Study of Cases in National Commission for Scheduled Castes on Exploitation of Scheduled Caste Labour in the Brick Kiln Sector



GOVERNMENT OF INDIA NATIONAL COMMISSION FOR SCHEDULED CASTES

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Introduction

The incidence of bonded labour especially with regard to Scheduled Caste labourers is acute in the brick kiln industry. The Scheduled Caste labourers employed in this sector are most susceptible to atrocities like bonded and /or child labour and hence this population requires special governmental attention and action in order to eradicate such practices in the industry. The incidence of exploitation of Scheduled Caste population by this industry have increased sharply in the past year, and hence presents a picture of concern as per the data collected from the case records at the National Commission for Scheduled Castes (Details in Appendix 1).

Extent and Magnitude of Exploitation

It can be observed in **Graph 1** below, that the cases of bonded labour cases **related to the brick kiln sector** at NCSC have been on the rise over the past years. It has been observed through case files and interviews that labour for the brick kiln industry is mustered through familial networks in villages and that at a time a factory employs at an average 30-40 labourers. As per the data collected from the case files between 2011 to August 2015, it appears that approximately 1684 Scheduled Caste people have been subject to such exploitation¹. NCSC

¹ Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

⁻ In cases where a few names are given and it is indicated that others are also impacted, only the indicated names have been taken into account

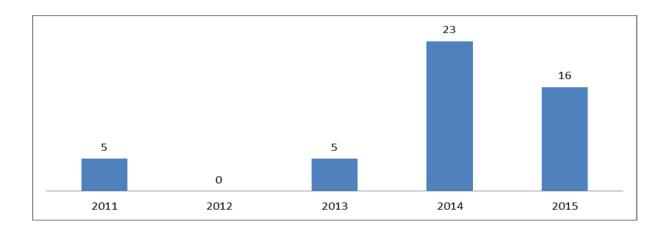
⁻ In cases wherein the number of families are given and it is also mentioned that others apart from these families are also impacted, an additional sum of 1 person is added so as to have a conservative estimate of the number of people affected

⁻ Where number of people have not been indicated only 1 person (usually the petitioner) has been considered to be affected for calculation purposes (i.e. the actual number of people affected may be greater than the calculated number)

has received cases of such exploitation in Uttar Pradesh (1418 people affected), Haryana² (86 people affected), Gujarat³ (62 people affected), Rajasthan⁴ (52 people affected), Punjab⁵ (60 people affected) & Uttarakhand⁶ (5 people affected) also totaling to 1684 people in six states. The number of people impacted per case ranges from an individual to over hundred Scheduled Caste people per case as is shown in **Graph 2**.

The ban on mining brick earth without Environmental Impact Assessment by the government had brought down the production⁷ of bricks in 2012, which may account for the absence of incidences reported to the Commission in 2012.

Graph 1 - Incidence of Bonded Labour Cases (brick kiln sector) in the NCSC (2011-August 2015)⁸



² Sl. No. 3,15,18

³ Sl. No. 21,23,29

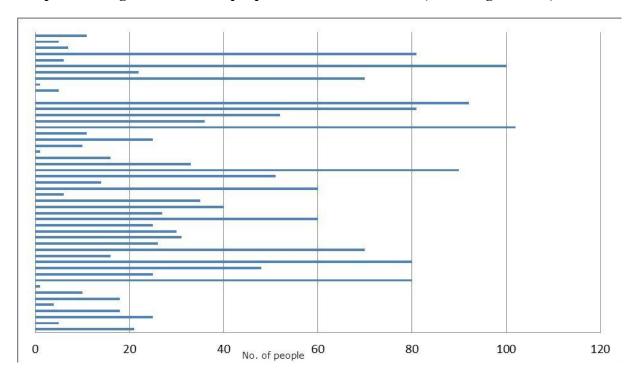
⁴ Sl. No. 10,20

⁵ Sl. No. 24

⁶ Sl. No. 2

⁷ As stated during demonstrations and dharnas by the All India Brick and Tile ManufacturersøFederation at the Jantar Mantar,

