

21/3/2002

+

~~57~~  
28 64

**A REVIEW OF BONDED LABOUR AND CHILD LABOUR  
SITUATION IN MAHARASHTRA FOR THE  
YEAR 2004-05  
(18 February 2005)**

As desired by the Commission, I have made a review of the Bonded Labour and Child Labour situation in Maharashtra for the period ending 31, December, 2004. This was done in a meeting held in the State Secretariat at Mumbai on 18 February, 2005. The meeting was attended by Dr. Bhagwan Sahai, Secretary, Labour Department, Shri BD. Sanap, Commissioner of Labour, Shri P.T. Jagtap, Additional Commissioner of Labour and Shri Raja Ghodeswar, Deputy Commissioner of Labour, Thane. Shri L.R. Khuprao, Joint Secretary, R&D(R), Bhau Gawande State Project Coordinator, MPS, Mumbai, Shri M.V. Kokane, Joint Secretary, SED and Shri D.K. Jagtale, Deputy Commissioner, Konkan were also present. The meeting was preceded by a visit to NCLP schools of District Thane.

The last review of the Bonded Labour and Child Labour situation in Maharashtra was made by me on 6 February, 2004. The report was considered by the Commission on 6.5.2004 and forwarded demi-officially to the Chief Secretary, Govt. of Maharashtra by the Joint Secretary, NHRC on 28.5.04. Action taken report received from the Principal Secretary, Labour, vide his letter No. CLA/2004/986/Lab.10 dated 16.12.04, although found to be satisfactory on most points, left certain gaps which had to be filled in the current review meeting.

Dr. Bhagwan Sahai, assisted by the Labour Commissioner and other officers of his department, presented the bonded labour

and child labour situation in the State. The following broad picture emerged from the presentation:

### **BONDED LABOUR**

Maharashtra is acknowledged to be one of the 16 States identified as bonded labour prone by the Union Labour Ministry. The incidence of bonded labour is particularly visible in agricultural sector and the brick-kiln industry. The brick-kiln industry attracts migrant labour from the tribal pockets situated in the interior of the State and also employs migrant labour from outside. Employment of migrant children in 'zari' industry is also a striking example of incidence of bonded labour in Maharashtra.

As reported in the last review, vigilance committees are in place at all of the District HQs (35) and Sub-Divisional HQ (109) of the State. It was, however, mentioned that these committees were not meeting regularly and the detection of bonded labour was practically nil. Although fresh instructions were issued to the DMs to ensure regular meetings of these committees and show better results by involving the Panchyati Raj Institutions, the situation has not registered any significant improvement. The Secretary, Labour informed that as per his inquiries made with the District Collectors the vigilance committees are meeting regularly in most districts.

The last year's review had covered identification, release and rehabilitation of bonded labourers upto the period ending 31 January, 2003. The details of rehabilitation of 2 bonded labourers detected in the quarter ending September 2003 could not be furnished then. The Principal Secretary, Labour was requested to intimate their full particulars. The Action Taken Report dated

16.12.04 mentioned that the information was still being collected from the concerned authorities. The review revealed that 3 and not 2 bonded labourers were detected in 2002-03 – one Naresh Warang from the Times Star Automobile and Tours, Koldongri, Andheri (East) Mumbai on 2.8.2002 and a couple Tukaram Shankar Bhude and Smt. Chanderbala Budhe in district Thane on 18.12.02. They were paid immediate relief of Rs. 1000/- each followed by rehabilitation package worth Rs. 20,000 under the Centrally Sponsored Scheme.

5 bonded labourers with following particulars have been identified and released after the last year's review.

Sl. No.	Name of the establishments & name of the Employers	Name of the workmen & his address	Date of identification	Date of release
(1)	(2)	(3)	(4)	(5)
1.	Shri Damodar Dhanaji Patil at Sasoon Navghar, Tal. Vasai, Dist. Thane.	Shri Vishnu Shisha Tumbada at Sasoon Navghar, Tal. Vasai, Dist. Thane.	19.5.2004	28.5.2004
2.	Shri S. Shailva, Shri Money Food Products, Ulhasnagar, Tal. Kalyan, Dist. Thane.	Shri Dharmaling Poornaswami, Shri Money Food Products, Ulhasnagar, Tal. Kalyan, Dist. Thane.	21.5.2004	25.5.2004
3.	- do -	Shri Maridurai Nesmani Nadar, As above	- do -	- do -
4.	- do -	Dipan Welswami, Joseph, As above	- do -	- do -
5.	- do -	Shri Aasal Jayamani, As above	- do -	- do -

