: Child and Adult Labor in Vegetable Seed Production in India*, International Labor Rights Forum (ILRF), India Committee of the Netherlands (ICN), and Stop Child Labour – School Is the Best Place to Work (June 2010) at 9. “Emasculation and pollination are labour-intensive activities that require a large work force to be completed.” *Id.* at 11.

⁷¹ Elizabeth Soumya, *Tiny Hands that Till*, StoriesAsia (June 20, 2020).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Ressources Humaines Sans Frontières (RHSF) Human Resources Without Borders, *Davuluri Venkateswarlu: The Battle of a Lifetime* (Dec. 10, 2020).

⁷⁵ Elizabeth Soumya, *Tiny Hands that Till*, StoriesAsia (June 20, 2020).

⁷⁶ *Id.*

Although the prevalence of child labor in hybrid cottonseed production has long been recognized,⁷⁷ “[i]n 2010, the alarm was raised for child labor in hybrid vegetable seed production, with reports that more than 150,000 children, almost half of which were under the age of 14, were involved in the production of vegetable seeds in three states.”⁷⁸ The 2010 study, conducted by Dr. Venkateswarlu observed that, at the time, “little information is available on the situation of child labour in hybrid vegetable seed production,” unlike with cottonseed production.⁷⁹ Accordingly, Dr. Venkateswarlu focused “on five important crops namely tomato, sweet and hot pepper, okra and brinjal [eggplant] which are highly labour-intensive.”⁸⁰

The scope of the industry is massive, with India being “the second largest vegetable seed producer in the world, after China,”⁸¹ and the ninth largest exporter of fruit and vegetable seeds to the world.⁸² However, “[v]egetable seed production in India is largely concentrated” in just three states: “Karnataka, southern India, Maharashtra, eastern/central India, and Gujarat, western India.”⁸³ Dr. Venkateswarlu, in turn, focused on these three states and summarized his findings as to production practices in each of these states as follows:

Like in hybrid cottonseed production, there is a marked preference among vegetable seed farmers for children, particularly girls, to undertake the hybridization activity which is the most labour-intensive activity in vegetable seed cultivation. Children are employed on a long-term contract basis through advances and loans extended to their parents by local seed producers. These producers, in turn, have agreements with the seed companies (local, national and multinational)

⁷⁷ “Research over a decade ago found that over 90 percent of hybrid cotton seed producing companies in northern parts of the western state of Gujarat employed children, all of who were tribal migrant workers.” Elizabeth Soumya, *Tiny Hands that Till*, StoriesAsia (June 20, 2020) (citing Ashok Khandelwal, Sudhir Katiyar, and Madan Vaishnav, *Child Labour in Cottonseed Production: A Case Study of Cottonseed Farms in North Gujarat*, Dakshini Rajasthan Mazdoor Union (DRMU) (2008)).

⁷⁸ Access to Seeds Foundation, *Child Labor Pervasive Within Indian Seed Industry* (June 12, 2019).

⁷⁹ Davuluri Venkateswarlu, *Growing Up in the Danger Fields: Child and Adult Labor in Vegetable Seed Production in India*, International Labor Rights Forum (ILRF), India Committee of the Netherlands (ICN), and Stop Child Labour – School Is the Best Place to Work (June 2010) at 1.

⁸⁰ *Id.* (footnote omitted).

⁸¹ See Access to Seeds Foundation, *Child Labor Pervasive Within Indian Seed Industry* (June 12, 2019) (citing Durga Prasad Moharana, Vaibhav Singh, Pushpendra Singh, and Anand Kumar Singh, *Seed Production in Vegetable Crops: The Indian Prospects*, Progressive Research – An International Journal (Jan. 2016)).

⁸² See Davuluri Venkateswarlu, *Sowing Hope: Child Labour and Non-Payment of Minimum Wages in Hybrid Cottonseed and Vegetable Seed Production in India*, Arisa (June 2020) at 21. Vegetable seeds account for 70 percent of India’s total vegetable and fruit seed exports. See *id.*

⁸³ Davuluri Venkateswarlu, *Growing Up in the Danger Fields: Child and Adult Labor in Vegetable Seed Production in India*, International Labor Rights Forum (ILRF), India Committee of the Netherlands (ICN), and Stop Child Labour – School Is the Best Place to Work (June 2010) at 6. India is the second largest producer of vegetables in the world behind only China and produces approximately 15 percent of the world’s total production. *Id.* at 1.

who produce and market hybrid vegetable seeds. Children are made to work long hours and are paid less than official minimum wages. They are also exposed to poisonous pesticides which are used in high quantities in vegetable seed cultivation.⁸⁴

His study found that in each of the states surveyed, child labor was prevalent in the vegetable seed production sectors investigated. In Karnataka, “[c]hildren under the age of 14 years accounted for 26.8% of the total work force in hot pepper, 22.2% in sweet pepper, 20.6% in okra, 20% in brinjal and 11.6% in tomato.”⁸⁵ In Maharashtra, “[c]hildren under the age of 14 years accounted for 16% of the total work force in hot pepper, 17.7% in sweet pepper, 17.4% in okra, 13.6% in brinjal and 14.6% in tomato,⁸⁶ while in Gujarat, “[c]hildren under the age of 14 years accounted for 17.3% of the total work force which is similar to Maharashtra.”⁸⁷ Throughout the three states:

A total of 152,369 children, out of which 59,417 (39%) are below 14 years and 92,952 (61%) are in the 15-18 year age group, were employed in tomato, hot and sweet pepper, brinjal and okra seed plots in Karnataka, Maharashtra and Gujarat states which account for nearly 95% of the total production area in the country.⁸⁸

In his 2010 study, Dr. Venkateswarlu paid particular attention to the composition of the child labor engaged in vegetable seed production, attempting to discern the level of participation from disadvantaged castes and indigenous tribes. “[M]ost of the vegetable seed growers in Karnataka and Maharashtra are upper caste Hindus, and labourers working on their farms are from communities subject to discrimination like Dalits and Adivasi.”⁸⁹ In Maharashtra, most of the workers belonged “to poor families like Dalits or Scheduled Castes (SCs), Scheduled Tribes (STs) or Adivasi and Backward Castes (BCs).”⁹⁰ And of the 3,094 workers surveyed in Karnataka, 28 percent were Dalits, 26 percent were Adivasi, 30.5 percent were from “Backward Castes,” while Muslims represented another 16 percent.⁹¹ Dr. Venkateswarlu’s findings in Gujarat were similar: “okra seed production is concentrated in tribal pockets of Sabarkantha and Vadodar districts; here both seed growers and workers are mainly from Adivasi communities.”⁹² He further found that of the 250 hired workers on farms in Gujarat investigated, 68 percent belonged to “Scheduled Tribes.”⁹³

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Id.

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Id. at 19-20.

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Id. at 21.

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Id. at 22.

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Id. at 25 (emphasis removed).

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Id. at 16.

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Id. at 14.

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Id. at 14.

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Id. at 14.

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Id.

In 2015, Dr. Venkateswarlu issued his findings regarding an updated survey of child labor in hybrid vegetable seed production in India, finding that children under 14 years of age accounted for nearly 16 percent of the total workforce on vegetable seed farms in India.⁹⁴ The second study concluded that:

In 2014-15, a total of around 155,950 children, out of which 50,760 (32.5%) are below 14 years and 105,190 (67.5%) are in the 15-18 year age group, were employed in tomato, hot pepper and okra seed farms in Karnataka and Maharashtra states which account for more than 80% of the total production area in the country.⁹⁵

In total, Dr. Venkateswarlu found that the total number of children laboring in the vegetable seed sector of the industry increased by nearly 55 percent compared to his previous study, from 67,898 in 2009-2010 to 105,190 children in 2014-2015.⁹⁶ Thus, while the percentage of children comprising the total workforce in the vegetable seed sector had declined slightly, the overall number of children working in this segment of the economy actually increased “due to a substantial increase in the production area in” Karnataka and Maharashtra.⁹⁷ Dr. Venkateswarlu concluded:

Despite the decline, the total number of children still employed in the vegetable seed sector is huge. The conditions in the fields continue to be very unsafe and exploitative for the children. The children are made to work long hours and are paid less than market and official minimum wages. They are also exposed to poisonous pesticides used in high quantities in vegetable seed cultivation and are often trafficked as migrants from other places.⁹⁸

He found little changed in the conditions leading to widespread child labor in the industry sector and that circumstances in vegetable seed production remained akin to those in cottonseed production:

Despite its positive contribution, hybrid seed production in cotton and vegetable seeds gave rise to new forms of labour exploitation which involves the employment of female children under bonded labour conditions and large scale exploitation. Hybrid seed production, particularly in cotton and vegetable seeds like hot pepper, tomato and okra, is highly labour-intensive and children, particularly girls, are engaged in most of the operations. Seeds are produced through cross-pollination which is done manually. Children are the main source of labour for this activity.

⁹⁴ Davuluri Venkateswarlu, *Soiled Seeds: Child Labour and Underpayment of Women in Vegetable Seed Production in India*, India Committee of the Netherlands (ICN) and Stop Child Labour – School Is the Best Place to Work (Nov. 2015) at 5.

⁹⁵ *Id.*

⁹⁶ *See id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 5-6 (emphasis removed).