⁸ Source: Case Records, National Commission for Scheduled Castes



Graph 2 – Range of number of people affected in each case (2011-August 2015)⁹

Legal Implications

The following legislations were found flouted in the studied cases ó

- Bonded Labour System (Abolition) Act ,1976
- Child Labour (Prohibition and Regulation) Act ,1986
- SC/ST (Prevention of Atrocities) Act, 1989
- Protection of Civil Rights Act, 1955
- Indian Penal Code, 1960
- The Equal Remuneration Act, 1976
- The Minimum Wages Act, 1948
- The Payment of Wages (AMENDMENT) Act, 2005

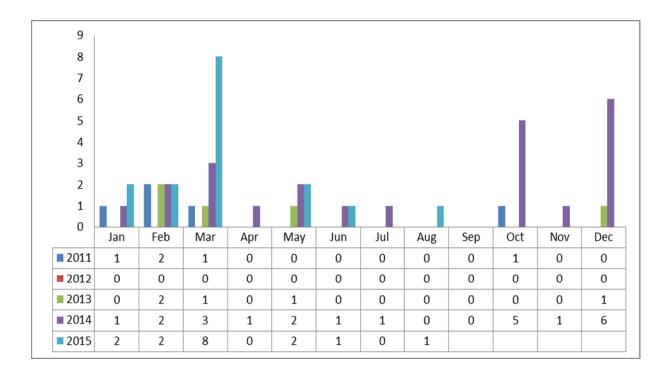
⁹ Source: Case Records, National Commission for Scheduled Castes

Trend Analysis of cases:

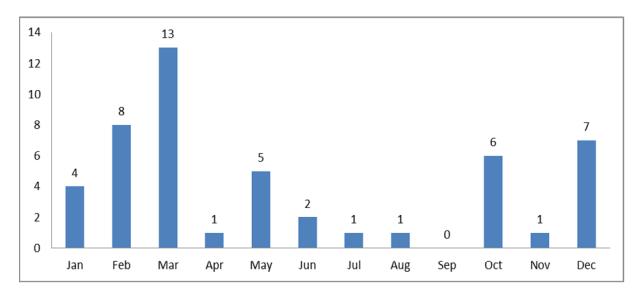
1. Seasonal Nature

Examination of the data at the head office of the National Commission for Scheduled Castes also reveal that such cases are of a seasonal nature and are usually reported in the period of October to March every year as can be seen in the **Graph 3** and **Graph 4** below:

Graph 3- Monthly and Year-wise Distribution of Bonded Labour Cases (2011-August 2015)¹⁰



¹⁰ Source: Case Records, National Commission for Scheduled Castes



Graph 4 – Aggregate Monthly Distribution of Cases (2011-August 2015)¹¹

2. Sourcing of Labour

A middleman/contractor hired by a brick kiln owner approaches poor communities (including SCs) for mustering workforce for making bricks. The labour is sourced through familial networks in villages as mass recruitments take place to get whole families working together towards the manufacturing process.

3. Promised Remuneration and Benefits

The promised remuneration in such cases, range between ₹ 200 to ₹ 700 for making a thousand bricks a day, along with other promised benefits like free provision of food, basic medication, schools for children, separate lavatories for females, some fuel and fodder and a shed for dwelling.

¹¹ Source: Case Records, National Commission for Scheduled Castes

These facilities appear extremely lucrative to the poor Scheduled Caste population living in indigence and deprivation; so much so, that they agree to work at the kilns without a written contract, only believing the verbal assurances of the middlemen.

Also, as per complaints seen in the case files, the middlemen beguile the low or non literate workforce to make signatures or thumb impressions on blank promissory notes and papers by paying a small advance to them which may range between ₹ 500 to ₹1000.

Once a sufficient amount of workforce starts production at the kiln (the usual batch of workers totals upto 30 to 50 people, often belonging to the same family or village), they are provided with the initially promised daily wages for a period of time.

4. Exploitation

In any case, on arrival the labourers realize that the promises of benefits such as schools for children, separate lavatories for females etc. are not fulfilled. The kiln owners have also reportedly inflicted violence on the poor scheduled caste labourers in the kiln. They are forced to work and make signatures on papers in case the same has not already been obtained. Over time, the daily wages also reduce to a level below minimum wages prescribed and same are inadequate to even obtain basic food for the labourers. It is also noteworthy that not only the adult males of the family are made to work but in fact, the whole family is forced into labour including the unwilling women and children. The crimes like child labour, threat of violence / murder, rape and other abuses are also reported in the cases from the brick kilns.

