

# REMEDIES FOR INDIAN SEED WORKERS IN SIGHT?



Monitoring report on tackling child labour and non-payment of minimum wages  
in hybrid cotton and vegetable seeds production in India



**CHILD LABOUR**  
*School is the best place to work.*

India Committee of the Netherlands and  
Stop Child Labour, November 2018

# Colofon

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Monitoring report on tackling child labour and non-payment of minimum wages in hybrid cotton and vegetable seeds production in India

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**Disclaimer:** ICN contacted the companies in the fall of 2017. A draft of this report was sent to the companies in the summer of 2018 for their comments. The comments of the companies are integrated and summarised in this report. It is however possible that after the review process companies have changed or adopted new measures or policies that are not mentioned in this report.

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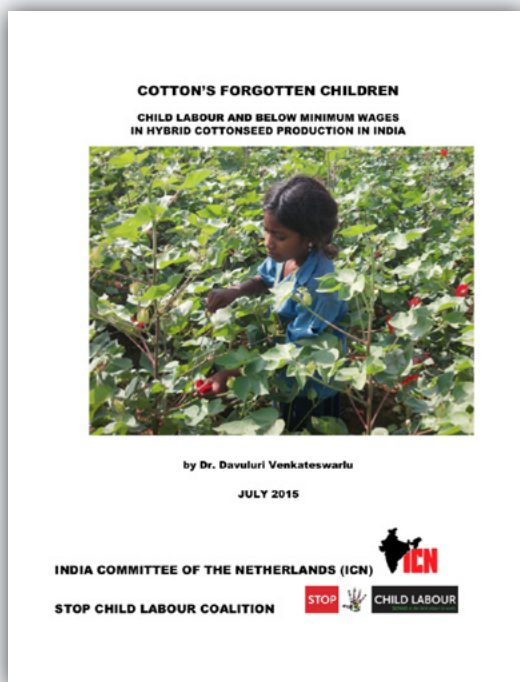
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# 1. Introduction

In 2015, the India Committee of the Netherlands (ICN) together with Stop Child Labour Coalition<sup>1</sup> published two reports on child labour and non-payment of minimum wages in the vegetable seeds production and hybrid cottonseeds production in India: *"Cotton's Forgotten Children. Child Labour and Below Minimum Wages in the Hybrid Cottonseed Production in India"*<sup>2</sup> and *"Soiled Seeds. Child Labour and Underpayment of Women in Vegetable Seeds Production in India"*<sup>3</sup>. These



2015 reports highlighted that children under the age of 14 years still accounted for 16% - in the vegetable seeds farms - to 25% - in the cottonseeds farms - of the total workforce. The total number of adolescent children in the cottonseeds farms (15 to 18 years) increased dramatically

<sup>1</sup> 'Stop Child Labour – School is the best place to work' (SCL) aims to eliminate all forms of child labour and to ensure quality fulltime education for all children until the age of 15. Stop Child Labour promotes an area-based approach towards the creation of 'child labour free zones' and 'child labour free production chains'. Stop Child Labour calls on consumers, companies, governments and international organisations to be part of the solution. Stop Child Labour is a coalition of the Algemene Onderwijsbond (AOB), Mondiaal FNV, Hivos, the India Committee of the Netherlands, Kerk in Actie & ICCO Cooperation and Stichting Kinderpostzegels Nederland. The coalition is coordinated by Hivos and cooperates closely with local organisations in Asia, Africa and Latin-America.

<sup>2</sup> <http://www.indianet.nl/pdf/CottonsForgottenChildren.pdf>.

<sup>3</sup> <http://www.indianet.nl/pdf/SoiledSeeds.pdf>.

(281,200) as compared to 2006/2007 (190,450) and 2009/2010 (211,600). The number of children in the age group of 15-18 years employed in vegetable seed farms increased dramatically as well as compared to 2009/2010, with an increase of 44.3% in Karnataka and 81% in Maharashtra.<sup>4</sup>

Another major concern at the farms was the non-payment of legal minimum wages in particular to women workers. Women were often not being paid the legal minimum wages, partly because the tasks assigned to them are lower paid than the tasks assigned to men. Prevailing market wages were found to be lower (from 6.6% up to 46.6%) than legal minimum wages, especially in the cross-pollination activities.

The 2015 reports received attention from the media as well as from the Dutch Government.<sup>5</sup>

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The former Dutch Minister for Foreign Trade and Development Cooperation responded to the parliamentary question whether she endorses the recommendations mentioned in the ICN 2015 report as follows:

*“Yes, I support the recommendations which call on parties to comply with the UNGPs. Specifically in relation to recommendation 7 on living wage, we can state that sourcing companies must arrange their purchasing practices in such a way that their producers are able to pay living wages to their employees. Being able to pay the statutory minimum wage is the least that should be done. If price competition means that farmers ask a price that does not enable them to abide by the law, the sourcing company has the responsibility to shape its purchasing practices in such a way that these laws are complied with. A second step is to determine whether the minimum wage is at the level of a living wage, and to take steps in a multi-stakeholder setting to work towards such a living wage.” (translation by ICN).*

The area of business and human rights has received increasing attention and the demand for more transparency on how companies deal with amongst others human rights issues has rapidly grown. In June 2011 the United Nation (UN) Human Rights Council endorsed the *United Nations Guiding Principles on Business and Human Rights* (UNGPs).<sup>6</sup> These Principles are internationally considered to be the standard on how businesses should relate to human rights. Further, the UN human rights

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<sup>4</sup> From 48,360 in 2009-10 to 69,800 in 2014-15 in Karnataka and 19,538 in 2009-10 to 35,390 in 2014-15 in Maharashtra.

<sup>5</sup> *Aanhangsel van de Handelingen II*, 2015/16, nr. 957.

<sup>6</sup> [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

monitoring mechanisms have issued interpretative statements and guidance and the UN High Commissioner for Human Rights (OHCHR) has provided additional guidance. The OHCHR issued in 2016 a comprehensive guidance dealing in particular with access to remedy.<sup>7</sup> The Council of Europe has issued recommendations.<sup>8</sup> Moreover, the Organisation for Economic Co-operation and Development (OECD) has contributed significantly to the field of business and human rights. Although India is not a signatory to the OECD, most companies mentioned in this report are from OECD countries and therefore the OECD Guidelines for Multinational Enterprises (Guidelines) apply to them. The Guidelines mention that enterprises should carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems. Due diligence is the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems.

In 2016 the OECD together with the Food and Agriculture Organisation of the UN (FAO) developed a Guidance for Responsible Agricultural Supply Chains to help enterprises observe existing standards for responsible business conduct along agricultural supply chains.<sup>9</sup> These standards include amongst others the OECD Guidelines for Multinational Enterprises and the Principles for Responsible Investment in Agricultural and Food Systems. The standards help enterprises mitigate their adverse impacts and contribute to sustainable development.<sup>10</sup> The Guidance covers agricultural upstream and downstream sectors from the supply of agricultural inputs (such as seeds, fertilisers, medicines, or equipment) to production, post-harvest handling, processing, transportation, marketing, distribution etc. Several areas of risks arising along the agricultural supply chains are addressed: human rights, labour rights and health and safety. These risks are also described in the 2015 reports of ICN.

Most recently, on 31 May 2018, the OECD Council of Ministers adopted the Due Diligence Guidance for Responsible Business Conduct (Guidance).<sup>11</sup> The Guidance elaborates on the due diligence responsibilities of enterprises under the OECD Guidelines. In this report references will be made to this Guidance.

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<sup>7</sup> [https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A\\_HRC\\_32\\_19\\_AEV.pdf](https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/A_HRC_32_19_AEV.pdf).

<sup>8</sup> CM/Rec(2016)3 / 02 March 2016 (CM-Public) Recommendation of the Committee of Ministers to member States on human rights and business (Adopted by the Committee of Ministers on 2 March 2016, at the 1249th meeting of the Ministers' Deputies).

<sup>9</sup> OECD/FAO (2016), OECD-FAO Guidance for Responsible Agricultural Supply Chains, OECD Publishing, Paris, <https://doi.org/10.1787/9789264251052-en>.