They are often employed on a long-term informal (oral) agreement basis through advances and loans extended to their parents by local seed producers. These producers, in turn, have agreements with the large national and multinational seed companies who produce and market hybrid vegetable seeds. Children are made to work long hours and are paid less than the official minimum wages. They are also exposed to poisonous pesticides which are used in high quantities in hybrid seed cultivation.⁹⁹

For the second study, Dr. Venkateswarlu reported that in Karnataka, “[c]hildren under the age of 14 years accounted for 20.6% of the total workforce in hot pepper, 17.4% in okra and 10.2% in tomato,”¹⁰⁰ while in Maharashtra, “[c]hildren under the age of 14 years accounted for 16.1% of the total workforce in okra, 15.3% in hot pepper and 13.1% in tomato.”¹⁰¹ Once again, Dr. Venkateswarlu found that workers in the industry were largely drawn from marginalized communities: “Most of the workers in vegetable seed farms belong to Dalit (out-caste) or Scheduled Castes (SCs), Scheduled Tribes (STs) or Adivasi (Scheduled Tribes) and Backward Castes (BCs).”¹⁰²

In the 2020 issuance of the third study commissioned by the India Committee of the Netherlands, now known as “Arisa,” Dr. Venkateswarlu found that children under 14 years of age now accounted for 10 percent of the total workforce on vegetable seed farms in India.¹⁰³ His study found that, for both cottonseed and vegetable seed production, “[t]he overall incidence of child labour in hybrid seed production in India shows a declining trend since 2015.”¹⁰⁴ However, Dr. Venkateswarlu also noted that collecting accurate information regarding children working in seed production had become substantially more difficult:

Due to growing attention from various stakeholders child labour in seed production has become a sensitive issue now. It is becoming more invisible and hidden. Identifying child labour and estimating its prevalence is becoming a major challenge for researchers and auditors, especially those coming from outside. Children are becoming invisible when outsiders are visiting the farms.¹⁰⁵

Particular difficulties were presented with farms producing vegetable seeds because of the production model used:

⁹⁹ *Id.* at 7.

¹⁰⁰ *Id.* at 19.

¹⁰¹ *Id.* at 22.

¹⁰² *Id.* at 18.

¹⁰³ See Davuluri Venkateswarlu, *Sowing Hope: Child Labour and Non-Payment of Minimum Wages in Hybrid Cottonseed and Vegetable Seed Production in India*, Arisa (June 2020) at 5.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 13.

The field team encountered several problems while collecting data on sensitive topics like child labour, particularly from farmers and seed organisers. There was extreme nervousness and reluctance by the farmers to admit the existence of child labour in the seed production activities. In several plots, particularly hot pepper and tomato, seeds are produced under so-called net-houses. These are closed areas and unlike in open plots the activities are not visible from a distance. In open plots one can see the activities from a distance and if there are any young children working they can be traced from a distance as well. The activities in net-houses are not visible unless one enters inside. In eight plots farmers did not allow the research team to enter into net-houses to interact with the workers. In 26 plots, although permission was given, due to the reluctance of farmers, investigators could not freely interact with workers to obtain their age and terms and conditions of employment. In such cases, an attempt was made to meet the workers outside the farms at their homes after they returned from the plots. Out of 34 farms where the research team had difficulty in interacting with workers, in 20 cases the research team was successful in meeting the workers outside at their home. The research team had to exclude 14 fields from the sample where they had difficulty in reaching out to workers. These excluded fields are not part of the current sample list. During the field visits to farms 42 children in 34 fields ran away from the plots after seeing the study team approaching the farms. Farmers trained the children to leave the plots if they see any new persons entering into the plots.¹⁰⁶

Yet, despite these challenges, Dr. Venkateswarlu once again confirmed significant child labor in the production of vegetable seeds in India. In Karnataka, “[c]hildren under the age of 14 years accounted for 13.1% of the total workforce in hot pepper, 12.7% in okra and 7.7% in tomato,”¹⁰⁷ while in Maharashtra, “[c]hildren under the age of 14 years accounted for 9.2% of the total workforce in hot pepper, 12.5% in okra and 8.0% in tomato.”¹⁰⁸ As in prior studies, the most recent work again confirmed that “[t]he caste background of the working children clearly indicates that most of the working children are from economically poor and socially backward communities like Dalits, Adivasi and Backward Classes.”¹⁰⁹

Although Dr. Venkateswarlu’s most recent study emphasizes significant reductions in the amount of child labor existing in vegetable seed supply chains, he also identifies changes in these supply chains that may ultimately reverse any improvements. Two specific changes that may result in greater exploitation of children and other marginalized populations are movements of farms out to more remote areas and a shift from large commercial farms to small farms:

Shifting production to new and remote pockets: this process is clearly visible in cottonseed and okra seed production. Seed companies are relocating and expanding their production to new areas situated in remote pockets where cheap

¹⁰⁶ *Id.* at 14 (footnotes omitted).

¹⁰⁷ *Id.* at 31.

¹⁰⁸ *Id.* at 33.

¹⁰⁹ *Id.* at 35.

labour is more readily available. The increase in the production area in remote tribal pockets of Gujarat and backward areas of Telangana indicates this trend. In the new locations most of the seed farmers are marginal landholders and tribal people who mostly depend upon their family for labour.

Shifting production from large commercial farms to small family-based farms: the shift of production from large commercial farms to small family-based farms is a new trend which began in the mid-2000s and further accelerated in recent years. This process is also clearly visible in cottonseed and okra seed production. Due to reduction in profit margins on account of rise in production costs, mainly labour costs, and stagnant prices for the products, large commercial farmers who mainly depend upon hired labour are slowly either withdrawing from cottonseed production or opting for sharecropping arrangements with working class families. In recent years companies have received demands for higher procurement prices from large growers in several places. This is one of the reasons for the seed companies to shift their production to new locations while preferring to contract their production to small farmers. . . . The small farmers are less organised and have less bargaining power to negotiate for higher prices. This also has implications for the workforce composition in the cottonseed sector. Small farmers tend to depend more on their own family labour, including their children.¹¹⁰

As another commentator observed, “[l]arge growers also demand higher procurement prices, while the small family-run ones have less bargaining power. The smaller farms are also more likely to use the labor of children, so any decline in child labor now might soon be undone again.”¹¹¹

B. Floriculture

According to a 2019 report from Pesticide Action Network Asia Pacific (PANAP), India is the world’s second largest producer of flowers.¹¹² Demand for ornate flowers and plants has risen over the last several years.¹¹³ Top export destinations include the United States, Netherlands, United Kingdom, Germany, and United Arab Emirates.¹¹⁴ Tamil Nadu is one of the primary districts in India where many smaller, single-family farms have been converted from crop to floriculture production.¹¹⁵ Children as young as 8-years-old work in dangerous conditions to

¹¹⁰ *Id.* at 19-20.

¹¹¹ Rosamma Thomas, *MNC’s Taking Over Vegetable Seed Production. So What If Child Labor Shows Declining Trend?*, Maktoob (June 16, 2021).

¹¹² Pesticide Action Network Asia Pacific, *How Child Rights Are Violated by Pesticides Use in India* (2019).

¹¹³ *Id.*

¹¹⁴ Marjorie Pamintuan and Sarojeni V. Rengam, *Toxic Blooms: Impacts of Pesticides on Children in the Floriculture Industry in Tamil Nadu, India*, Pesticide Action Network Asia Pacific (2020) at 10.

¹¹⁵ Pesticide Action Network Asia Pacific, *How Child Rights Are Violated by Pesticides Use in India* (2019).

cultivate these farms and, as such, are exposed to Highly Hazardous Pesticides (HHPs) on a regular basis.¹¹⁶

Floriculture systems of production in India are “hotbeds for children forced into bonded labour (indentured servitude).”¹¹⁷ As with other goods produced by child labor in India, children are the ideal workers on floriculture farms due to their small hands, which are nimble enough to quickly pick and handle delicate flowers.¹¹⁸ Accordingly, the children working in floriculture are not comprised simply of those assisting on their family farms. In 2014, the International Justice Mission and local authorities rescued four boys between the ages 9 to 15 from slavery in a rose farm located in the outskirts of Bangalore, India.¹¹⁹ In 2018, the National Adivasi Solidarity Council reported that it had rescued hundreds of bonded laborers in Tamil Nadu, Karanataka, and Andhra Pradesh, of which many were children, some of whom were found working on jasmine flower farms.¹²⁰

PANAP’s report on the results on their Community-based Pesticide Action Monitoring (CPAM) in Tamil Nadu revealed that the child laborers were between 9 and 13 years of age.¹²¹ The report also revealed that the children must mix pesticides and chemical preservatives with their bare hands and are provided no protective gear.¹²² In addition, children are often forced to go to work in the fields shortly after pesticide spraying.¹²³ In a separate study conducted by PANAP, out of twenty-four (24) children they interviewed living in the village of Thalavedu, Thiruvallur District, in Tamil Nadu, 96% of them reported working in flower fields and 67% reported getting sick after pesticide exposure.¹²⁴ Pesticide poisoning symptoms include dizziness, vomiting, headache, sleeplessness, skin rashes, diarrhea, increased salivation and perspiration, fatigue,

¹¹⁶ *Id.* India is the fourth largest producer of pesticides in the world and its share in the global pesticide market is approximately 10%. As the floriculture market in India continues to expand, pesticide use in the industry is predicted to increase because of its quick returns to farmers. Marjorie Pamintuan and Sarojeni V. Rengam, *Toxic Blooms: Impacts of Pesticides on Children in the Floriculture Industry in Tamil Nadu, India*, Pesticide Action Network Asia Pacific (2020) at 7.

