

## PREVENTING AND REHABILITATING BONDED LABOR IN INDIA

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### ABSTRACT

*The institution of bonded laborers in rural areas has been very old. It prevails throughout the country. Orissa, Bihar and Andhra Pradesh are well known for it. It is the landless laborers who have to work as bonded laborer. The bonded laborers, in India, are generally those working outside their homes in quarries, on big farms and in construction works taken up by contractors. There are certain agencies throughout the country that work even in the innermost parts of the rural areas. Their agents allure the poor and ignorant people with promises of employment. The mafias employed by the contractors did not allow them to either meet other laborers or see any outsider. They had normally to work for ten or twelve hours. Although there are a number of laws to prevent the institution of bonded labor they have never been applied. Some of the labor laws are the Inter State Migrant Workmen Act, 1979, the Bonded Labor (Abolition) Act, 1976, Contract Labor (Regulation and Abolition) Act, 1970. Most of such laborers belong to the scheduled tribes, scheduled castes and poor backward people. They are all illiterate and belong to the unorganized sector. No government agency has come to help these laborers except the Supreme Court. But the Supreme Court can act only when there is a writ petition. If the attitude of the States and Central Government remains lukewarm directly towards bonded laborers and indirectly towards the problem of illiteracy and rural uplift the exploitation will continue unabated.*

## **1. INTRODUCTION: BONDED LABOR**

Bonded labor is characterized by a creditor-debtor relationship between the employer and the employee which can then spill over to other members of the family, be of an indefinite duration, and involve adverse contractual stipulations not justified by law or even by the prevailing state of the market. Bonded labor relationships are also usually reinforced by custom or force. Thus bonded labor relationships are not purely economic contracts, even though employees may enter into them voluntarily because of economic necessity. Once employees enter into these relationships, they are characterized by multiple asymmetries and high exit costs, which were not a part of the contract, as understood by the employee, at the outset.

According to a current estimate, a quarter of Indian children ages six to fourteen roughly two hundred million children are working, and a third of the remaining seventy-five percent are bonded laborers. The largest single employer of children in India is the agricultural sector where an estimated twenty-five million children are employed; and the second largest employer of Indian children is the service sector where children work in hotels and as household maids. An additional five million Indian children are employed in other labor-intensive industries. "Any factor which deprives a person of a choice of alternatives and compels him to adopt a particular course of action, may properly be regarded as 'force' and if labor and service is compelled as a result of such 'force' it would be 'forced labor'. The word 'force' must be construed to include not only physical or legal force but also force arising from compulsion of economic circumstances which leaves no choice of economic circumstance to a person in want and compels him to provide labor or service even though the remuneration received for it is less than the minimum wage. Therefore, when a person provides labor or service to another for remuneration, which is less than the minimum wage, the labor or service provided by him clearly falls within the scope and ambit of the words 'forced labor". The NHRC constituted an Expert Group in 2000, chaired by Mr. S. R. Sankaran, for identification of bonded labor prone districts, industries and occupations and for various aspects relating to legislation and implementation. The Expert Group, in its Report submitted to the NHRC in 2001, concluded that although the Ministry of Labor had identified 13 states and 172 districts as being bonded labor prone, the system is prevalent in almost all states.

## **2. MODERN SLAVERY IN INDIA: BONDED LABOR**

Traditionally, slavery relates to the slave trade and to analogous situations such as trafficking in persons, debt bondage, forced prostitution, forced labor including child labor, sale of children and practices related to custom, religion and colonial regimes. Nowadays, modern slavery evolve so

rapidly that besides names and definitions in order to establish if a person is a victim of modern slavery it is important to evaluate:

- a) The degree of the restriction of one's freedom of movement.
- b) The degree of control one can keep of his personal belongings.
- c) The existence of informed consent and a full understanding of the nature of the relationship between this person and the other parties involved.

Victims are usually among the most vulnerable in society such as women and children.

In India, trafficking of human beings is one of the major ways through which victims are forced to work in slave like conditions. Many employment or placement agencies, agents, and middlemen mostly located in the state capitals plays a key role in the trafficking industry. Girls are recruited by middlemen who use business cards showing a picture of Jesus, Mary, and Mother Teresa. In this way the girls and their families are made to believe that the recruiters and their agencies are closely associated with Catholic Church organization to carry out their social work and they do not realize that they are actually tricked into trafficking. It is always difficult to track these illegal agencies and find the young women once they are missing.

### **3. CAUSES OF BONDED LABOR**

There are many different reasons for bonded labor in India. Foremost among its causes are widespread poverty, inequality, caste based discrimination and the inadequate education system. Large proportions of those who are poor in India are chronically poor. This is the group of which the majority of bonded laborers are composed. Chronic poverty refers to people who are poor for significant periods of their lives, who may pass this condition on to their children, and for whom escaping from poverty is nearly impossible. Chronically poor people accept any work available under any conditions or terms. They do this because of fear of unemployment. The problem is exacerbated when the poor belong to the outcast community of Indian society, the Dalits or to minority ethnic groups such as the Adivasi. These groups are known as "Untouchables". The fact that they cannot be employed in certain job sectors such as selling of food and products used in worship.