<sup>10</sup> The Guidance consists of: (a) a model enterprise policy outlining the standards that enterprises should observe to build responsible agricultural supply chains; (b) a framework for risk-based due diligence describing five steps that enterprises should follow to identify, assess, mitigate and account for how they address the adverse impacts of their activities; (c) a description of the major risks faced by enterprises and the measures to mitigate these risks; and (d) guidance for engaging with indigenous people.

<sup>11</sup> OECD, 2018, Due Diligence Guidance for Responsible Business Conduct, available at <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

## 2. Follow-up

ICN appreciates a constructive dialogue with the companies addressed in the reports and believes that an open and honest dialogue with local and international stakeholders is crucial for the industry to combat the issues of child labour and the non-payment of minimum wages. In the fall of 2017, ICN contacted 14 companies mentioned in the 2015 reports to find out what measures they had taken regarding these issues. This report is based on the main outcomes of this survey. All companies mentioned have been asked to review the first draft of this report, and their comments have been included in chapter 8 of this report.

The responses of the companies were assessed against the UNGPs<sup>12</sup>, a tool on addressing child labour developed by the International Labour Organization (ILO) and the International Organisation of Employers (IOE)<sup>13</sup> as well as our own expertise on the matter. First, ICN assessed whether the companies expressed their commitment to respect human rights through a statement or policy. Secondly, ICN evaluated whether the companies assess, track, integrate and communicate negative impacts like child labour and non-payment of minimum wages in their supply chain (due diligence). Special attention is paid to whether and how the companies monitor the incidence of child labour and payment of at least minimum wages. Thirdly, ICN assessed whether the companies have measures to prevent, cease or mitigate the issue of child labour. Fourthly, ICN assessed if the companies have a process to provide remedy to anyone who is harmed by their own operations or in their value chain and caused by third parties over which they have limited influence. Lastly is assessed whether the companies engage with relevant stakeholders.

ICN reached out to 14 companies mentioned in the 2015 reports. Nine companies responded to the first request: Bayer, East-West Seed (EWS), HM.CLAUSE (a subsidiary of Limagrain), Kalash Seeds, Monsanto, Namdhari Seeds, Nuziveedu Seeds, Sakata and Syngenta India Ltd. Two others, Mahyco and DuPont Pioneer, did not respond to the survey, but they only reviewed the draft version of this report. Three companies did not respond at all to the ICN inquiries: Advanta, Ankur Seeds and Kaveri Seeds. It is therefore difficult to assess whether these three companies address the issues of child labour and the non-payment of minimum wages at all.

Most companies responded quite promptly, but the length of the answers and the number of details differed significantly. The responses of Nuziveedu Seeds, Kalash Seeds, and Namdhari Seeds were very brief and generic, making it difficult to truly assess their efforts. Other companies responded in a more elaborate way, and also referred to, or included additional information. Especially Limagrain (HM.CLAUSE), Bayer, EWS, Sakata and Syngenta India Ltd., provided a detailed response.

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<sup>12</sup> OHCHR, Guiding Principles on Business and Human Rights: implementation guide (2011).

<sup>13</sup> ILO-IOE, How to do business with respect for children's right to be free from child labour: ILO-IOE child labour guidance tool for business (2015).

### 3. Human rights policy

A key element of human rights due diligence is the development of a human rights policy.<sup>14</sup> Companies should have a human rights policy, or human rights should be included in a more general CSR and/or corporate governance policy. This policy should clearly stipulate the expectations, objectives and responsibilities of employees and other business relations when it comes to child labour and other human rights issues. Also, the policy should indicate key human rights issues that arise after - amongst others - consultations with external and internal stakeholders. The policy should be approved by senior management and be publicly available.<sup>15</sup>

Of the companies that responded, **Monsanto, Bayer, EWS, Sakata** and **Namdhari Seeds** have a publicly available policy.<sup>16</sup> **Syngenta India Ltd.** has a very elaborate code of conduct, that includes human rights. The policies and codes of conducts of these companies are however all different in detail and scope. **Namdhari Seeds** only mentions the word human rights once in its CSR policy. The policy mainly explains how Namdhari Seeds wants its employees to behave. It does not refer to how the company relates to human rights issues that it is confronted with in their supply chains. The policy of **Monsanto** is very brief, not updated after the endorsement of the UNGPs and does not have clearly stipulated objectives and responsibilities. The policy however is publicly available and has been translated into 29 languages. **Bayer** has an elaborated human rights position on their website in different languages referring to the relevant human rights instruments. **EWS** and **Syngenta India Ltd.** have elaborate and updated human rights policies or code of conducts on their website. **Sakata** provided detailed information on parts of its CSR policy. However, while it refers to a CSR and even a human rights policy, this policy was not included. After reading a draft of this report, Sakata published their human rights policy online.<sup>17</sup>

**Nuziveedu Seeds** stated that it has a 'no-child-labour policy', but this policy cannot be found online. **Kalash Seeds** does not have a human rights policy. **DuPont Pioneer** has a link on their website referring to the human rights and child labour policy of DuPont.<sup>18</sup> Their human rights policy was last updated in September 2014. The website mentions that the company is committed to the UN Global Compact, the Universal Declaration of Human Rights and that it has a statement on child and forced labour. However, neither is there a reference to the UNGPs or

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<sup>14</sup> OHCHR, Guiding Principles on Business and Human Rights, Guiding principle 15.

<sup>15</sup> OHCHR, Guiding Principles on Business and Human Rights, Guiding principle 16.

<sup>16</sup> Monsanto: [https://monsanto.com/app/uploads/2017/12/Monsanto\\_Human\\_Rights\\_Policy\\_English.pdf](https://monsanto.com/app/uploads/2017/12/Monsanto_Human_Rights_Policy_English.pdf) (accessed June 14, 2018);

Bayer: <https://www.bayer.com/en/bayer-human-rights-policy.pdf> (accessed June 14, 2018);

HM.CLAUSE: [http://www.limagrain.com/data/medias/1195/style/default/2015\\_03\\_Code\\_Conduite\\_UK.pdf](http://www.limagrain.com/data/medias/1195/style/default/2015_03_Code_Conduite_UK.pdf) (accessed June 14, 2018);

East-West Seed (EWS): <http://www.eastwestseed.com/aboutus/csr-policy> (accessed June 14, 2018); and

Namdhari Seeds: <http://www.namdhariseeds.com/csr-policy> (accessed June 14, 2018).

<sup>17</sup> <http://www.sakata.co.in/> (accessed October 2, 2018).

<sup>18</sup> <https://www.pioneer.com/home/site/about/business/commitment/sustainability/respect/> (accessed September 11, 2018).



ILO Conventions nor is it translated into other languages. It is not clear whether **Mahyco** has a human rights policy as it cannot be found on their website. **HM.CLAUSE** does not have a publicly available human rights policy. HM.CLAUSE India Ltd. does have a CSR policy according to the Indian Companies Act 2013. The company mentions that they are working in a coherent way on their responsibility to respect human rights at corporate level, as part of Limagrain. **Limagrain** operates according to the 10 principles of UN Global Compact.<sup>19</sup> Furthermore, the company actively participates in the Human Rights Club of the French government where experiences on respecting human rights by companies are shared. Their business teams map risks using a tool developed by the Danish Institute of Human Rights (DIHR), the HRCA Quick Check.<sup>20</sup> **Limagrain** states that managers have specific human rights responsibilities and are currently developing a practical human rights guide to complement the Group's Code of Conduct. This guide will be shared with stakeholders after completion.

Besides **Limagrain, Syngenta, Bayer, DuPont** and **Monsanto** are also a member of UN Global Compact which obliges their members to annually publish a 'report on progress'. Companies who do not communicate progress for two years in a row are expelled and the UN Global Compact publishes their names.

The three companies that did not respond to the survey - **Advanta, Ankur Seeds** and **Kaveri Seeds** - do not have any human rights policy or even a more general CSR policy on their website.