¹¹⁷ Anita Cheria and Winnu Das, *Modern Slavery in India: Patterns of Patriarchy, Politics, and “Progress,”* Norwegian Human Rights Fund (n.d.).

¹¹⁸ Pesticide Action Network Asia Pacific, *How Child Rights Are Violated by Pesticides Use in India* (2019).

¹¹⁹ *Rose Farm Rescues Reveal Darker Side to Valentine's Day: International Justice Mission*, IJM USA (2015).

¹²⁰ Anuradha Nagaraj, *Traffickers Recruit Child Labour as Indian Schools Break for Summer, Campaigners Warn*, Thomson Reuters Foundation (May 8, 2018).

¹²¹ Marjorie Pamintuan and Sarojeni V. Rengam, *Toxic Blooms: Impacts of Pesticides on Children in the Floriculture Industry in Tamil Nadu, India*, Pesticide Action Network Asia Pacific (2020) at 8.

¹²² *Id.* at 8.

¹²³ *Id.* at 8.

¹²⁴ Pesticide Action Network Asia Pacific, *How Child Rights Are Violated by Pesticides Use in India* (2019).

tremors, seizures, breathing problems, and fever.¹²⁵ More than half, or 54%, of the children interviewed had to seek medical treatment.¹²⁶

As reported by PANAP in their *Toxic Blooms* report, of the 109 pesticides brands identified by the children, farmers, and shop retailers in Tamil Nadu, 82% contained HHPs, a handful of which are banned in other countries.¹²⁷ Many of these pesticides have been proven to be fatal if inhaled, likely carcinogenic, reproductive toxicants, endocrine disruptors, and very persistent in water and soil.¹²⁸ Nine pesticides in particular have been identified by PANAP as particularly toxic to children.¹²⁹

C. Cardamom

As India has experienced high economic growth and industrialization thus far in the 21st century, demand for and exports of cardamom, along with tea and coffee, have risen.¹³⁰ Cardamom plantations are principally located in the states of Tamil Nadu and Kerala, and before India's industrialization, workers on these farms were largely comprised of local laborers.¹³¹ Now, however, labor for cardamom farms is largely drawn from migrant workers from states in northern India.¹³² Cardamom plantations rely on these migrant workers for weeding, manual irrigation, spraying pesticides and fertilizers, as well as handpicking the cardamom cloves.¹³³

Measures taken in response to COVID-19 have led to large amounts of migrant workers leaving Tamil Nadu and Kerala to return to their home states.¹³⁴ This, in combination with school closures due to the pandemic, has resulted in plantation owners looking to child laborers as an answer to the labor shortage and a cheaper labor option as the COVID-19 pandemic continues.¹³⁵ According to district panchayat president Jiji K. Philip of the Idukki region in Kerala, "child labour has [become] a major issue and there is no proper intervention to check it. He says children

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ Marjorie Pamintuan and Sarojeni V. Rengam, *Toxic Blooms: Impacts of Pesticides on Children in the Floriculture Industry in Tamil Nadu, India*, Pesticide Action Network Asia Pacific (2020) at 38.

¹²⁸ *Id.* at 40

¹²⁹ *Id.*

¹³⁰ Navaneeth S. Krishnan, *The Impact of COVID-19 Pandemic Lockdown on the Migrant Labour Crisis and Cardamom Harvest in High Ranges of Kerala*, International Journal on Recent Trends in Business and Tourism (2021).

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Giji K. Raman, *Spectre of Child Labour in Cardamom Plantations*, The Hindu (Aug. 31, 2021).

arriving with the workers are also employed on the estates and most of them are aged between 12 to 15.”¹³⁶

Compared to other industries in the region, such as hotel and construction sectors, children employed on plantations are not easily identified by the public.¹³⁷ Other evidence of child labor has been reported in Kerala in September 2021, in which a vehicle was seized when it was found being used to carry workers to cardamom plantations that included children below 16 years of age.¹³⁸ The vehicle was detained after various reports that child labor was being widely used in cardamom plantations during the COVID-19 lockdown period.¹³⁹ Just one day prior, law enforcement in a different area of Kerala reported cases against a resident and estate manager for engaging child labor in hazardous working conditions.¹⁴⁰ Police alleged that 16-year-old children, residents of Jharkhand, were found to have been working in unsafe conditions while spraying chemical pesticides in cardamom plantations.¹⁴¹

The problem of child labor on cardamom plantations also persists on smaller farms. As explained in a report from Navaneeth S. Krishnan, because of the impact of COVID-19 lockdowns:

In various small plantations, the members of the family, including children, contributed to the harvest. Many of small-scale cardamom growers became [dependent] entirely on the sale of cardamom as the government suspended other entrepreneurial opportunities offered by tourism due to [the] lockdown... Neither the Government of India nor Government of the State of Kerala has so far offered Minimum Support Price (MSP) for cardamom crops... Increased labor cost and expenses of fertilizers and pesticides, together with the decrease in the price of cardamom precipitously, reduce the annual profit of planters. Despite lockdown and stagnation of tourism, a kilogram of first quality cardamom in a retail shop costs around four thousand rupees; meanwhile, the average price at an auction turns out as thousand five hundred rupees per kilogram. The local buyers offer less than the average auction price for the planters.¹⁴²

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Vehicle with Estate Workers Seized*, The Times of India (Sept. 2, 2021).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Navaneeth S. Krishnan, *The Impact of COVID-19 Pandemic Lockdown on the Migrant Labour Crisis and Cardamom Harvest in High Ranges of Kerala*, International Journal on Recent Trends in Business and Tourism (2021).

Despite the exception of children being allowed to work for their family businesses, it remains illegal under Indian law for minors to work in hazardous conditions.¹⁴³ Similar to other agricultural industries in India, cardamom harvesting is extremely labor intensive wherein children are exposed to hazardous materials like pesticides.¹⁴⁴

D. Cashews

India is the second largest producer of cashews, producing approximately 786,000 metric tons of the nut as of 2019.¹⁴⁵ “The highly skilled workforce and low labour costs in India allowed it to have a virtual monopoly on the manual processing of cashews for many years.”¹⁴⁶ Demand for cashews may be growing, as veganism and vegan diets have spiked in popularity in Western countries within the last decade.¹⁴⁷ Consequently, nuts, including cashews, are a popular vegan protein alternative.¹⁴⁸ Cashews are also used to make plant-based milk, cheeses, and other faux-dairy products.¹⁴⁹

Cashew shelling is laborious and, in India, is done by hand through a delicate manual process.¹⁵⁰ The work is arduous and, in fact, “[c]ashew and cashew nut descaling and processing” is one of fifty-seven (57) different processes wherein child labor is prohibited in Delhi¹⁵¹ and is categorized as hazardous under India’s Child Labour (Prohibition and Regulation) Act 1986.¹⁵² Nevertheless, there are multiple reports of children being rescued from cashew processing units. For example, a total of thirteen children (eleven girls) rescued from a cashew processing unit in Sorada, Ganjam District, in Odisha and another unit in Khallikote, Ganjam District, Odisha.¹⁵³ Another “[t]wenty-four minor girls used as child labourers in a cashew processing unit were rescued in Koraput district of Odisha,” with the girls between the ages of 13 and 15 years.¹⁵⁴

¹⁴³ *Child Labor Policies*. Vikaspedia. (n.d.) (<https://www.vikaspedia.in/education/child-rights/child-labour-policies>).

¹⁴⁴ *Vehicle with Estate Workers Seized*, The Times of India (Sept. 2, 2021).

¹⁴⁵ *Top Countries for Cashew Nuts Production*, NationMaster (2019).

¹⁴⁶ India Institute of Food Processing Technology, Ministry of Food Processing Industries, Govt. of India, Thanjuvar, *Detailed Project Report Cashew Nut Processing Unit* (2021) at 14.

¹⁴⁷ Zoe Drewett, *Women in India Pay the Price for Cashew Nut Demand as Vegan Diets Rise*, Metro (Apr. 4, 2019).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ J. S. von Dacre, *The Cashew Nut Cruelty That No One Tells You About*. InsideOver (Sept. 2, 2019).

¹⁵¹ See Labour Commissioner, Government of NCT of Delhi, “Processes Where Child Labour Is Prohibited” (last updated 11-12-2018).

¹⁵² See *91 Child Workers Rescued in Berhampur*, The Times of India (July 13, 2015).

¹⁵³ See *id.*

¹⁵⁴ Staff Reporter, *Minor Labourers Rescued in Koraput*, The Hindu (Feb. 22, 2015).

In 2019, Emily Clark, a journalist from the British newspaper, *The Daily Mail*, traveled to India to investigate the supply chain for cashews, explaining the rationale behind her trip:

[T]here's a catch to cashews. The nuts – nearly all processed in India or Vietnam – are difficult to extract and are therefore shelled by hand. A cashew has two layers of hard shell, between which lie caustic substances – cardol and anacardic acid – that can cause vicious burns.

