

**BUSINESS AND HUMAN  
RIGHTS CLINIC**

Columbia University

School of International and  
Public Affairs

Institute for the Study of  
Human Rights

**Executive  
Summary**



2019

**The Impact of Bonsucro on  
Human Rights in the Sugarcane Sector  
A Focus on India**

## Executive Summary

The central question of the business and human rights field is how to ensure that companies respect human rights where they operate. Early in his mandate as UN Special Representative on business and human rights, John Ruggie described the problem of corporate impunity for human rights harms as stemming from a “misalignment...between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences.”<sup>1</sup> Government regulation alone does not provide an adequate solution because governments are often unwilling or unable to impose regulations or enforce the regulations that do exist. Moreover, even in countries with stronger rule of law where regulations are viable, regulations often can’t keep up with technology and financial innovation. At the same time, corporate self-regulation is ineffective, as it depends largely on the oversight of civil society. Civil society members are also consumers with a broad array of interests that don’t necessarily align with human rights, such as a desire for cheap goods and convenience. Multi-stakeholder initiatives (MSIs), involving willing businesses, NGOs, and sometimes governments, are a hybrid form of governance that holds promise in filling the gap. Although there is no single definition of what constitutes an MSI, they typically involve a negotiated set of standards for a specific industry, sector, or human rights problem, and an accountability mechanism that holds participating companies to those standards.

Bonsucro is a multi-stakeholder initiative (MSI), founded in 2008 as the Better Sugarcane Initiative and headquartered in London, that seeks “to promote sustainable sugarcane production, processing, and trade around the world” through its certification scheme and other initiatives “to accelerate change for the largest agricultural commodity in the world.”<sup>2</sup> Only ten years old and tasked with addressing a high-risk sector that has been associated with environment, land, and labor rights abuses, much is at stake for Bonsucro’s efficacy as a legitimate governing force. As a member of ISEAL, Bonsucro is required to carry out regular independent impact evaluations every five years, which are “systematic, objective and in-depth, ex post assessments of the medium or long-term effects – positive or negative, intended or unintended – of the implementation of a standards system.” Bonsucro seeks to do so through university partnerships.

This project with the SIPA Business and Human Rights Clinic represents the first such partnership. The report is based on field research conducted by the Business and Human Rights Clinic at the School of International and Public Affairs (SIPA), Columbia University, between September 2018 and May 2019. With full leeway to determine the scope and design of research, we were tasked to evaluate the human rights impact of the Bonsucro Production Standard. We decided to focus on its activities in a specific country, since impact is context dependent, and selected India for the case study. Bonsucro was originally most active in Brazil, where it has the greatest number of certified mills, and its signature Production Standard (the Standard) was originally built around conditions on large plantations with advanced mechanization like those in Brazil.<sup>3</sup> As Bonsucro expanded geographically it recognized the need to adapt the Standard to very different circumstances, such as in India where smallholder farming is prevalent.

Bonsucro's first engagement in India dates to 2009, and its first formal trainings to 2011. By October 2018, when we began our study, one Indian mill was about to be certified and several more were working towards certification.

In addition to its prominence as a major producer of sugarcane, we selected India for three further reasons: 1) It is one of a small number of countries besides Brazil where Bonsucro has been active for at least five years. 2) Harvesting season in India coincided with the window (our spring break) in which we were available to conduct fieldwork. Visiting during harvesting season is important so that we could meet with and observe laborers, including any migrant workers, harvesting cane. 3) There was potential for a clear “before and after” picture of Bonsucro impact because of the presence in India of Bonsucro's first in-country program manager, who was hired the year before. Bonsucro's decision to dedicate scarce resources to an in-country staff person was based on the rationale that country managers were the most “efficient”<sup>4</sup> means to implement the Production Standard. The move also aligned with Bonsucro's revised Theory of Change, which was published that year, as Bonsucro embarked on a board-mandated transformation from a certification standard to a “platform for change.”