To conclude, although it is positive that some companies have publicly available policies, only a few policies state clearly on what international standards the policy is based such as the ILO conventions, the Universal Declaration on Human Rights, the OECD Guidelines and the UNGPs. Basing policies and codes on these standards is important, since these internationally endorsed standards also define human rights obligations of companies, including on child labour and payment of minimum wages. Furthermore, it is difficult to assess whether the policies are approved by the senior management of the companies, let alone whether they are clearly communicated to relevant staff, external business partners and stakeholders including the company's contractors, suppliers but also consumers, civil society organisations and investors. It is amongst others important to communicate the policy of a company as it gives internal and external stakeholders a clear idea what they may expect of the company's human rights performance. Lastly, some companies mention that they integrate their policies into contracts with business partners. However, it was not possible to assess how the companies verify and monitor policy implementation.

<sup>19</sup> For more information on the UN Global Compact please visit <https://www.unglobalcompact.org/>.

<sup>20</sup> The DIHR developed this free tool which is based on a more elaborate full human rights check. The tool can be downloaded at: <https://hrca2.humanrightsbusiness.org/Page-TheHrcaQuickCheck-23.aspx>.

# 4. Child labour

## 4.1. Introduction

In the 2015 reports of ICN it is mentioned that child labour is still a big issue in the Indian seed sector. Hybrid cottonseed production is a very labour-intensive activity that requires a 'lot of hands' and for a long time these hands were mainly children's hands. Although that has changed substantially, especially young girls are still employed for cross-pollination and other manual activities.

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In 2014, Santilal [13 years old], joined as a part-time worker with a cottonseed employer in his village and worked for two months during September and October months. He is paid INR 50 (EUR 0.63) as a daily wage for working five hours a day. The daily schedule of Santilal during the cross-pollination period is very hectic. He wakes up at 5 am to get ready by 6 am to start work in the fields. He works in the cottonseed field till 9 am doing cross-pollination work. He comes back home at 9.30 am, eats and then goes to school by 10 am. From 10 am to 3.30 pm he attends the classes. He goes to the farm again at 4 pm and works till 6.30 pm doing emasculation work. Though cottonseed works looks like a part-time activity for the children they actually work five to six hours and the time they actually spend in work is almost the same as they spend in school. This will have serious implications on school performance of the children and put pressure on them to slowly drop out from school and join the workforce.” (*Cotton's Forgotten Children*, July 2015, ICN, p. 23).

According to the ILO 138 Minimum Age Convention the minimum age for employment is 15 years and in case of countries whose economy and educational facilities are insufficiently developed, this can be lowered to 14 years.<sup>21</sup> India ratified the ILO 138 Convention in June 2017 and amended its law. The Child Labour (Prohibition and Regulation) Act, 1986 now prohibits employment or work of children below 14 years in any occupation or process, except in family enterprises before and after school hours. **EWS, Monsanto, Sakata, Nuziveedu Seeds** and **Kalash Seeds** prohibit employment of children below 14 years. **Bayer** and **Syngenta India Ltd.** use an age limit of 15 years and

<sup>21</sup> According to article 2(3) and 2(4) of the ILO Minimum Age Convention, 1973 (No. 138).

**HM.CLAUSE** of 16 years.<sup>22</sup> **Namdhari Seeds** mentions in their response to the draft version of this report that they normally hire only above 18 years old. The other companies did not specify the age under which they prohibit the employment of children.

India also ratified the ILO Convention on the Worst Forms of Child Labour, no. 182 in June 2017, that indicates that the employment of persons between 14 to 18 years in hazardous occupations and processes is prohibited. Although seed production as such is not included under hazardous work, specific tasks like pesticide application and handling heavy machinery are.<sup>23</sup> All companies are saying that they do not employ children under the age of 18 for prohibited tasks. It is however unclear whether companies include these tasks, such as handling of pesticide and heavy machinery, as prohibited tasks for children under the age of 18 in their contracts with farmers or in their awareness raising programs of internal staff and growers and farmers.

## 4.2 Incidence of child labour



According to UN Guiding Principle 17, one of the steps of human rights due diligence is assessing how the company's activities and business relationships may pose risks to human rights. UN Guiding Principle 18 states that business should draw on internal and/or independent external human rights expertise in order to gauge human rights risks. Most companies are monitoring the incidence rate of child labour, but not all monitoring is done independently which decreases the credibility of reported incidence rates. Furthermore, most companies do not publicly disclose all relevant details such as findings on human rights risks and abuses arising in their operations and the results of audits or assessments as required by UN Guiding Principle 21. Disclosure of the relevant details, such as findings on human rights risks and abuses in the operations of a company should be communicated as part of an adequate due diligence.<sup>24</sup>

<sup>22</sup> In the Child Labor Awareness Program System Document, HM.CLAUSE states that when a child who belongs to the growers family is found in the fields during weekends and/or holidays or before or after school hours, and is attending school regularly will not be considered a child labour.

<sup>23</sup> [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/genericdocument/wcms\\_486746.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/genericdocument/wcms_486746.pdf).

<sup>24</sup> How relevant information can still be communicated when information is commercially sensitive is discussed on p. 86 of the OECD, 2018, *Due Diligence Guidance for Responsible Business Conduct*.

In 2015 ICN reported a 16-25% incidence rate of child labour in the vegetable and cotton seeds sector in India. In 2017, in response to the ICN inquiries, companies report incidence rates that are far lower:

Company	Cotton Seeds	Vegetable Seeds
<b>Bayer</b> <sup>25</sup>	0.016% (2015/2016 Kharif)	0.001% (2016)
<b>Nuziveedu Seeds</b>	No records provided	No records provided
<b>East-West Seed</b>	N/A	<1.0%
<b>Sakata</b>	N/A	<4.0% <sup>26</sup>
<b>Kalash Seeds</b>	No records provided	No records provided
<b>Namdhari Seeds</b>	No records provided	0.038% child labour (<14) and 0.76% young workers (14-18) <sup>27</sup>
<b>Monsanto</b>	0.1%	0.02%
<b>Syngenta India Ltd.</b>	N/A	0.02%
<b>HM. CLAUSE</b>	N/A	< 1.0% (Kharif/Rabi)
<b>Mahyco</b>	No records provided	No records provided
<b>DuPont Pioneer</b>	N/A	No records provided
<b>Advanta</b>	N/A	No records provided
<b>Ankur Seeds</b>	No records provided	No records provided
<b>Kaveri Seeds</b>	No records provided	No records provided

N/A = not applicable

**Advanta** did not reply to the inquiry of ICN, but the Council on Ethics for the Government Pension Fund Global assessed the fund's investments in UPL Ltd (UPL). In 2016, UPL merged with Advanta Ltd. Field studies have shown that around 10% of the workers on a number of farms that produce exclusively for Advanta are children under the age of 15. Persons aged between 15 and 18 years account for 30% of the total workforce.<sup>28</sup> The report of The Council on Ethics for the Norwegian Government Pension Fund states the following: *"The exact scale of the child labour is difficult to determine, and varies between different seed varieties and geographic areas. However, a total of 400–500 children probably worked on production for Advanta in 2016–2017,"* <sup>29</sup>

<sup>25</sup> In its annual report 2017 Bayer mentions the following: "However in 2017, we detected an increase in cases of child labor among cotton hybrid seed suppliers in India. These cases were identified predominantly among new suppliers in regions where Bayer had not previously been active. Bayer expanded the activities of the Child Care Program in the areas around the affected sites and carried out follow-up audits. We expect a reduction again in cases of child labor in the coming year as a result of our commitment." (last accessed October 22, 2018).

<sup>26</sup> According to audits performed by SGS India from November 2017 till February 2018 at 106 farms.

<sup>27</sup> After receiving a draft version of this report Namdhari Seeds enclosed an audit report of SGS of 2016. 37 audits were made in two areas. One child (13 years old) was identified and two young workers (15-16 years old). The audit report states that the combined hours of daily transport, school and work time did not exceeded 10 hours a day (confirmed by the child). The audit took place at 18.00 hrs.

<sup>28</sup> Council on Ethics for the Government Pension Fund Global to Norges Bank, 1 March 2018, Recommendation to place UPL Ltd. under observation. Available at: <https://etikkradet.no/files/2018/07/ENG-Rec-observation-UPL-2018.pdf> (last accessed August 17, 2018).

<sup>29</sup> Ibid, p. 6.