Burns are a fact of life for up to 500,000 workers in India's cashew industry, nearly all women. They are employed without contracts, with no guarantee of steady income, no pension or holiday pay.

Many don't even get gloves, and if they did, they probably couldn't afford to wear them. Gloves would slow their shelling down, and they are paid by the kilo. When their pain becomes unbearable, they need medicine – and, of course, they must pay for it. So they soothe the acid burns with ash from their fires.

I was horrified when I found out my diet might be funding misery. I'm a vegan, and the dairy-free 'cheeses' I love typically use cashews. The creamy sauces I love in pasta bakes do, too.

But I had no idea about how they were being produced. And so I travelled to the village of Pudhukuppam in the Indian state of Tamil Nadu to meet the nut shellers. . . .

Follow cashew supply chains back and you will find women and children in unregulated shelling units all over India.¹⁵⁵

The cashew shelling unit visited by the reporter included workers as young as 13 years old.¹⁵⁶ While conditions were better in regulated factories located in Kerala, pricing pressure diverted cashew processing to cheaper, unregulated facilities: “[b]ut when buyers squeeze suppliers, shelling is outsourced over the border to unregulated units.”¹⁵⁷ The ability to exploit vulnerable populations, including children, through contract arrangements with informal shelling units, has allowed India to continue to compete with the Vietnamese cashew industry in international markets, despite the fact that the Vietnamese industry has invested in automation in order to reduce reliance on human labor.¹⁵⁸

¹⁵⁵ See Emily Clark, *Hidden Agony Behind Our Craze for Cashews: How Thousands of Indian Nut Processors on £2.15 a Day Are Left with 'Unbearable' Burns from Acid in the Shells of the Superfood*, *The Daily Mail* (Apr. 3, 2019).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

E. Tea

As noted above, in the July 2021 report to the Human Rights Council of the United Nations General Assembly, the Special Rapporteur on contemporary forms of slavery explained that “[i]n India . . . there are between 5,000 and 6,000 internally displaced workers in bonded labour in the tea gardens of Bihar and Rajasthan.”¹⁵⁹ This observation was, in turn, based on a report from Arise regarding the results of a survey issued to the NGO’s religious sisters within its India network as to incidents of child and forced labor in supply chains.¹⁶⁰ In response to the survey, Arise was informed that “[c]hild and forced labour are particularly common in the tea gardens of Assam and the brick kilns of Haryana.”¹⁶¹ With regard to particular industries, Arise noted that “[t]he tea garden industry was reported with particular concern, particularly in Assam, where government authorities are complicit in perpetuating the cycle of debt bondage that many displaced people find themselves in.”¹⁶² Arise additionally observed that “[i]n Amtola Village in Assam, child labour is common in the tea gardens.”¹⁶³ Arise explained that, in tea gardens, IDPs “are confined in settlements and cannot afford to leave or be educated.”¹⁶⁴

The recognition of forced labor practices in tea plantations in India by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, in his recent report to the UN’s Human Rights Council¹⁶⁵ and Arise’s more detailed reporting regarding current conditions of IDPs working in tea gardens resulting in their exploitation through child and forced labor¹⁶⁶ are consistent with repeated, homogenous accounts of child and forced labor in tea supply chains in India. Twenty years ago, one commentator described the cycle of bonded labor in the tea plantations of Assam through the experience of children born in the gardens:

After passing from the lower primary schools of the gardens, they are forced to join the tea labour workforce as unskilled workers with no educational and alternative employment opportunity. Generation after generation, they remain tied to the

¹⁵⁹ Special Rapporteur on contemporary forms of slavery, including its causes and consequences (Tomoya Obokata), *Nexus Between Displacement and Contemporary Forms of Slavery*, Report to Human Rights Council, Forty-eighth Session, United Nations, A/HRC/48/52 (July 26, 2021) at 9 (footnote omitted).

¹⁶⁰ Arise, *Submission on the Nexus Between Forced Displacement and Contemporary Forms of Slavery* at 1 (unnumbered).

¹⁶¹ *Id.* at 4 (unnumbered).

¹⁶² *Id.*

¹⁶³ *Id.* at 3 (unnumbered).

¹⁶⁴ *Id.* at 3 (unnumbered).

¹⁶⁵ See Special Rapporteur on contemporary forms of slavery, including its causes and consequences (Tomoya Obokata), *Nexus Between Displacement and Contemporary Forms of Slavery*, Report to Human Rights Council, Forty-eighth Session, United Nations, A/HRC/48/52 (July 26, 2021) at 9.

¹⁶⁶ See Arise, *Submission on the Nexus Between Forced Displacement and Contemporary Forms of Slavery*.

gardens. They are ‘born in the gardens and die in the gardens’. They are the epitome of modern day bonded labour – the forced and unfree labour.¹⁶⁷

The tea industry in India is massive. A Thomson Reuters investigative report in 2018 explained that India was the world’s second largest producer of tea, employing 3.5 million workers,¹⁶⁸ constituting the country’s largest private sector employer.¹⁶⁹ The Indian state of Assam is the world’s largest tea growing region.¹⁷⁰ A 2019 report by Oxfam described post-colonial conditions on tea plantations as follows:

Post-independence, Indian companies have assumed ownership of most tea estates, while the national and state governments (e.g. Assam) own others. But some of the worst characteristics of the colonial tea trade have persisted, including the almost total dependence of tea workers on their employers. This is true for tea workers throughout the Indian sub-continent, for example in countries such as Bangladesh and Sri Lanka, as well as other parts of India, but is a particularly acute problem in Assam. . .

Decades of isolation and under-education have left Assam’s tea workers short on options. For many, the only world they know and the only skills they have are bounded by the tea estates. In response to their vulnerable situation, grassroots organizations such as Promotion and Advancement of Justice, Harmony and Rights of Adivasis (PAJHRA), Peoples’ Action for Development (PAD) and Diocesan Board of Social Services (DBSS) have been campaigning for many years to protect workers’ rights, supported by national and international organizations such as Nazdeek and Accountability Counsel.¹⁷¹

Oxfam’s report included the findings of The Tata Institute of Social Sciences (TISS), drawn from TISS’s interviews of 510 workers across 50 tea estates “regarding their pay, working conditions, housing, healthcare, education, access to clean water” as well as access to nutritious food.¹⁷² TISS’s interviews documented non-transparent payment mechanisms that left workers in

¹⁶⁷ Souparna Lahiri, *Bonded Labour and the Tea Plantation Economy*, Revolutionary Democracy, Vol. VI, No. 2 (Sept. 2000).

¹⁶⁸ See Serena Chaudhry and Kieran Guilbert, *Exclusive: Expose of Labour Abuse Brews Trouble for “Slave-Free” Indian Tea*, Thomson Reuters Foundation (June 1, 2018).

¹⁶⁹ See Madhura Rao and Nadia Bernaz, *Corporate Responsibility for Human Rights in Assam Tea Plantations: A Business and Human Rights Approach*, sustainability, 12, 7409 (Sept. 9, 2020) at 2 (citing Columbia Law School Human Rights Institute, “*The More Things Change . . .*” *The World Bank, Tata and Enduring Abuses of India’s Tea Plantations* (Jan. 2014)).

¹⁷⁰ See *id.* at 1 (citing Global Network for the Right to Food and Nutrition (GNRTFN), *A Life Without Dignity – the Price of Your Cup of Tea* (2016)).

¹⁷¹ Oxfam, *Addressing the Human Cost of Assam Tea: An Agenda for Change to Respect, Protect and Fulfil Human Rights on Assam Tea Plantations*, Oxfam Briefing Paper (Oct. 2019) at 8-9.

¹⁷² *Id.* at 7.

“bondage-like conditions,” with over a third of the households surveyed experiencing recurrent debt.¹⁷³ With the benefit of TISS’s research, Oxfam concluded:

Assam tea, with its isolated, dependent, under-educated and predominantly female workforce, is a classic example of a supply chain with high risks of human rights violations. The research that Oxfam has commissioned confirms that Assam tea workers supplying supermarkets in the USA and Europe continue to be denied their basic human rights and are not sufficiently empowered to claim those rights.¹⁷⁴

Oxfam’s findings built on earlier extensive studies of tea plantations in Assam and elsewhere in India. Columbia Law School’s Human Rights Institute published “*The More Things Change . . .*” *The World Bank, Tata and Enduring Abuses on India’s Tea Plantations* in January 2014, documenting abysmal living and working conditions on tea plantations in India, with a particular focus on those plantations located in Assam.¹⁷⁵ The Institute noted that an easily discernible hierarchy was maintained on the plantations that had been unchanged since independence.

One of the striking features of plantations is the strict hierarchy that tracks ethnic, linguistic and caste differences that date from colonial times. In Assam, for example, where the majority of APPL estates are located, workers are almost invariably Adivasi (indigenous) or Dalit (traditionally designated “untouchable” caste) and the descendants of migrants, speaking Sadri.