Sl. No.1 was provided immediate relief of Rs. 1000/- and rehabilitation under the Centrally Sponsored Scheme. Persons at sl. Nos. 2 to 5 were migrant labourers belonging to Tamil Nadu. They were given immediate relief of Rs. 1000/- each and sent to their native districts. The Labour Commissioner confirmed that the copies of the Release Certificates have been sent to the D.C. concerned. Copies of the release certificates were also required to be sent to the Union Labour Ministry. This does not seem to have been done. Secretary, Labour was requested to send the copy of the forwarding letter along with the copies of release certificates in respect of these four released labourers. The information received by Speed Post on 24 Feb. 2005 has been perused. It shows the Release Certificates sent to Tamil-Nadu were in Marathi and did not mention the home addresses of these labourers. One wonders how their rehabilitation can be ensured by the receiving authorities. Secretary Labour is requested to direct the D.C. concerned to do the needful.

In the last year's review, pending rehabilitation of 36 migrant bonded labourers – 3 of Karnataka and 33 of Tamil Nadu was discussed. It was reported that 33 bonded labourers had received immediate relief of Rs. 1000/ each by the District Collectors in Tamil Nadu. Secretary, Labour was requested to furnish full particulars of their native place in Tamil Nadu so that the matter relating to their rehabilitation could be pursued from our end. The information/identification furnished in the review showed only their names, date of release (6.7.2000), and date of release certificate (7.7.2000).

5

(S6)  
(S6)

Secretary, Labour was requested to send the copy of the forwarding letter written by the Collector, Ratnagiri to the Collectors concerning Tamil Nadu together with the copies of the release orders issued by him. Similar information is required in respect of 3 migrant bonded labourers released on 7.12.99 who were sent to Vizapur district in Karnataka on 9.12.99 with police assistance. Information in respect of Tamil Nadu was received by Speed Post on 24.2.05. It shows that these certificates in three lots mentioning names and age of 16, 10 and 7 bonded labourers were issued in Marathi without giving full particulars of their home addresses. Information respect of labourers of Karnataka is yet to be received.

Under persistent pressure from the Commission, the Labour Department of Govt. of Maharashtra has obtained from the Union Labour Ministry funds to the tune of Rs. 24 lakhs for carrying out survey on bonded labour in 12 districts. The Labour Ministry released the funds in October 2003. The grant could not be utilized in 2003-04. The sanction was, therefore, got revalidated in September, 2004. Earlier, the survey was proposed to be carried out by the Maharashtra Institute of Labour Studies. However, the idea was dropped and the survey was entrusted to the District Collectors recently to use the Govt. agencies and Panchayati Raj Institutions and complete the survey by the end of Feb. 2005. The Secretary, Labour was honest enough to admit that this has been done to ensure utilization of grant this year and avoid the embarrassment of approaching the Govt. of India for another revalidation. This is not likely to present a true picture of the bonded labour situation in Maharashtra. It is hoped the Union

1

Labour Ministry will properly scrutinise the quality of the survey and its findings.

The Maharashtra Govt. has not availed of the grant of Rs. 10 lakh offered by the Union Labour Ministry for the purpose of awareness generation.

### **Prosecution**

No information about prosecutions was furnished in the last year's review. The omission was pointed out. The review has now revealed that a total of 679 cases were filed in various courts under the Bonded Labour Act during the period from 1994 to 2004. 210 cases have been disposed of and 469 are pending – 464 in district Thane, one in Pune and 4 in Aurangabad. Secretary, Labour was requested to furnish the break-up of disposed cases in terms of conviction and acquittal.