The figures in the table above are based on the internal monitoring data the company collected through their own staff or via external audits. Besides Sakata, all companies have reported the incidence at 1% or less than 1%. This is a very substantial reduction compared to the figures mentioned in the ICN 2015 reports and in the report of the Council on Ethics mentioned above. The incidence rates given by the companies could indicate that the measures taken by the companies in the last years are very successful and could maybe serve as good practice for other seed companies and other agricultural sectors in India. If the measures taken by companies have proven to be successful, more detailed research into which measures contributed most would be very valuable. However, it could also be the lack of sound external monitoring that causes recorded incidence rates to be so low and/or a result of a different definition of a child.

It should be noted that most companies only share internal monitoring data with the public. Apart from **Sakata**, **HM.CLAUSE** (Limagrain) and **Namdhari Seeds**, none of the companies have shared the external data of their audits with ICN let alone publish them on their website. However, external monitoring data for **Syngenta India Ltd.** supply chain are available on the website of FLA. **Syngenta India Ltd.**, being accredited by the Fair Labor Association (FLA), is monitored and assessed by FLA.<sup>30</sup> The last assessment publicly available is of 2016-2017. The FLA conducted four Independent External Monitoring (IEM) visits and one Independent External Verification (IEV) visit to assess working conditions at Syngenta's supplier farms in India. The IEM reports show that on 67 farms in three different States, 13 cases of child labour were found.<sup>31</sup> The summary of the different assessment reports mentions amongst others an increased awareness on the prohibition of child labour.<sup>32</sup>

**Sakata** commissions an external audit body (SGS Nederland BV) in India for a 3-year period. It provided ICN with a copy of the external audit report. **EWS** also commissions external audits by SGS (in consultation with three other Dutch vegetable seed companies). The company provided a snapshot of data on child labour recorded by their team of seed production staff and internal auditors for the years 2015-2017. **Namdhari Seeds** is using SGS as well, and enclosed data of the SGS audit to ICN. The company mentions that in case underage workers are found a manager will contact the grower to stop the use of underage workers. **Kalash Seeds** and **Monsanto** did not indicate if they involve independent external auditing of growers in their supply chain. However, the website of Monsanto mentions that they make use of independent external audits, but it is not clear by whom.<sup>33</sup> Furthermore, **Monsanto** has an initiative of joint field inspection programmes with NGOs, but it is not mentioned which NGOs are involved in these inspections. **Nuziveedu Seeds** mentions that it has hired internal vigilance officers to monitor the compliance to its "no-child-labour policy". It is not clear how they monitor the child labour incidence rate and/or its remediation. They have not provided any information on this. **Bayer** mentions that following their extensive plan to observe and check their contracted seed productions activities,

<sup>30</sup> <http://www.fairlabor.org/report/syngenta-seed-supply-chain-india-2016> (accessed July 11, 2018).

<sup>31</sup> <http://www.fairlabor.org/report/syngenta-seed-supply-chain-india-2016> (accessed October 25, 2018).

<sup>32</sup> [http://www.fairlabor.org/sites/default/files/documents/reports/may\\_2018\\_syngenta\\_india\\_executive\\_summary.pdf](http://www.fairlabor.org/sites/default/files/documents/reports/may_2018_syngenta_india_executive_summary.pdf).

<sup>33</sup> <http://www.monsantoglobal.com/global/in/ourcommitments/pages/human-rights.aspx> (accessed June 14, 2018).

Ernst & Young India also conducts unannounced inspections of the farms on their behalf.

**Bayer** shows the child labour incidence in their production of cotton and vegetable seed from 2010-2017 in its annual report. **HM.CLAUSE** indicates it is considering external audits by SGS or external NGOs and is planning to have their internal field monitoring system audited to see whether it is efficient. Furthermore, the company has set up a procedure for identification of probable child labour incidence and age determination in HM.CLAUSE contracted vegetable seed farms.

The information provided by **DuPont Pioneer**, **Mahyco** and **Kalash Seeds** was too limited to assess. They did not provide any figures on the incidence of child labour nor can it be found on their websites. **Kalash Seeds** mentions regular visits of farmers' fields and is sure that there is no child labour in their production field. **Mahyco** mentions that in the year 2017 there were no cases of child labour, but no reports were shown nor is it clear if they make use of external auditors.

**Ankur Seeds** and **Kaveri Seeds** did not respond to the survey of ICN and have no information on their website about incidences of child labour. **Advanta** also did not respond, but because of the report of the Council on Ethics for the Government Pension Fund Global it is public that around 400-500 children worked on production for Advanta between 2016-17.

### 4.3 Limitations of auditing

Although it is not possible for ICN within the context of this report to assess the quality and practise of the internal or external audits commissioned by companies and/or compare it to independent research, in general a few comments about audits can be made.

The ILO-IOE child labour guidance tool for business mentions that *"it is becoming increasingly clear that policing based audit programmes have limited effect on their own in improving labour conditions for workers and respect for their rights, including preventing and addressing child labour."*<sup>34</sup> Reasons why traditional audits (supplier self-assessments and company-led or third party audits) have not produced results are e.g. systemic challenges that are beyond the control of individual suppliers (social context, regulatory environments and industry-wide issues), purchasing practices and lack of disclosure by suppliers of accurate information on their performance during some audit processes.<sup>35</sup> Furthermore, external auditors are finding it difficult to correctly monitor child labour as it is becoming more hidden and therefore less traceable. Only when you have support from the local community, it is possible to get a complete picture of the incidence of child labour. Another limitation of external audits is that it only provides an insight of a specific moment in time and the audits take place often once per season or per year.

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<sup>34</sup> ILO-IOE, How to do business with respect for children's right to be free from child labour: ILO-IOE child labour guidance tool for business (2015), p. 48.

<sup>35</sup> Ibid.

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During the survey in several farms where child labour was observed the children either tried to hide or run away leaving their flower bags on the farms after they saw the researchers. (...) In most of the farms it was observed that children had standing instructions from growers that they should hide or leave the farms if they observe any outsider entering the farm.”<sup>36</sup>

Internal audits are often primarily focussed on internal compliance of management systems and processes, rather than on the usefulness of external due diligence processes. They are carried out as part of a company-wide internal audit process. Internal audits could however be a helpful addition to the use of external audits but it is important that the persons involved have the right skills, tools to monitor compliance and resources to be able to do it thoroughly. Companies could also use the monitoring reports of civil society to gather information on risks, whether risks are adequately addressed and mitigated.

Four companies - Bayer, EWS, Sakata and Syngenta India Ltd. - explicitly mention integrating the incidence of child labour and/or the non-payment of minimum wages in their internal monitoring systems: **Bayer** integrated child labour and minimum wage in their internal system. **EWS** indicates they have included child labour in an internal social compliance program which is an integral part of the centralised automated agro-business system. **Sakata** also has an internal assessment system on legal wages and child labour, but they are less detailed in what this system contains. Lastly **Syngenta India Ltd.** developed an internal monitoring system, apart from being externally monitored by FLA.

To conclude, it is positive that some companies have data available on the incidence of child labour, although most companies do not make these numbers public. As child labour is a high risk in the seed sector, companies should communicate this externally and report on how they address the issue. The percentages mentioned by the companies (0.001 – 4%) show a very different picture than the figures mentioned in the ICN 2015 reports (16-25%). Within the scope of this report it is not possible to assess the possible explanations for this difference, apart from the substantial risk that the present audit methodologies produce lower figures for child labour than more in-depth studies with community involvement. Research will be carried out by ICN in the coming year to evaluate and assess the incidence rate of child labour in the seed sector in India.

<sup>36</sup> According to personal email conversation with Glocal Research of May 25, 2018.

## 4.4 Cease, prevent and mitigate child labour

According to UN Guiding Principle 17 potential human rights impacts should be addressed by companies through prevention or mitigation. Actual impacts that have already occurred should be a subject for remediation (see below under 4.5). The UNGPs as well as the Guidance of the OECD call on companies to communicate relevant information on due diligence policies and activities, including the findings and outcomes of those activities. This information should also be in a language that is easily accessible, i.e. in the local language.<sup>37</sup>

Most companies in this survey have identified child labour as a high risk in their supply chains and mention that they are taking measures to tackle the issue. Some companies started with awareness raising and training programs on child labour for their internal staff and for contracted growers/farmers. **Bayer** mentions creating a global approach to end child labour by implementing a standard procedure for identification of probable risks in seed production farms. Such an approach might be useful since it will also allow Bayer to monitor the progress achieved.