Sub-staff and staff are Ahom (upper caste) locals, speaking Assamese, and managers come from outside the region, often from the states of West Bengal or Punjab.¹⁷⁶

As Oxfam did in 2019, the Institute documented non-transparent payment practices where workers were subject to large, seemingly arbitrary wage deductions.¹⁷⁷ On the grounds of the plantations, the Institute found that owners used contract labor in a manner that facilitated child labor and depressed wages:

At least some APPL estates sub-contract work to informal labor brokers, a practice that has further eroded wages, even below the legal daily rate. We spoke with adolescent workers at Kakajan estate, recruited and employed by a contractor, who had been cleaning the gutters between the rows of tea bushes from 8AM to 3PM that day and over the previous week, in violation of the hourly limitations imposed on the labor of young people by the Plantations Labour Act. They were paid

¹⁷³ *Id.* at 17-18.

¹⁷⁴ *Id.* at 36.

¹⁷⁵ See Columbia Law School Human Rights Institute, “*The More Things Change . . .*” *The World Bank, Tata and Enduring Abuses on India’s Tea Plantations* (Jan. 2014).

¹⁷⁶ *Id.* at 26.

¹⁷⁷ See, e.g., *id.* at 55-59.

[Rs30] a day for their work, which is approximately a third of the applicable daily rate. Individuals interviewed at other estates shared information about similar practices – where sub-contracting resulted in the payment of wages far below the legal minimum – but the information in those cases was second-hand, from parents or neighbors of the workers rather than the workers themselves.¹⁷⁸

In 2018, Professor Genevieve Lebaron published the results of her study “comprised of a survey and in-depth interviews with tea workers” in India that “focused on measures relevant to the categories of ‘forced labour’ and ‘exploitation’”¹⁷⁹ The study also included discussions with tea plantation owners, who emphasized the overwhelming importance of labor costs in tea production, quoting one owner as saying “[i]f you are a plantation owner, labour is 80-85% of your cost of doing business.”¹⁸⁰ Based on the interviews with workers, Professor Lebaron reported:

All of the workers interviewed and surveyed in our study had experienced some form of exploitation, including non-payment or under-payment of wages; unfair deductions from wages; high rates of interest on borrowing; the under-provision of housing, electricity, water, or medical care as well as unfair charges for these; and the withholding or denial of benefits. A smaller number of the workers interviewed had also experienced forced labour, entailing physical violence, sexual violence, verbal abuse, and threats of violence and dismissal.

Although the terms ‘slavery,’ ‘bondage,’ and ‘forced labour,’ were not included in the interview questionnaires, workers often used this language to describe their conditions on tea plantations. One tea worker said, ‘I am working as a bonded labourer like a slave . . . Other people are being paid satisfactorily in other sectors but here we are not paid much and the work is very painful.’ Another worker described, ‘the management do not treat the workers as humans; and noted that ‘most of the workers along with me are doing it [working in tea] forcefully and out of coercion.’

Our research uncovered three key patterns of exploitation taking place in the tea industry, generating profit for business: 1) the underpayment of workers; 2) the lending of money to workers and charging high interests on their debts; 3) the under-provision of legally-mandated services for basic needs. It also found child labour, and human trafficking of women and girls from tea plantations into domestic and sex work in major cities like Delhi and Mumbai.¹⁸¹

¹⁷⁸ *Id.* at 60 (footnotes omitted).

¹⁷⁹ Genevieve Lebaron, *The Global Business of Forced Labour: Report of Findings*, Sheffield Political Economy Research Institute (SPERI), University of Sheffield (2018) at 19.

¹⁸⁰ *Id.* at 25.

¹⁸¹ *Id.* at 19.

Some of the workers interviewed “reported being unable to [leave their plantation] due to the perception that they were legally bonded.”¹⁸² Professor Lebaron explained that “most tea workers endure unfair treatment because they have no other option,” and noted that “[o]ur research suggests that workers in the tea industry are experiencing severe labour exploitation, including forced labour.”¹⁸³

The structure of the ownership of tea plantations has changed over time, such that “[a]midst the pressures of economic globalisation, several large multi-national companies that owned tea plantations restructured and divested from the tea estates, selling off plantations to shift their focus on tea packaging, retailing, and marketing.”¹⁸⁴ Nevertheless, even as large corporations removed themselves from operational responsibility for tea plantations and despite the long, documented history of child and forced (bonded) labor practices in tea production, academic researchers have found that the corporations sourcing tea have generally declined to address the potential risks presented in their corporate social responsibility disclosures:

Our finding is that the companies under examination avoid the problems of Assam by reporting on other issues, or by reporting on those issues in a superficial and selective way. This article aimed to answer the following research question: in a context where the existence of human rights violations at the end of the supply chain is well-documented, how do companies reconcile their possible connection with those violations and the corporate responsibility to respect human rights under the UN Guiding Principles on Business and Human Rights? When Sections 2.2. and 4 are compared, it is clear that reports by businesses and civil society organisations render the situation in Assam differently. Although some tea companies pay attention to Assam and have supported or devised specific programmes to address some of the salient human rights issues in the region, there is no systematic tackling of the issues, and some companies seemingly do nothing at all. This is an important finding because, given how serious and publicized those issues are, one could have expected companies to pay more attention to them, and reports to reflect on them. Instead, reports remain as evasive about Assam as they are about other human rights issues. Selective disclosure is at play even when human rights issues connected to the companies are well-documented.¹⁸⁵

As such, ILAB’s inclusion of tea in the *2022 List of Goods Report* would be important insofar as it would place further pressure on marketers and importers of tea from India to identify and articulate steps taken to ensure that their supply chains do not include forced or child labor.

¹⁸² *Id.* at 24.

¹⁸³ *Id.* at 25.

¹⁸⁴ *Id.* at 16 (footnote omitted).

¹⁸⁵ See Madhura Rao and Nadia Bernaz, *Corporate Responsibility for Human Rights in Assam Tea Plantations: A Business and Human Rights Approach*, sustainability, 12, 7409 (Sept. 9, 2020) at 17 (citations omitted).

F. Other Products (Liquor; Packaging; Ceramics; Granite; Coal)

Child and forced labor are endemic within India's supply chains and impact many more industries than the five agricultural-related industries discussed in detail above. However, available information on the scope of these reprehensible labor practices in other industries is limited. There are, nevertheless, anecdotal indications of the massive scope of the challenges posed by child and forced labor to purchasers seeking to source from India.

For example, Bachpan Bachao Andolan (BBA), an NGO in India, identifies instances of child labor and rescues children from circumstances where they are placed in harm's way.¹⁸⁶ BBA's reporting on the organization's efforts provides indicators of other industries where child and forced labor practices may have corrupted supply chains. In one instance reported last year, BBA discussed the rescue of children working in a liquor bottling plant in Chandigarh, the joint capital of Punjab and Haryana.¹⁸⁷ In June of 2021, fifteen minors, including eight girls, working at a liquor bottling plant at Chandigarh's Industrial Area in northern India, were rescued when a raid was conducted by the district task force committee, Childline, the anti-human trafficking unit of Chandigarh police and BBA.¹⁸⁸ The rescued children were between 15 and 17 years old and came from as far south as Tamil Nadu.¹⁸⁹ The children were found to be working in hazardous conditions, busy bottling and packaging around half a dozen liquor brands.¹⁹⁰ One officer observed that "[t]he rescued girls have scars on their hands, which indicate they have come in direct contact with chemicals."¹⁹¹ BBA and police suspected there might be even more children working in the plant who were absent from work or hidden within the facility when the raid took place.¹⁹²

A month later, BBA documented the rescue of children in Uttar Pradesh that were being trafficked from Bihar to Delhi in order to work in packaging factories throughout that city.¹⁹³ Twenty minor boys, most of whom are from poor Muslim families in Bihar, were rescued from trains in Aligarh and Firozabad in three raids when they were being taken to Delhi, allegedly to work in packaging factories across the city.¹⁹⁴ Their traffickers, 10 of them, work in those

¹⁸⁶ Bachpan Bachao Andolan, *About Us* (<https://bba.org.in/about-us/#vision>).

¹⁸⁷ Shailee Dogra, *15 Children Rescued from Liquor Bottling Factory*, Hindustan Times (June 30, 2021).

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ Anuja Jaiswal, *Age Records Tweaked, 20 Minors Trafficked from Bihar for Delhi Factories Rescued in Uttar Pradesh*, The Times of India, (July 1, 2021). "Aadhaar" cards are national identity cards in India (<https://uidai.gov.in/>), with fraudulent cards used to falsely claim that children are of legal working age.

