

An Exploratory Study of Children Engaged in Rat Hole Mining in the Coal Mines of Jaintia Hills District, Meghalaya



Conducted By:



YOUR FRIENDS OF HOPE AND LIFE

Supported By:



This Research Publication is conducted by:

Impulse NGO Network

Temple Road
Near Horse-Shoe Building,
Lower Lachumiere
Shillong – 793001
Meghalaya, India
Phone No: 91 – 364 – 2503140
Fax No: 91 – 364 – 2221859
Email ID: ingon@rediffmail.com
Website: www.impulseasia.org

Supported by:

Aide et Action

Guwahati Regional Office,
House no-38, Ground Floor,
Basisthapur Bye Lane-2, Beltola,
Guwahati-781028, Assam, India
Phone No: 91 – 361 – 2229694
Fax No: 91 – 361– 2229694
Website: www.aide-et-action.org

This publication is for Private Circulation. Any part of this publication may be reproduced or transmitted in any form or by any means, with due acknowledgement from Impulse NGO Network, Shillong, Meghalaya, India and Aide et Action, Guwahati, Assam, India.

The view point expressed in this publication is entirely that of the Research Team, Impulse NGO Network, who based the research study on primary and secondary data collected during the period 2009-2010.

First Published: December 2010

Conducted by:



Temple Road, Near Horse Shoe Building, Lower Lachumiere, Shillong-793001, Meghalaya, India.

Supported by:



Guwahati Regional Office, House no-38, Ground Floor, Basisthapur Bye Lane-2, Beltola,

Guwahati-781028, Assam, India

Forward I

It is estimated that 158 million – that is, one in six children between the ages of 5 to 14 – are engaged in Child Labour in the World. What drives these children to work is the lack of opportunity to obtain a good quality education in the rural areas they live in. Moreover, the fact that where the child lives is plagued by armed conflict, sex exploitation, child labour among many other human rights violations. The UN Convention on the Rights of Children (CRC) (Article 38) has explicitly prohibited a person under age 18 being recruited into the armed forces or directly participating in hostility. In spite of this special provision under the CRC, many children below the age of 18 years are involved in hostilities as well as child labour.

Impulse has 10 years of experience in combating child trafficking within the eight states of North East India and presently, Eastern India of Darjeeling and Silliguri. It was during the cross-border restoration that IMPULSE acknowledged the existence of children working in the coal mines in Meghalaya. It has been brought to light that the grave situation of human trafficking not only takes place from the North East to other parts of India or South East Asia, but also that children are being trafficked across the border from Bangladesh and Nepal, representing the north east as a destination for child labor – especially the Meghalaya coal mines of Jaintia Hills.

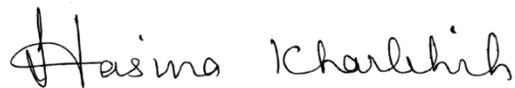
The employment of children under the age of 14 is illegal in India under Child Labour (Prohibition and Regulation) Act 1986; however, this is being ignored by operators of the mines on the grounds that they are unscientific. Research showed that large densities of children were being exploited into labour in this part of Meghalaya in particular. This shocking realization led to the foundation of an intervention by Impulse to expose the blatant breach of human, and more importantly, child rights violations in the coal mines of the Jaintia Hills. IMPULSE started intervening in the matter of children being trafficked to work in the coal mines of Jaintia Hills, Meghalaya in 2007, thereby visiting the mines, followed by mapping the area and collecting data on it.

One part of the intervention was with the State and Central Government where IMPULSE had dialogue with the different concerned Government Departments through a series of meetings, round-table discussions and letter correspondences. However, no response was received from the Government, which in fact, delayed the process of intervention and rescue of children from the coal mines. The slow reaction from the Government led IMPULSE to appeal internationally which resulted in the Asian Human Rights Commission joining the campaign with IMPULSE. Thenceforward, the two organizations commenced working side by side as partners to formulate a front against child labor trafficked in the coal mines of Jaintia Hills, and thus came about the application of the Meghalaya Model. A media campaign applying the Meghalaya Model upholding 5 Ps (Prevention, Protection, Policing, Prosecution and Press) was ensured and brought about massive awareness of the issue of child labour in the coal mines, illuminating the magnitude of the problem. IMPULSE partnered with National and International media worldwide to raise awareness and public opinion with regards to stopping market supply change. The idea is to break the supply change and make them aware about the source from where the raw materials are derived and the involvement of children in the process. Hence, Media intervention has proved to be successful in creating massive awareness and addressing the issue concerned.

IMPULSE is in fact thankful to the media such as France 24, Tehelka, Lamonde, France 2, Hindustan Times, Freelance Writer, and other agencies such as EBT-Nepal, AHRC, and Human Rights Now for all their support and concern towards the intervention of children being trafficked to work in the coal mines of Jaintia Hills, Meghalaya. Further, IMPULSE is thankful to the entire research team whose active participation and involvement have made the research possible.

We are glad that Aide et Action stepped forward to provide financial support for the intervention. This included research on both primary and secondary data. This research helps understand and look at the ground situation of children being trafficked across borders for labour purpose in the coal mines of Jaintia Hills, Meghalaya.

IMPULSE expects that this research report would be a base for the Government and Policy Makers, and the concerned Agencies to come forward to take further action and support in the rehabilitation, providing legal assistance to the children working in the coal mines of Jaintia Hills, Meghalaya, thereby ensuring the rights of every child.



*Hasina Kharbhiih
Team Leader Impulse NGO Network
(www.impulseasia.org)*

Forward II

Child labour has been a serious concern for child rights activists and considered as a serious violation of human rights. According to the statistics provided by ILO and other agencies 73 million children between 10 to 14 years of age are employed in economic activities all over the world.

The current status of child labour scenario in India has been a serious issue for the whole of the world, and there are a number of studies to support the condition of child labour engaged in carpet making factories, glass blowing units and making fireworks with bare little hands. According to the statistics given by Indian government there are 20 million child laborers in the country; however, non government organizations claim it to be around 50 million.

To begin with, industrial revolution has had a negative Impact with the outcome contributing rise to circumstances that encourages child labor. Study findings reflect that factories and industries prefer to employ child workers in the developing countries because children can be recruited at cheap rates, more work can be extracted from them and there is no problem of unionization of workers. . This has also pushed the adult from the labour force and makes it difficult for adults to find jobs in factories, compelling them to send their little ones to work so that it would keep the fire burning their homes.

With uneven economic growth in South Asia and particularly in India, incidence of child labour has been a growing concern for the government and the civil society organization in India. Children are often being used to work in sectors like cotton seed, apparel factories, stone quarries, slate industries, brick kilns and mining. The process of child recruitment to work in hazardous industries, construction, mining and agriculture is a regular practice in most parts of the poverty stricken regions to the more economically developed regions through the middleman. Due to lack of monitoring and law enforcement, most of the children are illegally brought to the worksites and kept in semi bondage conditions and employed in hazardous work in testing conditions.

The child miners in Jaintia hill is a classic case where children are illegally brought from various locations of India and Nepal and forced to work in the coal mines which operate in remote locations and use primitive methods of digging coal through rat holes. Aide et Action has partnered with IMPULSE, a Shillong based organization, which has been extensively working on child rights and trafficking issues, to do a study on the status and condition of the children engaged in the rat hole mining.

I am grateful to Hasina Kharbhih and her team at IMPULSE NGO Network for conducting the study in the mining area and compiling this report, which will help all concerned to understand, disseminate and advocate on the plights of children and ensuring recognition of child rights and take action to stop it.

Last but not the least; I owe my thanks to Ms Dipjyoti Sundaray, Regional manager and her team members of Aide et Action Guwahati Regional office for initiating the study with IMPULSE.

*Umi Daniel
Head- Migration Thematic Unit,
Aide et Action South Asia*

Table of Contents

EXECUTIVE SUMMARY	8
Abbreviations	9
Chapter I - 1.1 Introduction.....	10
1.2 Research Objectives	12
1.3 Research Methodology	12
1.3.1 Timeline of Study	13
1.3.2 Sampling Technique	13
1.3.3 Data Collection Tool	14
1.3.4 Data Collation and Analysis.....	14
1.3.5 Challenges During Field Research.....	14
Chapter II - Data Analysis.....	16
2.1 Sample Overview	16
2.2 Demographic Composition	16
2.3 Nature and Conditions of Work	18
2.4 Educational Background.....	23
2.5 Unaccompanied Children.....	24
2.6 Desire to Leave Work in the Mines	25
2.7 Financial Exploitation.....	26
2.8 Process of Recruitment.....	27
2.9 Drug Abuse and Alcoholism.....	28
2.10 Corporal Punishment	28
2.11 No Safety Net Against Injury or Death.....	29
2.12 Rise in Juvenile Delinquency.....	32
2.13 Prostitution	32
2.14 Scarcity of Water	33
2.15 Unhygienic Living Conditions.....	34
Chapter III - Recommendations	36
3.1 Short-Term Intervention	36
3.2 Medium-Term Intervention.....	36

3.3 Long-Term Intervention.....	36
References	38
Annexure.....	39
1. Information on the Jaintia Hills	39
2. The Coal Industry in Meghalaya	40
3. The Process of Rathole Mining.....	42
4. Coal Industry in the Jaintia Hills	43
5. Initiatives of Impulse NGO Network to Combat Child Labour in the Jaintia Hills.....	47
6. Reports of Other Organizations.....	48
i) Asian Human Rights Commission Findings (AHRC): November 23, 2009.....	48
ii) Esther Benjamin Trust (EBT)-Impulse Research Report: December 15, 2009	50
iii) Report of Fact-Finding Mission of Human Rights Now (HRN), Japan: June 5, 2010.....	52
7. Government Interventions.....	54
8. Public Interest Litigation.....	58
9. International Lobbying Initiatives	58
10. Media Initiatives.....	58
i) Investigative Report of the France 24 Team: May 11, 2010.....	58
ii) Hindustan Times News Report, June 06, 2010	59
iii) Le Monde News Report: June 12, 2010.....	59
iv) Tehelka News Report: July 3, 2010.....	60
11. Violation of International Laws	61
12. India’s Obligations under National Law	63
13. State and Local Regulations and Obligations	68

EXECUTIVE SUMMARY

The current research was designed to profile child labor in and around the mines of Jaintia Hills, district of Meghalaya. The aim of this investigation was to take a small, yet meaningful snapshot of children defined under a particular target group; children, 17 years old and younger, who were engaged in coal mines with different level of in the coal mines. A rapid assessment was carried out to meet this primary objective of the study, adopting an open interview schedule as the main instrument of data collection. In sum, 200 child laborers working at the coal mines of Jaintia Hills were interviewed by a team of field researchers who made daily commutes to the mining sites during a 5 day period.

Some of the major findings identified by this research have been incidental to its main aims, financial exploitation, the recipients of child income, child laborers wishing to leave work at the coal mines, unaccompanied child laborers, the process of recruitment of the children, abuse of working hours, hazardous working conditions and denial of low level education.

The research recommends further contact with numerous children presented in the finding as highly vulnerable or at risk. Case follow ups should be undertaken to confirm the nature of each child's situation and to plan future actions in the best interests and wishes of all target children, and children identified as exploited or at risk. It is further hoped that the findings presented will be used to inform decisions on how to proceed with local intervention planning for anti child labor strategies.



1: A 'Rat hole' mine in the 4 Kilo coal quarry (7 February, 2009)



2: A young child breaks coal in the mines (May31, 2010)

Abbreviations

AHRC - Asian Human Rights Commission

CL - Child Laborer

CRC - Child Rights Convention

CSWO - Civil Society Women's Organization

EBT - Esther Benjamin Trust

FR - Field Researchers

FRT - Field Research Team

HRN - Human Rights Network

ICCPR - International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

ILO - International Labor Organization

NCLP - National Child Labor Programme

NCPCR - National Commission on Protection of Children's Rights

NGO - Non-Government Organization.

PIL - Public Interest Litigation

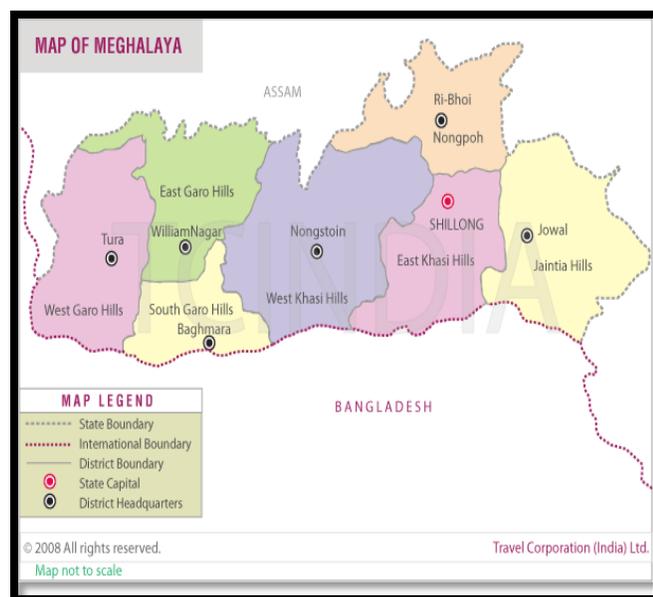
Chapter I – 1.1 Introduction

The Jaintia Hills district, a region unique for its complex demographic composition of aboriginal tribes, the prevalence of a century-old indigenous administrative system and a rich reserve of mineral resources, is one of the seven districts in the state of Meghalaya located in North-eastern India. Since the 1990's, a burgeoning coal industry, that is fast becoming the mainstay of the broader economy of the state of Meghalaya, has taken root in the Jaintia Hills. Protected by the Sixth Schedule of the Constitution of India that grants exclusive land rights to indigenous tribes in the state of Meghalaya and encouraged by the expanding international market for coal, local entrepreneurs have developed a highly unscientific and unregulated system called 'rathole mining' for the commercial exploitation of coal. Further, the strategic location of Jaintia Hills on the largely porous border of Bangladesh facilitates the easy export of coal to the international market and the infiltration of cheap labor into the coal industry. The absence of state regulation of the coal industry and the lack of strict enforcement of labor laws has encouraged local entrepreneurs to exploit the cheapest sources of labor that would ensure maximum profit – poor migrant children from Nepal, Bangladesh and from other states of India have therefore become a natural target for the coal entrepreneurs in the Jaintia Hills. The unfortunate prevalence of child labor in the context of human trafficking that constitutes severe violation of international conventions on human rights and children's rights has drawn the attention of the international community to the plight of children illegally employed in the coal mines in Meghalaya.

State Map of Meghalaya



District Map of Meghalaya



(Source: www.mapsofindia.com)

Sporadic newspaper reports estimate that there are 10,000 people, mostly children trafficked every year into Northeast India from Nepal, Bangladesh and Southeast Asian countries, there is an absence of systematic research to estimate the specific number of children working in the coal industry in the Jaintia Hills. Preliminary investigations by Impulse



3: A child digging coal inside a rat hole (Cement Factory: 31 May, 2010)

NGO Network since March 1997 has confirmed the presence of a large number of children illegally employed in the coal industry in Jaintia Hills¹. Media reports and other international NGOs have reported the severe violation of children in the Jaintia Hills.²

The initial reports about the absence of safety regulations, the deaths of children that go unreported in the mines and the exploitative living and working conditions indicate that the prevalence of child miners in the Jaintia Hills constitutes what has been categorized as the 'Worst Forms of Child Labor' under the 1982, ILO Convention. Given the serious nature of human rights violations in the Jaintia Hills, a comprehensive research on the living and working



4: Carrying coal to and fro from the coal heaps to the trucks. They earn depending on the amount of coal they can carry. Sometimes they make up to 150 trips a day. (Wapung Poh Shnong, 31 May, 2010)

conditions of children in the coal industry is of urgent contemporary concern. In light of this urgent necessity that is a first step towards further policy intervention; Aide et Action has extended its support to Impulse NGO Network to undertake a survey-based 15-day exploratory assessment of the magnitude and conditions of child labor in the Jaintia Hills in Meghalaya.

¹ A Field Study 'Baseline Study on the Survey in Jaintia Hills District, Meghalaya' was conducted by interns from Tata Institute of Social Sciences, Mumbai from March 28, 2007 to April 3, 2007 under the supervision of Impulse NGO Network. The detailed report is available with Impulse NGO Network.

² For reports made by other organizations, please see Appendix.

1.2 Research Objectives

The following is a list of key research questions to be answered by the study.

- i) *Numbers of children, also as a percentage of the work force in each mine;*
- ii) *Nationality and ethnicity as percentage of the workforce in each mine;*
- iii) *Ages and sex;*
- iv) *Place of origin and child's family;*
- v) *How they came to be in the mines, contracts and financial transaction with families (if no). The names and as much information as possible on agents;*
- vi) *The presence of siblings in the mines or in other trafficking destinations;*
- vii) *The nature of work performed;*
- viii) *Hours of work, wages, leave;*
- ix) *Precautions, safety equipment available to the children*
- x) *Working conditions – hours, pay, food, rest, freedom to associate with others or to leave, health and safety considerations, punishment, seasonal variations in working practice.*
- xi) *The use of violence in the mines. This could include sexual violence;*
- xii) *Desire to leave the mine and if so to where.*

1.3 Research Methodology

A rapid assessment methodology was adopted to map the status of children working in the coal mines in the Jaintia Hills. Given the short time-period of this exploratory study, the rapid assessment was considered to be the best approach to understanding of the opinions, behaviors and motivations of the target group and also to provide a snapshot of the prevalent working conditions in the target location. Field research took place during a series of 5 visits to 10 different mines in the Jaintia Hills. The field trip was held between August 10 to August 14, 2010 and a total of 200 child laborers were interviewed.



5: *Steep, sheer holes are punctured 100-180 ft. into the ground in the Myrsieng coal mine quarry. At the bottom of these pits, on each side of the walls, 'rat holes' are burrowed and laborers go digging inside these ratholes for coal. (7 December, 2009)*

1.3.1 Timeline of Study

Date	Event
August 09, 2010	Orientation of Field Research Team (FRT) at Impulse Headquarters in Shillong
August 10, 2010	Departure to Field and Field Testing of the Questionnaire
August 11 - August 14, 2010	Field Research
August 15, 2010	Return of FRT to Shillong and interaction with migration expert in Impulse headquarters in Shillong.
August 16-18, 2010	Data Collation and Analysis
August 19-22, 2010	Report Compilation

1.3.2 Sampling Technique

A random sampling technique was adopted to choose the locations of the mines in order to ensure that there was no systematic bias in our analysis. For instance, if we had chosen only mines near the Bangladesh border, there would be a higher likelihood of finding migrant children in the mines which would bias the results of our study. A list of the 10 randomly chosen mining locations is included in Table 2. Our sample universe of 200 children were also randomly chosen so as to provide an unbiased estimate of the numbers, composition and the working condition of the children in the mines.³



6: A child burrowing away into a rat hole with a pick-axe (8 Kilo: 31 May, 2010)

³ The excel sheet containing details of the sample is included in the Report.