The growing and harvesting of sugarcane carries a legacy for serious human rights abuses – and India's sugarcane sector is no exception. Studies of sugarcane production in India have highlighted the prevalence of modern forms of slavery – notably child labor and bonded labor – as well as other harmful working conditions, including inadequate access to drinking water and sanitation facilities. In addition, women in this sector are severely affected by substandard wages and by assault and abuse. As the second largest producer of sugar in the world after Brazil, and facing a host of complex challenges, India is ripe for the expansion of a sustainable sugar initiative to address these problems. Sugarcane cultivation is the main source of income for 67 percent of smallholder farmers and 98 percent of marginal farmers across the country: the potential to positively impact farmers' lives and livelihoods is significant.

It is too early to conduct a full impact evaluation for Bonsucro in India because the program's impact is still too partial and too new. According to the ISEAL standard (and other best practices in monitoring and evaluation), “The number, regularity and extent of impact evaluations should be commensurate with the maturity, scale and intensity of the activities of the standards system. Impact evaluations generally take a number of years to complete as a goal is to see change over time.”<sup>5</sup> In the India case, mill participation at the yearly trainings that Bonsucro began conducting in 2011 lacked strong engagement, as mills participated mostly under the sponsorship of their buyers and generally not out of their own desire for change.<sup>6</sup> Mill motivation began to pick up with the India Accelerator Program led by the new India program manager, which was only a year old at the time of our research began. We also lacked strong treatment cases, as well as “non-treatment” cases since the four mills that agreed to participate in this research either had just been certified or were close to being certified. One Indian mill had been Bonsucro certified since 2016, but this mill declined to participate in the study.<sup>7</sup>

Therefore, this report assesses the outcomes of certification in India that are observable at the early stages of the program. Given the complexity of the human rights issues that certification potentially affects, we relied primarily on qualitative interviews and analysis. This study is informed by 28 remote stakeholder interviews as well as two fieldwork trips to India in 2019 by student participants in the Clinic, who conducted 56 in-person interviews with mill management, mill workers, farmers, and farm workers at four Bonsucro member mills (one that had just been certified and three working towards certification) that agreed to participate.

At the mill level, we found that certification had minimal impact. Prior to engaging in the Bonsucro certification process, mills had already achieved other standards and certifications included ISO-9000, 4000, 18000, SA 8000 as well as other sourcing requirements of large buyers. The impact of subsequently seeking Bonsucro certification was largely redundant with operational changes that they had already made. At the farm level, however, the potential for impact of certification is more pronounced. Among standards organizations, only Bonsucro offers a program to train farms selected by the Bonsucro member mill for certification under a dedicated standard for farmers: The Production Standard for Smallholder Farmers (Smallholder Standard), which Bonsucro first rolled out in mid-2018. This is a distinct advantage of Bonsucro certification, according to member mills we interviewed, many of which had participated in the stakeholder consultations that recommended a bespoke smallholder standard. While several other organizations provide training to farmers on agronomic practices to increase yield and mitigate the environmental impact of cane cultivation, only Bonsucro has made contact with the farms and mills to raise awareness of laws and regulations pertaining to human rights, including health and safety conditions, minimum working ages and minimum wages.

A fundamental question that loomed over our study is the degree to which Bonsucro certification can be relied upon as a valid indicator of compliance with the Standard. Auditor reports are not public and the outcome evaluation reports that Bonsucro produces annually only include data that are aggregated across mills and farms, as well as case studies of positive impact.<sup>8</sup> This lack of transparency requires that the public take the assessor's word that the mill has met the standard, and denies stakeholders — including migrant worker and land rights advocacy organizations — the opportunity to identify potential auditing errors. Revelations about auditor misconduct for a certification standard in the cocoa sector, including “patchy inspections” and “susceptibility to fraud,” underscore long-standing concerns of social auditing to which the sugarcane sector may not be immune.<sup>9</sup>

These concerns are endemic to social auditing schemes, as discussed in the Introduction of this report, and make the presence of a well-functioning, transparent grievance mechanism at the farm level important. Our recommendations include looking to the successful model of worker-driven social responsibility, exemplified by the Fair Food Campaign, in which human rights protections are “worker-driven, enforcement-focused, and based on legally binding commitments that assign responsibility for improving working conditions to the global corporations at the top of those supply chains.”<sup>10</sup>