¹⁹⁴ *Id.*

factories, were the boys' "neighbours" in Bihar and made fake Aadhaar cards to show that they were not underage.¹⁹⁵ The youngest among the children rescued was 9 years of age.¹⁹⁶

The rescue underscored how COVID-19 has created additional risk of exploitation of children:

[T]he BBA coordinator said the pandemic has made poor families like theirs soft targets. "Because of the lockdown and resulting unemployment, many families are turning easy prey for traffickers, who promise jobs in other cities," he added. "The children told us they were being taken to Delhi to work in factories. The traffickers had made their fake Aadhar cards. One of them said he was promised Rs 5,000 a month [US\$ 68] and an additional Rs 200 [US\$ 3] a week"¹⁹⁷

In 2019, BBA participated in the rescue of 13 children working in jacket factories in Kabir Nagar in the state of Uttar Pradesh.¹⁹⁸ Ten of the children, aged between 10 and 17 years, were reported to have been trafficked from Sitamarhi in the state of Bihar, while the other three were from Nepal.¹⁹⁹

Childline, "the national emergency helpline for children in distress," reported conducting 3,653 interventions between March to May 2020, emphasizing that risks of child labor were augmented by measures taken to curb the spread of COVID-19.²⁰⁰ Discussing specific incidents, Childline publicized a rescue of children trafficked to a ceramics factory in Rajasthan:

Seven children working as bonded labour were rescued from a ceramic factory in Bikaner. The children were brought from Odisha with the promise of a job and a salary of Rs10,000 [US\$135] every month. However, at the factory, they were made to work for long hours, were beaten up by the factory in-charge if they refused to work and they were not allowed to contact their families.²⁰¹

The UNICEF report issued last year also cited studies documenting the use of child labor in Indian coal mines and the processing of granite residual stone to produce gravel and cobblestones.²⁰² With respect to granite, the UNICEF report observes that "[a] 2017 study by the India Committee of the Netherlands on the granite industry reported the use of child labour in the

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *See 13 Child Workers Rescued from 2 Factories*, The Times of India (Aug. 29, 2019).

¹⁹⁹ *See id.*

²⁰⁰ *See Ambika Pandit, Amid Covid-19 Pandemic and Lockdown, Childline Rescues Over 3,600 Children from Child Labour*, The Times of India (June 12, 2020).

²⁰¹ *Id.*

²⁰² *See Davuluri Venkateswarlu, The Worst Forms of Child Labour, with a Focus on Rural Settings in India*, UNICEF Office of Research (2021) at 4.

processing of granite residual stone to make gravel and cobblestones. Children under the age of 14 make up 3 per cent of the workers who process residual stone, while those aged 15-18 constitute 5 per cent”²⁰³

With respect to coal, the UNICEF report observes that “[a] study done by Aide et Action with the NGO Impulse in [2010] exposed the illegal practices that are taking place in coal mines in Meghalaya, where the children are trafficked from neighbouring states and other countries.”²⁰⁴ This same study was also recently referenced in the context of reporting regarding miners trapped in “rat-hole” coal mines in Meghalaya, a state located in northeastern India.²⁰⁵ The work extracting coal from these mines is incredibly dangerous: “Meghalaya remains a major spot for coal mine tragedies, mainly due to rampant ‘rat-hole’ mining wherein narrow tunnels are dug up to extract coal. Accidents such as cave-ins are common in these mines.”²⁰⁶ And this dangerous work principally falls on children: “[w]orkers involved in ‘rat-hole’ mining, the majority of whom are children, are generally lured into this work due to relatively high wages, despite knowing the dangers of the process.”²⁰⁷ The labor of children in these coal mines was the subject of a documentary film directed by Chandrasekhar Reddy, *Fireflies in the Abyss*, released in 2015, that followed an 11-year-old boy, Suraj, in his work in “rat-hole” mines.²⁰⁸ Mr. Reddy explained that he found children as young as five years of age working in coal mines when he traveled to Meghalaya in 2011.²⁰⁹ Activists within India “estimate that about a fifth of all mine workers in India are children.”²¹⁰ The coal mines in Meghalaya, nevertheless, appear to present particularly dangerous conditions that exploit foreign migrants into India: “In Meghalaya, which means ‘abode of clouds’ in Sanskrit, many workers are from the neighboring countries of Nepal and Bangladesh. They are often trafficked with the promise of good jobs, or are in debt bondage to powerful mine owners.”²¹¹

IV. **GOODS PRODUCED IN INDIA THROUGH CHILD AND/OR FORCED LABOR THAT ARE CURRENTLY LISTED IN THE TVPRA REPORT**

In addition to the recent information made available regarding goods produced in India that are not included in the *2020 List of Goods Report*, other recent information confirms that child and forced labor continue to characterize the supply chains for merchandise manufactured in India that

²⁰³ See *id.* (citation omitted).

²⁰⁴ *Id.* (citation omitted).

²⁰⁵ See *In the Mine Hole, Better Wages Lure Unkind Deaths in India*, News 18 (Jan. 18, 2019).

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ See CSAS Film Series, “Fireflies in the Abyss” <https://ii.umich.edu/csas/news-events/events.detail.html/60590-14910409.html>. Mr. Reddy discusses the film in an interview available for viewing on YouTube: <https://www.youtube.com/watch?v=knxFwlt9D0I>.

²⁰⁹ See Rina Chandran, *Children Working in India’s Coal Mines Came as ‘Complete Shock,’ Filmmaker Says*, Thomson Reuters Foundation (July 6, 2016).

²¹⁰ *Id.*

²¹¹ *Id.*

are included in the 2020 *List of Goods Report*. For example, in its report following a survey of the organization's network in India, Arise described the continued existence of forced labor practices in brick kilns, quarries, and mines in various states across India. Arise explained that its respondents reported forced labor in "brick kilns (in Bihar, West Bengal, Uttar Pradesh, Assam, Haryana); factories, poultry and hatcheries (in Bihar, West Bengal, Uttar Pradesh), construction work and domestic work (nation-wide)." ²¹² Furthermore, "[q]uarries and mines owned by big corporations and land owners in West Bengal and Boropahari were also identified" as using forced labor. ²¹³ "In quarries, mines and brick kilns, . . . workers live in settlements around the factories rife with disease ([tuberculosis ("TB")] and silicosis) due to poor working and living conditions." ²¹⁴ Throughout these industries, child labor was also reported as being extensive: "[i]n Aunachal, children are subjected to forced labour in mines, quarries and domestic work" and "[i]n the brick kilns of Bihar, West Bengal and Uttar Pradesh, thousands (2,000 – 3,000) of children are subject to forced labour." ²¹⁵

Additional information regarding the continued existence of forced or child labor in the production of goods included in the 2020 *List of Goods Report* is briefly summarized below.

A. Cottonseed (Hybrid)

As noted above, in addition to tracking the amount of child labor used in production of vegetable seeds, Dr. Venkateswarlu has also catalogued the continuing use of children in the production of cottonseed. In his most recent study of the industry sector commissioned by Arisa, Dr. Venkateswarlu found that "[t]he data for 2018-2019 shows that children under 14 years account for over 18% of the total workforce in cottonseed farms in India." ²¹⁶ "In 2018-2019, a total amount of around 151,000 children below 14 years were employed in cottonseed farms in Andhra Pradesh, Telangana, Gujarat, Karnataka and Rajasthan which account for more than 85% of the total production area in the country." ²¹⁷ The child labor utilized in cottonseed production largely exploits girls, who constitute "nearly 65% of the total working children (below 14 years) during 2018-2019 . . ." ²¹⁸ As in prior studies, Dr. Venkateswarlu noted that, for cottonseed production, "[t]he children from Dalits – also called Scheduled Castes (SCs) – and Adivasi – also called Scheduled Tribes (STs) – communities still constitute more than 50% of the total workforce." ²¹⁹

²¹² Arise, *Submission on the Nexus Between Forced Displacement and Contemporary Forms of Slavery* at 2 (unnumbered).

²¹³ *Id.*

²¹⁴ *Id.* at 3 (unnumbered).

²¹⁵ *Id.*

²¹⁶ Davuluri Venkateswarlu, *Sowing Hope: Child Labour and Non-Payment of Minimum Wages in Hybrid Cottonseed and Vegetable Seed Production in India*, Arisa (June 2020) at 24.

²¹⁷ *Id.* at 53.

²¹⁸ *Id.* at 27.

²¹⁹ *Id.* at 29.

A separate study, conducted by the Centre for Labour Research and Action (CLRA), covering four districts (Banaskantha and Sabarkantha in North Gujarat, as well as Udaipur and Dungarpur in South Rajasthan), and published in 2019, found that 12.2 percent of the workforce producing cottonseeds were children (under 14 years of age), while 19.75 percent of this workforce is comprised of adolescents (under 18 years of age).²²⁰ The CLRA would later issue another report in July 2021, commissioned by Arisa, regarding the prevalence of *bhag-kheti* (wage sharecropping) in cottonseed farms in Gujarat.²²¹ The *bhag-kheti* system replaced an earlier system of agricultural employment, known as the *saathi* system: “The *saathi* system was a form of bondage, in which a worker was bound to work for one landowner or a big farmer for years on end, for very low wages.”²²² “The *bhag-keti* practice can also be perceived as a form of bondage, in which *bhagiyas* are employed against advances and are then required to work the entire year without regular payment of wages.”²²³ CLRA explained how its survey supported the conclusion that the *bhag-keti* arrangement resulted in the proliferation of bonded labor throughout cottonseed farms in Gujarat:

The practice of *bhag-kheti* in cottonseed production is steeped in relations of power, tilted in favour of the landed community of landlords across Gujarat. This position of power often absolves the landowner of all risks and makes them party to profit. This power imbalance allows the landowners to manipulate and deceive the workers, and the *bhagiyas* own resignation to the will of the landowners grants them means to constantly oppress these workers. The Bt cottonseed production, in which a number of different stakeholders are involved - varying from the village level agent to the supervisor employed with the cottonseed company - makes it difficult for the *bhagiyas* to access the various stakeholders who perpetuate this system.