Table2: Mining Locations

Mining Areas Visited by FRs: Site No.	Name of Interview Sites
1	Ladrymbai
2	Cement Factory
3	Khliehriet
4	Myndihati
5	Kanchi Bazar
6	Sutnga
7	Soo Kilo
8	Kongong
9	Nonjiri
10	Tuber



7: Ladrymbai is a bustling hamlet around 150 kilometers from Shillong. Here, trucks carry coal and taxis carry men and boys to and from border towns. (Dec 2009)

1.3.3 Data Collection Tool

Open ended interview schedule was used to collect information, with was pre-tested and modified to suit the situation. Case history

1.3.4 Data Collation and Analysis

The data collected from the survey was carefully collated

into excel sheets under the following thematic subsets i) Demographics, ii) Education iii) Process of recruitment iv) Working conditions, including wage, leave and hours of work v) Safety issues. This data was systematically analyzed

to give a holistic picture of the demographic background and the living and working conditions in the mines.

1.3.5 Challenges During Field Research

Without an easily accessible target group, FRs had to walk long distances between camps and often experienced communication challenges in dealing with various local dialects. Some of these explorations were made through interior jungles in search of child laborers at more obscure locations. Although respondent participation was generally high however some children abandoned the interview or refused large portions of the questionnaire. FRs noted that the children found several of the questions uncomfortable to answer. For example, when asked “What do you like/dislike about your job?” a response was not commonly given and the FR could sense the child’s uneasiness or embarrassment. Respondents also appeared to have difficulties discussing who they live with and who brought them to the mines. The limited

number of female respondents presents a gender bias in the findings and therefore labor amongst girls is not well represented. One of the limitations of this research is the heavy reliance on self-reporting reliability, since there is no method of cross-checking the answers provided by the survey group.



8: Laborers go down these precarious bamboo ladders, slimy with moss and rain, where a mere slip can mean plunging to certain death (Cement Factory: 26 April, 2010)



9: Environmental degradation in the 4 Kilo coal mine quarry area. Trees are cut indiscriminately to facilitate mining. (7 December, 2009)

Chapter II – Data Analysis

Data analysis was based on an innovative mixed approach of combining both quantitative and qualitative analysis of available data. The quantitative results were primarily drawn from the results of the survey of 200 children conducted during the 15-day time period. The qualitative analysis was founded on detailed case studies and on analysis of secondary sources of information. The findings are summarized below:

2.1 Sample Overview

A total number of 200 children working in the coal mines in Jaintia Hills were interviewed in the 15-day exploratory assessment. There were 99.5% boys and 0.5% girls in the sample. 20% of the children described themselves as migrants from Nepal, while the remaining 80% said that they had come from different states in India⁴. The age of children sampled in this assessment varied from five years to seventeen years. However, the maximum numbers of children was between twelve and seventeen years of age.

2.2 Demographic Composition

The detailed demographic composition of the sample population is presented below.

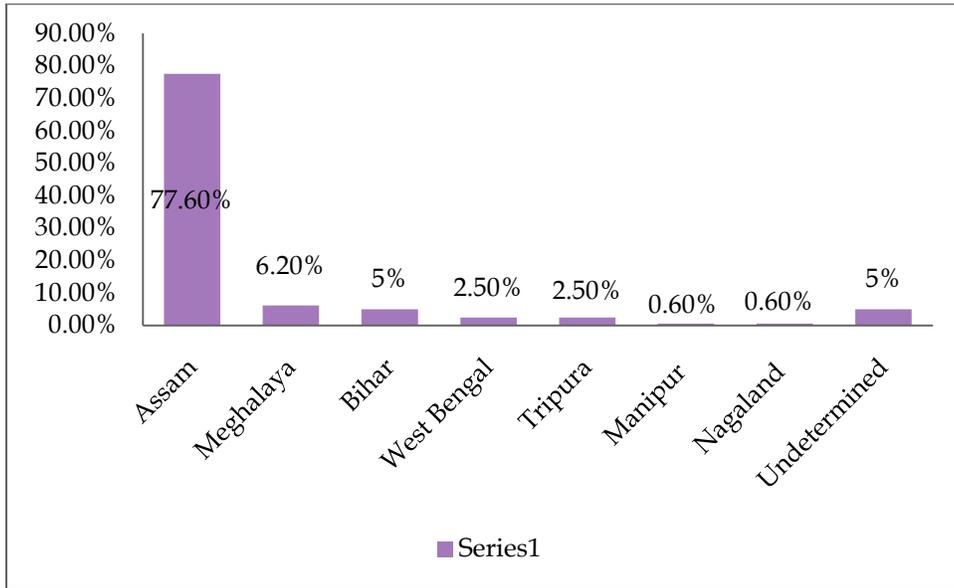
2.2.1 Child Labor from India by State of Origin

Out of the 80% CL, who said that they came from different places in India, a large majority (77.6%) are from Assam. Surprisingly, only 6.2% are from Meghalaya. 28% of the respondents said that they were from Karimganj District in Assam, but it could not be conclusively determined whether they were indeed from Karimganj or had come from Bangladesh across the porous borders. ⁵Other states of origin include West Bengal, Tripura, Bihar, Manipur and Nagaland – all states which are geographically close to Meghalaya.

The distribution of children by state of origin is depicted on the next page (Figure1):

⁴ Field researchers reported that many of the children, who had a distinct Sylheti dialect and could possibly be from Bangladesh, claimed to have come from Silchar or Karimganj district in Assam, districts that share a border with Bangladesh. Unlike migrant workers from Nepal who can work without work permits, Bangladeshis are seen as illegal immigrants and there is considerable hostility towards them. This could be a possible reason why children were misreporting their identity, but the same cannot be concluded with certainty.

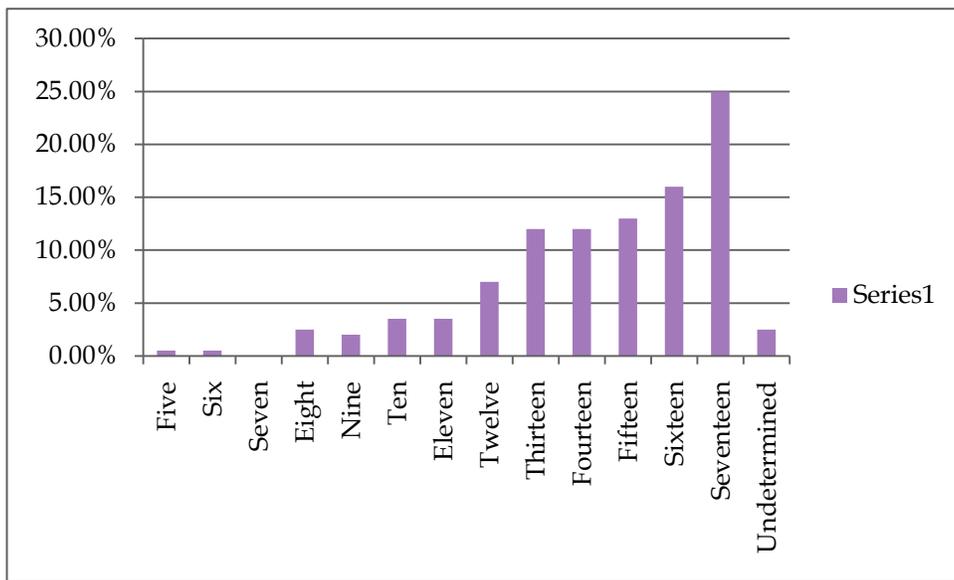
Figure 1: CL from India by State of Origin.



2.2.2 Age Distribution

The minimum age of the child labor (CL) working at the mines was five years old. The distribution of children by each age-year is shown below (Figure 2). A large majority of children (78%) in the sample were between the age groups of 13-17. On the other hand, 43.5% of the children were between the ages of 14 and below.

Figure 2: % Child Labor in each age group



2.2.3 Gender Disparity

In the entire sample population, 99.5% were boys, while only 0.5% of the sample consisted of girls. Out of .5%, 40% of the girls had come from Nepal to work in the mines. 70% of the girls interviewed were involved in digging coal, thereby implying that even girls are being employed in the mines to dig for coal. The remaining 20% were involved in loading of coal, while another 10% helped around with menial tasks. The wages of the coal diggers varied from Rs.250 to Rs. 500, while the menial laborers make an average Rs.60 per day. 90% of the girls considered their work to be dangerous; however, 90% of them were reluctant to answer the questions regarding what they disliked about their work. However, when asked if they would stop working if they were given the choice to do so, 90% answered in the affirmative and the remaining 10% preferred not to answer. The amount of time spent working on the mines varied from 2 months to a period of 5 years Only 10% of the population said that they never went back home – the remaining said that they went home 1-3 times per year. None of the girls were unaccompanied; they were staying with their families in the mining area. 60% of the girls interviewed had never been to school. Out of the 40% that had gone to school, their level of education varied from Class Nursery to Class VI.

2.3 Nature and Conditions of Work

The field researchers asked the child laborers questions relating to their working conditions that could be categorized under the following heads: i) Occupation ii) Duration of work iii) Wage iv) Hours of work v) Safety. The findings related to the nature and conditions of work have been summarized below.

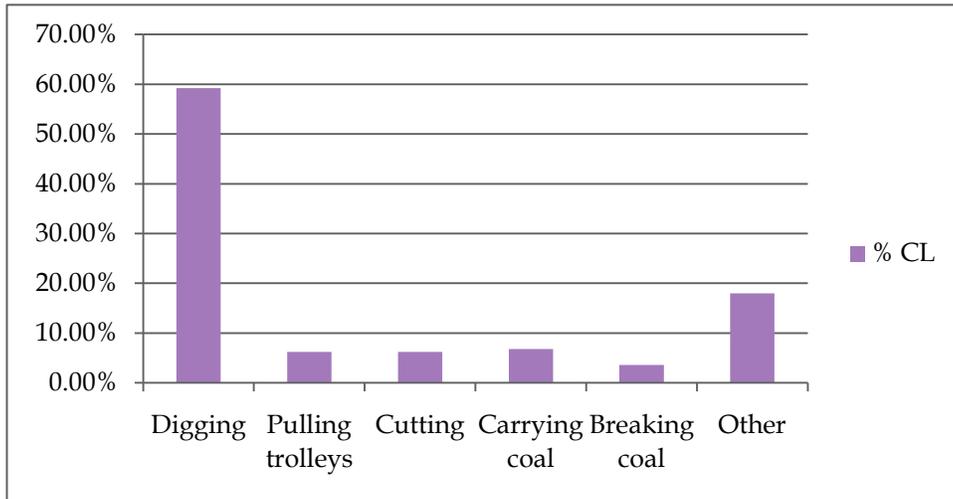
2.3.1 Occupational Classification

The study showed (Figure 3) that CLs typically find employment in the following work categories; coal breakers (3.6%), cart pullers (6.2%), coal cutters (6.2%), diggers (59.2%), and coal carriers (6.8%) and other (18%). The 'other' category was composed of a carpenter, painters, mechanics, water carrier and a video hall owner.



Ladmai is a 16 year old boy from Assam who is working in the Myndihati coal mines for the last 1 year. He lives with his brother. He does the work of driving cranes. He earns Rs. 200-300 per day. He works for 7-10 hours per day. His father has passed away and he gives his earnings to his mother. He hands over the money to his mother by himself whenever he goes home. He does not think that the work is dangerous. He likes driving the crane but dislikes cutting coal. He has never gone to school because he is poor. He cannot go to school in the future either because he does not have any money.

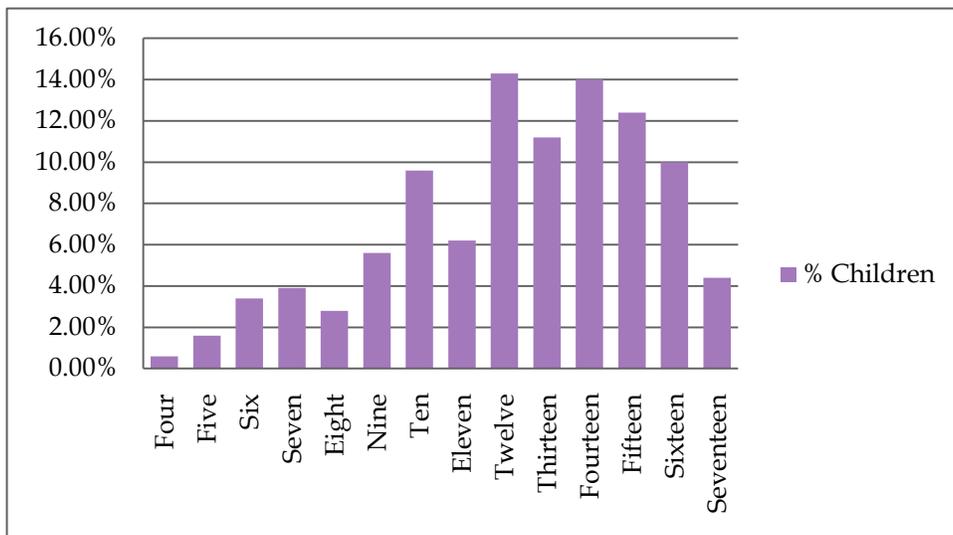
Figure 3: Occupational Classification of Child Labor



2.3.2 Duration of Work

An analysis of the duration for the children had been working⁶ also revealed (Figure 4). The time duration for children had been working between the range of 10 days to 12 years. Number of children had started working at the young age of four. A 17 year old young laborer said that he had been working for 12 years since the age of 5. Another 16 year old child laborer said that he had spent 10 years working at the mines. The data also revealed that 43.5% of the children had started working at the age of fourteen or even younger. 13% of the children said that they had worked in other mines before.

Figure 4: % Children by age at which they start working

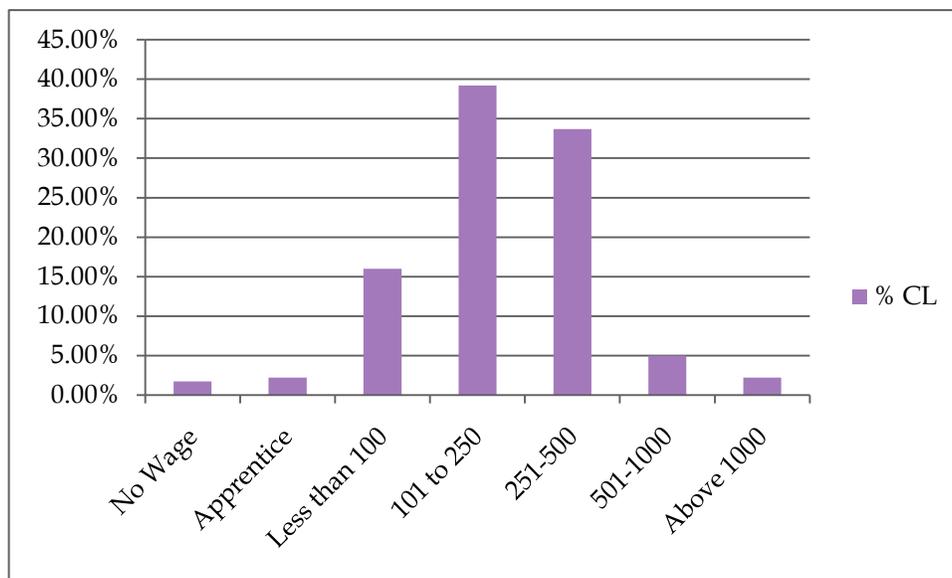


⁶ Out of 200 children, 178 answered the question regarding the duration of work.

2.3.3 Wages

Findings indicate that overall CLs receive an income in the range of Rs.101 to 250 accounts for 39.2% of the sample⁷. The next highest income categories were Rs. 251 to 500 (33.7%) and Rs. 501 to 1000(5%).2.2% of the CLs said that they earned more than Rs. 1000 per day. It was observed that the CLs who earned above Rs. 1000 typically worked underground in jobs like digging and cutting coal and had been working in the mines for many years. CLs falling into these wage rates generally met the current minimum wage standards (MSW) in Meghalaya of Rs. 100 for unskilled labor, Rs. 110 for semi-skilled labor and Rs. 125 for skilled labor. Nevertheless, although 80% of CLs' wages met, or came close to meeting legal minimums, the remaining 20% were being financially exploited.

Figure 5: Distribution of wages of CL



There were a number of CLs (1.7%) among the sample reported that they do not receive wages for their work. These cases need to be thoroughly investigated, and with some urgency, as their situation indicates extremely limited bargaining power and vulnerability to high levels of risk. This may be said of all CLs in general however the point here is that, the further wages deviate below minimum standards, the greater the potential for additional abuses. Moreover child laborers who earn less than Rs.100 constitute 16% of the sample. The majority of CLs earning under Rs. 50 had not been working at the mines for more than one year.

⁷Out of the 200 children interviewed, 181 answered the question regarding their daily wages.

2.3.4 Hours of Work

The study found that CLs worked long hours on a daily basis and that the number of hours did not seem to be reflected in salaries. 44% of CLs worked between 7 and 9 hours a day, 23% worked between 3 to 6 hours and another 23% worked 10 to 12 hours a day. Across gender, age and nationality, 7 to 9 hours was the most typically reported category, and this was also true when checked against accompanied and unaccompanied CLs. Not only did many child laborers in this study report working long hours but overall 19% claimed not to have a regular weekly day off. Those working over ground may work longer hours than those working underground. When CLs were asked whether or not they had at least one rest day each week 81% responded 'yes' and 19% answered 'no'. According to ILO standards, when children between 5 and 12 years of age work more than 14 hours per week, and children over 12 years work up to 43 hours of work per week, it falls within the category of hazardous work.