**Monsanto** reported a potential good practice on awareness raising in their cotton seed business in India (it has now sold its branded cottonseeds business in India). The company proactively met with different stakeholders focussing on discouraging migrant workers to bring their children to the place where they migrate to, which resulted according to Monsanto in a very low incidence rate of child labour in the 2016/2017 season. **EWS** has created a social compliance program for measuring, monitoring and sustaining efforts to prevent child labour. This program is supported by the centralised software program called Agro Business System. The program focusses on awareness raising, preventive action, monitoring, management reports and corrective action based on the results of the audits. **Syngenta India Ltd.** has worked on awareness raising, motivation campaigns, provisions in contractual agreements, developing an internal monitoring system to identify non-compliance issues and consultations for developing remediation plans. **Bayer, EWS and HM.CLAUSE** have worked together to draft a position paper on child labour that was adopted by the Asia Pacific Seed Association (APSA) in 2016.<sup>38</sup> In this position paper companies are encouraged to create awareness, implement and enforce a no-child-labour policy, to include no-child-labour clauses in contractual agreements, to enforce sanctions, to train staff, to build a framework to evaluate, to have special consideration for young women/female children, to build manageable systems, to involve senior management, to provide transparent external communication, and to collaborate with other members on this issue. In the Netherlands **EWS** is trying to coordinate with other members of the Dutch seed sector organisation Plantum to combat child labour. **Sakata** mentions that they have been working on awareness programs with local leaders, government bodies and school teachers. Furthermore, they have organised meetings with growers during which they explained the Sakata CSR policy on child labour.

The information provided by **Namdhari, DuPont Pioneer, Mahyco, Nuziveedu Seeds and Kalash Seeds** was too limited to assess or no information was provided on possible measures to cease,

<sup>37</sup> OECD, 2018, *Due Diligence Guidance for Responsible Business Conduct*, p. 33.

<sup>38</sup> <http://apsaseed.org/wp-content/uploads/2017/01/APSA-Child-Labor.pdf>.



prevent and mitigate child labour. Most of these companies mention that the prohibition of child labour is mentioned in their contracts with growers/farmers and that they abide by the applicable national and local laws. As **Advanta**, **Ankur Seeds** and **Kaveri Seeds** did not respond to the inquiry of ICN, it is not possible to assess whether they have any measures to cease, prevent and mitigate child labour in their supply.

To conclude, some of the companies have adopted measures to prevent or mitigate child labour as awareness raising of growers/farmers. These are important first steps to tackle the issue of child labour. However, it is as important for companies to monitor and verify whether their measures are effective. All companies, regardless of their size, should ensure that they are able to obtain a complete picture of whether their process for identifying, assessing and managing risks is effectively implemented by using independent external subject-matter expertise auditors, with input from workers and civil society. Few companies have polished reporting and communication processes in place. However, they provide limited information about the due diligence activities in their supply chain and in particular about how they identify and address child labour. Lastly, if a company has leverage to prevent or mitigate child labour, it should exercise it. In case it has little or no leverage, it should seek to increase this by collaborating with others.

## 4.5 Remedy

Remedy is a very important element of the UNGPs.<sup>39</sup> Even when the company itself is not directly responsible, but a business partner in the supply chain is, the company should at least use its leverage to make sure the business partner compensates the children and makes enrolment into (bridge) school possible. As the UN Guiding Principles set out, judicial remedy includes: *“apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.”* Access to grievance mechanisms for example can help provide remedy to the main stakeholders and rightsholders that could be affected by the company’s activities, including through its business relationships. A grievance mechanism could also serve as an early warning system, providing a company with ongoing information about current or potential human rights impacts from those impacted.

Only **Bayer** and **Syngenta India Ltd.** mention a form of remedy as an action they have taken. **Bayer** has a special program called “learning for life” that reintegrates children into the regular school system or offers them vocational training. According to the company, this initiative reached more than 6,200 children and young people between 2005 and 2016. **Monsanto** has a remediation programme and collaborated with local NGOs to set up child labour bridge course centres. **HM.CLAUSE** is considering setting up a rehabilitation program, which includes enrolling identified child labourers into bridge schools. **EWS** is funded by the Netherlands Enterprise agency (RVO) to work on a systemic approach to tackle the issue of child labour.<sup>40</sup> Out of all companies, only **Bayer** and **Syngenta India Ltd.** mentioned setting up a grievance mechanism.

The information provided by **Advanta, Ankur Seeds, Kaveri Seeds, Namdhari Seeds, DuPont Pioneer, Sakata, Mahyco, Nuziveedu Seeds** and **Kalash Seeds** was too limited to assess or no information was provided.

To conclude, although almost all companies identified child labour as a high risk in their supply chains only a few companies have some sort of grievance mechanism in place. Setting up an effective grievance mechanism is important where individuals or groups run the highest risk of being subject to human rights violations. Companies with a no-child-labour policy should not limit their involvement to merely seeing to it that the children concerned are removed instead of facilitating their transition to formal quality day-time schooling. Lastly, although legally allowed, research has shown that children who combine work with school perform less well and are at risk of dropping out eventually.<sup>41</sup>

<sup>39</sup> OHCHR, Guiding Principles on Business and Human Rights, Guiding Principle 28.

<sup>40</sup> <https://in.eastwestseed.com/policies/multi-stakeholder-initiative-against-child-labor>.

<sup>41</sup> <http://www.stopchildlabour.org/assets/2015/06/actionplanchildlabour.pdf>.

## 5. Non-payment of minimum wages

As mentioned in the ICN 2015 reports, the prevailing wages in the Indian seed sector often fall below the legal minimum wages. The Minimum Wages Act 1948 in India guarantees payment of minimum wages to workers in different sectors, including the agriculture sector. This act empowers state governments to fix and revise minimum wage rates for different agricultural activities. Once fixed, the wage rates are revised at an interval not exceeding five years. Wages are fixed for timework, known as a 'minimum time rate (daily wage rate)', and for piecework, known as 'minimum piece rate'.

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“The issue of non-payment of minimum wages has not received the same attention from seed companies as well as from other stakeholders compared to the issue of child labour. Though several companies have taken measures to ensure minimum wages to labourers working on research farms and processing units directly controlled by them, similar efforts have not been made to ensure minimum wages to labourers working on their suppliers' seed farms. They are of the opinion that the issue is very complex and requires concerted efforts from different stakeholders.”

*Soiled Seeds, ICN report 2015, p. 34.*

There is a very strong link between the prevalence of child labour and the non-payment of minimum wages, which is also why the ICN reports focused on these two issues. When it comes to tackling non-payment of minimum wages, most companies acknowledge there are many 'challenges' or – in other words – lack of effective action.

According to **Bayer** the problem of payment below-minimum wages is largely due to local customs and agricultural production realities. They also acknowledge that the realisation of minimum wages can only be resolved through a coalition of industry and government. **EWS** shares this analysis: the company indicates it is not operating in a vacuum and that seed purchasing prices are dependent on market conditions. Therefore initiatives to combat the non-payment of minimum wages should be done together with other companies in the sector, and through the Asia Pacific Seed Association (APSA) and local seed associations, says EWS.

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“The prevailing market wages for several operations, including cross-pollination and harvesting, which amount for 90% of the labour activities in seed production are low compared to minimum legal wages. The minimum wage rate for cross-pollination is INR 269/€3.74 in Karnataka. The wage rate paid by farmers for cross-pollination in Koppal is INR 143.6/€2.00 which is 46.6% below the minimum wage. If minimum wages are taken into consideration, the cost of labour for cross-pollination would rise by 46.6%. This in turn would increase the total cost of production by 16.4%. With the current procurement price and crop yields if farmers have to pay minimum wages to workers they would be left with no income.” *Soiled Seeds*, ICN report 2015, p. 33.

Again, like with child labour, awareness raising is seen as an important intervention strategy, as is including legal clauses on minimum wages in contractual agreements. It is not clear however if and/or how these contracts are monitored or if there is a joint agreement between companies to at least stick to official minimum wage and/or joint policies to gradually work towards fair or living wages.