I was surprised to find that all the cases are being tried by the Judicial Magistrates and not by the Executive Magistrates as provided u/s 21 of the Bonded Labour System (Abolition) Act 1976. The Labour Commissioner informed that the High Court of Mumbai sometime in 1992-93 ruled that offences under the Bonded Labour Act can be tried only by Judicial Magistrates. A copy of this Judgment received by Speed Post on 1<sup>st</sup> March 2005 has been studied. The Bombay High court had, vide its order dated 25.10.1991 in the criminal writ petition No. 406 of 1988 struck down the Govt. notification dated 6 March 1985 conferring on the Executive Magistrates the powers of Judicial Magistrate I class and II class in accordance with the provisions of Sec. 21 of the Bonded

7

58  
20

Labour System (Abolition) Act, 1976. The Court held that in view of the total separation of judicial and executive functions of the State affected by the Bombay Separation of Judicial and Executive functions Act, 1951, the Government was not justified in exercising enabling powers of Sec. 21 of the Bonded Labour Act and conferring judicial powers upon the Executive Magistrates for conduct of trial of offences under the Act.

I repeated the offer made by Justice Dr. K. Ramaswamy, former Member, NHRC in the review meeting of January 2002. If the particulars of the cases pending in Thane, Pune and Aurangabad Courts are furnished, the Commission may request the High Court to issue directions for expediting their disposal.

### **CHILD LABOUR**

Inadequacy of the follow-up action on the results of the survey of 1997, which was ordered by the Supreme Court, was pointed out in the last review. Maharashtra is one of the worst States in the country in terms of incidence of child labour. Children employed in large numbers in brick-kiln, bidi making, zari, glass and weaving industries accounted for 9.4% of the total child labour in the country in the 1991 census. Migrant child labourers from Bihar and Jharkhand can be found working in zari industry in this State under the most oppressive and brutal working conditions.

In the 1997, survey had led to detection of 1023 children in hazardous and 20,391 in non-hazardous occupations/processes. Although 992 show-cause notices were issued for a total recovery

of Rs. 2,04,60,000 at the rate of Rs. 20,000 per child from the offending employers, actual collection has been just Rs. 8 lakh (4%). Rs. 40,000 of this recovered after the last review.

The second survey conducted during the period from 1.10.99 to 29.2.2000 led to detection of 2983 children working in hazardous occupations/processes. The omission of follow-up action of this survey was pointed out in the last review. The Department of Labour now explains that this was a study survey conducted only for the purpose of finding out the extent of child labour present in various employments. It was a conscious decision taken at the Govt. level not to institute prosecution against the employers. This survey can be taken as a non-invasive survey, which has been carried out in other states also for the purpose of assessing the magnitude of the problem.

The last survey carried out during the period from 1.9.2001 to 31.1.2002 resulted in detection of 1679 children working in hazardous occupations/processes. Only 711 (42.3%) children have been covered under the Mahatma Phule Shikshan Homi Yagna, a non-formal education scheme launched by the State Govt. to target non-school going children. The Labour Commissioner explained that the remaining children were in the self-employ category whose addresses could not be found. Some of them were migrant children who left for their native places.

Necessity of follow-up action on the detection of the survey was emphasized in the last review. The Commission was informed that recovery proceedings against 289 employers for recovery of Rs. 20,000 per child were initiated although actual collection was nil till the time of the review. This aspect has been totally overlooked in the presentation. In fact, Dr. Bhagwan Sahai, the



(S)

(70)

new Labour Secretary expressed some doubt about the legal validity of the enforcement of this recovery. I had to read out the following extract from the judgment of the Supreme Court in writ petition C.No.465 of 1986 in MC Mehta Vs. State of Tamil Nadu and others.

“We are of the view that offending employer must be asked to pay compensation for every child employed in contravention of the provisions of the Act a sum of Rs. 20,000 and the inspectors, whose appointment is visualized by Sec.17 to secure compliance with the provisions of the Act should do this job. The inspectors appointed u/s 17 would see that for each child employed in violation of the provisions of the Act, the concerned employer pays Rs. 20,000 and that sum could be deposited in a fund to be taken as a Child Rehabilitation -cum-Welfare Fund. Liability of the employer would not cease even if he would desire to disengage the employee presently employed”.

It was explained to the Labour Secretary and others present in the meeting that the offending employer can approach the court and obtain whatever directions the court issues considering the merits of each case. A number of Stay orders have thus been obtained by the employers in UP. However, quite a few of them were subsequently got vacated by the Labour Department by going in appeal. I have no hesitation in remarking that the authorities in Maharashtra do not seem to have taken their obligation to the Supreme Court's directions with due seriousness.

There has been no detection of child labour employed in hazardous occupations/processes after the last review.