2.3.5 Transference of Income

According to findings, CLs generally give a portion of their earnings to others. From the responding group, only 5% reported that they kept all of their wages, while 40% gave all to others, 51% gave most, and 4% gave only a small portion to others. 12% of CLs chose not to answer the question. Overall, findings show that from the total sample, 81% gave all, if not the majority of their wages to others. The questionnaire was able to determine who the recipients of the CLs' wages were. It emerged that 41% of CLs gave money to immediate family members, 51% gave to relatives (members outside of the nuclear family), and 8% said they kept their wages for themselves. It was also learned that the method of transfer was typically carried out by the CL his/herself (76%). Other forms of remittance included via bank (2%), through their boss (3%), friends (6%), through an immediate family (5%), relatives (7%), and strangers (1%). For CLs entrusting this task to strangers and bosses, there is a possibility that the use of force or intimidation is present and this needs to be addressed.

2.3.6 Danger Associated with Work

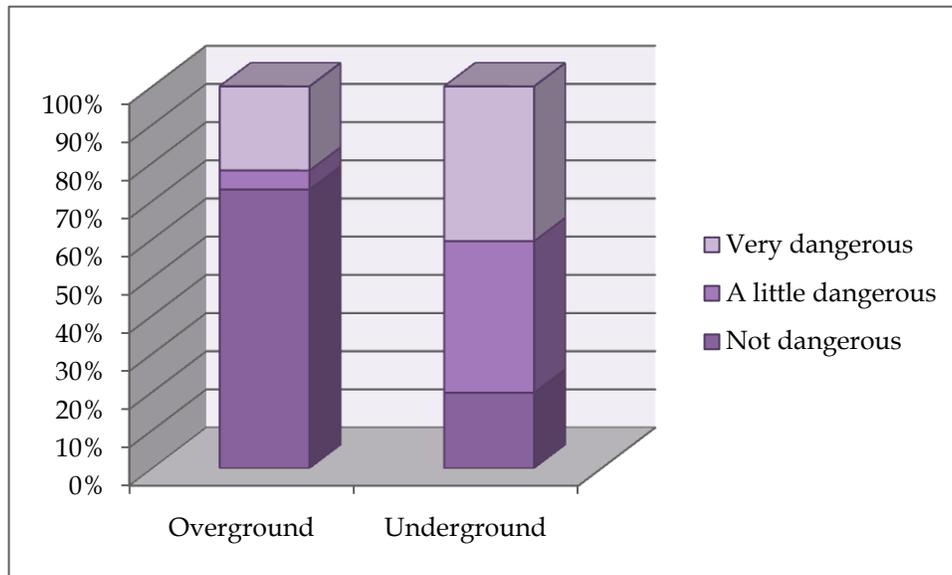
The occupations could be distinguished between overground and underground activities. 'Underground Occupations' include coal cutting, digging and pulling trolleys. 'Overground Occupations' include coal carrying, breaking of coal and the 'other' category as defined above.



Bimal is a 13 year old boy from Nepal. His job is to pull the trolley inside the mines. He works in the Myndihati mine. He has come to the mines with his father but his mother is in Nepal. His siblings are also here. His father is also working in the coal mines. He earns around Rs.300-400 per day. He gives all his earning to his father. He works for 3-4 hours, from 4 am to 7 am. He goes to school and is studying in class 3. He goes to school after coming from work in the morning. He says he feels tired doing both work at the same time, but he has to do it because of poverty. He said that he does not like working in the mines because it is dangerous.

As observed in Figure 6, 73% of CLs working in overground occupations did not perceive their work to be dangerous. 22% perceived their work to be very dangerous while 5% thought their work was a little dangerous. On the other hand, among the CLs working underground, 80% perceived their work to be either very dangerous (40.5%) or at least a little dangerous (39.5%). Overall, 63.4 % of all the children working in the mines perceived some form of danger associated with their work⁸.

Fig 6:% Level of danger associated by occupations of CL



In the coal mines in the Jaintia Hills, children are exposed to extremely dangerous situations, even though levels of danger may vary according to nature of task performed. Not only are the levels of noise, heat, chemicals and toxins present in coal mines dangerous to children, they are also more prone to accidents than adults. Occupational hazards varied with the type of employment - but the children sent to dig coal in the ratholes that are only about 2 feet in height, equipped with only a helmet, a torch and a pickaxe are obviously the ones exposed to the maximum risk. Owing to the low height of the ratholes, mine-owners prefer to employ to children as its easier for younger children to crouch inside the holes. They are provided with neither any training nor any safety equipments. Instances of children dying inside the ratholes when the roof caves in or the holes get flooded have been reported but have so far not been officially investigated. ⁹ In 2009, children’s skeletons were discovered from one of the mines - ¹⁰ Young children are also made to wield sharp implements, carry heavy loads, work without protective clothing or safety equipment, endure loud noises, stand or squat for long periods,

⁸ Out of 200 children interviewed, 191 answered the question regarding level of danger associated with their respective occupations.

⁹ Reported by Asian Human Rights Commission Report (2009) and Human Rights Now (2009)

¹⁰ Shillong newspaper report

and perform other physically demanding tasks that are risky or injurious in nature. Moreover, the continuous exposure to a polluted environment and the lack of access to clean drinking water¹¹ poses significant health risks that could manifest as illnesses such as acute respiratory problems or skin ailments in adulthood. 90% of the children who were interviewed who worked underground in the mines reported that they were initially very afraid to go into the dark and suffocating ratholes, but gradually got used to it.



2.4 Educational Background

Sixty-eight percent (68%) of the children had at least some exposure to education¹². 21.6% had dropped out sometime in primary school (Kindergarten to Class IV), 36.1% had dropped out sometime during middle school (Class V to Class VIII), while only 7.2% had dropped out while studying in high school (Class IX- XII) (Figure) This means that approximately 43% of the children had more than primary level of education and therefore had more than 6 years of education. Only 3.1% of the children were still trying to combine both work and school – this implies that 96.9% of the CLs were either working full-time or even if they were working part-time, they were completely excluded from the process of formal education.

Habibur Ali is a 10-11 year old boy from Assam. He came here with his mother. He has been working here for 5 years. He does the work of breaking coal. He works for 1-5 hours every day. Sometimes he earns Rs. 10-100 depending on the amount of work he does. He does not have to go to work on Sundays. He studied till Class III but dropped out since he came here to work. He prefers to work than to go to school. He does feel like giving up the work and returning to his village.

92.6% of the CLs cited poverty as the reason for dropping out from school.¹³ The other reasons cited were lack of interest and poor academic performance.

63.7% of the children replied that if they were given a choice between work and school, they would rather work than go to school¹⁴. Even at a young age, most of the children seemed to have an overwhelming sense of responsibility towards their families. They felt that it was imperative for them to contribute to the family income. 24.9% showed an inclination to go to school, while 11.4% said that they liked both working and going to school.

However, 44.1% said that they wanted to stop working in the mines¹⁵. 3.3% said that they wanted to continue working, though the most commonly cited reason was that their families

¹¹ For details regarding provisions of water, please refer to paragraph ‘Scarcity of Water’ in Chap

¹² Out of 200 children interviewed, 194 children answered the question regarding level of education received.

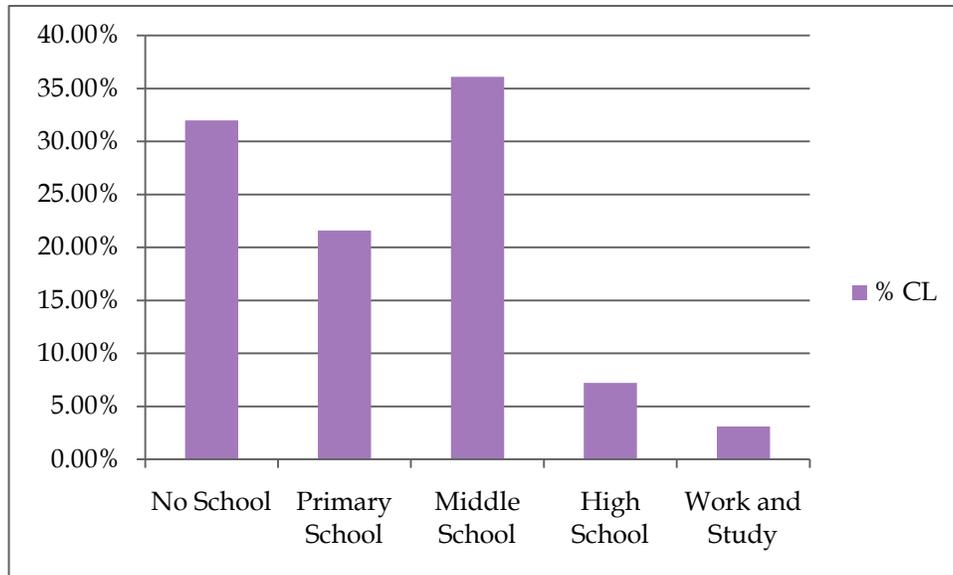
¹³ Out of 200 children interviewed, 189 children answered the question regarding reason for dropping out of school.

¹⁴ Out of 200 children interviewed, 193 children answered the question regarding preference for work or school.

¹⁵ Out of 200 children interviewed, 195 answered the question whether they wanted to continue working or not.

were so poor that they had no choice but to work. 6.7% said they were not sure if they wanted to stop working or not.

Figure 7: % CL by level of education



65% answered the question regarding why they continued to work. 41.5% CLs said that their main motivation to work was a good salary while 42.3% said that their owner was good and therefore they liked their jobs.

2.5 Unaccompanied Children

The study found that 50% of the children interviewed were unaccompanied by their families or any adults.¹⁶ Some of the children said that they were accompanied by their siblings who were also working in the mines. ¹⁷When asked how frequently CLs returned to their family home 13% said never, 23% returned less than once a year, 27% said more than once a year, 25% answered more than three times a year and 12% reported that the question was not applicable to their situation.

Considering the seasonal nature of work at the coal mines it was to be expected that many CLs leave with some regularity, particularly those living at the mines without family. The group of CLs who had come to the mines, sans family, made up 50% of the responding total. This finding

¹⁶ Our field researchers revealed that some of the children initially stated that they were staying with their families. On further probing, they said that they had come to the mines without their families. They seemed to hesitate to reveal that they were not accompanied by parents or relatives. So there is a possibility that the reported figures are actually underestimating the number of unaccompanied children.

¹⁷ Since we did not include a question in the questionnaire regarding employment of siblings or other family members in the mines, we do not have specific estimates of siblings employed in the mines.

Sanu Rai is a 15 year old boy who has come from Chokdunga, Nepal with Sardar who was known to his family and has been working in the mines for 1 year. He does the work of cutting coal. He says that he has to jump steps to reach the mine. He says he was scared to enter the mines the first time, but not anymore, though the rat holes can be very dangerous at times. He earns 500-1000/day and sometimes more. He hasn't gone home in a year but will visit this year. Even though he doesn't like the work, he makes much better money than he would in Nepal. He manages to call his family at times and also sends them money. He has a brother and sister who go to school. He used to go to school when he was in Nepal and studied till class 4. He says Sardar is good to him.

was consistent with local sources who had reported that large numbers of unaccompanied children formed a major part of child mining labor force.

For most CLs, the journey to the mines was generally taken in the company of others. Data shows that when asked “who did you come to the mines with?” 21% came with a family friend, 13% came with a relative, 11% came with a stranger, 2% came with friends and 15% came alone. Only 38% arrived at the mines with their immediate family while 62% did not. For this question item, the data group was relatively small as 24% (220) of the total sample did not wish to answer the question. This reduction may account for some of the difference between the number of unaccompanied CLs (43%) and CLs traveling to the mines without their immediate family (62%).¹⁸ This finding was consistent with local sources who had reported that large numbers of unaccompanied children formed a major part of child mining labor force. Data suggests that most of the CLs not born in the mining region wished to return to their home country or village. 82% answered that they would like to return home. It appears that many of the Indian CLs from other parts

of the country also felt alienated and naturally would rather be with their families. Despite the financial opportunities offered at mines, the majority of Nepalese CLs still desired repatriation.

2.6 Desire to Leave Work in the Mines

The children working in the mines desire a better life – even if all of them do not necessarily see the value of acquiring education, most of them seek more humane conditions of work. 44.1% of child laborers indicated that they did not wish to continue working at the coal mines. Almost all reported poverty as their main reason for commencing employment and 65% cited that a ‘good salary’ was the incentive for them to continue working at the coal mines. CLs willing to comment on the negative aspects of their work (24.5% of total sample) were significantly fewer than those prepared to comment on the more positive facets (65%). From this group, 42.9% felt that the work was hard while 20.4% mentioned that it was dangerous. Across age, sex and nationality, ‘hard work’ was listed as the most regularly given answer however one exception was made by the 17 to 18 age group who selected ‘danger’ equally as often. An explanation may

¹⁸ For information on the process of recruitment please refer to Chapter 5-Conclusions and Findings.

be that older children were required to do more dangerous tasks or that they were more likely to understand the risks associated with the work demanded of them.

2.7 Financial Exploitation

Salaries at the mines are typically determined by the number of trays of coal filled by the labors, thus the system used does not incorporate or acknowledge minimums espoused in labor law. For every cart of coal the boys manage to fill inside the mines, they get Rs 800. But it takes a team to fill them and the money has to be shared. On a good day, the children in these mines can earn Rs 300 to 400. Depending upon the number of months/years that a child has worked in the mine, they can earn anywhere between Rs.8000-Rs. 10,000.¹⁹ For children who are involved in breaking coal, their earning is from Rs. 50-100 per day. It was found that 20% of the sample was making less than minimum wages and an additional 4 children were found not to be receiving any salary at all, at least not in terms of monetary remuneration. This situation is of great concern and the possibility of slave labor and/or human trafficking among these cases needs to be thoroughly investigated. Even though we did not uncover any specific cases of cheating due to illiteracy among the children, it was evident that the scope for exploitation of the children was immense, since the mine-managers do not maintain any payroll register for salary or weekly disbursement of wages. Given the unregulated nature of the mining sector in Meghalaya and a government that does not actively enforce legal wage standards, there is inconsistency between minimum wage standards and the actual rates of pay offered by mine owners. Moreover, seasonal workers many of whom are illegal immigrants, particularly children who are neither protected by the safety net of contracts, nor supported by the government, are vulnerable to exploitation by ill-intentioned employers.



Bikram Chettri is a 14 year old boy who has come from Assam and lives with his sister and brother-in-law and works in the coal mines at Myndihati. Even his brother-in-law works in the mines. He has been working for a month and a half. He does the work of cutting coal. He says that he likes cutting and pulling trolleys, but does not like the work of loading the trolleys. He initially found the work very difficult and says that it is a little dangerous. He was aware of the nature of the work even before he came, because he had visited the mines earlier as a child. He earns Rs. 390 for filling up 3 trolleys per day. He will give all his earnings to his family but so far he hasn't sent any money home. He has studied till Class IX and had to drop out due to family problems. He would like to return to school. He does not wish to continue working in the mines.

¹⁹ The range of income is the average range as evidenced by our sample, Approximately the same range of income was reported by Tehelka Magazine, Vol. 7, Issue 26, Dated July 3, 2010.

2.8 Process of Recruitment

Children who are unaccompanied by their parents or family members are more vulnerable to exploitation. It was found that 50% of the children interviewed were unaccompanied minors. Many of these children claimed to have been escorted to the mines by strangers while some claimed that their escorts were known to their families. A system of 'middlemen' seems to be in effect, though it was unclear if they are organized into a network or operate on an individual basis. From an interview of mine-managers, owners and children, it was found that owners of the mines maintain a strong network with middlemen in Nepal. During the peak mining season, i.e. October to May, coal mine-owners or managers send information to these middlemen regarding their requirement of child labor in the mines. These middlemen go into villages and convince poor families to send their children to work in the coal mines. The middlemen in Nepal make all the arrangements for the transportation of children from Kakrabhitta to Ladrymbai, through Sumo services that are available direct from Kakrabhitta to Ladrymbai. The children reported that they were not informed of the exact nature of work to be performed, but agreed to come due to the lure of money. Poverty is the primary reason that drives families in Nepal to send their children to work in the mines since they are convinced by the middlemen that there is substantial money to be made by working in the coal mines in Meghalaya²⁰. Some of the children reported being shocked at the dangerous work which they had to perform once they arrived at the coal mines, but could not return home until they had at least earned enough to pay for their passage to return home. The fact that both the families and the children were unaware of the kind of work they would be involved in, indicates that they were deceived at play in luring them to work in the coal mines. However, details of the spread of the network of middlemen or the amount of commission earned by them are outside the scope of this study. A more extensive cross-border analysis is required to unearth the detailed process of recruitment of children for working in the mines.



Sanjay Tamang is a 15 year old boy. He says he was born in the Jaintia Hills and lives with his family. He works in the Myndihati mines. He does the work of pulling trolley and earns Rs. 800-900 per day. He has flexible work-hours; at times he works from 6AM to 1PM or from 5 AM to 12 PM. He gets two days off during the week. His father does the same work as him. He went to school for 3 years. Even if he is given an opportunity, he wouldn't like to return to school. He says that the work is dangerous since the roofs of the mine can collapse. He says that there is nothing that he dislikes about his work and what he likes most about the work, is breaking coal. He gives most of the money that he earns to his father and keeps some of it for himself.

²⁰ Details about the process of recruitment were uncovered during the visit of the team of the Asian Human Rights Commission in November, 2009.



Manoj Magar is a 15 year old boy who has come from Delta, Nepal. He came to the Nonjiri mines with his friends but was unaware of the kind of work in the mines. He has been working for 5 months. He spent Rs.2000 coming by train. His job is cutting coal and pulling coal trolleys; he thinks that there is no danger involved in his work. He has never come across any accidents. He earns Rs. 800 per day. He gives all the money to his parents and sends the money home through his friends. He works 7-8 hours per day and gets days off during the week. He has never gone to school due to poverty, but given a choice, he would definitely like to go. Given a choice, he would like to stop working. His father is a farmer in Nepal.

2.9 Drug Abuse and Alcoholism

Children not under the guardianship of their families nor are bound by the academic discipline become vulnerable to other social ills. The rain of wealth in the Jaintia Hills has brought about vast socio-economic changes in the region. Rows of wine-shops have sprung up on the highways that stay open all night long and cater to truck-drivers and coal traders. Video-halls showing movies at cheap rates and gambling dens have emerged as avenues of entertainment in this region. For the young miners who earn their own income²¹ and have no productive preoccupations in the evening after a long day at work, drug-abuse, alcohol and gambling have emerged as ways to squander away their hard-earned income. Some of the children have reported that even if they earn a decent income, they are unable to save or send any money home²². It perhaps isn't surprising that Jowai town, the district headquarters of the Jaintia Hills district boasts of the highest liquor sales in the state. Recent news report suggested the widespread use of heroin in the area. In 2006, Frontline magazine reported, "Ladrymbai today is a town that never sleeps. At night its barely contained demons spill out of the narrow gullies - tinsel girls with their pitchers of country liquor compete with rows of wine shops that boast the highest liquor sales in the State. In the bylanes, drug peddlers promise a psychedelic trip with pure grade heroin. Thus, Ladrymbai's nightly ritual of debauchery and mayhem makes it yet another frontier trading post"²³. Drug abuse and alcoholism among

youngsters who typically come from economically disadvantaged backgrounds would keep them ensnared in a vicious cycle of poverty.