In addition, **Bayer** monitors payment of minimum wages throughout the season: growers are given labour registers to record all details. **EWS** tries to increase incomes of farmers by providing farm equipment to increase productivity. **EWS** is funded by the Netherlands Enterprise agency (RVO) to work on a systemic approach to tackle issues on wages and child labour.<sup>42</sup> In 2016 **Syngenta India Ltd.** launched a pilot program with FLA to address the wage issue in hot pepper and corn hybrid seed production in Maharashtra, Telangana and Andhra Pradesh states in India.<sup>43</sup> The executive summary of the results of the external monitoring visits mentions that the minimum wages in Karnataka and Andhra Pradesh were not being paid to workers.<sup>44</sup> As part of ensuring minimum wages in its supply chain, **Syngenta India Ltd.** initiated steps, including ensuring that minimum wages are taken into account in cost of production calculations, review of written contracts with organisers/growers and timely payment of interest free cash advances to growers etc. **Monsanto** started a pilot in their seedling nurseries in India, which are run by third parties. They require the nurseries to pay the statutory minimum wage, which is monitored through payroll audits by the Monsanto production executives.

Seven companies that are part of the multi-stakeholder forum working on child labour and other working conditions issues in the seed industry in India (Child Care Program (CCP)) started a pilot

<sup>42</sup> <https://in.eastwestseed.com/policies/multi-stakeholder-initiative-against-child-labor>.

<sup>43</sup> <http://www.fairlabor.org/report/ensuring-minimum-wages-field-production-hybrid-seeds>.

<sup>44</sup> <http://www.fairlabor.org/sites/default/files/documents/reports>.



project on the implementation of minimum wages in vegetable seeds production facilities under their direct or indirect control. Glocal Research, participant of the CCP, reports that since 2015 *some progress* is made and only limited to the vegetable seeds sector.<sup>45</sup> In cotton seeds there is hardly any action by companies on the minimum/fair wages issue; only **Bayer** has started a small pilot. Companies are claiming that the stagnant cotton price, which is controlled by the government, is largely to blame for this lack of progress. However, this does not in any way diminish the responsibility of companies to show time-bound progress on human rights issues such as the payment of minimum wages.

**HM.CLAUSE** reports paying minimum wages to all workers in company-managed operations. Payment is done through bank accounts. HM.CLAUSE encourages the payment of minimum wages paid by contracted farmers to workers, by for example setting a good procurement price and by educating workers. But the company acknowledges that it is not monitoring these payments, and is exploring the possibilities of using external auditors, starting pilot projects on 1 or 2 crops and/or working together with the FLA on this issue in India. **Sakata** mentioned that they have an Internal Assessment System in India on legal minimum wages and other CSR related activities. Furthermore, the legal minimum wage requirement is included in their Human Rights Policy as well as in contracts with growers.

**Namdhari Seeds** only provided very limited information. They did state there was a considerable increase in wages in the past year due to economic growth, and that the wages paid are around \$ 5-6 a day. Which, according to the company, is higher than the legal minimum wage in many states. \$ 5-6 a day is the highest wage rate paid to male workers for certain operations such as ploughing and pesticide application. **Kalash Seeds** did not respond to our inquiry regarding this issue. **Mahyco** mentions that the company ensures that the minimum wages for hired labourers are paid as per the statutory requirements. However, they did not specify how the company ensures or monitors the payment of minimum wages. **Nuziveedu Seeds** mentions that it has employed internal vigilance officers within their production team who could identify cases of non-payment of minimum wages. How the officers work and if there are any cases found is not known. **DuPont Pioneer** did not mention how they ensure that workers receive minimum wages. It is not possible to assess whether **Advanta**, **Ankur Seeds** and **Kaveri Seeds** pay the minimum wages or if they have implemented any measures to monitor the payment of minimum wages as they did not respond to the inquiry of ICN.

ICN published a study in 2005 in which the link between farm wages and procurement process in Bt. Cottonseed production in Andhra Pradesh was assessed.<sup>46</sup> An analysis of the trends in wages and procurement prices indicated that there is a link between higher procurement prices and an increase in wages and decrease in child labour. Additional strategies are however also needed to make sure that the farmers, once they receive higher procurement prices, actually pay their workers a minimum wage. Therefore companies should ensure that procurement prices are calculated to account for minimum wages for all workers.

<sup>45</sup> Personal email conversation with Glocal Research, May 25, 2018.

<sup>46</sup> *The price of less child labour and higher wages: assessing the link between farm wages and procurement prices in Bt. Cottonseed production in Andhra Pradesh, India* (2005) by D. Venkateswarlu and Lucia da Corta, published by ICN (<http://www.indianet.nl/pricechildhood.html>).

To conclude, as identified in the 2015 reports of ICN non-payment of minimum wages is a serious issue in seed production. Several companies acknowledge that it is difficult to monitor this and to ensure that all workers receive minimum wages. Only a few companies actually have mechanisms in place that try to ensure the payment of minimum wages. An important first step for companies in the direction of implementing minimum wages is to have a proper review of their procurement policies and ensure that growers have enough margins to pay at least minimum wages to workers.

# 6. Stakeholder engagement

According to UN Guiding Principle 18, companies should seek to understand the concerns of potentially affected stakeholders by consulting them directly in order to accurately assess their human rights impacts.<sup>47</sup> The Guidance of the OECD lists stakeholder engagement as one of the essential characteristics and components of due diligence. Engagement with (potentially) impacted stakeholders and rightsholders is very important when the enterprise may cause or contribute to, or has caused or contributed to, an adverse impact. It is important that stakeholder engagement activities continue throughout the lifecycle of an operation and is not a one-off endeavour.<sup>48</sup> To ensure that stakeholder engagement is effective it is important to remove potential barriers as culture, gender, language and power imbalances.<sup>49</sup> Furthermore, *“stakeholders such as women, children and socially marginalised communities may be affected more significantly by an enterprise activity, or in different ways, and may need additional attention in the context of stakeholder engagement activities.”*<sup>50</sup>

The two ICN reports of 2015 clearly indicate the gender and caste composition in the seed sector; girls and women outnumber boys and men and many of the hired labourers are from socially backward communities like Dalits (Scheduled Castes), Adivasi (Scheduled Tribes) and Backward Castes. Therefore, it should be supported that women for example could participate in consultations (without the presence of employers). If necessary, they should be consulted outside the presence of men or in a separate space. Although each company has its own responsibility to end child labour and ensure the payment of minimum wages in their supply chain, some systemic issues can be more effectively addressed with the combined leverage of several companies and civil society organisations, including unions.

Most of the companies addressed recognise the complexity and systemic nature of the issues. Therefore, since 2015, together with Glocal Research, **Advanta, Bayer, DuPont Pioneer, EWS, Limagrain, Mahyco, Monsanto, Nuziveedu Seeds, Sakata** and **Syngenta India Ltd.** cooperate in a multi-stakeholder forum working on child labour and other working conditions issues in the seed industry in India, the Child Care Program (CCP). Several meetings and consultations with various stakeholders have been organised since 2015. The other companies addressed in this report did not provide any substantial information about any stakeholder engagement.

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<sup>47</sup> OHCHR, Guiding Principles on Business and Human Rights, Guiding principle 18: “To enable business enterprises to assess their human rights impacts accurately, they should seek to understand the concerns of potentially affected stakeholders by consulting them directly in a manner that takes into account language and other potential barriers to effective engagement. In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society.”

<sup>48</sup> OECD, 2018, Due Diligence Guidance for Responsible Business Conduct, p. 18-19 and Q9 on p. 49 ff.

<sup>49</sup> OECD, 2018, Due Diligence Guidance for Responsible Business Conduct, Q11 on p. 51.

<sup>50</sup> OECD, 2018, Due Diligence Guidance for Responsible Business Conduct, Q11 on p. 51.

Due diligence is informed by engagement with stakeholders. It is positive that most companies addressed in this report are part of a multi-stakeholder forum where the issue of child labour and non-payment of wages is discussed. However, participation in multi-stakeholder initiatives does not shift responsibility from the companies to the initiatives with regard to e.g. addressing child labour and non-payment of minimum wages. Furthermore, it is important that specific stakeholders as women, children and socially marginalised communities are part of stakeholder engagement. Lastly, stakeholder engagement should continue and cannot be a one-off endeavour.