440 prosecutions were launched in regard to the survey of 1997 and 291 in regard to the survey of September 2001 to January

~~10~~

2002. Out of a total of 731 prosecutions, 108 have been disposed of – 93 in acquittal and 15 in conviction. 623 are pending trial.

### **National Child Labour Project**

National Child Labour Project (NCLP) was initially sanctioned in 1995 for 2 districts of Maharashtra – Thane and Sholapur. The project was sanctioned for 5 more districts, namely, Nanded, Nasik, Yeotmal, Dhule and Beed on 1.1.2004. The Project was sanctioned for 6 more districts – Ahmednagar, Pune, Sangli, Kolapur, Jalgaon and Nandubar on 8.10.2004. The extension of the NCLP to 13 districts from merely 2 was on the basis of recommendations of the NHRC. In an extensive interaction with the NGOs working in the field of child labour in Maharashtra, Dr. Justice K. Ramaswamy, former Member and the undersigned had on 19 January 2002 observed that although most of the districts of Maharashtra are found afflicted by the problems of child labour, only 2 districts, namely, Sholapur and Thane are covered under the National Child Labour Project.

While it is commended that the State Govt. has got the Project extended to 13 districts, the actual operationalisation is very slow. As revealed by the review, the Project has been operationalised in only two additional districts, Nanded (10 schools) and Beed (10 schools). The date of commencement of these schools and the number of children admitted could not be furnished. Secretary, Labour has been requested to supply this information. In district Dhule, NCLP staff selection process is on. In district Yeotmal and Nasik base-line survey the pre-requisite of

11

~~GP~~

74

the project is yet to start although funds for the purpose have been received from the Govt. of India.

I visited district Thane to see NCLP schools in actual operation. I was accompanied by Dr. Bhagwan Sahai, Secretary, Labour, Shri B.D. Sanap Commissioner, Labour, Shti P.T. Jagtap, Additional Commissioner, labour and Shri Raja Ghodeswar, Deputy Commissioner of Labour, Thane.

NCLP, Thane was sanctioned on 31.3.94 under the Chairmanship of the Additional Tribal Commissioner, as a special case. The Project proposal submitted to the Govt. of India had highlighted the incidence of child labour among the tribal families most of whom are engaged in brick-kilns industry. The Project was meant to target the tribal children who are actual or potential child labourers moving from place to place alongwith their families in search of labour. The project clearly mentions selection of children in 3 categories (6-10, 8-11 and 13-14 years) on the basis of their age and corresponding proximity to the opportunities of formal, non-formal and vocational education. The district Thane was sanctioned 40 schools of 50 students each. Beneficiaries numbering 20,000 were required to be selected from all the three categories.

It took the administration more than 3 years to get the Project Society registered with the office of the Charity Commissioner, Thane vide MHA No. 290/96 dated 19.6.96. The scheme was actually operationalised in 1996-97 by opening 25 schools with a total of 1225 children. It is interesting to note that instead of following 3 years standard period as per the clearly spelt out directions of the Ministry of Labour, these schools were

(63)

42

running on year to year basis. In 1997-98, 37 schools provided education to 1818 students. The number of schools was 38 in 1998-99 and 1870 students were admitted. The number came down to 33 in 1999-2000 and further to 28 in 2000-01. From 2001-02 when the NHRC started looking in this matter, the Project was having 40 schools with 2000 students.

Another NCLP Society under the Chairmanship of District Collector, Thane was established as per State Govt. order dated 21.11.95 with registration No. MHA/5564/96/Thane. Assistant Commissioner of Labour, Thane was made the Member-Secretary. It appears this additional society was created to utilize the special grant of Rs. 6,95,000 received from the Govt. of India for awareness generation (Rs. 5 lakh) and survey (Rs.1,95,000). A total amount of Rs. 6,20,078 was actually spent upto the year 2001-02. The necessary utilization certificate has been sent to the Union Labour Ministry. The State Govt. has ordered the department on 31.12.04 to return the unspent amount to the Central Govt. The State Govt. has on 31.12.03 ordered the merger of 2 project societies and brought it under the Chairmanship of District Collector in line with the practice all over India.

NCLP, Thane is currently running 40 schools with sanctioned number of 50 children each. 34 schools have been allotted to Vidayak Sansad, Usgaon, Vasai and 6 to Shanti Sewa Mandal, Manor. The guidelines issued by the Govt. of India, Ministry of Labour for operationalising NCLP are seen to totally violated.