A petitioner at the Commission mentioned in his petition that when he pressed the agent of the kiln owner to provide the schooling facilities for his children as was promised he received the following reprimand:

õThey are sons of labourers, what will they do by studying?ö¹²

õYou are a Scheduled Caste person, you do your work or else you shall perishö¹³

Under threats of rape and violence, the families keep working as bonded labour. They are even confined to their working premises, under constant exposure to industrial hazards as they are working without basic protection equipment, plagued by diseases and hunger. Children¹⁴ are subjected to forced labour and harsh working conditions. A total of atleast 279 minors have been affected as per the case records.

These groups of people ó aged from 2 years to 70 years, families together¹⁵ along with at times their own cattle and petty belongings¹⁶, are confined to the premises of the kiln only to be let out once the requisite production is completed. The period of confinement ranges from 2 to 7 months.

5. Role of Police and Administration

When some of these Scheduled Caste bonded labour manage to escape and approach the police, they report that the police administration to be non-responsive and often under the

¹² Sl. No. 26

¹³ Sl. No. 36

¹⁴ Some examples: children mentioned Sl. No. 13,15,26, 37, 38 & families in sl no.2, 3,16 as per police reports

¹⁵ Some examples: children mentioned Sl. No. 13,15 ,26 & families in sl no. 2,3,16 &

^{- 90} persons at Sl. no 27, as per police reports

^{- 47} minors as per Sl. No. 38

¹⁶ Sl. No. 34

influence of the brick kiln owners. Only as a last resort, some of approach the National Commission for Scheduled Castes, which intervenes on their behalf.

The petitioners have also reported to the Commission that the police appear to be accomplices in the practice of forceful confinement of labourers on behalf of the brick kiln owners.

The police, in all of the cases received by the Commission, have been observed to have been reluctant in taking any action against the brick kiln owners/ operators, despite incessant and repeated complaints of the petitioners and it is noticed that action is taken only after the case is taken up and pursued by the Commission.

The initial investigation reports received from police authorities in the Commission were examined and a common trend of reporting was observed. In 45 out of the 49 cases studied, the typical police report read more or less as follows:

When the police investigated in the matter at the said location, the complainant was not found at the factory premises. When the complainant was contacted on telephone number 0xxxxxxxxxx and was called to give his witness, he did not make himself present. Then the son of the owner of the brick kiln was interrogated. His witness was recorded.

According to the son of the owner of the brick kiln xx families were brought for work from xxx village by xxx person. The workforce included women and children. The family of xxx was given a sum of ₹ yyyyyy by me via the middleman (thekedar), xxxx family was given a sum of ₹ yyyyyy, son of XXXX was given ₹ yyyyyy, xxx son of xxx received ₹ yyyyyy í ..

₹ yyyyyy was given to xxxx for foodí .. õif any labourer wants to close their accounts with the

factory and leave I have no objections to thatö. 17

The police reports were found to further state that the prime complainant was not working at

the kiln on the date specified by him and had left the kiln much earlier along with his family.

As per the report, there was no question of non-remuneration and in fact, the complainant owes

some amount to the brick kiln owner.

The reports from the District Labour Officers (DLO) are also found to follow a similar pattern,

viz, DLO inquired into the matter and recorded statement of the complainant wife and family

who stated that no atrocities were inflicted upon them and they were not made to work and

their father/husband was being paid in a timely manner.

Hence, the police / DLO reports received in NCSC are found to have concluded one or more

of the following points:

• The complainant owes some amount to the brick kiln owner

• The Brick Kiln owner has made timely and complete payments to the workers

• No forced or bonded or child labour was employed in the said industry

• No atrocities were inflicted on the employed labour and no forceful confinement of

labour was found

• The Complainant was currently not working for the said alleged employer¹⁸

• The Complainant did not make himself/herself available for police investigation

¹⁷ Some examples : Sl. No. 2,5,9,14,20,21

¹⁸ Some examples Sl. No. 2, 3,7,18,19

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In 46 out of 49 cases received in NCSC, the charges leveled against the brick kiln owners were

found to be baseless as per the police reports¹⁹.