When the ILO indicators of forced labour are considered and the conditions of the wage sharecroppers are juxtaposed against that framework . . . one can only conclude that the migrant agricultural workers in the *bhag-kheti* system work in conditions comparable to forced and bonded labour.²²⁴

Accordingly, CLRA argued that the *bhag-keti* system reflected changes in supply chains intended to continue bonded labor practices under a new guise: “From employment of child labour through trafficking to family labour in *bhag-kheti* and now also shifting the farming process to the tribal areas; this is an indication of how the sector re-adapts and remoulds itself - and ensures that the

²²⁰ See Muneeb Ul Lateef Bandy and Saikat Chakraborty, *Developments Forgotten Children: Child Labour in Bt Cottonseed Production in North Gujarat and South Rajasthan*, Centre for Labour Research and Action and Sudwind Institute (2019).

²²¹ Centre for Labour Research and Action, *Seeds of Oppression: Wage Sharecropping in Bt Cottonseed Production in Gujarat, India*, Arisa (July 2021).

²²² *Id.* at 9.

²²³ *Id.*

²²⁴ *Id.* at 24.

seeds of oppression continue to safeguard the Bt cottonseed production.”²²⁵ Similarly, a pair of academics investigated how the cottonseed industry in India responded to broad criticism of their labor practices from a 2004 report, concluding that businesses simply moved operations in an effort to escape further scrutiny: “seed companies relocated to remote areas potentially to: avoid media and NGO attention; and bind tribal and poverty-stricken labourers into subsistence farming in return for cheap and bonded labour.”²²⁶

B. Mica

Mica is a shimmery, translucent mineral that is used in cosmetics and automobile paint, as well as in other sectors.²²⁷ Coverage of labor abuses in the mining of mica in different countries has been extensive. Additional attention has been brought to the Indian supply chain for mica due to the ties between mica mines in the state of Jharkhand in eastern India and celebrity-backed cosmetic lines that are sold internationally.²²⁸ Illegally traded mica has been produced in Jharkhand and Bihar since the 1980s when it was banned by environmental laws;²²⁹ nevertheless, mica is still in high demand around the world and remains a largely unregulated industry.²³⁰

Even though the health and safety risks are well known, poor families who live close to mica mines in India continue to rely on their children’s work in these mines for supplemental income.²³¹ Communities living close to mines are stuck in a never-ending cycle of poverty, exploitation, and abuse.²³² It is estimated that 22,000 children work in mica mines in Jharkhand and Bihar, with the youngest of these children being four years of age.²³³ Similar to how the small size of children is seen as an advantage in certain agricultural tasks, such as picking jasmine flowers, children are able to mine in parts of caves where adults cannot fit.²³⁴ The work, however, is incredibly dangerous and there continue to be reports of children perishing in mica mines:

After watching her sister-in-law and a friend die in a mica mine in eastern India in March this year, 15-year-old Ritika Murmu vowed she would never again pick the mineral and set out to warn others. “I was picking mica when the debris fell. I went

²²⁵ *Id.*

²²⁶ Rounaq Nayak and Louise Manning, *Forgotten Children: A Social-Technical Systems Analysis of the 2004 and 2015 Forced Child Labour Reports from Indian Cottonseed Farms*, Trends in Organized Crime (Sept. 13, 2021) at 23-24 (unnumbered).

²²⁷ See, e.g., Simrin Sirur, *Child Labour, Mine Deaths - Rihanna's Fenty Beauty Brings Jharkhand Mica Back Under Spotlight*, ThePrint (Feb. 20, 2021).

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ K. Rybarczyk, *Child Labour in Mica Mines: The Beauty Industry's Dark Secret*, FairPlanet (July 7, 2021).

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

screaming to the village for help,” she said, recalling how her teenage friend died instantly while her sister-in-law died in hospital... But while Murmu wanted to talk about the deaths in Amjhar village in Jharkhand state, other family members - including her brother Motilal Murmu whose 25-year-old wife died - denied there had been any fatalities. A Thomson Reuters Foundation exposé in 2016 found children were dying in illegal mines but their deaths covered up with families given “blood money” to be silent and keep producing the mineral used in make-up, car paint and electronics.²³⁵

Renewed interest in mica from China’s economic boom coupled with global demands for natural cosmetics have created an extremely profitable black market, resulting in the reopening of illegal, abandoned mines in India.²³⁶

C. Bidis/Tobacco

Child labor in the tobacco industry is prominent in India, especially in the production of bidis, or hand rolled cigarettes. The World Health Organization (WHO) estimates that 10% of female workers and 5% of male workers in the bidi industry in India are below the age of 14 and that 40% of those children never attended school.²³⁷ All bidi rolling is done by hand where laborers must meticulously place tobacco inside a small leaf, tightly roll the leaf and secure the product with a thread.²³⁸ This processing of bidis, as with shrimp peeling, is done outside of the entities responsible for packaging and marketing bidis and is largely home-based where work is done by women and children.²³⁹ The Indian Government estimates that 15-25% of the workforce employed by the industry are children, but NGO estimates indicate that this is a gross underestimation of the size of the child workforce.²⁴⁰

D. Garments/Spinning

Fast fashion is, “a design, manufacturing, and marketing method focused on rapidly producing high volumes of clothing.”²⁴¹ This method of using low-quality materials to sell low-cost clothing to the public has consequences for garment workers,²⁴² including those in India. As with bidi rolling, much of the work involving garment making takes place at home, where women

²³⁵ Roli Srivastava, *Global Spotlight on Illegal Mica Mines Drives Indian Villagers to Hide Deaths*, Thomson Reuters (Nov. 20, 2019).

²³⁶ *Id.*

²³⁷ Andrea Duleux, *Eliminating Child Labour in Tobacco-Growing*, The Borgen Project (Jan. 24, 2020).

²³⁸ *Bidi Industry in India*, Campaign for Tobacco-Free Kids (Sept. 14, 2021).

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ Audrey Stanton, *What Does Fast Fashion Mean, Anyway?*, The Good Trade (Oct. 14, 2021).

²⁴² *Id.*

and girls make up the majority of laborers.²⁴³ Most workers are compensated at extremely low rates, making only about \$0.15 per hour²⁴⁴ according to the 2019 *Tainted Garments* study. These laborers work in harsh or hazardous conditions with little or no protections.

The *Tainted Garments* report summarized information from 1,452 different home-based garment workers in India:

1,122 cases within 50 kilometers of eight cities in the north, and 330 cases within 30 kilometers of two cities in the south. Most individuals worked six to seven days per week, usually around six to eight hours per day. The youngest individual documented was ten years old, and the oldest was 73 years.

The three most important findings of this research are:

1. 99.3% of the workers were either Muslims or belonged to a heavily subordinated community, called a “Scheduled Caste.”
2. 99.2% of workers toiled in conditions of forced labor under Indian law, which means they do not receive the state-stipulated minimum wage. Most workers received between 50% and 90% less than the state-stipulated minimum wages.
3. 95.5% of workers were female.

These three facts demonstrate that home-based garment work in India is predominantly penny-wage labor conducted by minority and outcaste women and girls.

Three additional findings [] of note are:

- 1) almost none of the workers (0.1%) received any sort of medical care when they suffered an injury at work;
- 2) none of the workers (0.0%) belonged to a trade union; and
- 3) none of the workers (0.0%) had a written agreement for their work. The lack of unionization and written contracts promotes the informal, shadowy nature of home-based garment work and allows many of the exploitative conditions the researchers documented to persist, particularly the severe underpayment of wages.

In addition to the aforementioned findings, the following results are of interest:

²⁴³ Siddharth Kara, *Tainted Garments: The Exploitation of Women and Girls in India's Home-Based Sector*, Blum Center for Developing Economies University of California, Berkeley (Jan. 2019) at 5.

²⁴⁴ *Id.* at 5.

- 9.0% of workers in the north toiled in conditions that constitute forced labor under ILO Convention no. 29. No workers in the south were found to be working in conditions under forced labor under international law.
- 5.9% of workers in the north toiled in conditions that constitute bonded labor under India's Bonded Labour (Abolition) Act, 1976. No workers in the south were found to be working in conditions of bonded labor.
- 19.1% of workers documented in the north were children between the ages of 10 and 17, as compared to 11.2% of workers documented in the south. Crucially, of these child laborers, only 33.6% in the north attended any amount of schooling each week, as compared to 91.9% of the child laborers in the south. . .
- More than half (51.2%) of workers documented in the north began working in home-based garment work as children, whereas only 14.5% did so in the south.²⁴⁵

The Indian garment industry is the second largest manufacturer and exporter of garments in the world.²⁴⁶ The garment supply chain is exceedingly fragmented²⁴⁷ and child labor is not confined to home-based garment work, as it has also corrupted other stages of India's garment industry, such as spinning mills.²⁴⁸ In Tamil Nadu, there are hundreds of spinning mills that produce large quantities of yarns and fabrics.²⁴⁹ These mills make up 60% of all spinning mills in India and employ approximately 280,000 workers.²⁵⁰ The Centre for Research on Multinational Corporations (abbreviated as SOMO in Dutch) and Arisa, along with other civil society actors, have reported on a range of labor rights violations, including child labor, discrimination on the basis of caste and tribal background, and forms of forced labor in the garment industry.²⁵¹

In their comprehensive report, *Spinning around Workers' Rights*, SOMO and Arisa investigated 29 spinning mills. At each mill, 725 randomly selected workers (25 workers per investigated mill) were interviewed.²⁵² All of the interviewed workers were from poor backgrounds and cited debt as their main motivation for going to work in the mills in Tamil Nadu.²⁵³ The key findings of the report are as follows:

²⁴⁵ *Id.* at 7.