As per guidelines issued by the Govt. of India, Ministry of Labour, the children in the Project schools are to be taught through a non-formal mode with a condensed syllabus for a maximum

~~5~~  
76

period of 3 years. After 3 years of special school education, the children are expected to reach the level of 5<sup>th</sup> standard. This is what is called accelerated primary education. The children are also imparted appropriate craft and pre-vocational training. After completion of the special school education, the children are expected to join formal scheme of education in 6<sup>th</sup> standard. The focus on enrolments of children in the age-group of 8-14 years.

While the NCLP scheme aims at providing accelerated primary education to target groups in the age (8-11 years) for a period of 3 years, the NCLP Thane is running 6 months sessions (December to May) every year. The beneficiaries are entirely drawn from among the children of brick-kiln workers. The schools have been accordingly sited near the brick-kilns where the labourers work from November to May every year. There is no careful selection of the beneficiaries as was assured in the project report. The average age is found to be less than 8 at most places. The session starts in November/December with children placed in 1st and 2<sup>nd</sup> class. Around 25% of them drop out at the time of Holi in March when they leave with their parents and do not return to schools. Not more than 50% of the children return to the same school in the second session, again run from November to May. The number of children completing 3 spells of six months each is found to be 25% of the initially admitted. I do not understand how such a situation has been allowed to continue by the Union Labour Ministry which has been renewing sanction on yearly basis.

I spoke to the teachers and they confirmed that they are employed from December to May only. It would be interesting to see how budget is being drawn from the Ministry of Labour for

65

these schools. It is worth noting that the NCLP Thane is having accumulated savings of Rs. 89,98,554 as of 1.4.2004. It is beyond my comprehension how such a huge amount can be saved in a scheme which has a well-defined scale of expenditure under various heads leaving hardly any scope for savings.

I visited 5 NCLP schools, 3 run by Shanti Sewa Mandal and 2 by the Vidhayak Sansad. Following observations were made:

1. NCLP School, Devlacha Pada, Takwal

Father Tony Toscerera of Shanti Sewa Mandal was present. The school was started with 27 children (16 boys and 11 girls) on 21.11.2004. 21 were found present. Average absence rate of 22% is quite high. All the children belong to ST category. All of them are children of brick-kiln workers working near the school site. The average age is found to 7 years. Only 5 students – one female and 4 male, are in the age-group of 8-9 years. I interacted with the teacher Sangeeta. She explained that about 50% of the children are not likely to return when they leave next month on Holi vacation. Of those who return, 50% will not be there for the next session when the school reopens in November.

Father Tony Toscerera informed that his organisation is running a total of 19 schools including 6 under the NCLP and the remaining as part of Sarv Shiksha Abhiyan. He has employed a total of 19 teachers, 3 supervisors and 2 clerks. The 6 NCLP schools have been split into 12 centers. How all this fits into the NCLP Scheme is beyond my comprehension.

The NGO is receiving Rs. 5 per child for 26 days in a month for supplementary nutrition. It was painful to find that children are actually receiving by way of supplementary nutrition only items like grams, groundnuts, Biscuits, potato chips. Nutrition items like milk, Dalia, khichri, puri vegetable is never provided.

Component of vocational training is totally missing. In fact, it is absurd to think of vocational training in the scheme that has actually been operationalised in this district.

Dr. Sanjay Borpalle from the PHC was present. He said that he is regularly visiting the school for medical check up of children but no records could be produced in support of this claim. The school teacher stated that the doctor has visited only once since the school was started nearly 3 months back and he had "just had a look at the students".

The component of stipends to the children is also missing in the scheme operationalised in this district.

2. NCLP School, Nadicha Pada, Takwal.

The school was started in November, 2004 with 41 students (22 boys and 19 girls). 34 were found present. All children belong to ST category and are children of the brick-kiln workers. Age composition is slightly better with average age around 9. However, as many as 10 students are just 5 years old as per records. The component of health-care is almost missing. The teacher informed that they get salary for the period November to April only. They have to seek employment

elsewhere for the remaining 7 months of the year. Interaction with the teacher revealed not more than 25% of the children complete 3 sessions. Father Tony confirmed that since 1998 no child has passed 5<sup>th</sup> class examination from the schools run by his organisation. A few have, however, reached the level of 4<sup>th</sup> class. Components of vocational training and stipend are missing. SNP is not being run properly.