# 7. Philanthropy

Most companies have offered us an insight into the projects, or social investments they carry out, that are deemed beneficial to local communities. Just to name a few examples, without being exhaustive: **Nuziveedu Seeds** distributes awareness material on rural cottage industries to help villages increase their overall livelihood. **Monsanto** provided clean drinking water and sanitation for 135,000 people in the past two years. **EWS** supports and maintains schools (including sanitation and drinking water systems). **Sakata** donates school supplies in villages to promote school attendance. This is seen as part of its CSR objective with regard to tackling child labour.

Without studying the projects described by the different companies in detail, it can be assumed that these projects might have a positive effect on the beneficiaries. However, these projects can never replace human rights due diligence in the entire supply chain. When the issues of child labour and non-payment of minimum wages are successfully tackled in the supply chain, many of these projects would not be necessary since families would then for example have enough income to send their children to school and pay for school supplies.

## 8. Responses from companies

A draft version of this report was sent to all companies mentioned in this report for their comments or modifications. ICN tried to include most of the comments given. The responses of companies are written below in alphabetical order. No response was given to ICN by **Advanta**, **Ankur Seeds** and **Kaveri Seeds**.

### Bayer

In their response Bayer mentions that Ernst & Young India on their behalf is conducting unannounced farm visits on selected farms contracted by Bayer to verify the existence, if any, of child labour and Test Check the compliance of the Child Care Program Management System procedures with the revised procedures adopted to implement Bayer's Zero Tolerance on Child Labour. Further, Bayer states that they are a founding member of Excellence Through Stewardship, a non-profit organisation that promotes the adoption of best practises and stewardship in agricultural technology. These audits are additionally conducted every three years. Bayer endorses the new definition of adolescent that has been introduced in the amended Indian Child Labour Act and they are now in the process of analysing the applicability of these provisions to all activities of the 14-18 year old age group on contracted seed production in consultation with labour experts. Based on their recommendations, they plan to introduce an appropriate legal clause in their production agreement as well as changes in the Standard Operating Procedures. They also accordingly plan to improve the internal staff and farmer seed production training programs. Bayer cites that they have a system to monitor the Safe Use Practises followed in their contract with seed production farms and that they train the farmers on the safe use practises. Additionally, Bayer includes specific clauses in their contract with seed growers, including the prohibition of application of pesticides and working with heavy machinery by children. Furthermore, Bayer rewards suppliers who can verify that they strictly observe their ban on child labour with a bonus along with training in agricultural efficiency. Bayer also mentions that they are fully compliant in terms of child labour, minimum wages, health and safety practises etc. The labour contractors are responsible for labour law compliance and they have clauses included in the contract with their contracted seed productions farms. Records have to be kept with birth certificates of the workers. Further they mention that they keep a detailed registry of hours of work and wages paid to each labourer from each farm. Lastly, Bayer insists on payment of government prescribed minimum wages which are gender neutral. Finally, Bayer did inform us that they recently acquired all outstanding shares of Monsanto Company. Furthermore, Bayer will retain its hybrid rice Arize® and cotton Surpass® seed business which operates in the Asian region and its hybrid millet and mustard seeds under the brand ProAgro® in India. The portfolio of Vegetable Seeds under the brand name Nunhems® will be divested as a regulatory condition of the acquisition.

### DuPont Pioneer

Although DuPont Pioneer did not respond to our first request in December 2017, they reacted to a draft version of this report. The company mentions that their commitment to address child

labour issues in seed fields reflects and is guided by their Core Values of Respect for People, Safety and Health, Highest Ethical Behavior and Environmental Stewardship. DuPont Pioneer shares that their approach to child labour is guided by the Universal Declaration on Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work and Indian Legal Provisions on Child Labour. The minimum age adopted for hired labour in India is 16 years, according to DuPont Pioneer. DuPont Pioneer implements a Contractor Core Value (CCV) program in seed fields of all crops and they will continue with this program. The company mentions that they believe that the challenges are sustainably addressed by DuPont Pioneer through diverse multi-stakeholder approaches and involving the local community. Lastly, the company informed us that their cotton business started in 2009 and was divested in 2016.

## East-West Seed

In their response to a draft version of this report East-West Seed responds that they have their own local production teams engaging with their production farmers and monitoring the production process. Because of their local team they are able to monitor the production and possible labour issues more closely and on the spot, take measures where needed and develop their own awareness raising programs on the ground. Furthermore, EWS mentions that during production time their staff will monitor if the field safety protocol is implemented, including with regard to young workers. During their internal audits, EWS checks whether minors (below 18 years old) are found working in unsafe and/or sensitive activities. EWS acknowledges the questions raised with regard to the effectiveness of external audit companies. Therefore, EWS feels that their own monitoring systems are probably more effective, being (a) much more frequent, and (b) more casual as part of regular visits by familiar EWS production teams rather than stand-alone monitoring. They do however acknowledge the necessity of proper external monitoring and verification of their own findings. Lastly, EWS agrees that the issue of minimum wage compliance needs to be addressed. In their own controlled seed production farms (where they produce so-called stock seeds), all of their workers are paid above the minimum wage. However, most of their commercial seeds are produced by external contract farmers rather than their own farms. Seed production farmers are according to EWS generally speaking financially better off than fresh produce farmers, in particular due to pre-agreed and guaranteed prices (unlike fresh produce market prices which tend to be quite volatile). EWS includes contractual clauses requiring compliance with minimum wage laws in all their production contracts with their production farmers in India, but in practise it is not always easy to monitor compliance by farmers on this point and EWS finds that minimum wage rules are often poorly understood by farmers / workers in India. Therefore their local teams have started awareness campaigns (following up on CCP meetings). EWS started with a pilot project in one of their production areas where the production farmers get an extra payment if proven 100% compliant, and less if not compliant. They are still evaluating the impact of this pilot and if positive, they intend to extend the pilot to a wider area and share the results with other CCP members.

## HM.CLAUSE / Limagrain

Limagrain mentions that they read a draft version on this report with interest and that they have no further comments nor modifications to propose.

## Kalash Seeds

In their response to a draft version of this report, Kalash Seeds mentions that they conduct joint programs with Government agencies and NGOs regularly. On the 12th of June 2018 Kalash Seeds organised an awareness raising program in a village where they have seed production. Furthermore, they mention that precautionary measures are taken during allotment of seed production plots to the farmers. In their agreements with farmers the prohibition of child labour is included, according to Kalash Seeds. Lastly, Kalash Seeds states that they insist on farmers to pay minimum wages to the labourers.

## Mahyco

Although Mahyco did not respond to our first request in December 2017, they did respond to a draft version of this report. Mahyco mentions that they have legal agreements with the growers and contractors with a clause that requires commitment to prevent any child labour in production. Furthermore, Mahyco states that they actively create awareness about child labour during their periodic meetings with their growers. In reply to the question whether the company has any documents of their field monitoring visits, they replied: *"Currently, our monitoring and supervisory system is with the production team who monitors this along with other production parameters. Hence, a separate trail of records is not maintained, and it is not part of their regular reports with other matters. However, we have planned to institute a system of internal audit to strengthen the monitoring system."* If any grower is not adhering to their requirements, Mahyco will discontinue working with the grower the next season. During 2016 and 2017 Mahyco did not come across any of such cases in their production fields. Furthermore, Mahyco mentions that they actively display posters, banners at the production fields and other locations where growers interact to keep the no-child-labour requirement on top of their mind. Lastly, Mahyco states in their email that they ensure that minimum wages for the hired labour are paid as per statutory requirement.

## Monsanto

In their response to a draft version of this report Monsanto states concerning the payment of statutory minimum wages that the seed industry is a small part of agriculture in India and does not operate independently of the rest of the agrarian economy. Some seed companies individually act with the limited influence they have to try to ensure that their growers are paying minimum wages to their employees. When the prevailing wage in the area is less than minimum, and there is no chance of government enforcement, there is a tendency by some growers to pocket a premium for themselves, Monsanto says.