6. Impact of the Intervention of the National Commission for Scheduled Castes

In most of the cases, the labourers were freed²⁰ as soon as the Commission issued initial

notices.

In a rejoinder sent by the complainant²¹, mentions the following:

When the Commission sent notices to the brick kiln owners they were petrified and they freed

all of the labourers paying most of them. When the labour department prepared the

investigation report, they were influenced by the alleged and colluded to omit all the incidences

of atrocities from the report. The police report sent to the Commission is based on the report of

the Labour department. Now we are working at some other place and have received our dues

and thereby want to withdraw the case.

¹⁹ Some examples Sl. No. 1,4,11,12,26

²⁰ Some examples: Sl. No.2, 3,4,6,7,22

²¹ Sl. No. 7

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7. Corroboration





Maharashtra Bihar

Field visits were conducted by the Commission officers on 24-08-2015 in Pune, Maharashtra and on 04-10-2015 in district Bhagalpur, Bihar. The facts presented in this report were corroborated in the field visits.

Maharashtra: A large number of Scheduled Caste employees are employed in the brick kilns along with their families. The wages of the Scheduled Caste workers are low - ₹ 200 per day. Non-payment of wages in the promised time period is a frequent problem faced by the Scheduled Caste labourers here.

Exploitation of labourers along with their families is rampant. No educational facilities for the children of the labourers have been provided. During the monsoon season the brick manufacturing work remains on halt and therefore, the whole employment is seasonal in nature.

(demographic details of the studied group in Pune, Maharashtra are in Appendix 2)

Bihar: The Scheduled Caste labour comprises between 10% to 50% of the total workforce. November to May is the peak season of employment. The working conditions of the brick kiln labourers are hard and hazardous and no healthcare facilities were provided for them

Workers live with their families including women and children in extremely poor conditions with many kuccha houses, with no toilet facilities.

The families have no money to spend over children¢s education and welfare since the wage rates are extremely low. There is large scale exploitation of Scheduled Caste labourers as wage rates amount to ₹ 150 per day for women and ₹ 170 per day for men, which is below the notified wage rates. Also, wage payments are often delayed.

(details of the families interviewed in Bhagalpur, Bihar are in **Appendix 3**)

8. Conclusion

The study of the cases show that there are cases of exploitation, bonded /child labour in the brick kilns. Though the reports of the Police / DLOs uniformly deny existence of such cases, the similarities / uniformities in the reports of the Police / DLO as pointed out above, substantiate the concerns raised in the past by the National Commission for Scheduled Castes and the National Human Right Commission that there is exploitation of the poor Scheduled Castes in this unorganized sector. Also, the possibility of forced compromises being imposed by the police authorities under the influence of caste bias and pressure from crony capitalists cannot be ruled out. The field visits by Commission corroborate the exploitation and the poor living conditions.

9. Recommendations:

The Commission recommends to the State governments concerned (i.e. Uttar Pradesh, Uttarakhand, Rajasthan, Punjab, Maharashtra, Gujarat, Haryana & Bihar):

- 1. Since the brick manufacturing season starts from August to September, state governments may consider compilation of a list of the brick manufacturing firms and sending such firms statutory notices / communications by the month of August-September explaining the legal position and repercussions related to the exploitation of scheduled castes as bonded labour / child labour.
- 2. Issuance of strict instructions to the Labour Department by the concerned State Governments for periodic inspections and submission of returns by the District Labour Officers in the brick making season to ensure that the provisions of the relevant Acts are not flouted.
- The state Governments concerned may consider issuing instructions for scheduling of
 joint inspections by the senior police officials and the District Labour Officer where
 there are complaints received.
 - a. It must be ensured that no child labour is employed in the said industry;
 - b. That the employers provide basic amenities and adequate living conditions and toilets for workers on manufacturing site; and
 - c. Healthcare facilities under the various schemes such as the *Rashtriya Gramin Jeevan Suraksha Yojana* and other such schemes may be provided and it must be ensured that the benefits in such schemes duly reach all concerned, including Scheduled Caste Labourers and their families.