2.10 Corporal Punishment

In an alarming revelation by a mine-manager, he said that there were instances where mine owners had locked up children in abandoned mine pits as punishment for demanding more

²¹ For estimation of income please refer to paragraph on 'Financial Exploitation' in this Chapter.

²² There wasn't any specific question in the questionnaire regarding their amount of savings. In the course of the interviews, some of the children revealed that they did not save enough to send home.

²³ Frontline, Vol.23(13): July 01-14,2006.

money or some minor misdemeanors by children²⁴. He even said that he had been asked by a mines manager to remove bodies of children from the mine-pits and bury them, so that the matter could not be pursued further. In 2007, a newspaper²⁵ reported that a number of skeletons of children were recovered from a mine. The matter was not further probed or investigated by the state police department. Most of the mine managers and the young miners were fearful to mention deaths of children in the mines. Many of the field researchers experienced that children

Majnuh Ahmed is a 15 year old boy who has come from Badarpur, Assam to the Nonjiri (Santham) coal mines. He has been working here for 2 months, but was earlier working in Marsiang. He came with his maternal uncle, but lives there with his friend. He came by Tata Sumo and it cost him Rs. 500 to reach the mines. His work is to cut coal. He earns Rs. 200-250 per day and sometimes he earns Rs. 300. He sends the entire money home with someone. Sardar gives him food but deducts a certain amount from his pay for providing him with food. He works for 8 hrs per day. He works on Sundays as well, but can take a day or two off as and when he wishes. He has studied till Class 5. He had to drop out of school due to poverty. He prefers to work than to go to school. He did not reply as to what he likes most about his work. He said that the work is absolutely risky. He said that if he could afford it, he would go to school. He says that he does feel like going home.

were fearful of talking freely about the dangers associated with their work or to talk about deaths of children while working in the mines. There needs to be a thorough investigation of whether such inhuman practices are being carried out in the coal mines in the Jaintia Hills and immediate steps should be taken to prevent these violations.

2.11 No Safety Net Against Injury or Death

The unscientific manner in which mining is carried out in the Jaintia Hills makes it very dangerous for the laborers, including children working in the mines. Miners have to descend into the coal fields which are 100-150 feet in depth using precarious make-shift bamboo ladders – a slight misstep on these slippery ladders means a plunge to certain death. The miners are given neither any safety equipment nor any training to work in the mines. Many of the miners interviewed reported that there were instances of miners, including children dying inside the ratholes when water suddenly rushes into these tunnels or the roof of the ratholes cave in. Additionally, miners die due to brake failure of the cranes that are used to haul up the trolleys of coal from the coal pits²⁶. Since none of the labor laws are enforced in the unregulated mining sector in this region, there is no system of providing

²⁴ This information was volunteered by a mines-manager during the Statistical survey conducted by Impulse in 2009. Audio recordings and audio transcriptions of this interview is available with Impulse.

²⁶ These revelations were made during the interviews of children during the Statistical survey conducted by Impulse in 2009. Audio recordings and audio transcriptions of the interviews are available with Impulse.

compensation or insurance for death or injury to the miners. In fact many of the mine owners and the laborers are unaware of the existence of such laws. If the mine-manager or the owner is generous they pay for the funeral arrangements; sometimes, the ethnic community of the miner takes up the responsibility of performing the last rites. Since there is no system of registration of background information the laborers, and the inflow and outflow of migrant labor is unorganized, there is no way of informing the family of the laborer, in case of injury or death.



10: A laborer going down these mossy, wet and slippery pits in the 8 Mile coal quarry wearing merely a plastic sheet to protect himself from the rain and a polythene packet to protect his head. (8 Mile: 29 June, 2009)



11: Precariously supported bamboo ladders going down to the rat holes. (Cement Factory: 31 May, 2010)



12: A child, with absolutely no safety equipment, climbing up the slippery ladder up the coal pit. (Cement Factory: 31 May, 2010)

2.12 Rise in Juvenile Delinquency

There is a rise in crimes like theft and rape by children in the region. The inflow of quick money in the Jaintia Hills has given a lot of economic mobility to children at a very young age. The lure of an available income combined with the use of drug and alcohol, makes for a potent combination, whereby children are easily misguided into committing violent crimes. . The absence of an organized educational system or alternative means of employment that could divert the energies of young people and give them hope for a better future force children to commit crimes in the hope of raking in some easy money. In the backdrop of this socio-economic milieu, the inflow of young unaccompanied minors who have a steady flow of incoming cash creates a ready canvas for juvenile crime. Within the past 3 years, Jaintia Hills District has

emerged as the district with the highest juvenile crime rate in the state of Meghalaya. In the past year, there have been increased cases of theft, burglary and even rape. Police arrested thirty

Bonu is a 15 year old girl who has come with her parents and has been working in the mines for "a long time" (does not remember exact time-period). Her father, mother and younger brother also work in the mines and together, they earn Rs. 600 per day. She gets two days off during the week. She has never gone to school but would like to go if given a chance. She says that once you get used to the work, she starts liking it. She says they have to go very far to fetch water. There are also no medical facilities nearby.

children, aged seven to fourteen years, on charges of burglary. Three aged fifteen to seventeen were arrested on rape charges.²⁷ With the inflow of young migrant children into the region who are vulnerable to abusing drugs and alcohol, there has been a sharp rise in the juvenile crime rates in the region.

2.13 Prostitution

Interviews with dhaba-owners, truck owners and tea-shop owners near the mining area revealed that a lot of commercial sexual activities take place near the mining areas. Some people visit local dhabas in Lad Rymbai area where local tribal girls are involved in the sex business. Apart from local dhabas, sexual activities take place inside trucks and cars. According to one of the petrol pump employee in the Lad Rymbai area, the place is highly unsafe and not even eight or ten year old girls are safe.²⁸ Most of the migrant women working around the mining areas are employed in selling wine, shop keeping, cooking

²⁷ Reported by the Director General of Police, Meghalaya, S.B. Kakati in his interview to Tehelka magazine, Volume 7, Issue 26, dated July 3, 2010.

²⁸ Source: *Baseline Study on the Survey in Jaintia Hills District, Meghalaya*

or breaking coal into smaller pieces along the roadside. Children may sometimes accompany their mothers to the coal fields, helping them at work and generating larger daily earnings for the family. Major cities such as Shillong and Jowai have banned trucks from passing through their townships during the day when traffic is already heavy. Consequently, many shops along the highway only open at night and rely solely on the business provided by truckers. However detail investigation is required to understand the issues in depth.

2.14 Scarcity of Water

The sulphur-rich coal of the Jaintia Hills which are dumped in roadways or near water-bodies has gradually percolated into underground water-bodies or seeped into overground streams. So the numerous streams and rivulets with their sparkling clean water which once added beauty to the Jaintia Hills today have become reddish rivulets with the potential to cause diseases among the resident population. The destruction of forest cover in the Jaintia Hills has led to a fall in the level of groundwater and rainwater runoff. Coal has also polluted the natural water bodies on which the miners depend on for their sustenance. Water has become a scarce commodity in the Jaintia Hills and potable water a rarity. Since there is barely any drinking water available in the coal mining areas, water is carried by water porters from springs in the non-mining areas in tankers to sell to the villages in the mining areas or to the migrant labor camps. With a 20 litre bucket of water costing Rs. 10 and a drum of water costing Rs. 500, the water porters are doing brisk business²⁹. Some of these water-merchants also run public baths, where Rs. 5 is charged for having a bath, a significant amount for both locals as well as migrant laborers. Sometimes people have to travel 10-15 km to take a bath. 3% of the children interviewed said that the lack of access to clean drinking water they disliked most about their jobs. Women are forced to walk long distances to collect water for cooking, drinking and washing clothes, as they cannot even afford to buy water.

Prem Rai is a 16 year old boy who has come from Bara Jila, Nepal with his neighbor and has been working in the mines for 5 months. He earns Rs. 300-400 per day and hasn't sent any money home so far. He works for 6-7 hours/ day. He lives with his aunt and her husband. He says the work is very difficult. If given some work, he would much rather return to Nepal. He wasn't aware of the nature of the work when he came here. He says the owner is good. He says there are many other children working in the mines. Most laborers are from Nepali and Bengali communities. He is educated till Class VI and his parents are still in Nepal. The main problem they face is scarcity of water and also that the work is very risky. Many people have died in the mines due to brake failure of the cranes and due to collapse of the roof of the mines. No compensation is provided by the owners in case of death of the laborers; they only provide for the funeral. There are also no medical facilities nearby; when ill they have to go to 6 kilo and when seriously ill, they go to Ladrymbai or Shillong.

²⁹ <http://www.countercurrents.org/dkhar250510.htm>

2.15 Unhygienic Living Conditions

Migrant miners and their families live in camps just meters from the mine openings. They construct shelters out of propped up tarpaulin or plastic sheets. These homes are extremely makeshift as many of the workers move from mine to mine when they hear about better rates of pay or more reliable employers. All money and other valuables are carried on their person, and only a bag and some cooking utensils tend to be left in the quarters. The hut looks so fragile; a passing wind could fell it. Most of these makeshift camps are made from slashes of blue plastic and are located in the middle of dense forests, away from the eyes of the law. Miners tend to band together with their own ethnic communities – So there are sections called ‘Nepali’ line and ‘Bihari’ line in huts they have rented from the mine owners or the mafia in the region. In one such hut around 13-16 laborers are paired in platforms with barely enough place to sleep, placed one on top of the other. Water-sanitation and safety conditions are extremely poor.

In many of the miners’ camps, there are stagnant pools of water that are the breeding ground for mosquitoes. There is no facility for toilets; so living conditions are extremely unhygienic. In such conditions, the laborers, particularly the children, are vulnerable to diseases. The hostile living conditions are exacerbated by the fact that access to health facilities is extremely poor. Table 1 below shows the number of hospitals and dispensaries in the Jaintia Hills District. In case of serious illnesses or injuries while working in the mines, miners are forced to go to hospitals in Jowai or Shillong.

Kumarbhai is a 16 year old boy who has come from Kotang, Nepal with his maternal uncle and has been working in the mines for 7 months. He does the work of pulling coal trolleys. He says that the work is difficult but he has to do his work. He says he was scared to enter the mines the first time, but not anymore, though the rat holes can be very dangerous at times. He works for 6-10 hours/day. He earns Rs. 300-400/day. He hasn't gone home in a year but will visit this year. He says that there is the danger of the roof of the mines collapsing. He even knows of 4 people who have died inside the mines, 3 inside the pits and one who fell from the bamboo scaffolding. No safety equipment is provided to them in the mines. He isn't aware of any existing labor or safety regulations and does not think that his family will be compensated if he gets injured or dies while working inside the mines. He doesn't have much education and only knows how to write his name. He says Sardar is good to him.

Table 1: No. of Health Centers in the Jaintia Hills (2006)

Medical Institutions	No.
No. of Hospitals	1
Dispensaries	1
Community Health Centers	4
Primary Health Centers	4

(Source: <http://jaintia.nic.in/Flash&Profile.htm>)



A child miner, unequipped with any safety equipment, digging coal inside a rat hole with a pick-axe. (Ladrymbai: 11 June, 2010)

The miners reported that malaria, diarrhea, tuberculosis, chronic cough and skin diseases are the most common ailments in this area. In 2008, there were 117 meningitis cases reported in the Jaintia Hills District³⁰. Moreover, accidents in the mining areas are not uncommon – dispensaries are at least a few kilometers away and in case of serious accidents or illnesses, patients have to be taken to hospitals in Shillong or Jowai.³¹

Chandra Kumar Rai is a 16 year old boy who has come from Bhujpur, Nepal with his neighbor and has been working in the mines for 2 months. He earns Rs. 400-500 per day and he works for 3-4 hours/ day. He came with his brothers who have now returned to Nepal. He says that even if he is given an opportunity to study he wouldn't want to, because then there won't be anyone to feed his parents. He has studied till Class VI but was forced to discontinue because of poverty He says there are many other children working in the mines. "Most laborers are from Nepali and Bengali communities. The main problem they face is scarcity of water and also that the work is very risky. Many people have died in the mines due to brake failure of the cranes and due to collapse of the roof of the mines. No compensation is provided by the owners in case of death of the laborers; they only provide for the funeral. There are also no medical facilities nearby; when seriously ill, we go to Ladrymbai or Shillong. I would like to advice my brothers and sisters not to come here for work, as there are very few people who can really earn. There are many people who have not returned back to their place after they came here; they have come here at young age but could not return back. They are not aware of the difficulties they have to face after working here. Firstly there is drinking water problem; secondly the work out here is very dangerous and every day is not same. There are days when we cannot work, especially during winter season when the quarry used to be full of water, if they cannot work means they don't have anything to eat as well, so they tend to borrow money, which according to me is also a very big problem."

³⁰ The figures are provided by an international medical aid organization that was providing help with the meningitis epidemic in the Jaintia Hills.

³¹ We did not include any specific question regarding health issues in our survey.

Chapter III – Recommendations

In light of the findings from the quantitative and qualitative analysis, the following recommendations can be made:

3.1 Short-Term Intervention

- The first step would be to build a temporary shelter home for the children, so that there is a safe place to house them prior to ensuring their rehabilitation to families. The temporary shelter can be built at the district level, and its administration could be supported by the Nodal center in Shillong.
- Next step is to rescue children from the hazardous working conditions in the coal mines.
- For those children who do not wish to be restored to their families or who do not have families, the temporary shelter should have facilities for education and vocational training of the children and prepare long term rehabilitation plan
- State level and National level consultation with major stakeholders involved in Policy making such as Ministry of labour, Mining and the Ministry of Social Welfare.

3.2 Medium-Term Intervention

- To map out the trafficking route from Kakravitta to Lad Rymbai, so that the detailed route by which children are being brought into the mines.
- To establish Tracking mechanism at village both at source and destination point
- Establish a network of cross-border partners in Nepal and Bangladesh, so that children who are trafficked to work in the mines can safely be repatriated to their families.

3.3 Long-Term Intervention

- Legal support/step to eradicate the illegal employment of children in the mines.
- Institutional rehabilitation of unaccompanied children with provisions for providing skill-based education for the children.
- Collaborating with organizations in Nepal and Bangladesh to ensure safe rehabilitation of migrant children who want to return to their home-countries.



13: Young girls also work to break and carry coal. (Kongong: 31 May, 2010)



14: Children are engaged in other activities like sharpening pickaxes outside the mine. (Nonjiri: 31 May, 2010)

References

Census of India, 2001

Das Gupta, S., Tiwari, B., & Tripathi, R. (2002). Coal Mining in Jaintia Hills, Meghalaya: An Ecological Perspective. In P. Passah, & A. Sarma, *Jaintia hills, A Meghalaya Tribe: Its Environment, Land and People*. (pp. 121-28). New Delhi: Reliance Publishers.

Department of Environment and Forests, Meghalaya. (2005). *State of the Environment Report 2005: Meghalaya*. Shillong: Department of Environment and Forests, Govt of Meghalaya.

Development Consultants Limited. (1994). *Market Survey Cum Pre- Investment Study Report for Coal Based Industries in Meghalaya*. Kolkata: Meghalaya Industrial Development Corporation.

Directorate of Mineral Resources. (1985). *Technical Report of the Directorate of Mineral Resources*. Shillong.

Guha Roy, P. (1992). Coal Mining in Meghalaya and its Impact of Environment. In M. S. Society, *Environment, Conservation and Wasteland Development in Meghalaya*. Shillong: Meghalaya Science Society.

Sarma, S., & Kushwaha, S. (2005). Coal Mining Impact on Land Use/Land Cover in Jaintia Hills District of Meghalaya, India Using Remote Sensing and GIS Technique. *ITC Journal* .

Swier, S., & Singh, O. (2003). Coal Mining Impacting Water Quality and Aquatic Biodiversity in Jaintia Hills District of Meghalaya. *ENVIS Bulletin, Vol 11(2): Himalayan Ecology* , 29-36.

World Coal Institute. (2009). *The Coal Resource: A Comprehensive Overview of Coal*. London: World Coal Institute.

Annexure

1. Information on the Jaintia Hills

Jaintia Hills is located within Meghalaya, an Indian state that is extremely economically depressed (currently 49% of its residents live below the poverty line.¹) and challenged by political instability. The Jaintia Hills District was carved out within the state of Meghalaya (erstwhile a part of Assam) on 22 February, 1972. The Jaintia Hills District, one of the seven districts in Meghalaya, lies between latitude 25°5' N to 25°4' N and longitude 90°51'E to 92°45'E. It occupies an area of 3819 km² constituting 17.03% of the total land area of the state of Meghalaya. The district is bounded by Assam on the east and the north, East Khasi Hills district on the west and has an international border with Bangladesh in the south.

The Jaintia Hills district has an abundant reserve of natural resources. The heavy and long monsoon supports luxuriant forests of pine over the plateau and deciduous forests along its



15: The undulating landscape in the 4 Kilo Landmine area. Roads are unpaved and can only be traversed on foot or by Sumo vehicles. (4 Kilo: 7 December, 2009)

fringe areas against the plains. During 1997-98 an area of 1436.11 sq.kms is clothed with forest against the State figure of 8919.15 sq.kms. The District is enormously endowed with coal deposits particularly in Bapung, Lakadong, Chyrmang, Musiang Lamare, Sutnga, Iooksi, Rymbai, Byrwai, Jarain area etc. The District is also endowed with rich limestone, fireclay and phosphorite deposits, which are gradually used for commercial exploitation. Replete

with a large number of rivers and natural streams, Jaintia Hills District of Meghalaya has also a very good potential on useable water resources for hydroelectric projects. The Myntdu Lekha HE Project and the Kupli HE Project are already on the anvil.