3. NCLP school, Durvesh, Saraf Pada

It was started with 25 students – 17 boys and 8 girls on 15.12.04. They are now placed in 3 classes – 17 in 1, 5 in 2 and 3 in 3. 20 students were present at the time of visit. Average absence rate is around 20%. The medical officer came only once on 9.2.05. The average age is 10.8 years. Of the 25 students, only 4 had attended the last session. 23 belong to ST and 2 to OBC category. Components of vocational training and stipend are missing. SNP is not being run properly.

4. NCLP School, Chandip Devul

This school is one of the 34 schools run by Vidhayak Sansad. The school is located inside a temple. It was started on 6.12.04 with 34 children – 20 boys and 14 girls. However, at the time of visit, only 25 were present. All students belong to ST category only.

Shri S.D. Dalvi, a retired Head Master represented the NGO Vidayak Sansad. He informed that their organisation is running 34 schools of 50 children each. Actual strength is 1400. The outfit is running a total of



17

68  
80

221 schools - 17 under the NCLP and the rest under Mahatma Phule Non-formal Education Project. The total number of students is 4999. Shri Dalvi also confirmed that 50% students dropped out after the first year and only 30% of the initially admitted complete 3 sessions. The component of vocational training is missing. Supplementary nutrition is provided under the mid-day meal scheme and cooked khichri is served through the arrangement of Zila Parishad. The students seem to be happy with this arrangement. Components of vocation training and stipend are missing.

5. NCLP School, Usgaon, Vasai

This school is also being run by Vidhayak Sansad. It was started with 62 students - 37 boys and 25 girls. 55 were present. Daily average attendance is 48. All students belong to ST category. Less than 10% of the children of current session had attended the last session. Shri Dalvi informed that when the children return to their village after the session, his organisation covers more than 70 % of them under the follow-up programme. He confirmed that no student has so far since 1998-99 reached 5<sup>th</sup> standard. Around 80 students have, however, cleared class 4 examination during this period. The PHC doctor does not visit the school regularly. He came only once on 20 January 2005 on repeated requests of the teacher. Mid-day meal is served from the Zila Parishad. Cooked mid-day meal is being supplied by the Zila Parishad. Components of stipend and vocational training are missing.

There is hardly any supervisory control over these schools by the Project Society as both the sanctioned posts of field officers have been lying for the past two years.

### **INDUS CHILD LABOUR PROJECT**

MHR is one of the four States selected for implementation of the Indo-US Project, which envisages complete elimination of Child Labour in the identified districts on a priority basis through a multi-sectoral package of services which include the identification, withdrawal and educational rehabilitation with emphasis on vocational training of child labourers and economic advancement of their families. Maharashtra Institute of Labour Studies has been made the nodal agency to execute the project. Secretary (Labour) is the Chairman of the State-level Project Screening Committee. The Project is to be implemented in districts Gondia, Aurangabad, Amravati, Jalna and Mumbai suburban District. The progress seems to be slow. Final selection of 4000 beneficiaries each is yet to be made, although a broad selection of almost double the required number has been made. Transitional education centers have been started in Jalna (20 against sanction of 40), Gondia (1), Amravati (28) and Aurangabad (30). No vocational training centre has been started yet.

70

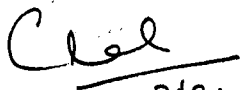
82

## Education Guarantee Scheme

The last review report had commended the State Government for its progressive steps towards universalisation of primary education. A statement received from the School Education Department of the Government of Maharashtra shows that effective steps are being taken to bring down the number of out of school children in the age group 5+ to 15. A household survey conducted during February-March, 2002 had given the number of such children as 15,78,863, which constituted 4.9% of the total population in this age group. 14,12,837 (89.5%) of them have been enrolled into formal or non-formal education schemes with following year-wise break-up:

2001-02	1,53,399
2002-03	9,00,817
2003-04	2,95,423
2004-05	63,198

Only 1,66,026 i.e. 10.5% of the initial number remain to be mainstreamed.

  
 (Chaman Lal) 2/3/05  
 Special Rapporteur  
 2.3.2005