## Key findings:

- ∞ In identifying farmers for certification under the Smallholder Standard, mills target “progressive” farmers — typically wealthy, knowledgeable about sustainable practices, and well on their way to meeting the Standard at the time they are selected. The Bonsucro certification system, therefore, appears to be rewarding good behavior, rather than transforming the sector in line with its mission as a platform for change.
- ∞ Mills do not select farmers for certification who do not have the requisite documentation to prove land ownership. This may inadvertently replicate inequities, particularly gender inequities. Because of India’s patriarchal inheritance system, women are often excluded from land titling.
- ∞ Gender considerations are not adequately reflected in the Smallholder or Production Standards, portending low impact with respect to gender discrimination in the sector. In addition to land documentation, there is a gender pay gap that results from a family exchange system of labor in which only the male head of household is paid. Moreover, some of the farms do not have dedicated nearby washrooms, which creates a risk of gender-based violence for female farm workers.
- ∞ Scaling up certification of farmers can be costly given the sheer numbers of smallholder farmers supplying cane. Without a price premium to offset additional costs of training and monitoring, the value proposition of certification is unclear to some mills.
- ∞ The Farm Diary, a requirement of the Smallholder Standard that farmers must record details such as labor hired, crop varieties planted, fertilizer applied, irrigation used, etc., presents high potential for observable impact. However, the quality of the diaries varied widely across mills. The inconsistency limits the potential for the Farm Diary to serve as a resource for farmers, embed best practices as routine, and increase awareness of Bonsucro’s mission across all certified farms.
- ∞ The use of personal protective equipment (PPE) increased over the last two years, pointing to an observable outcome of Bonsucro interventions and the Smallholder/Production Standard. However cultural and habitual barriers to proper use of such equipment remain and need to be addressed.
- ∞ Formal identification checks, written contracts, and pay slips are not common practice. The Smallholder Standard requires that farmers ensure that workers are not underage and recommends checking identification as one way to do so. Just one smallholder farmer that we spoke with reported checking the identification of his workers. Most farmers told us that they predominantly sourced labor from their village, or even through family exchanges of labor, and therefore it is unnecessary, and even considered rude, to conduct such checks, produce a written contract, or provide pay slips. Ensuring farmer awareness

of child labor laws and developing other practices to prevent child labor and other forms of labor exploitation is critical in this situation.

- ∞ The Production and Smallholder Standards include an indicator for certified farmers and mills to implement a grievance and dispute resolution mechanism; however, it is not a “core” indicator, and therefore the presence of a grievance mechanism is not essential to achieving certification. Farmers consistently reported that they were not aware of any formal complaint procedure. We were therefore not able to identify observable impact of the Bonsucro Standard vis a vis this indicator.

### Key Recommendations:

Our recommendations to strengthen the human rights impact of the Smallholder/Production Standards and certification process are organized around three themes: 1) Improving verification of compliance with the Standard; 2) Enhancing the human rights compatibility of the Smallholder/ Production Standards; and 3) Promoting human rights through the platform for change.

#### *Verification of Compliance*

- ∞ Conduct a thorough review of auditor training and guidance to ensure auditors have adequate expertise on human rights.
- ∞ Revise the Smallholder/Production Standard and guidance to make it more prescriptive with respect to human rights monitoring.
- ∞ Make the existence of a grievance mechanism at the farm and mill levels a core indicator and conduct a comprehensive review of the grievance mechanism requirement and training to ensure alignment with the effectiveness criteria of the UN Guiding Principles on Business and Human Rights.
- ∞ Prioritize lower-level field staff — the individuals whose job it is to visit the farms — in mill trainings and provide content on how to detect human rights violations.

#### *Human Rights and Improvements to the Smallholder and Production Standards*

- ∞ Amend the due diligence requirements on new projects to require a human rights impact assessment.
- ∞ As part of the farmer selection standards for Bonsucro certification, provide flexibility in accepting documentation of the right to farm on land, and promote dialogue with Indian member mills on this topic.
- ∞ Include a provision requiring farmers to provide access to washrooms.