- d. That access to nearby Government schools is provided to the children of the labourers.
- 4. The state Governments concerned may consider issuing orders for training and sensitization of the DLOs and police officials in districts towards the problems of the poor Scheduled Caste persons employed in the sector.
- 10. Agenda of the monitoring meeting of Commission with States: The Commission will also include the prohibition of employment of bonded labour in the brick kiln sector and steps taken on the recommendations above as a monitoring point in Annual Meetings with the Chief Secretaries, Directors General of Police and other officials of the respective states and will also include the above parameters in Annual Review of the respective states carried out by the Commission.

Appendix 1: NCSC Case Details

	Cases in NCSC Head Quarters						
Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²²	
1	UP/5/2011	2011	Jan	PR ²³ 16.2.2011 Ghaziabad , UP	21 people (5 minors)	21	
2	UP/22/2011	2011	Feb	PR 24.3.2011 Haridwar, Uttarkhand	1 family (3 minors) and others	5	
3	UP/30/2011	2011	Feb	PR 10.3.11 Jajjhar, Haryana	5 families	25	
4	UP/60/2011	2011	Mar	PR 20.5.11 Baghpat,UP	18 people (including 8 minors)	18	
5	UP/291/2011	2011	Oct	PR 12.03.2012, Aligarh,UP	4 people and others	4	
6	UP/8/2013	2013	Feb	PR 13/3/14, Baghpat,UP	23 people (including 6 minors)	18	
7	UP/26/2013	2013	Feb	PR, 06.3.2013 Ghaziabad UP	40 people (including 18 minors)	10	

²² Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

⁻ In cases where a few names are given and it is indicated that others are also impacted, only the indicated names have been taken into account

⁻ In cases wherein the number of families are given and it is also mentioned that others apart from these families are also impacted, an additional sum of 1 person is added so as to have a conservative estimate of the number of people affected

⁻ Where number of people have not been indicated only 1 person (usually the petitioner) has been considered to be affected for calculation purposes (i.e. the actual number of people affected may be greater than the calculated number)

²³ PR is Police Report.

Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²⁴
8	UP/48/2013	2013	Mar	No PR, Meerut, UP	Number of people not mentioned (there are a number of labourers with families working as bonded labour - this much is mentioned in the petition)	1
9	UP/86/2013	2013	May	PR 29.7.2013 Bagpat,UP	16 families (including minors)	80
10	UP/270/2013	2013	Dec	PR, 16/1/2014, Alwar, Rajasthan	25 people (including minors)	25
11	UP/29/2014	2014	Jan	PR 12.8.2014, Baghpat,UP	48 people	48
12	UP/41/2014	2014	Feb	PR 02.3.2014, Hapur, UP	16 families	80
13	UP/71/2014	2014	Mar	DM report, 03.4.14 Shamli ,UP	16 people (including 6 minors) and others	16
14	UP/73/2014	2014	Mar	PR 17.4.2014,Baghpat,UP	14 families (including minors)	70

²⁴ Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

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Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²⁵
15	UP/75/2014	2014	Mar	PR-18.4.14, Mahendarnagar, Haryana	26 people (including 12 minors)	26
16	UP/88/2014	2014	Apr	PR 22.9.2014, Baghpat ,UP	31 people (including 12 minors) - at another place a figure of 26 families is mentioned	31
17	UP/95/2014	2014	May	PR 28.6.2014, Baghpat,UP	6 families (along with others from village Meetli, Baghpat)	30
18	UP/107/2014	2014	May	PR 17.7.2014,Rewari, Haryana	25 people with family and others	25
19	UP/144/2014	2014	Jun	PR 08.7.2014,Baghpat,UP	12 families	60
20	UP/356/2014	2014	Oct	PR-Jhunjhunu (Rajasthan)- 16.3.15	27 people (including 17 minors)	27
21	UP/364/2014	2014	Oct	Vadodara, Gujarat, PR -16.4.2014	40 people (including 17 minors)	40
22	UP/391/2014	2014	Oct	PR 26.11.2014, Azamgarh ,UP	35 people (including 10 minors) and others	35

²⁵ Method of calculation of number of people affected:

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Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²⁶
23	UP/393/2014	2014	Oct	No Report, Kheda , Gujarat	6 people with families	6
24	UP/401/2014	2014	Nov	Amritsar, Punjab- PR 25.11.2014	12 families	60
25	UP/462/2014	2014	Dec	PR 21.2.2015 , Baghpat,UP	14 people and others (including minors)	14
26	UP/463/2014	2014	Dec	PR 05.3.2015,Hapur,UP	51 people (including 31 minors)	51
27	UP/467/2014	2014	Dec	PR -22.2.2015 Rampur,UP	90 people (including approx. 43 minors)	90
28	UP/496/2014	2014	Dec	No. Report	33 people (including 12 minors)	33
29	UP/498/2014	2014	Dec	PR 18.3.2015 Vadodara , Gujarat	16 people (including 8 minors) and others	16
30	UP/505/2014	2014	Dec	No PR	number of people not mentioned	1
31	UP/21/2015	2015	Jan	PR 24.2.15 , Sonepat , Haryana	10 people (including 1 minor)	10
32	UP/117/2015	2015	Jan	PR 06.6.15 , Bulandshahar,UP	5 families (including 8 minors)	25

²⁶ Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

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Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²⁷
33	UP/118/2015	2015	Feb	PR-10.3.2015, Baghpat ,UP	11 people (including 3 minors)	11
34	UP/203/2015	2015	Mar	PR- 15.4.2015, Ghaziabad UP	17 families + 6 cattle	102
35	UP/206/2015	2015	Mar	PR ó 07.4.2015,Baghpat,UP	36 people (including 18 people under 18 years of age)	36
36	UP/228/2015	2015	Mar	PR- 08.4.2015, Ghaziabad, ,UP	52 people (including 15 minors)	52
37	UP/258/2015	2015	Mar	PR 27.5.2015 Bulandshahar,UP	17 families (81 people)	81
38	UP/244/2015	2015	Mar	PR- 09.5.2015, Bulandshahar ,UP	92 people (approx. 23 families, 47 minors)	92
39	UP/69/2015	2015	Mar	PR - 21.5.2015, Ghaziabad, UP	 Total (A)	0 1375

²⁷ Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

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		(Cases in NC	SC Lucknow State Office		
Sr. No.	File number	Year	Month	Police Report	Approx. Number of Affected people	Calculated no. of people Impacted ²⁸
40	3/107/2014	2014	Feb	PR-24.02.2015, Gautambuddhnagar UP	1	1
41	3/1141/2014	2014	Oct	PR - 15.11.2014 Shravasti, UP	1 family and others	5
42	3/828/2014	2014	Jul	PR- 27.12.2014, Ghaziabad, UP	1 Person	1
43	3/215/2015	2015	Feb	PR - 25.3.2015, Baghpat, UP	14 families	70
44	3/272/2015	2015	Mar	PR - 7.4.2015, Baghpat, UP	22 people (including 2 minors)	22
45	3/516/2015	2015	May	PR - 9.6.2015 - Allahabad, UP	20 families	100
46	3/417/2015	2015	Mar	PR - 19.5.2015 - Sikandarabad, UP	3 people and others	6
47	3/527/2015	2015	May	PR - 23.7.2015 - Meerut, UP	81 people	81
48	3/555/2015	2015	Jun	PR - 25.6.2015 - Shravasti, UP	7 people	7
49	3/908/2015	2015	Aug	NO PR, Bandha, UP	1 family	5
				_	11 people Total (B)	309
				Grand Total: (A) + (B)	Total (D)	1684

²⁸ Method of calculation of number of people affected:

⁻ In many cases only the number of families is mentioned, in such cases, the size of the family is taken to be of 5 members as per the average family size indicated in the census 2011 (as per 2011 census average family size is 5.3)

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Appendix 2: Demographic details of the group interviewed by the Commission Officials in Pune, Maharashtra on 24-08-2015

Sr.	Name	Age	Highest level of	Marital Status	No. of	Wage
No.			education		Children	Rate
1	Janardhan Ghodke	40	Class 7 th	Married	3	200
2	Chaya Mukesh Aathaav	35	Class 10 th	Married	4	200
3	Shri Bhausaheb Ingole	35	Class 7 th	Married	4	200
4	Manisha Ranjendra Saakhre	30	Class 5 th	Married	3	200

Appendix 3: Details of families interviewed by the Commission Officials in Bhagalpur, Bihar on 04-10-2015

Name of Head of Family	Age	Wage Rate
Gopal Rishi	55	170/day
Sargun Rishi	57	170/day
Rabbi Rishi	70 (wife 60)	170/day (for women ó 150/day)