The total population of Jaintia Hills district is 2, 95,692³², with a density of 77 persons/ sq.km. The literacy rate is 53% - interestingly, unlike in most districts of India, the female rate of literacy (55.54%) is higher than the literacy rate for males (50.52%). The Jaintia Hills district consists of predominantly of people from the Hill tribes. 71.2% of the population of Jaintia Hills district consists of people from the Scheduled Tribes. Besides people from the Scheduled Tribes, there are people from other districts of Meghalaya, Assam and Nepal who have settled over the years in the district. The people residing in the central region of Jaintia Hills are called "Pnars" by those living in the southern and northern regions and who are in turn called as "Wars" and

³² Census of India, 2001

"Bhois" respectively by the Pnar. All three are collectively known by the generic name: Jaintias" or "Synteng." Unique to India, tribes in Meghalaya, including the Jaintias follow a matriarchal system, whereby the youngest daughter of the family has the first right to inheritance of the familial property. However, it should be clarified that matrilineal system in Jaintia Hills does not mean that the female are more superior to the males but it is that tracing of descent is done through a female side. The father no doubt is the head and occupies an honored position in a family.

The Jaintia Hills district has a unique indigenous administrative system known as the *Doloiship* which has survived for centuries and still remains the authoritative governing structure for this region. Several villages in a particular area are clustered into a single administrative unit known as '*elaka*' (province) with the Doloi as the administrative head as the territorial chief of the '*elaka*'. . The individual Dolois have their respective Durbars (assemblies) where the common people got an opportunity to express their complaints or grievances. The Durbars are organized hierarchically - administratively below the Durbars of the Dolois, the villages having their own Durbars led by the village headman or *Waheh Chnong*. The Durbars provide a system of checks and balances, since common people provide opportunities to people to participate in their own affairs and the power of the Doloi are checked by the Durbars of their respective areas. Therefore, consent is the basis of political authority. To protect the indigenous administrative system, the Sixth Schedule of the Constitution of India, provided for a system of Autonomous Councils in Meghalaya to govern the affairs of the tribes. The Jaintia Hills is governed by the Jaintia Hills Autonomous Council.

2. The Coal Industry in Meghalaya

Meghalaya Coal, popularly known as 'Tertiary coal' occurs in all the districts of the State. The ash content is much lower than that of the best quality coal of the country and its calorific value exceeds some of the best grade coal but then its biggest drawback is its high sulphur-content, which makes Meghalaya coal a highly polluting fuel³³. The coal is mostly of sub-bituminous type. It can be used in a large number of industries requiring non-combustible coal. The possible uses are:

- Power Generation
- Fertiliser Industries
- Smokeless Coke
- Cement Industries
- Textile Industries
- Paper Industries
- Rubber Industries
- Brick-burning and Pottery Industries

³³ <http://databank.nedfi.com/content/mineral-resources-2>

The total estimated inferred reserve of coal in Meghalaya is of the order of about 640 million tonnes, which would account for approximately 1.1% of the total coal reserves in the country.

**Table 1: Production of Coal in Meghalaya
(’000 MT)**

Year	Coal
1997-1998	3234
1998-1999	4238
1999-2000	4060
2000-2001	4064
2001-2002	5149
2002-2003	4406

Source: Statistical Abstract Meghalaya 2006

In 2002-2003, Meghalaya accounted for approximately 0.7% of the total coal production of the country. There has been an increase of 36% in production of coal in the period between 1997 and 2003. Given the increasing domestic demand for coal and the vast untapped coal reserves in Meghalaya, there is immense potential for boosting the economy of Meghalaya by judicious exploitation of the coal reserves in Meghalaya. The contribution of mining to the Gross State Domestic Product in Meghalaya is shown below:

**Table 2: Gross State Domestic Product (GSDP) at Factor Cost by Industry of Origin in
Meghalaya (At Current Prices):
(Rs. in Lakh)**

Year	2002- 2003	2003- 2004	2004- 2005	2005- 2006	2006- 2007	2007-2008	2008-2009
Mining and Quarrying	43096	57406	60788	61604	65276	72295	76421
State GDP (in Lakhs)	476342	527999	580550	644467	732966	847160	961066
% of GDP from Mining Sector	9.0	10.9	10.5	9.6	8.9	8.5	8.0

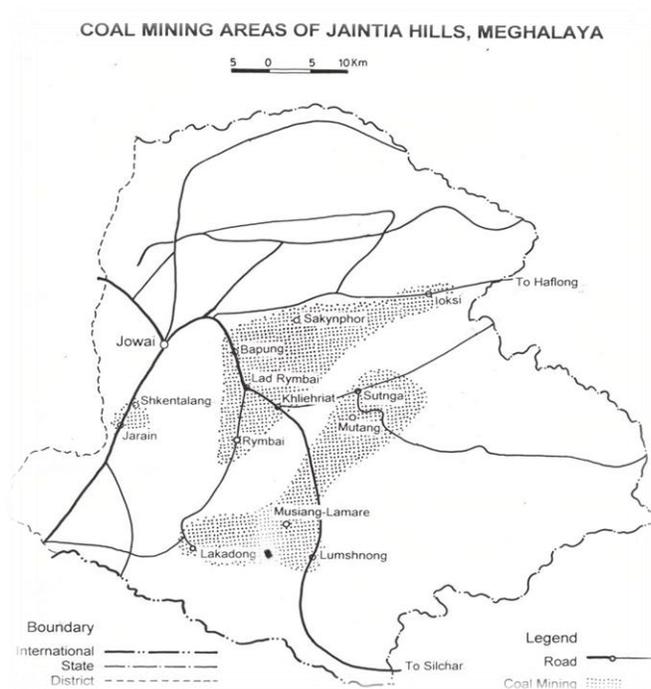
Source: Central Statistical Organization (CSO) (As on 29.01.2010)

The mining sector³⁴ contributes 8-10% of the GDP in the state of Meghalaya. The declining proportion of mining sector in the GDP could potentially be due to the higher contribution from the agriculture sector – however the declining trend does indicate that the potential of increasing the income of the state by proper exploitation of the state’s mineral resources in the Jaintia Hills.

³⁴ It is to be noted that the ‘Mining Sector’ includes not only coal but also income from limestone mining. Disaggregated income from only coal mining was not available.

3. The Process of Rathole Mining

The estimated coal reserves in the Jaintia Hills are about 40 million tonnes. (Swar & Singh,2003). The coal seams varying from 30 to 212 cm in thickness occur embedded in sedimentary rocks, sandstones and shale of the Eocene age (Guha Roy, 1992). The main characteristics of the coal found in Jaintia hills are its low ash content, high volatile matter, high calorific value and comparatively high sulphur content. Due to the high sulphur content, the coal from the Jaintia Hills produces high environmental pollution. The coal is mostly sub-bituminous in character. Sub-bituminous coal is used mostly for power generation and as a source of fuel in cement plants. (World Coal Institute, 2009). The physical properties characterize the coal of Jaintia hills district as hard, lumpy bright and jointed except for the coal in Jarain which is both soft and



16: Source: (Swar and Singh 2003)

hard in nature. Composition of the coal revealed by chemical analysis indicates moisture content between 0.4% to 9.2%, ash content between 1.3% to 24.7%, and sulphur content between 2.7% to 5.0%. The calorific value ranges from 5,694 to 8230 kilo calories/kilogram (Directorate of Mineral Resources, 1985). The mining activities in Jaintia hills district are small scale ventures controlled by individuals who own the land. Coal extraction is done by primitive surface mining method commonly known as 'rat-hole' mining. In this method, the land is first cleared by cutting and removing the ground vegetation and then pits ranging from 5 to 100 sq. m are dug into the ground to reach the coal seam. Make-shift bamboo ladders are constructed to enable miners to go down into the pits. Thereafter, tunnels which are around 2 feet in height are made into the seam sideways to extract coal. The miners crouch into these tunnels, equipped with only a torch and a pick-axe and chip away coal from the seams. The miners manipulate a wooden trolley with their feet and bring the coal to the mouth of the tunnel. The coal is first brought into the pit by using a conical basket or a wheel barrow and dumped into a larger cart. At the end of every few hours, the filled out cart is drawn up by a crane and dumped on nearby un-mined area. The women carry it out and hammer it into small, uniform pieces. When rainwater floods the mines, it is drawn out with a pump. Finally, the coal is carried by trucks to the larger dumping places near highways for its trade and transportation. Most of the coals bearing areas are accessible by roads from Jowai the Headquarter of Jaintia Hills District, 64kms from Shillong. The NH-44 connecting Shillong, Jowai, Badalpur and Silchar leads access to Bapung, Malwar, Mutang,

reach the coal seam. Make-shift bamboo ladders are constructed to enable miners to go down into the pits. Thereafter, tunnels which are around 2 feet in height are made into the seam sideways to extract coal. The miners crouch into these tunnels, equipped with only a torch and a pick-axe and chip away coal from the seams. The miners manipulate a wooden trolley with their feet and bring the coal to the mouth of the tunnel. The coal is first brought into the pit by using a conical basket or a wheel barrow and dumped into a larger cart. At the end of every few hours, the filled out cart is drawn up by a crane and dumped on nearby un-mined area. The women carry it out and hammer it into small, uniform pieces. When rainwater floods the mines, it is drawn out with a pump. Finally, the coal is carried by trucks to the larger dumping places near highways for its trade and transportation. Most of the coals bearing areas are accessible by roads from Jowai the Headquarter of Jaintia Hills District, 64kms from Shillong. The NH-44 connecting Shillong, Jowai, Badalpur and Silchar leads access to Bapung, Malwar, Mutang,

Lumshnong and Lakadong coalfields. The coal bearing areas of the district present a panorama of flat topped low hills, devoid of vegetation and plateau of rolling grasslands interspersed by river valleys.

4. Coal Industry in the Jaintia Hills

Jaintia Hills, with its immense natural and mineral resources, still remains an underdeveloped district in the state of Meghalaya. Though agriculture is the mainstay of the population in the Jaintia Hills, the predominantly rural population of the district hasn't been able to make adequate capital investments to allow sufficient returns from agriculture. The number of unemployed have steadily increased – from 2005 to 2010, the population of unemployed have increased by 24%³⁵ Literacy levels are low (53%) and 90.6% of the population of Jaintia Hills is concentrated in the rural areas³⁶. The district has a few rubber and coffee plantations, but the potential of plantation agriculture has not been developed to its full potential. The climate is



very conducive to the growth of a large number of horticultural crops like fruits, spices and mushroom. Apart from such potential for agro based industries the state also possesses rich deposits of

17: As you go deeper, it gets darker. The miners work in these dark pits with simple torch lights or headlights. (Ladrymbai: 22 April, 2010)

limestone, coal and granite. The district has vast reserves of minerals like coal, limestone, kaolin and sedimentary clay. In spite of the vast reserves of natural resources, industrial growth in the Jaintia Hills has also been very laggard. There is only one industrial estate at Khliehtyrshi. Despite the large limestone reserves in the district, there are only three cement factories³⁷ in the area. Most of these natural resources are extracted and sent outside the state only in raw form. There is little value addition activities in the state. CMIE index for infrastructure development for Meghalaya is 65 (in 1992-93), the reference point being 100 which is the national average³⁸.

³⁵ <http://jaintia.nic.in/Employ.htm#Particulars>

³⁶ Census of India, 2001.

³⁷ Jaintia Cements Pvt. Ltd.; Meghalaya Calcines & Chemical, Lumshnong

³⁸ <http://databank.nedfi.com/content/economy-meghalaya>

Given the poor development of agriculture in the Jaintia Hills, many rural families depending on forest produce to supplement their cash income. Prior to 1981, there was no restriction on the amount of forest produce than an individual could extract. Timber could be sold or trees could be used to make charcoal. In Meghalaya, most village land including forests had been allocated to local lineages and over time effectively became the property of individual families – thus a large class of farmers also own forests (Nathan 2000). Sale of timber had become part of the household economy of these farm families. However in 1981, the Supreme Court, in an attempt to prevent widespread environmental degradation, passed a directive³⁹ banning commercial logging in Meghalaya. The banning of coal had certain unintended consequences as the poverty-stricken population of rural Meghalaya including the Jaintia Hills scoured for alternative ways to generate income from the land and the forests. With the Supreme Court banning the felling of timber for commercial purposes, local people turned to digging on their private property for coal. There was a sudden spurt in the coal trade about a decade ago. It wasn't long before people realized that there was a fortune to be made from digging in the coal fields in the Jaintia Hills.

Starting a mine in the Jaintia Hills became literally a matter of 'finders takers'. Most mining is done on public lands owned by the Dolois or on private land of individuals. Locals usually start digging wherever they see blackish slate because they know from experience that it's a potential coalmine. They register with the village headman, who conducts a survey to verify whether they've found a new mine. The only regulation followed is to ensure that there's a 20-foot gap between two mines. None of the stringent environmental clearances and the safety standards that are applicable to mining in other parts of India, under the Mines Act, 1952, are applicable to the coal mines in Meghalaya. A Sixth Schedule state, Meghalaya has three autonomous district councils with which the government – by law, the sole authority to lease and license mines – is to share revenue collected from licensed mine owners. Traditional institutions, however, openly flout mining norms, and customary heads like the Syiem of the Khasis, the Dolois of the Jaintias and the Nokma of the Garos let out land at will to private operators.

Coal from Meghalaya primarily is sent to domestic industries in other parts of India for use in cement plants, but the primary market for coal from the Jaintia Hills is Bangladesh. Tribals require only an export licence while non-tribals require a trading licence, an export licence and a No-Objection Certificate to start exporting coal to Bangladesh. The exporters in Jaintia Hills do brisk business. An exporter who owns a large mine of an area of 300 sq.meters and employs around 80 people can export an average of 300 tonnes of coal per month. The average price of coal is approximately Rs.3000 per tonne.⁴⁰ After deducting costs for labor, transportation,

³⁹ *Meghalaya Forest (Removal of Timber) Regulation Act, 1981*

⁴⁰ This is a gross misinterpretation of the Sixth Schedule, says LH Changte, Assistant Controller of Mines and Officer-in-Charge, Indian Bureau of Mines (IBM). "Just because the land belongs to the tribals does not mean that the minerals underground also belong to them. All minerals belong to the State."

taxes and miscellaneous expenses, the exporters make an average profit of 10% , which in this case would translate into Rs.90,000/month. Depending on the size of the mine, quantity of production from the mine, mine-owners could make a profit ranging from Rs.50 thousand/month to Rs.3 lakhs/month or even more.

Export of coal takes place through the two Customs stations, Borsora and Dawki, under the jurisdiction of the Shillong Customs Division. The quantum of export of coal that has taken place from 2006-2010 is discussed below⁴²:

Table 3: Annual Value and Quantity of Coal exported to Meghalaya

Year	Quantity (mT)	Value (in crores)
2006-2007	1262415.074	250.02
2007-2008	1177113.145	240.97
2008-2009	1623555.13	290.63
2009-2010	1400515.17	318.54

There is no readily available data on the amount of coal exported in one day, as the Land Customs stations are situated in far flung localities and there is no telephone connectivity to obtain such information. However, export of coal in one month (May 2010) is detailed below⁴³:

Table 4: Quantity of coal exported from each land customs stations in Meghalaya

Land Customs Station	Quantity of coal exported (mT)
Borsora	53031.000
Dawki	24547.000

There are 157 registered exporters in Borsora and 75 in Dawki. 200-250 loaded trucks with 7 tonnes of coal each is exported everyday during the peak season. The government seems to have no qualms about pocketing its part of the spoils. Interestingly, the Meghalaya government collects royalties from illicit mine operators and even issues them receipts, thus not only encouraging them but making itself a collaborator. According to mine owners, around one lakh metric tonnes of coal, worth around Rs 50 crore, is extracted from the Jaintia mines every day⁴⁴. The government gets a royalty of Rs 290 per tonne; this would amount to approximately 3 crores in royalty per day for the Government of Meghalaya. Most of this low-grade coal is transported to different parts of the country and to the Bangladesh border.

⁴¹ This price was quoted by Justik Hahhah, President of Western Coal Miners and Exporters Association. However, in Impulse's interview with exporters, different rates were quoted, ranging from USD45/tonne to USD60/tonne.

⁴² Apalak Das, Deputy Commissioner of Customs, Customs Division, Shillong, Meghalaya.

⁴³ Apalak Das, Deputy Commissioner of Customs, Customs Division, Shillong, Meghalaya.

⁴⁴ Tehelka, Vol. 7(26), July 3, 2010.

Not only has coal mining boosted the economy of the Jaintia Hills, it generates income and employment in other regional industries that are dependent on coal mining. These industries provide goods and services into coal mining, such as fuel, electricity, and equipment, or are dependent on expenditure from employees of coal mines⁴⁵. The coal mines in the Jaintia Hills also provide a significant source of local income in the form of wages not only for local laborers but also for migrant workers. For every cart of coal the young coal miners manage to fill, they get Rs 800. But it takes a team to fill them and the money has to be shared. On a good day, the children in these mines can earn Rs 300 to 400. Those who carry coal from inside the quarries to the surface can earn Rs 200-300 per day. Mining can fetch the laborers around Rs 8,000 to 10,000 a month, which is considerably more than what they can earn in their home states. When he was a mason, Belawan Star Majaw, 26, used to earn Rs 1,200 a week; as a miner, he now earns Rs 2,800. He came to know about the mines from his cousins but confesses he wasn't aware of the hazards. "Once we enter the rat hole, we are not sure if we will come out," he says. Vinod, on the other hand, seems to have accepted his fate. "I know this is dangerous," he says. "But I have to support my family. There is no option." Cost of living for migrant laborers in the Jaintia Hills is also high. The weekly rations can cost up to Rs 1,000, says Khan. Plus some of them drink and smoke. The labor for extracting, breaking, sorting, loading and unloading coal is



organized into groups with a leader called a Sordar. *18: Sudden rain, a tipped cart, a fallen rock - just about anything could mean death in these hostile pits (Ladrymbai: 22 April, 2010)*

This person is usually of non tribal origin, often Nepalese, and sometimes a woman. He/She is paid a percentage for every truck loaded, taking Rs. 200 out of the approximate Rs. 1,200 per truck. When the mine is small, the Sordar will be required to participate in manual labor; otherwise he/she can supervise the other workers. At times, Sordars have been known to loan mine owners some of the tools needed to extract coal.

Coal outsourced from the Jaintia Hills to Bangladesh today constitutes a major source of revenue for the district. Moreover, many importers in Bangladesh also are heavily dependent on coal imports from Meghalaya. In June 2009, Bangladesh imposed a ban on coal from

⁴⁵ There is no data available on the revenue generated by businesses or activities that have developed as a supplement to coal mining in the Jaintia Hills in Meghalaya; however, number of reports cites that there is unprecedented growth of small businesses and the emergence of a new class of nouveau riche people, owing to the revenue flow from coal mining.