²⁴⁶ *Id.* at 5.

²⁴⁷ Pauline Overeem, et al., *Spinning around Workers' Rights*, SOMO (May 2021) at 3.

²⁴⁸ *Id.* at 6.

²⁴⁹ *Id.* at 6.

²⁵⁰ *Id.* at 18.

²⁵¹ *Id.*

²⁵² *Id.* at 6.

²⁵³ *Id.* at 34.

Almost 60 per cent of the men and women interviewed were recruited by agents. . . .

A considerable number of the workers – 297 out of the 725 – did not speak Tamil, the language spoken in Tamil Nadu where the investigated spinning mills are located. . . .

Respondents were selected regardless of their age, so it is significant that 10 of the workers in this random sample were only 16 or 17 years old at the time of the interviews, a sign that adolescent labour persist[s] in this sector. . . .

When the respondents were asked how old they were when they *started* working at their current workplace, more than-one tenth (76 workers – 55 female and 21 male) said they were under 18 years old. Of this group, 64 workers said they were between 15 and 17 years old when they started working, and 12 (in four different mills, all female) said they were younger than 15.²⁵⁴

The report also explained that “[n]early two-thirds of the interviewed workers (426) found their job in the spinning mill through an agent or recruiter.”²⁵⁵ “Around half of the interviewed workers said the information they had been given about the working and living conditions had turned out not to be true.”²⁵⁶ Workers described some of the deceptive promises made as follows:

Almost all the workers said that when they were recruited, they were told they would be working eight hours a day but that in reality, their shifts are between 10 and 12 hours long. Some workers even occasionally work double shifts (16 hours), and sometimes (though rarely) they have to work round the clock. . . This discrepancy between promised and real working hours was found in all but five spinning mills. . . .

In a considerable number of spinning mills, monthly wages turned out to be lower than what was promised. In one mill (mill 20), none of the interviewed workers had received what they had been told they would be earning. Instead of INR 10,000 (€ 115.13), they earned between INR 8,000 - 9,000 (€ 92.10 – 103.61).²⁵⁷

The report also revealed a number of other inhumane conditions, such as restricted movement, isolation involving limited contact with the outside world, physical and sexual violence, intimidation and threats, retention of identity documents, and withholding of wages.²⁵⁸

²⁵⁴ *Id.* at 35-36.

²⁵⁵ *Id.* at 45.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.* at 47-58.

Researchers explained that living and working conditions had further deteriorated as a result of the COVID-19 pandemic.²⁵⁹

E. Bangles

In July 2019, 67 bonded child laborers were rescued from bangle making units in Balapur, a city in Maharashtra, the first time since 2014 that such a large number of children had been rescued in the area.²⁶⁰ All of the children were from Bihar and belonged to scheduled castes.²⁶¹ According to a representative from the district child protection unit, “[t]he children were in extremely pathetic condition as they remained locked up in one room and were not allowed to go out or take breaks in their shift from 6 am to 11 pm.”²⁶²

Separately, BBA “has highlighted the rampant use of child labourers in carpet and bangles factories/units in Jaipur making it a hub for trafficked children.”²⁶³ A fact-finding report issued by BBA in 2020 “documented the death of four minors trafficked from Bihar under mysterious conditions while working in these factories illegally in the last five months.”²⁶⁴ In particular, the report described the conditions that led to the deaths of a 13-year-old boy held in bonded labor at a bangle unit, a 16-year-old boy working in a bangle-making factory at Bhatta Basti, Jaipur whose body showed signs of grievous wounds inflicted on him, and a 12-year-old boy whose body, evidencing signs of significant violence, was discovered before the owner of a bangle unit was able to cremate it.²⁶⁵ The director of BBA reported “[o]ur network in Jaipur says that close to 1,500 children were trafficked in the last few months or after the lockdown. These areas in Jaipur which are considered as the hub for child labourers are Bhatta Basti, Shastri Nagar and Sanganer”²⁶⁶

In April 2021, *TwoCircles.Net* published a story about child trafficking in Bihar that focused on the experience of a 14-year-old boy who had been trafficked in March 2019 from Gaya to a bangle factory in Bhatta Basti, “nearly 1200 kilometres away”²⁶⁷ A trafficker convinced the child’s father that the boy would have “a regular income and Rs. 3,000 as an advance payment.”²⁶⁸ The boy, along with other children, was rescued from the factory but only after he

²⁵⁹ *Id.* at 68-69.

²⁶⁰ *67 Children Rescued from Bangle-Making Unit in Hyderabad Sent Back Home*, *The New Indian Express* (Aug. 26, 2019).

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Carpet, Bangle Units Turn City Into Hub for Child Labourers*, *The Times of India* (Nov. 2, 2020).

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ Sami Ahmad, ‘*I Was Denied Food and Beaten, The Unregistered Story of Child Trafficking in Bihar*, *TwoCircles.Net* (Apr. 23, 2021).

²⁶⁸ *Id.*

was “forced to work, denied proper food and often beaten.”²⁶⁹ Moreover, after the boy was returned home, his family was threatened by the trafficker, who demanded repayment of the Rs. 3,000 advance.²⁷⁰

An even more recent September 2021 report detailed the experience of 19 child laborers making bangles in a small windowless room in the city of Jaipur for 16 to 18 hours per day, earning only Rs 50 (US\$0.68) (well below Rajasthan’s minimum wage of Rs 252 (US\$3.42) per day).²⁷¹ Between July 2020 and January 2021, another five children died in Rajasthan due to deplorable working conditions in bangle making units and malnutrition.²⁷² Four of the children, all from Bihar, were between 12 and 15 years old.²⁷³ A 12-year-old worker reported that “[o]ur maalik (owner) would force us to make lac bangles in the basement for 18-19 hours. He would not give us food on time and beat us.”²⁷⁴

Approximately 1,500 children were rescued from across Rajasthan in 2020, compared to 1,700 the year before; although, according to an official of the Anti-Human Trafficking Unit, the total number of children rescued in 2020 does not reflect actual circumstances because they could not conduct rescue operations during the lockdown.²⁷⁵ “Many children worked inside locked factories but they could not reach out to anyone or be rescued,” the official said.²⁷⁶

F. Sugarcane

A joint study issued last year, commissioned by the United Nations Development Programme and The Coca-Cola Company, raised concerns about the continuing presence of underage child labor in the harvesting of sugarcane, as well as confusion regarding the nature of advance payments to migrant laborers working in the industry that created associated risks of forced or bonded labor.²⁷⁷ The concerns identified in the study were reported to be applicable throughout the sugarcane producing states of Bihar, Karnataka, Maharashtra, Punjab, and Uttar

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ Tanushree Pandey and Manisha Mondal, *Covid Made India’s Child Labour Problem Bigger in Rajasthan, They Slog 18 HRS/Day for Rs 50*, ThePrint (Sept. 14, 2021).

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ See Aashish Aryan, *Study Flags ‘Labour Issues’ in Sugarcane Producing States*, The Sunday Express (Apr. 11, 2021). Reporting regarding the study was based on the reporter’s access to the study (“a copy of which has been reviewed by The Sunday Express”). See *id.* The Southern Shrimp Alliance, however, has been unable to locate a copy of the referenced study.

Pradesh, of which Uttar Pradesh is the largest producer in India, accounting for 40 percent of the sugarcane grown in India.²⁷⁸

V. **CONCLUSION**

The U.S. commercial shrimp industry recognizes that wages and labor costs in other nations, particularly those countries at lower stages of economic development, may be substantially below such costs in the United States. As with lax environmental and regulatory standards maintained by our trading partners, participating in a global market means that our industry must confront these challenges and compete for sales despite these differences in our operations. There are, nevertheless, unfair trade practices that our industry, pursuant to U.S. law and international agreements, should not be forced to compete with. Beyond sales of merchandise at less than fair value, government subsidization, use of IUU fishing, and a failure to protect marine mammal and turtle species, the U.S. shrimp industry should not be subjected to competition from supply chains that have been corrupted by the use of forced or child labor.

The Southern Shrimp Alliance believes that the dominance of the Indian shrimp industry in the U.S. shrimp market is the result, in part, of the proliferation of peeling sheds that take advantage of vulnerable populations and weak enforcement of laws prohibiting bonded and child labor. Our review of labor conditions in other supply chains of goods produced in India supports these concerns and we ask that ILAB take the information set out above into consideration in developing the 2022 *List of Goods Report*.

Thank you for any consideration you may provide to these comments and the supporting information included herein. I am available to address any questions you might have regarding this correspondence.

Sincerely,



John Williams
Executive Director

²⁷⁸ See *id.* Maharashtra accounts for 21 percent of the sugarcane produced in India, while Karnataka accounts for 11 percent. See *id.*

APPENDIX

APPENDIX

WEBSITE ADDRESSES FOR CITED MATERIALS

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