## Namdhari Seeds

In their response to a draft version of this report Namdhari Seeds mentions that around 50% of the workers in their production area are family members. The others are local workers. Generally, Namdhari Seeds does not have migrant workers in their production areas. Furthermore, the majority of the workers are women (57-60%). Namdhari Seeds further stated that the farmers do not have any information or knowledge about the Child Labour Law and Regulations. How-

ever, they are aware of child labour and Namdhari Seeds used to tell them verbally and/or made an Agreement with the farmers explaining child labour laws and raising awareness along with their other production terms. The SGS audit report mentions that no farmer has an effective procedure in place to verify age during recruitment and that no copies of age proof documents are kept. Namdhari Seeds states that they started keeping Records of Age proof documents before employing any labourer in a farm and they normally hire above 18 years old. The age is verified by checking the Aadhar Card or Voters ID. Copies of these will be maintained by the Field Supervisor. Namdhari Seeds is now insisting that the farmers keep a separate register for young workers too. Generally, they are not involved in hazardous work, but picking the male flowers. Before the season starts they normally send their auditors to the production fields. Lastly, Namdhari Seeds observes that in the recent past the economic condition of growers improved a lot in all their production areas. The villages have schools and from the company side they help the village schools by constructing buildings and giving some stationary materials. Furthermore, they help growers to construct toilets in order to create awareness regarding open defecation.

## Sakata

In their response to a draft version of this report Sakata mentions that they did not publish their human rights policy online as their main target are the farmers who have limited access to internet. They have chosen to directly introduce and distribute their policies to the farmers. Examples were sent to us by email. They did however instruct their Indian subsidiary to publish their policies on the Sakata website in the near future. Further, Sakata mentioned that they started a pilot project through which they have advised their main vendors and main growers to maintain minimum wage registers for seed cleaning activities and work in the production farms respectively. Lastly, Sakata enclosed two child labour assessment audit reports of SGS in 2018 in their email to ICN as well as a report on their field training for growers and field staff held in June 2017 on child labour, safe chemical handling.

## Syngenta India Ltd.

In their response to a draft version of this report Syngenta India Ltd. states that meeting country regulations and complying with ILO/FLA standards is a key objective of the company, but on the other hand minimum wage compliance is a highly complex issue in India as wage rates are determined by demand and supply and workers in seed production work also work for non-seed production activities which is beyond Syngenta India Ltd.'s direct control. So therefore Syngenta India Ltd. decided that one-sided actions will not solve the problem. A pilot project in two locations was introduced to address the challenge of minimum wage compliance in the Indian vegetable and corn supply chain to serve as an example to other companies. In 2017 Syngenta India Ltd. started to work with FLA to define root causes of non-payment of minimum wages in the Indian seed sector through capacity building, due diligence and engagement with supply chain actors, civil society organisations and government authorities.<sup>51</sup>

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<sup>51</sup> <http://www.fla.com>.



## 9. Conclusions and recommendations<sup>52</sup>

Most companies addressed responded to the inquiries of ICN, but the quality and quantity of the information presented varied greatly. Some companies provided a detailed response allowing ICN to assess their efforts. Others were very brief and generic, making it impossible for ICN to assess whether they have simply not taken enough measures or whether they did not take the time to respond properly.

In general, according to the responses of the companies, there is much more awareness and progress on the issue of child labour. Most companies take this issue seriously and consider it to be a risk. Some of the companies have taken measures to prevent or mitigate the risk of child labour in their supply chain. Only a few companies however monitor and assess the effectiveness of these measures. Furthermore, most companies mention that there is still a percentage of child labour in their supply chain although much lower than mentioned in the 2015 reports of ICN. Whether the figures presented by the companies provide the actual picture of the incidence of child labour in seed production is doubtful. As addressed in this report, sound and precise monitoring of the incidence of child labour is difficult and demands a comprehensive approach involving independent qualified auditors, good internal monitoring mechanisms and involvement of NGOs and local communities. New in-depth research will be necessary to analyse the actual incidence of child labour in the seed sector.

Two major issues of concern remain when it comes to the issue of child labour:

- 1. Remediation:** only a few companies report on their remediation efforts after child labour is found with contracted farmers. All children that are found working on farms and do not attend fulltime education should be enrolled either into bridge schools or supported in their re-integration into regular schools.
- 2. External monitoring:** not all companies verify their child labour incidence rates externally, making the results much less reliable for external stakeholders. In addition we doubt, for reasons given above, if the external monitoring as it is done now, leads to reliable results if there is no close consultation with local communities, including farmers and agricultural labourers and/or their unions.

The issue of non-payment of minimum wages is only recognised by a few companies. This could be because companies regard child labour as a greater reputational risk than the issue of non-payment of wages, and therefore focus their efforts mainly on child labour. Also the issue of non-payment of minimum wages is, as some companies indicate, more difficult to tackle since it is a systemic issue where change depends also on local customs and agricultural production

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<sup>52</sup> Every chapter and subparagraph in this report has a brief conclusion.

realities. But the non-payment of minimum wages is also undoubtedly an issue of competition as better wages have to be paid through better prices for farmers that are the suppliers of seeds to the companies and do employ the labourers.<sup>53</sup> Further, there is a very strong link between the prevalence of child labour and the non-payment of minimum wages. Individual companies should however at least abide by the law and at least ensure that the official minimum wages are paid and that the prices paid to farmers make this possible. Companies do acknowledge that working together with other companies in the sector is key to successfully tackling the wage issue. But paying minimum wages, being low as they are, should not be the ultimate goal regarding wages. That should be working towards a living wage. As mentioned, Syngenta India Ltd. started a project with FLA to ensure the payment of minimum wages and invited others in the sector to join. ICN advises companies to consider joining this project, but also to extend their own efforts to work towards living wages.

In the coming year ICN will focus on verification of the incidence rates of child labour through independent research as well as on the strategies that are most effective to tackle child labour, including remediation of working children found. In addition, ICN will focus on gaining more insight in what could be successful strategies to achieve payment of minimum wages and working towards living wages. Paying at least minimum but ultimately living wages, and thus contributing to a family income that allows children to go to school is a very important part of the remedy against child labour. Therefore ICN strongly believes that the issue of child labour will never be truly resolved without working on the payment of a living wage which will also strongly contribute to fighting poverty and living a dignified life as a family.

## RECOMMENDATIONS

1. Companies should conduct due diligence as required by the UN Guiding Principles for Business and Human Rights and the OECD Guidelines for Multinational Enterprises.
2. Companies should have a human rights policy, or human rights should be included in a more general CSR and/or corporate governance policy. This policy should clearly stipulate the expectations, objectives and responsibilities of all employees and other business relations when it comes to child labour and payment of minimum wages. The policy should be approved by senior management, communicated to all stakeholders and be publicly available.
3. Companies should not employ children under the age of 15 according to the ILO 138 Minimum Age Convention and dangerous work, such as handling of pesticide and heavy machinery, done by children under the age of 18 is illegal according to the ILO Convention on the Worst Forms of Child Labour, no. 182. Companies should include this into their contracts with growers and farmers and communicate this clearly.
4. To get an accurate picture on the incidence of child labour in their supply chain, companies should not only rely on their internal monitoring mechanism, but should also have independent external subject-matter expertise auditors and involve the local community.

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<sup>53</sup> See: *Wages of Inequality* (<http://www.indianet.nl/121212e.html>) and *The Price of Less Child Labour and Higher Wages*: <http://www.indianet.nl/ThePriceOfLessChildLabourAndHigherWages.html>.

5. As part of their due diligence, companies should adopt measures to tackle child labour and non-payment of minimum wages in their supply chain, communicate about these measures and monitor and evaluate the effectiveness and results of these measures.
6. Companies should create an action plan for the rehabilitation of child labourers and their enrolment in education in close cooperation with suppliers, workers and the local schools and (where possible) labour inspection.
7. Companies should ensure that procurement prices are calculated in such a way that they account for minimum wages and progressively work towards living wages for all workers.
8. Companies should engage with all (potentially) impacted stakeholders on an ongoing basis, including women and workers from socially backward communities like Dalits (Scheduled Castes), Adivasi (Scheduled Tribes) and Backward Castes.
9. Companies could engage in multi-stakeholder initiatives to address the issues of child labour and non-payment of minimum wages together.
10. As women are preferred for activities which are paid on lower rates, companies should ensure that work allocation is done without gender bias.

*Utrecht, November 2018*