- ∞ Make the provision of personal protection equipment a core indicator and provide education and training to sensitize workers to its benefits and the importance of wearing equipment correctly.
- ∞ Specify what farmer oversight of gang leaders is required to ensure that gang leaders are adhering to the Standard.
- ∞ Include the topic of freedom of association in mill and farmer trainings.
- ∞ Integrate gender non-discrimination (Principle 2) throughout the Smallholder and Production Standards and, as part of this process, undertake a comprehensive gender analysis of the standards.
- ∞ Review the definition of “family labor” in the Smallholder Standard to minimize any unintended risk of child exploitation
- ∞ Revise the “Obey the Law” criterion and guidance of the Production Standard to clarify that when national law conflicts with international human rights law, mills are expected to strive to honor the principles of internationally recognized human rights.

*Promoting a “Platform for Change”*

- ∞ To maximize the utility of the Farm Diary, revise the template for recording of specific human rights-related information that might otherwise be overlooked, such as ages and genders of laborers, hours worked, and payments made.
- ∞ Create a guideline for mill selection of farmers for certification so that selection is representative of the farmers supplying to that mill.
- ∞ Facilitate a dialogue among member producers and buyers to determine how to deliver a price premium to mills for certified sugar.
- ∞ Extend Bonsucro’s reach by including training on the Production Standard for farmer cooperatives.
- ∞ Engage the Indian national government, which has committed to upholding business and human rights standards through its newly issued draft National Action Plan on Business and Human Rights, in efforts to encourage Indian sugar buyers to respect human rights, and thereby extend Bonsucro’s reach.
- ∞ Harmonize the Production Standard with other existing initiatives targeting the sugarcane sector while simultaneously improving its alignment with human rights.

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<sup>1</sup> “Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts” Report of the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, A/HRC/4/035, February 9, 2007.

<sup>2</sup> Bonsucro, “A Little More About Us” <https://www.bonsucro.com/what-is-bonsucro/>

<sup>3</sup> For a full up-to-date list of Bonsucro certified mills, see “Certified Members” <https://www.bonsucro.com/certified-members/>

<sup>4</sup> Skype interview with Rick Lyu, Regional Director, Asia Pacific, October 28, 2018.

<sup>5</sup> ISEAL Alliance, “Assessing the Impacts of Social and Environmental Standards Systems: ISEAL Code of Good Practice” version v2.0, Dec. 2014. [https://www.isealalliance.org/sites/default/files/resource/2019-06/ISEAL\\_Impacts\\_Code\\_Version\\_2.0.pdf](https://www.isealalliance.org/sites/default/files/resource/2019-06/ISEAL_Impacts_Code_Version_2.0.pdf)

<sup>6</sup> Skype interview with Nicholas Viart and Nahuel Tunon, Aug. 6, 2019.

<sup>7</sup> The first Indian mill to be certified was EID Parry Pugalur in 2015. However, the mill was decertified in June 2018 – four months before we began our research – due to draught.

<sup>8</sup> See for example, Bonsucro, “Outcome Report 2018.” <http://www.bonsucro.com/wp-content/uploads/2019/04/Download-Bonsucro-Outcome-Report-201819.pdf>.

<sup>9</sup> Peter Whoriskey, “Chocolate Companies Sell ‘Certified Cocoa.’ But Some of Those Farms Use Child Labor, Harm Forests,” *Washington Post*, Oct. 23, 2019. <https://www.washingtonpost.com/business/2019/10/23/chocolate-companies-say-their-cocoa-is-certified-some-farms-use-child-labor-thousands-are-protected-forests/>.

<sup>10</sup> Worker-Driven Social Responsibility Network, “What is WSR?” <https://wsr-network.org/what-is-wsr/>.

## About the Business and Human Rights Clinic

The Business and Human Rights Clinic is a year-long course offered at the School of International and Public Affairs (SIPA), Columbia University (New York), which is designed to deepen student knowledge of business and human rights through practice. Combining seminars, guest lectures, group work, and site visits, the Clinic is an interdisciplinary space for experimenting with new business and human rights methods and tools, carried out in partnership with non-governmental organizations (NGOs) and other practitioners.

The following students comprised the Clinic team for 2018-2019 that carried out the research for this report: Ana Perez Adroher, Shabnam Aslam, Anindita Chakraborty, Keri Lloyd, Sarah Johnson, and Jenise Ogle. Joanne Bauer, Adjunct Professor of International Affairs at SIPA and Clinic Faculty Lead, supervised the research and revised this report for publication.

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