Meghalaya citing high sulphur content which caused pollution, but was lifted as brick kilns in Bangladesh prefer Meghalaya coal due its low ash content. This was the sixth time in eight years that the Bangladesh Government had imposed a ban but lifted it owing to pressure from trading lobbies. This shows that there is a ready market available across the border for coal from the Jaintia Hills, which is being fully exploited by local mine-owners and exporters for their own profit. This drive towards higher profit means that mine-owners will want to keep their labor costs low – thereby providing them with the perfect rationale for employing children, who are typically cheap sources of labor.

5. Initiatives of Impulse NGO Network to Combat Child Labour in the Jaintia Hills

Impulse has been very active in the arena of children’s rights. It has already done considerable work on child labor in Meghalaya. Prominent among its projects concerning children were a survey research study on child labor in Shillong which was conducted with the aim to understand the problems that children on the streets and working children felt so that appropriate intervention programs and activities could be planned for them. The research, based on interviews of 500 child labors also intended to locate gaps in existing services regarding children and health, education, work conditions, and exploitation. Attempt was also made to attain a fair idea of the magnitude of the problem of child labor migration from the seven districts of Meghalaya to the city of Shillong. Another major initiative of Impulse regarding child labor was to find the socio-economic conditions of the girl-child laborers, the levels of economic exploitation, the degree of gender exploitation, and the workings of various governmental agencies and non-governmental organizations by a survey of 500 girl-child laborers.

Baseline Study on the Survey in Jaintia Hills District, Meghalaya

To make a preliminary assessment of the extent and seriousness of child labor in the Jaintia Hills, Impulse conducted a baseline survey in the Jaintia Hills district in Meghalaya from March 28, 2007 to April 2, 2007. On the basis of this study, Impulse prepared a report ‘Baseline Study on the Survey in Jaintia Hills District, Meghalaya’. The survey undertook direct interviews of



people involved in coal mining in the Jaintia Hills including truck drivers, dhabas [owners, workers and customers], tea stalls, shops, movie halls, coal mine workers and owners, depot workers, petrol pump owners and workers, local residents in villages, village headmen, local chief, Seng kynthei [president and secretary] and government officials. On the basis of the

interviews, some of the findings of the team are as follows:

- There is large scale migration from Assam, Nepal, Bihar, Tripura and Bangladesh.
- Coal digging takes place in risky conditions.
- Child laborers are working in the mines.
- Workers are not sending girl child to schools.
- Wages range from Rs.5000-8000 /month depending on risk involved in work.
- There is no monetary compensation in case of casualty ranging from serious injuries to death.
- There are no health awareness campaigns or health camps are conducted on part of governmental or non- governmental agencies.
- Coal mine owners are not even aware of child labor related laws.
- There is no salary regulation
- No insurance given to the workers. According to one of the petrol pump employee in the Lad Rymbai area, the place is highly unsafe and not even eight or ten year old girls are safe.

6. Reports of Other Organizations

Between March-April, 2009, an international medical aid organization, Doctors Sans Frontiers was assisting in the meningitis epidemic that had broken out in the Jaintia Hills in Meghalaya. The organization also reported that large numbers of children were working in the coal mines in Meghalaya. As news of the trafficking of children and employment of them in the coal mines in Meghalaya trickled in through reports in the local media, a number of national and international investigative teams of media agencies and human rights organizations have visited the coal mines in the Jaintia Hills to investigate into the prevalence and circumstances of child labor. The reports made by these organizations are briefly summarized below:

i) Asian Human Rights Commission Findings (AHRC): November 23, 2009.

The Asian Human Rights Commission (AHRC)⁴⁶ is an independent, non-governmental body, which seeks to promote greater awareness and realization of [human rights](#) in the Asian region, and to mobilize Asian and international public opinion to obtain relief and redress for the victims of human rights violations. The AHRC collaborated with Impulse to conduct an investigation in the coal mines in Jaintia Hills on April 22, 2010.

In an investigative report published by the AHRC on 23 November, 2009, the group reported that every day, truck loads of coal cross the Indian border to Bangladesh. The vehicles return with children, who are lured into the mining industry with the promise of better wages and living conditions. In most cases the children are purchased by middlemen or abducted and sold

⁴⁶ The website of the AHRC is available at www.ahrchk.net

by gangs in Nepal and Bangladesh to the mining mafia in Meghalaya. The price for a child varies from 50 to 75 US dollars. The children have to work for free, as their work is considered as repayment of the debt they owe, which is nothing more than the price at which they were bought.

Under the 6th Schedule of the Indian Constitution the tribal and native communities residing in Meghalaya have exclusive rights over their land which include for mining operations. While mining is legal, the methods used like bonded and child labor, are illegal. The state government has so far not attempted to deal with this most inhuman treatment meted out against the children smuggled into the mines from neighboring countries. The AHRC also reported that several of the mine owners in the region have influence over the state's politicians. Some of them are even seated in the state legislative assembly. Their clout in the corridors of power is evidenced by the lack of intervention to prevent the illegal practice. According to the AHRC Report, this lackadaisical attitude of the state government of Meghalaya is evidenced by the fact that the Mining and Geology department of the Government of Meghalaya issued a [notification](#) concerning its mining policy on 24 September 2009. It is an invitation to the public to participate in the state's attempt to finalize its mining regulations. After a debate in the state legislature these will have the effect of a law governing mining of minerals and natural resources in the state. However, the AHRC also noted that the state government has made no attempt to address the most gruesome fact concerning mining in the state in its draft mining policy -- rampant child labor.⁴⁷



In some shocking revelations, the AHRC reported that a few months ago, human skeletons were recovered beneath a pile of coal in a mine in Jaintia Hills (Newspaper report). It was suspected that the skeletons were the remains of children who lost their lives due to suffocation in the mine shafts or in other accidents during the mining operations. The Impulse NGO Network investigated the case and found that the suspicion was true. The AHRC also reported, "The investigation also revealed that such deaths are common in the mines and the dead bodies buried in undisclosed graves near the mines, often under piles of earth. The children are instructed under threat not to disclose their foreign identity to anyone they meet. They have no freedom to move out of the premises of the mine where they work. Working hours are long, often from day break to nightfall without rest. They have no means to communicate to the

⁴⁷ The Meghalaya Mining Policy (draft) can be viewed at <http://meghalaya.nic.in/policy/mining%20policy%202009.pdf>

outside world, much less to their families. The only tools the children have to extract coal or limestone are shovels or pickaxes. There are no medical facilities available near the mines.

The AHRC reported that not all the children who are brought to work in the mines are boys. There are considerable numbers of girls who have been bought by the mine owners. Instances of sexual abuse are rampant. Children fall prey to the mine owners, managers, to other elder workers and even to truck drivers. But not a single case of child abuse or sexual abuse of a child has been successfully investigated in Jaintia Hills mine area. The AHRC also reported that some children are trafficked further from the mines to the cities for prostitution.

The AHRC Report states, "The child labor in Jaintia Hills is evidence of the rampant corruption within the state's administrative system and also the human smuggling along the Indo-Nepal and Indo-Bangladesh borders." The Report says that without the connivance of the officers attached to the border security agencies it would be virtually impossible for such large numbers of children to be smuggled into India. The only two agencies that directly intervene in the mining operations are the state police and the officers working for the state labor department. Moreover the AHRC Report was of the opinion that the overwhelming number of children brought from Nepal and Bangladesh also indicates the living conditions for children in these countries. In most cases children have reported that they were sent to the mines after their parents accepted money from middlemen engaged in child trafficking. So the governments in Nepal and Bangladesh are also equally responsible for this uninterrupted child trafficking and child labor.

ii) Esther Benjamin Trust (EBT)-Impulse Research Report: December 15, 2009

Following the conclusions from the preliminary surveys, Impulse decided to conduct an extensive field study in the Jaintia Hills district in order to assess the number of children and their living and working conditions in the coal mines in the Jaintia Hills in Meghalaya. Plans for this research investigation came to fruition after Philip Holmes (Founder - CEO) and his team from the Esther Benjamin's Trust conducted an exploratory trip to the North East Indian mines of Jaintia Hills, Meghalaya, in February 2009. The Esther Benjamin's Trust (EBT) is a Nepal based organization that provides a number of refuges for children in need of care and protection; they serve rescued trafficked survivors, children from areas affected by conflict, street children, and the dependent children of prisoners.

Prior to the visit, Philip Holmes had come across a press report portraying Jaintia Hills as a destination point for Nepalese children trafficked to work in coal mines. Supported by the Esther Benjamin Trust, Impulse undertook two rounds of field research during June 29-July 12, 2009 and September 14-September 19, 2009 during which 686 and 220 child laborers were interviewed respectively. It was the aim of this investigation to take a small, yet meaningful snapshot of children defined under a particular target group; unaccompanied Nepalese children, 14 years old and younger, who wished to leave the mines for return to their homeland. A Rapid Assessment methodology was chosen to meet this primary objective, adopting an open

and closed ended questionnaire as the main instrument of data collection. The results offered much in the way of understanding regional child labor by identifying financial exploitation, the recipients of child income, child laborers wishing to leave work at the coal mines, unaccompanied child laborers, abuse of working hours, hazardous working conditions and denial of low level education. The research recommended further contact with numerous children presented in the finding as highly vulnerable or at risk.

Based on this report, Impulse estimated that there were 70,000 children in the Jaintia Hills. In the research conducted by Impulse NGO Network, there have been around 906 children covered under this. The number of children falling under each age-group is provided below:

Age-Group (in years)	No. of children
5	1
6	2
7	2
8	50
9	8
10	26
11	27
12	71
13	111
14	160
15	151
16	139
17	152
No age group mentioned	6
Total:	906

As per the research, we find that there are more working children between the age-group of 10 to 17 years. Under the research, a total of 837 working children are between the age-group 10-17 years.

If we look at the chart provided by Health Department, Government of Meghalaya there is a population of around 1,15,463 migrant children in the Jaintia Hills who are under the age group 5 to 10, 10-16 and 16 to 18 years.

Now, as per the estimation, there are 5000 coal mines in Jaintia Hills. If we take an average of 15 to 20 children working in each of the mines and if we calculate the number of mines with that of the number of children working in it, we will find that approximately 1, 00,000 children are working in the coal mines of Jaintia Hills. Hence after an analytical study based on the statistics, IMPULSE estimated that there are minimum 70,000 children working in the coal mines of Jaintia Hills, Meghalaya.

Concerning 40,000 children from Bangladesh and 30,000 children from Nepal, IMPULSE research report reveals that 40% of the children covered under the research are from Nepali community, i.e. 315 out of 906 are Nepalis. Although, there are large number of children from Bangladesh who are brought to work in the coal mines of Jaintia hills but the chart of our research shows that there are lesser number of children from Bangladesh. This is so because most of children from Bangladesh did not want to reveal their identity as Bangladeshi because of safety and political issues. Instead, they said that they are from Silchar Assam, bordering Bangladesh.



iii) Report of Fact-Finding Mission of Human Rights Now (HRN), Japan: June 5, 2010

Human Rights Now, a Tokyo-based international human rights NGO, conducted a fact finding mission to *Jaintia Hills* in the state of Meghalaya, from May 31 to June 2 2010 to investigate the extremely hazardous situation of child labor around the coal mines in Shillong, Meghalaya. The HRN fact finding mission conducted extensive investigation in three coal mines for three days. They conducted interviews of forty-five people including workers, children, families, supervisors, managers and owners. This included fifteen children, with three children each of the ages 12, 13, 14, 15 and 16 involved in coal mining. They also interviewed five children of age 17 and six of age 18 involved in coal mining.

The HRN fact-finding team found that extremely hazardous and inhuman child labor practice has widely been operated in the coal mines owned by individual owners in *Jaintia Hills*. Significant numbers of them are trafficked from Nepal and Bangladesh. Most of children including those who were under age 14 are exploited under extremely dangerous working environment and the situation indeed resembles practices akin to slavery. The children are exploited and usually given half of wages compared to adults. Some of the observations reported by the HRN Mission are as follows:

- The age of the children involving child labor in this area is notably low. They interviewed three child workers age 12 and three child workers 13. A 12-year-old boy reported that he had been working since he was 8 years old. He used to work at the bottom of the hole to extract coal at the age of 8 to 10. Several adults said that since children are brought from abroad when they are in an age of 8 to 10 years old, they forget the way to go back home and have to continue working in the mines although they do not like to work.
- The working condition in the coal mines is extremely hazardous and dangerous. The children need to enter in the deep into the hole and work in the underground tunnels, known as “rat holes” to extract coal. The length of the hole is extremely deep and there is a little oxygen. It is dangerous to climb up and down the ladders and also dangerous to enter into the hole. The

working environment is very unscientific and there is an absolute lack of safety measures to prevent accidents; as such there is a constant risk to worker's life and security. Workers and manager reported a large number of accidents which cause death and injury. However, the death of missing children goes unreported and neither compensation nor medical payment is provided by owners.

- There is trafficking involved in the situation. Regarding children from Nepal and Bangladesh, there are many cases which involved brokers.⁴⁸
- Also in most cases, deception is involved in the recruitment of children. Children are often recruited on the pretext of simply doing work or just to earn money. They realize the extremely hazardous working condition only after arrival. However, without any money to return, they have no choice other than engaging in labor in the mines.
- They received information with respect to human rights violation such as extrajudicial execution. The workers including children are often locked up in the rat holes as a punishment and it causes death. Although such acts are intentional killing, perpetrators have never been brought to justice. The fear of such executions threatens other children who are working in the mines, therefore, there is no choice of leaving the mines and they are forced to obey the manager.
- The living conditions of the children are inhuman and insanitary in nature. People live in an unhygienic condition with no proper sanitary facilities. There is lack of safe drinking water and lack of proper sewage system as a result of which people residing there encounters with various diseases. Moreover, no medical facilities are provided by employers. Children are not entitled to go to school at all.
- The number of child workers is unknown. According to Impulse NGO Network, estimated numbers of child workers are 70,000. However, it could be estimated more children working in the mining industry. The reason for HRN's higher estimation is because according to a manager we interviewed, there are 100,000 quarries and we witnessed some of the big quarries have around 25 children working. It is clear that slavery like practice of child labor is widespread and embedded in entire *Jaintia Hills*.
- The HRN regretted the fact that no intervention or initiative to address this extreme situation by either central or local government has been reported. Although Impulse NGO Network has officially reported the problem to relevant authority such as Social Welfare Department and Labor department in the central government, as well as National Human Rights Commission, however, no action has been taken. Although there are many mechanisms to address child labor in India, these mechanisms seem to have little impact to change the situation on the ground. The National Commission on Protection for Child Right has visited to state of Meghalaya and been informed the situation, but no follow up response has taken place so far. In the state of Meghalaya, there are 7 inspectors appointed in charge of child labor issue, however, no inspection or guidance has been reported.
- The situation above constitutes serious violation of both international and domestic law.

⁴⁸ According to the manager we interviewed there are some other managers who pay money to brokers.

- First of all, the practice is grave breach of the ILO Minimum Age (Underground Work) Convention No.123 (1965) which has been ratified by India prescribes “the minimum age shall in no case be less than 16 years.” Also, the practice is serious violation of Indian Constitution and the Child Labor (Prohibition and Regulation) Act, 1986 explicitly prohibits child labor under 14 years old in mines or engaged in any other hazardous employment. Second, the above practice constitutes grave violations of international human rights law, such as International Covenant of Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention of Right to Child (CRC). The extremely hard and dangerous working conditions without any security measure causes numerous deaths and injuries of children by accident as well as extrajudicial execution. It is grave violation of right to life (Article 5 of ICCPR, Article 6 of CRC). The practice of child labor also deprives children’s right to health including access to safe drinking water and sanitation(Article 12 of ICESCR, Article 24 of CRC) as well as right to education(Article 13 of ICESCR, Article 28of CRC). It also violate as well as children’s right to be protected from hazardous or harmful work (Article 32 of CRC), state obligation to take all appropriate measure to prevent trafficking(Article 35 of CRC), children’s right to be protected from exploitation prejudicial to child welfare(Article 35 of CRC).Under the ICCPR, ICESCR and CRC, the State of India has an obligation to respect and protect the human rights of all people including children within its jurisdiction.
- In case private sector commit grave violation of human rights, the state should protect the people including children from the human rights violations committed through taking all necessary measures, including introduce necessary preventive measure of violations, investigating the violation, prosecuting the human rights violators.

7. Government Interventions

Impulse has lobbied extensively with state and national level government organizations to raise awareness and facilitate pro-activeness on the issue of child labor in the Jaintia Hills district, Meghalaya. At the national-level, Impulse contacted the following Departments: i) Planning Commission ii) National Commission for the Protection of Child Rights (NCPCR) iii) Delhi Commission for the Protection of Child Rights. Impulse contacted the following state government organizations: i) Governor, Government of Meghalaya ii) Chief Secretary, Government of Meghalaya iii) Commissioner and Secretary, Social Welfare Department, Government of Meghalaya iv) Director, Social Welfare Department, Government of Meghalaya v) Labor Commissioner, Labor Department, Government of Meghalaya. ⁴⁹

In July, 2010 the Chief Secretary of Meghalaya was summoned by the NCPCR to New Delhi to attend a hearing on the issue of child labor in the coal mines in Meghalaya. On July 20, 2010, the Chief Secretary, Government of Meghalaya, before leaving for Delhi to appear in the hearing before the NCPCR called Impulse for a meeting along with the Social Welfare Department at his office, where Impulse presented facts and figures on the issue concerned.

⁴⁹ Copies of correspondence with government departments are available on request.

However, thereafter, Impulse did not receive any intimation about the follow-up initiative from the side of the Government. We only came to know all about it through local newspapers. Thereafter, IMPULSE followed-up the issue with the Chief Secretary as well as to the Deputy Chief Minister of Meghalaya concerning the same. In September, 2010 Impulse sent letters to the President of India, the Prime Minister of India and all the members of the Lok Sabha and the Rajya Sabha intimating them about the issue of children being employed in the coal mines in Meghalaya.

In September, 2010 the Chief Labour Commissioner, Government of India along with his team came to Meghalaya to intervene in the matter. Impulse never received any information from any Government Department in Meghalaya, instead Impulse learnt about their visit to Meghalaya through news items flashed in the local newspapers and also learnt about the Committee being formed to intervene the same. Learning about their visit to Meghalaya, Impulse again approached the Labour Department with a request to include Impulse and another local Organization called Civil Society Women's Organization (CSWO) working on



19: Shelter shed for coal mine workers at Myndihati

Child Labour issue to have a meeting with the concerned officials from Government of Meghalaya to discuss the critical issues related child labour in the coal mines of Jaintia Hills, Meghalaya.

Finally on September 13, 2010 at Khliehriet, representatives from Impulse along with CSWO were able to personally meet Shri. N.K. Prasad, Chief Labour Commissioner, Government of India, Shri. Naresh Choudhury,

Welfare CESS Commission, New Delhi, Shri. B. Chakraborty, Assistant Labour Commissioner, New Delhi and Shri. B.B. Singh, Regional Labour Commissioner, Central, Guwahati thereby submitting to them all the relevant documents concerning the children being employed at the coal mines of Meghalaya.

It was to the utter surprise of IMPULSE and CSWO that these officials from New Delhi and Guwahati had a meeting with all the concerned departments in Meghalaya but here too IMPULSE was never intimated nor informed about the meeting that was held concerning the issue. As a follow-up of the meeting the Officials had with the Government of Meghalaya, they went and visited few mines but could not find adequate fact as a result of which it seemed that their visit to Meghalaya to intervene the matter has not been productive. Impulse being the first Organisation to bring up the matter could have accompanied them to those vulnerable areas and mines where children are being employed and exploited.

After Impulse's meeting with the Officials from New Delhi, they gave a deadline to Impulse to take them to the different mines at Meghalaya to locate the children September 14, 2010. Hence, Impulse along with CSWO went to the coal mines to assist the officials in the process.

We do acknowledge that the Government of India has been responsive towards the issue of children being employed at the coal mines of Meghalaya but it would had been more productive if IMPULSE could had been intimated about their visit to Coal Mines in Meghalaya so that a concrete plan of action could be developed towards effective intervention of the same.

i) Report of the National Commission for the Protection of Child Rights (NCPCR): August 11, 2010

The National Commission for Protection of Child Rights (NCPCR)⁵⁰ was set up in March 2007 as a statutory body under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), an Act of Parliament (December 2005). The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group. The Commission, while enquiring into any matter, has all powers of the Civil Court trying a suit under the Code of Civil Procedures, 1908.

Based, inter alia, on complaints received about large scale child labor in the coal mines area of Lad Rymbai and the alleged transfer of children from Jaintia Hills, Meghalaya to educational/religious institutions in Karnataka (story published in the Tehelka), the National Commission for Protection of Child Rights ('NCPCR or Commission') team visited Meghalaya from August 8th to 11th, 2009, to enquire inter alia, into the same. The NCPCR also focused on the delivery of essential services to children such as food & nutrition, shelter, health and medical facilities and education.

The NCPCR team reported the following:

- Due to growth of industry and township around it, there has been a phenomenal demand for cheap labor in Jaintia Hills. As it is well established, children are preferred because they are the cheapest form of labor and can be forced to work in inhuman conditions. Although, at the time of the visit of the team, there were no children visible (the visit of the NCPCR team was well known in the area), the team received several reports that young children are engaged in loading of coal, sorting of coal according to the size while older children actually work inside the coal mines, entering through the small crevices to mine coal along with other adult workers. Several children also begin as apprentices for cleaning the trucks and helping the drivers. One of the NGOs

⁵⁰ <http://www.ncpcr.gov.in/>

reported that as per study that they had carried out it is estimated that there are approximately 70,000 of children working in coal mines.

- There are many girls who are being trafficked to work in towns and cities as domestic child labor sometimes as bonded laborers or for their own families. Many more work as farm laborers, cattle- herds and shepherds. All these children should actually have been schools enjoying their right to education.
- The labor department admitted that child labor was a big problem, lack of personnel, facilities and local culture and mores were impediments to their being able to implement the law. The letter written by the Labor Inspector, Khliehriat Sub-Divisional Labor Office to the Labor Commissioner, Shillong seeks advice on how to go about the child labor working in various restaurants.

Based on the findings, the NCPCR team also made the following recommendations:

- There has to be a sustained and massive campaign against all forms of child labor and a generation of public support for implementation of all the relevant laws.
- The labor department must enforce the Child Labor (Prohibition and Regulation) Act 1986, Juvenile Justice Act as well as the Bonded Labor System Abolition Act (1976). strictly and register cases against employers of children in domestic work, hotels, eateries and other establishments, mining and other sectors where child labor is prohibited and coordinate with the police and revenue departments for enforcement of the laws.
- Arrangements for rescuing children from labor force and their preparation for admission into an age appropriate class are to be made. The SSA must develop a comprehensive plan for reaching out to all out of school children through residential and non-residential bridge course centres and work towards mainstreaming all children in to schools.
- There has to be a clear set of protocols with specification of roles for all departments including the Child Welfare Committees for identifying, rescuing and rehabilitation of all such children till they reach the logical conclusion of being enrolled and retained in full time formal schools. The protocols recommended by NCPCR and adopted by the recent Delhi High Court may be perused for this purpose.

The NCPCR summoned Chief Secretary of the Government of Meghalaya and the Commissioner of the Labor Department to appear before the Commission in New Delhi in July 2010 to explain the conditions of children working in the mines in the Jaintia Hills District, Meghalaya. So far, the Government of Meghalaya has not taken any proactive decisions to combat the issue of children working in the coal mines in Meghalaya. The Government of Meghalaya has been in the process of drafting a Mining Policy in order to regulate the mining

sector in Meghalaya since 2009. However, the Mining Policy has not been adopted so far, since a consensus has not emerged with respect to various provisions in the draft Mining Policy. Notably, the Mining Policy in its current form, does not address the issue of labor conditions or child labor in the coal mines in Meghalaya.

8. Public Interest Litigation

Failing to elicit any response from the government organizations, Impulse was compelled to file a Public Interest Litigation in the Supreme Court of India. Impulse has collaborated with Prayas Juvenile Aid Center (JAC) in New Delhi to file a PIL in the Supreme Court of India. Monika Arora, an advocate with the Supreme Court of India has volunteered to appear on behalf of Impulse and Prayas JAC to present this case in the Supreme Court of India.

9. International Lobbying Initiatives

In response to the joint report of Impulse and AHRC on November 23, 2009 on the issue of child labor in the Jaintia Hills, the Special Rapporteur on Trafficking of Persons of the Office of the High Commissioner of Human Rights (OHCHR), Geneva sent a follow-up questionnaire in order to evaluate the conditions of children working in the coal mines in Meghalaya. Impulse has kept the OHCHR updated on the subsequent investigations and initiatives in the coal mines in Meghalaya⁵¹. Impulse has also made the Embassy of the United States of America and Embassy of Japan cognizant of the efforts being made to improve the conditions of children in the coal mines.

10. Media Initiatives

i) Investigative Report of the France 24 Team⁵²: May 11, 2010

The well-known media agency, France24 sent an investigative team on April 26, 2010 into the coal mines in Jaintia Hills to investigate into the presence of child labor. An investigative team from France 24 also found evidence of child labor in Meghalaya. In a news broadcast on May 11, 2010 that reached out to all countries in the world, France 24 reported that there were 70,000 children working in the privately owned coal mines in the Jaintia Hills in Meghalaya. The Report shows footage of young boys, as young as 14, being sent into the 'ratholes' which can be as deep as 150 feet to dig out coal. One of the boys who were interviewed said, "It's very difficult work....once we go in we have no idea if we will come out. We know we can die inside. If we are lucky, we will come out, but we never know." Another child said, "It's just a small hole, so when you go inside the roof might fall on you. Sometimes I get scared." The Report said that these children work for as little as two hundred rupees a day. One of the mines

⁵¹ Copies of correspondence with OHCHR are available on request.

⁵² The news broadcast is available for viewing at <http://www.youtube.com/watch?v=TOwfbw7gi0s>

managers Purna Lama said, "Age is not taken into consideration. Some children start working as early as when they are twelve years old. When accidents happen, when people die inside the mines, the owner doesn't care and the government doesn't look into it." The France 24 Report also said that many of the children were brought back from Bangladesh and Nepal in the same trucks that are used to export coal from Meghalaya to these countries.

ii) Hindustan Times News Report, June 06, 2010

The Hindustan Times newspaper reported that tales of frequent accidents and deaths due to cave-ins of mine walls, sudden floods, falls in the pits and suffocation abound in these death holes, as do stories of quiet burials. Mine owners prefer immigrants to work in their mines because there is less accountability in case of accidents. There are no registration laws for the labour employed nor are antecedents of the miners verified. With no documenting authority and lack of health facilities, almost all deaths and accidents go unreported. The report also said the inhuman conditions in the mines have to be seen to be believed. No medical facilities exist and safety equipment for the child miners is something never heard of. There is no water supply, no sanitation facilities. Robbed of their childhood, the child miners are a submissive lot



here because of threats, beatings and corporal punishments like being locked away in mine shafts in the darkness for long periods of time. In many cases, these children have been sold by their own relatives for as little as Rs 5,000. Several of the mine owners in the region have influence over the state's politicians. Some of them are even seated in the state legislative assembly. Their clout in the corridors of power is evidenced by the lack of intervention to prevent the illegal practice.

iii) Le Monde News Report⁵³: June 12, 2010

A team from the French newspaper Le Monde visited the mines on May 10-11, 2010 and reported the following findings in their report on June 12, 2010.

- In mines, with the exception of cranes that ascend buckets of coal from underground tunnels, they are not the machines that do the work.
- At dawn, all crawl down a rickety bamboo ladder that could go upto 70 meters underground.
- Deep inside the children are short of breath, due to lack of oxygen.

53

<file:///C:/Documents%20and%20Settings/Impulse%20NGO/Desktop/Media%20Response/Lemonde%20News%20Report%20On%2013th%20June,2010/lamonde.htm>

- [Sundar Tamang](#) , a boy of 15 years in frail body, already has the calloused hands of a seasoned worker.
- Sometimes a bucket falls, crushing the men at the mine. Others die in the downfall of tunnels or drown when the rain of the monsoon arrives by surprise, flooding the rat holes. The seriously injured have little chance of escape, with the first hospital three hours away and the nearest doctor who has only paracetamol and compresses to offer.
- All think about death, especially children. *"I'm afraid of choking when I go down, it makes me a little sick to his stomach, but I guess we should get used to it,"* cried a young person who dare not go down every day.
- Some managers prefer to cut costs by recruiting children. *"They are less productive but they are well suited to certain tasks,"* admits one of them, who wished to remain anonymous. The man goes to the villages of Assam, a neighboring state, recruiting children from their families.
- But how is that mines are not closed to illegal child labor? *"Their owners are mostly those who vote on laws to the regional parliament,"* sighs [Patricia Mukhim](#) , director of the local newspaper *The Shillong Times*. Labor Inspectors? They are seven for the entire state of Meghalaya and do not even have vehicles. Police? *"It is so far that if a worker is lynched, he will be dead long before they arrived,"* sneers [Purna Lama](#) .
- *"The rich owners do not reinvest the money, they prefer to buy cars or build houses,"* says [Wonderful Shulla](#) , himself a mine-owner. *"They engage in politics, it pays a lot once you are elected, and then it protects,"* he concedes.
- The walls of the huts are made of metal packaging oil cans nailed on each other. *"It's a hell of which we do not come out easily,"* said a former miner.

iv) Tehelka News Report: July 3, 2010

- Children have to climb to the bottom of steep, sheer holes – 100-180 feet into the ground.
- They have to climb down precarious ladders, coiled like snakes, slimy with moss and rain, where a mere slip of foot would mean plunging to a certain death. At the end of these precarious ladders they would have to crawl like a mole into dark, horizontal, claustrophobic burrows, two feet high and often 1,500 feet long, to scratch coal out of hard stone with nothing but a pickaxe and a torch for company. Sudden rain, a tipped cart, a falling rock – just about anything can mean death in those hostile pits.
- The Jaintia Hills have always been known for their illegal, unscientific mining, but shockingly, as the frenzy for coal is shooting up, these mines are increasingly being served by a workforce of children – mostly minors ranging from age 7 to 17.

- Mine owners assert there are almost one lakh quarries in the region. Arindam Som, Secretary, Mines, says he can neither confirm nor deny this, “Mining is a private enterprise so the government has no control over it.” Meghalaya Director General of Police, SB Kakati says, “We don’t even know how many labourers are working in these mines, leave alone how many child labourers.”
- A number of children were interviewed who revealed their wages, working conditions, the hazards they face at work and the social ills like drugs, drinking and gambling that are becoming very prevalent in this area. A number of evocative photographs are also included in the report. The Deputy Chief Minister was interviewed who seemed to be aware of the issue and said that it is the duty of the Labor Department to enforce labor laws in the region. He also said that it might not be necessary to include provisions against child labor in the Meghalaya Mining Policy since the Child Labor Law already covered legislation on the matter.

11. Violation of International Laws

India’s obligations under International Law

India, as a member of the international community, has ratified various treaties and conventions. As a result, it has agreed to bind itself to said treaties and has taken upon itself the resulting legal obligations⁵⁴:

i) ILO Conventions and Recommendations on Child Labor

India has ratified five ILO Conventions since 1919; the Forced Labor Convention, 1930 (C29)⁵⁵, the Abolition of Forced Labor Convention, 1957 (C105)⁵⁶, the Night Work of Young Persons (Industry) Convention, 1919 (C6) which was revised in 1948 by C90⁵⁷, the Minimum Age (Industry) Convention, 1919 (C5)⁵⁸ and the Minimum Age (Underground Work) Convention, 1965 (C123)⁵⁹. C5 and C123 are both of the Conventions now outdated documents and were revised in 1973 by C138 which is not ratified by India yet. C29 and implemented by C105 provided the contents which are premised of the forms of labor in colonial era and not to match the current situation. C6 (C90) stipulates the prohibition of night work less than 18 years old in mines, quarries, and other works for the extraction of minerals from the earth; however, it admits the night work from 16 to 18 years old under certain conditions.

⁵⁴ Compilation on legal obligations provided by Human Rights Now, Japan.

⁵⁵ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C29>

⁵⁶ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C105>

⁵⁷ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C90>

⁵⁸ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C5>

⁵⁹ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C123>

India has not ratified the most recent ILO treaties on child or minor labor which are Minimum Age Convention (C138)⁶⁰ and Worst Forms of Child Labor Convention (C182)⁶¹, not implemented the ILO's recommendations regarding the protection of child or minor labor. The ILO, UNICEF and the World Bank have strongly recommended that the Indian Government ratify these Conventions.

India is a participant of the International Programme on Elimination of Child Labor (IPEC), which aims at reduction of all forms of child labor and the protection of children. It also aims to provide preparation for formal education after children have been stopped work; however, as India has not ratified C138 and C182 it is questionable whether IPEC is working efficiently in India.

ii) International Convention on the Rights of the Child and Indian Child Labor

The Convention on the Rights of the Child (CRC or Convention) is an international treaty setting out the rights of children. In situations of child labor, articles 32 (economic exploitation), 35 (prohibition on the sale or trafficking of children) are highly relevant. The Committee on the Rights of the child is the treaty body that administers the CRC, and as such its interpretations of the Convention are authoritative.

Children have a right to be protected from economic exploitation and from performing work that is likely to interfere with a child's education, or is harmful to their development (Article 32(1)). States are under an obligation to take legislative, administrative, social and educational measures to ensure that children are protected from economic exploitation (Article 32(2)). In addition, States have a duty to take all national, bilateral and multilateral measures to prevent the abduction of the sale or trafficking of children (Article 35). Finally, States are obliged to take appropriate measures to promote the recovery and social reintegration of child victims of any form of exploitation (Article 39).



India is a party to the CRC, but has made a declaration regarding its understanding of Article 32 (state obligation regarding economic exploitation), affirming that while India subscribes to the objectives and purposes of the CRC, economic and social rights can only progressively be implemented, subject to the availability of resources. The declaration further affirms that India has already made laws regarding ages and conditions of employment, and that it is not practical to immediately prescribe minimum ages of admission for every area of employment in India.

⁶⁰ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>

⁶¹ <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>

iii) International Treaties on Child Labor and Trafficking

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children is the protocol to the Convention against Transnational Organized Crime entered into force on 25 December 2003 and covers the problem of exploitative child labor. The United Nations Office on Drugs and Crime (UNODC) is responsible for implementing the Protocol.

Under the Protocol, among other obligations, States are required to:

- Facilitate the return and acceptance of children who have been victims of cross border trafficking;
- Prohibit the trafficking for purposes of exploitative labor practices;
- Suspend the parental rights of persons who have been found to have trafficked a child;
- Ensure that definitions of trafficking reflect the need for special safeguards and care for children, including appropriate legal protection;
- Ensure that trafficked persons are not punished for any offences or activities related to their having been trafficked;
- Ensure that victims of trafficking are protected from deportation or return where there are reasonable grounds to suspect that such return would represent a significant security risk to the trafficked person; and
- Provide for proportional criminal penalties to be applied to persons found guilty of trafficking in children.

12. India's Obligations under National Law

Applicability of Central Laws to the State of Meghalaya

In order for the central government to have legal obligations to eliminate child labor in Meghalaya, it must have jurisdiction in the state – its laws must apply. When India gained independence, certain tribal areas within the state of Meghalaya, including the Jaintia Hills, were granted local autonomy under the Sixth Schedule to the Constitution of India in order to allow for the preservation of the indigenous political and administrative institutions. The Sixth Schedule of the Indian Constitution divides the tribal areas within the State of Meghalaya into autonomous regions or districts and vests their governing council with authority to enact legislation on certain subjects.⁶² Though the Sixth Schedule has always given the tribes

⁶² The councils have been empowered to make laws regarding: (a) the allotment, occupation or use, or the setting apart, of land; (b) the management of any forest not being a reserved forest; (c) the use of any canal or water-course for the purpose of agriculture; (d) the regulation of the practice of jhum or other forms of shifting cultivation; (e) the establishment of village or town committees or councils and their powers; (f) any other matter relating to village or town administration, including village or town police and public health and sanitation; (g) the appointment or succession of Chiefs or Headmen; (h) the inheritance of property; (i) marriage and divorce; (j) social customs. *See* Sixth Schedule.



considerable autonomy,⁶³ the powers conferred by district/regional level autonomy are not absolute. Rather the powers granted to the governing councils are enumerated. “The elected councils in the Sixth Schedule areas are vested with administrative authority, make laws with respect to a variety of subjects, and even exercise judicial authority through traditional legal systems embedded with certain features of central law.”⁶⁴ Because the Sixth Schedule of India exempts districts from Acts of Parliament

by specification from the President, there is a strong argument for claiming that only specifically exempted acts do not apply to tribal areas and that if no exemption has been made, the central government does have the authority to enforce legislation.⁶⁵ However, it is clear that in practice, not all central laws are applied in all areas of Meghalaya, nor are they all ignored.⁶⁶

It is important to note that the power to enact laws relating to labor is not delineated. This suggests that the autonomous tribal areas are constrained by the same central labor laws that bind the Meghalaya state. The Central Indian labor laws are applicable throughout the country. Meghalaya state is no exception and thus must adhere to the rules established by the central government. The powers granted to the autonomous tribal areas are further constrained by structure of the Sixth Schedule which requires provincial approval for all local tribal area laws.⁶⁷ On a provincial level, the autonomy of the tribal areas is restricted by section 12(a) of the Sixth Schedule, which provides, in pertinent part:

(a) if any provision of a law made by a District or Regional Council in the State of Meghalaya...is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or...Regional Council whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail.

⁶³ Apoorv Kurup, *Tribal Law in India: How Decentralized Administration Is Extinguishing Tribal Rights and Why Autonomous Tribal Governments Are Better*, 94

⁶⁴ *id.*

⁶⁵ Constitution of India Sixth Schedule, Section 12A. Contrast to Section 12 on Assam. Assam has been given greater possibilities for exemption. While there is some textual ambiguity since the Sixth Schedule does not place central law over local laws in cases of conflict or note that no other laws are subject to exemption, the argument that there is essentially complete autonomy is not supported by the text. The wording of the statute seems to imply that, since the governor of Meghalaya is not given the explicit authority to exempt autonomous districts from acts of Parliament as in Assam, no such power exists, and that exemptions are limited to those clearly stated in the constitution.

⁶⁶ The Coal Mines (Nationalization) Act, for example, does not seem to have been applied to the autonomous districts of Meghalaya. Although the Act purportedly brought the entire coal industry under national control (allowing the government to buy out individual owners of mines or lease the land from them), there are still independently owned and operated mines, particularly in the tribal regions of Meghalaya.

⁶⁷ *id.* at 95.

By virtue thereof the aforementioned mining and labor regulations that the State of Meghalaya must adhere to are similarly applicable to the autonomous districts because any labor law or mining rule established by the local government that may be in contravention or “repugnant”⁶⁸ to the state laws are null and void to the extent of the repugnancy. Additionally, section 12(b) of the Sixth Schedule establishes that acts of Parliament are applicable to the autonomous districts unless the President directs that it shall not apply to a specific autonomous region in the State of Meghalaya.⁶⁹ Since the President has not explicitly exempted the tribal areas of Meghalaya from the acts, rules and regulations addressed above and since the tribal areas are unable to make laws that are repugnant to the laws that bind the State, it must be true that the local government of the tribal areas are required to adhere and enforce the Central regulations regarding labor and mining.

Although state independence and tribal area autonomy make it difficult to determine exactly how far central laws extend, it is clear that at the very least “Indian Labor Laws are applicable throughout the country.”⁷⁰ Additionally, under the Constitution, the Indian Parliament has the “exclusive power”⁷¹ to make laws on the “regulation of labor and safety in mines” and on the regulation of mines to the extent determined necessary for the public interest.⁷² The Parliament has explicitly stated that “it is expedient in the public interest that the central government should take under its control the regulation and development of coal mines” in some of its legislation.⁷³ Thus, the central government can be considered to have the authority to act on issues related to mining, within the borders of the state of Meghalaya.

The Indian government’s National Child Labor Policy (NCLP), designed to eliminate child labor, has not been applied to Meghalaya.⁷⁴

⁶⁸ Repugnant is defined by Black’s Law Dictionary as follows: inconsistent or irreconcilable with; contrary or contradictory to.

⁶⁹ Section 12(b) of the Sixth Schedule provides: “the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”

⁷⁰ <http://meghalaya.nic.in/industry/human.htm>

⁷¹ Constitution of India Chapter I Article 246(1): Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).

⁷² Constitution of India, Seventh Schedule List I (Union List) Sections 54 & 55

⁷³ Coal Mines (Conservation and Development) Act of 1974, Article I section 2. Found online at <http://coal.nic.in/ccda6.pdf>. However, it has not done so in others, choosing instead to simply state that the act “applies to all of India.” (See the Mines Act (1952). http://coal.nic.in/weboflife-minenessafety/ma_1952.pdf. See also the Child Labor (Prohibition and Prevention) Act (1986). <http://labor.nic.in/cwl/ChildLaborAct.doc>) It is unclear whether such acts are binding in jurisdictions governed under the fifth or sixth schedules, or if there is an implicit “except in autonomous districts” clause.

⁷⁴ <http://labor.nic.in/cwl/NclpDistricts.htm> - this site contains a list of all district in which the NCLP is applied.

Although no Districts of Meghalaya are currently included, the government does hope to extend this to another 150 districts in the near future, possibly including several from Meghalaya.

India's Constitutional Obligations

India's Constitution does not have a general ban on child labor. The central government of India does however have a legal obligation to ensure children are not in hazardous employment, both as a matter of enforcing the constitutional prohibitions and in order to protect the constitutionally guaranteed rights of the children at issue.

The Constitution prohibits the employment of children (defined as those under the age of 14) in "any factory or mine or... in any other hazardous employment" under the chapter on fundamental rights.⁷⁵ This section does still allow those between the ages of 14 and 18 to work in mines and those under 14 to work in any occupation deemed non-hazardous. Reading this clause in the context of the protection of fundamental rights, it is clear that it not only makes it illegal to hire a child under the age of 14 in a mine but also places a burden on the government to ensure that no such child is being subjected to such labor. Additionally, the Constitution obliges the government to ensure that children are not driven to occupations "unsuited to their age or strength" due to economic need.⁷⁶



Other Laws on Child Labor

Since the central government has exclusive power to make laws on the regulation of labor in mines, national laws should also apply to all autonomous districts.⁷⁷ In addition to the Constitution, there are a number of Acts of Parliament that make it clear that children (whether defined as under 14 as in the constitution, or as under 18 in line with international standards) may not be

employed in mines. The Child Labor (Prohibition and Prevention) Act of 1986, which applies to all of India, states clearly that children under 14 may not be employed in mines or any other hazardous processes.⁷⁸ The Mines Act of 1952 (updated to 1983) goes further, prohibiting the employment of those under 18 in mines, unless working as an apprentice under the supervision of a manager, in which case they must be 16.⁷⁹ The Mines Rules of 1955 also has a similar clause.⁸⁰ Indeed, individuals under the age of 18 (with the exception of apprentices) may not

⁷⁵ Constitution of India. Part III, Article 24.

⁷⁶ Constitution of India. Part III, Article 39.

⁷⁷ See Note 5 supra

⁷⁸ Child Labor (Prohibition and Prevention) Act 1986, Part III. Found online at <http://labor.nic.in/cwl/ChildLaborAct.doc>

⁷⁹ Mines Act of 1952, Chapter VI Section 40. Found online at http://coal.nic.in/weboflife-minenessafety/ma_1952.pdf

⁸⁰ Mine Rules (1955), Page 70. "A person below 18 years of age shall not work in any part of a mine unless he is an apprentice or a trainee in which case he may be below 18 years not below 16 years of age".

even be present in a mine when mining operations are in effect.⁸¹ Mines are required to keep records of all of their employees, including their age, name, and father or husband's name if applicable, and complete information on each employee is required before they may begin work.⁸² The central government of India has the authority to appoint a Chief Inspector who would be tasked with ensuring compliance with the regulations of the Mines Act, and has a legal obligation to ensure compliance and protection of children, by means of an Inspector or otherwise.⁸³

The Coal Mines Regulations (1957) further codifies safety rules and procedures for the mines. Although not specifically speaking to the use of child labor, the Regulations do provide that "No adolescent or woman shall descend or ascend a shaft in a cage or other means of conveyance unless accompanied by one or more adult males."⁸⁴ The foregoing suggests adolescents are working inside the mines, and the only time when supervision is necessary is when they are descending into the mine vis-à-vis the mine shaft. Nonetheless, the use of these adolescents cannot be said to be in contravention to the system of apprenticeship. However, unlike the Mine Rules, no minimum age is set and the term adolescent is not defined.

In regards to the case of children between the ages of 16 and 18 legally working in mines as apprentices, India has the obligation to ensure that the mines are reasonably safe and that adequate precautions are taken in order to protect the health of the employees. Under the Mines Act, every mine must provide cold drinking water at convenient, sanitary points in the mines, first aid supplies must be available, and mines must ensure that the mining operations are conducted safely.⁸⁵



20: Sight at Myndihati

Employees are only permitted to work a limited number of hours a day, in order to minimize the risk of error or ill effect on health due to fatigue.⁸⁶ Inspectors are given the authority to require a remedy for any unsafe work environments, and have the authority to shut down a mine which has failed to comply.⁸⁷ The government of India has the obligation to ensure that these enforcements are adequately carried out, and that violations are appropriately prosecuted and punished.

⁸¹ Mines Act of 1952. Section 45

⁸² Id. Section 48. See also the Mines Rules (1955), Section 71. The Mines Rules provide a procedure for the Mine Inspector to disallow any individual whom he believes is under the age of 16 from working, until a qualified doctor confirms his age.

⁸³ Id. Chapter II.

⁸⁴ The Coal Mines Regulations (1957), 52

⁸⁵ Id. Chapter V, Sections 19-22.

⁸⁶ Id. Chapter VI, Sections 30 & 31.

⁸⁷ Id. Chapter V, Section 22

13. State and Local Regulations and Obligations

i) *The State of Meghalaya's Mining Policy*

The Draft Mining Policy (24 September 2009) further illustrates the application of national mining rules and regulations to the State of Meghalaya. In The Draft Mining Policy, the Government of Meghalaya Mining and Geology Department notes, “the subject of regulation of mines and mineral development is covered by entry 54 of the Union List under 7th Schedule of the Constitution of India.”⁸⁸ Entry 54 of the 7th Schedule provides, “Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.”⁸⁹ By virtue thereof, the power to make laws regarding the regulation of mines rests exclusively with Parliament.⁹⁰ Similarly, entry 55 of the 7th Schedule provides Parliament with the exclusive power to for the “Regulation of labor and safety in mines and oilfields”.⁹¹

The Draft Mining Policy (24 September 2009) further illustrates the application of national mining rules and regulations to the State of Meghalaya. In The Draft Mining Policy, the Government of Meghalaya Mining and Geology Department notes, “the subject of regulation of mines and mineral development is covered by entry 54 of the Union List under 7th Schedule of the Constitution of India.”⁹² Entry 54 of the 7th Schedule provides, “Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.”⁹³ By virtue thereof, the power to make laws regarding the regulation of mines rests exclusively with Parliament.⁹⁴ Similarly, entry 55 of the 7th Schedule provides Parliament with the exclusive power to for the “Regulation of labor and safety in mines and oilfields”.⁹⁵

Unfortunately, the Draft Mining Policy does not specifically discuss the issue of child labor or employment regulations in the mines. Rather, it addresses the need for qualified personnel and the establishment of a program to prepare and certify youths for work in mines. Similarly, the Draft Mining Policy notes 36 Parliamentary acts and regulations that are binding upon the Meghalaya State Government pursuant to the 7th Schedule.⁹⁶ These acts and regulations include the previously discussed Mines Act (1952), The Mine (Amendment) Act (1983), and Coal Mines (Nationalization) Act (1973).

⁸⁸ Draft Mining Policy 2009, Page 5

⁸⁹ Seventh Schedule, Constitution of India, entry 54

⁹⁰ Draft Mining Policy 2009, Page 5

⁹¹ Seventh Schedule, Constitution of India, entry 55

⁹² Draft Mining Policy 2009, Page 5

⁹³ Seventh Schedule, Constitution of India, entry 54

⁹⁴ Draft Mining Policy 2009, Page 5

⁹⁵ Seventh Schedule, Constitution of India, entry 55

⁹⁶ Draft Mining Policy 2009, Page 5

The Mining Policy further provides that “Any other Acts, Rules or Regulations as applicable” are also binding upon the Meghalaya State Government.⁹⁷ Thus, it correct to conclude that Meghalaya is bound, unless otherwise exempted, by not only the aforementioned rules and regulations, but any national rule and regulation pertaining to mining, mining safety, and/or the use of labor in the mines.

ii) The Autonomous Tribal Areas and the Sixth Schedule

The Sixth Schedule of the Indian Constitution divides the tribal areas within the State of Meghalaya into autonomous regions or districts and vests their governing council with authority to enact legislation on certain subjects.⁹⁸ Though the Sixth Schedule has always given the tribes considerable autonomy,⁹⁹ the powers conferred by district/regional level autonomy are not absolute. Rather the powers granted to the governing councils are enumerated. “The elected councils in the Sixth Schedule areas are vested with administrative authority, make laws with respect to a variety of subjects, and even exercise judicial authority through traditional legal systems embedded with certain features of federal law.”¹⁰⁰

It is important to note that the power to enact laws relating to labor is not delineated. This suggests that the autonomous tribal areas are constrained by the same federal labor laws that bind the Meghalaya state. As previously mentioned, the Federal Indian labor laws are applicable throughout the country. Meghalaya state is no exception and thus must adhere to the rules established by the federal government.

iii) Obligations Pursuant to State and Federal Law to Tribal Areas

The powers granted to the autonomous tribal areas are further constrained by structure of the Sixth Schedule which requires provincial approval for all local tribal area laws.¹⁰¹ On a provincial level, the autonomy of the tribal areas is restricted by section 12(a) of the Sixth Schedule, which provides, in pertinent part:

(a) if any provision of a law made by a District or Regional Council in the State of Meghalaya...is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or...Regional Council whether made

⁹⁷ Draft Mining Policy, 2009, 6.

⁹⁸ The councils have been empowered to make laws regarding: (a) the allotment, occupation or use, or the setting apart, of land; (b) the management of any forest not being a reserved forest; (c) the use of any canal or water-course for the purpose of agriculture; (d) the regulation of the practice of jhum or other forms of shifting cultivation; (e) the establishment of village or town committees or councils and their powers; (f) any other matter relating to village or town administration, including village or town police and public health and sanitation; (g) the appointment or succession of Chiefs or Headmen; (h) the inheritance of property; (i) marriage and divorce; (j) social customs. See Sixth Schedule.

⁹⁹ Apoorv Kurup, *Tribal Law in India: How Decentralized Administration Is Extinguishing Tribal Rights and Why Autonomous Tribal Governments Are Better*, 94

¹⁰⁰ *id.*

¹⁰¹ *id.* at 95.

before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Meghalaya shall prevail.

By virtue thereof the aforementioned mining and labor regulations that the State of Meghalaya must adhere to are similarly applicable to the autonomous districts because any labor law or mining rule established by the local government that may be in contravention or “repugnant”¹⁰² to the state laws are null and void to the extent of the repugnancy. Additionally, section 12(b) of the Sixth Schedule establishes that acts of Parliament are applicable to the autonomous districts unless the President directs that it shall not apply to a specific autonomous region in the State of Meghalaya.¹⁰³ Since the President has not explicitly exempted the tribal areas of Meghalaya from the acts, rules and regulations addressed above and since the tribal areas are unable to make laws that are repugnant to the laws that bind the State, it must be true that the local government of the tribal areas are required to adhere and enforce the Federal regulations regarding labor and mining.

iv) Local Obligations Relating to Child Labor and Mining Regulations

Notwithstanding the local governments’ responsibility to enforce both state and federal labor and mining rules, the local governments have additionally adopted regulations that restrict the use of child labor. The UK-JHD (Application of Laws) Regulation (1952) specifies that the following relevant acts, rules and regulations are applicable to the Khasi and Jaintia Hills Districts: (1) The Apprentice Act, 1850; (2) The Indian Mines Act, 1923; (3) The Children (Pledging of Labor) Act, 1933; (4) The Payment of Wages Act, 1936; (5) The Employment of Children Act, 1938; (6) The Coalmines Welfare Fund Act, 1947; (7) The Minimum Wages Act, 1948.¹⁰⁴ Thus regardless of the applicability of state and/or federal laws to the autonomous regions, they remain bound by the aforementioned laws relating to mining, the use of child labor and minimum wage payment. Yet, as demonstrated by the facts, the owners of the mines in these autonomous regions continue to employ children, underpay and fail to ensure safe working conditions.

¹⁰² Repugnant is defined by Black’s Law Dictionary as follows: inconsistent or irreconcilable with; contrary or contradictory to.

¹⁰³ Section 12(b) of the Sixth Schedule provides: “the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Meghalaya, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”

¹⁰⁴ The United Khasi-Jaintia Hills District (Application of Laws) Regulation, 6 May 1952.

http://khadc.nic.in/acts_rules_regulations%20n%20bills/Acts%20n%20Rules-arranged/2A.UKJHD%20_Application%20of%20Laws_1952.pdf

THE TEAM

Final Review and Editing: Ms. Dipjyoti Sundaray, Regional Manager, Aide et Action, Guwahati, Assam.

Project Advisor and Editor: Ms. Hasina Kharbhih, Team Leader & Founder, Impulse NGO Network, Shillong.

Research, Documentation and Compilation by: Priyam Saharia, University of Kentucky, Impulse NGO Network, Shillong.

Role of Liaison: Ms. Shima Modak, City Coordinator, CHILDLINE Nodal Organization Case Manager, Impulse NGO Network, Shillong.

Field Research Team: Poonam Rana, Saraswati Sunar, Munmun Pradhan & Habina Pyngrope, Program Assistants, Impulse NGO Network, Shillong.

Transcriptions by Interns: Valentina Thokchom, Sonam Rohta, Abhijit Mech, Madhumita Acharjee, Chittaranjan Gogoi, Sandeep Kashyap Das

Layout and Design: Brian Austin, Project Assistant, Impulse NGO Network, Shillong.

Conducted by:



Impulse NGO Network
Temple Road, Near Horse Shoe Building,
Lower Lachumiere,
Shillong-793001,
Meghalaya, India
Phone No: 91 – 364 – 2503140
Fax No: 91 – 364 – 2221859
Email ID: ingon@rediffmail.com
Website: www.impulseasia.org

Supported by:



Aide et Action
Guwahati Regional Office,
House no-38, Ground Floor,
Basisthapur Bye Lane-2, Beltola,
Guwahati-781028, Assam, India
Phone No: 91 – 361 – 2229694
Fax No: 91 – 361– 2229694
Website: www.aide-et-action.org