### **4. PRACTICAL DIMENSIONS OF BONDED LABOR IN INDIA**

Bonded labor is deeply embedded in India's socio-economic and cultural structure, there is a village in the state of Uttar Pradesh called Bandhua, which literally means "Bonded". Bonded labor is known with different names across the country. For instance in the farming sectors in Gujarat and Uttar Pradesh it is known as Hali, Kaimuti, Janouri and Kamiah are terms used in the state of Bihar, In Orissa it is known as Gothic, in Andhra Pradesh it is Gassi-Gullu and in Tamil Nadu it is Panal Parthian.

Bonded labor exists in the informal and unregulated sectors which employ around 90% of the Indian labor force. This modern form of slavery used to be more common in rural than urban areas because it was largely widespread in the agricultural and mining sectors. However it is now very common to find bonded laborers in households, in the production of silks, matches, cigarettes, and bricks. Typically, the bond between the employer and the employee is established from the beginning of the recruitment process. This is characterized by lack of labor standards, the uneven contractual power between the two parties and the indefinite duration of the agreement. It happens very frequently that a worker after some years of service passes off his bonded status to other family members, often young siblings. Adults and children from Dalit community make up the majority of those trapped in bonded labor.

## 5. GENDER DIMENSIONS OF BONDED LABOR

**5.1 Indirect bonded labor** is typically linked to the agriculture and brick kiln sectors. Women and their children are bonded due to the fact that the male of the household is a bonded laborer. Women carry out domestic services in the landlord's house and besides being exposed to long working hours, they may fall victim to physical and sexual abuse from the landlord.

**5.2 Direct Bonded labor** is steadily increasing for women and may take the following forms:

- a) **The Sumangali Scheme:** The word "Sumangali" in Tamil refers to an unmarried girl becoming a respectable woman by entering into marriage. In a common Hindu marriage the bride's family has to provide the groom's family with a dowry and has to bear the expenses of the wedding. Family from the low castes who cannot bear these costs are persuaded by agents under the Sumangali scheme to sign a contract which binds their daughter to work for at least three years in a factory in exchange for the advance of the money needed for the wedding. Once the contract is signed, the girls are under the control of the broker or the factory.
- b) **Prostitution:** Poverty, inequitable distribution of income, customs, discrimination within the family and lack of proper reintegration services are the main factors leading women to prostitution. Women's and children are equally victims of the prostitution industry. Children's of prostituted women are victims of abuse as well, often forced to perform dance and songs for male buyers or to have sexual intercourse with them.

## 6. PREVENTING BONDED LABOR IN INDIA

- a) **Reaching Households rather than Children:** In most cases, however, children are not kept in bondage separately from their parents. The entire family is bonded and children work for little or no remuneration alongside their parents. In cases where children work in bondage away from their family (e.g. domestic work), a decision was made by adult household members to place a

child in bondage. In other cases children can inherit debt from parents. As a consequence, to prevent child bondage interventions must impact the whole family. A “child only” approach will not succeed because it would not address core household problems (e.g. lack of income, food insecurity).

- b) **Prevention versus Rehabilitation:** There are five different types of interventions necessary to eradicate bonded labor. **First**, policymakers need to accept that debt bondage is an issue about which they should be concerned, and then create an appropriate legislative and legal environment. The **second** intervention is to identify bonded laborers and then **third** to use the legal system to release them. The **fourth** step is to rehabilitate released laborers. The **final** intervention is to create conditions in the labor and credit markets to prevent debt bondage.
- c) **Preventing Debt Bondage:** To prevent debt bondage, viable forms of intervention must be developed. To this end, the ILO is piloting cost-effective interventions to solve bonded labor situations in Bangladesh, India, Nepal and Pakistan. In each country the ILO has partnered with multipurpose NGOs to develop and deliver a package of services designed to prevent debt bondage (Bangladesh, Andhra Pradesh, Tamil Nadu) or to rehabilitate bonded laborers that have been officially released (Nepal, Pakistan). With most partners, the project is small part of the NGO’s overall activities, but one that has attracted a significant amount of attention and support from the NGO’s senior management.
- d) **Microfinance services for extreme poor:** The project organizes savings and credit groups to extend financial services to very poor households at risk of bondage or already in mild forms of bondage or who have been legally released from bondage. For prevention, targeting criteria include poverty indicators as well as factors that suggest that the employer might coerce these families. The ILO’s implementing partners in the four countries are all experimenting with different sets of financial services specifically designed for poor households, with an emphasis on building assets, diversifying income sources and reducing vulnerability.
- e) **Social empowerment:** Through the saving and credit groups, social awareness messages are spread on critical topics such as human and labor rights, hygiene and health care, reduction of unsustainable expenses, and procedures for accessing Government schemes. Communication methods include discussions in group meetings, songs, street theatre, and wall painting. Also functional literacy classes are provided to some groups based on demand.
- f) **Education:** The intergenerational nature of bonded labor, and the fact that children are often the victims, necessitates an intervention that also assists youths. The project provides non-formal education centers for children between 9 and 14 years old that dropped out or never

attended school because they had to work to repay their parents' debts. These bridge schools provide remedial education to prepare students to be mainstreamed into the school system. For children above 14 years of age, the education component involves the provision of basic literacy and numeracy classes and skills training.

- g) Skill training:** Skill training is provided to adults and adolescents as per their capacity, market needs and their personal development plans. It is possible to either upgrade their competence in their current field or to offer an alternative livelihood. The objective is assist households to diversify their income sources so they become less economically dependent on the landlord or employer.
- h) Health:** Since health expenses are primary debt triggers, the project provides both preventive and curative health services to the target population. These services vary from one place to another depending on the locally identified need but their common feature is to allow the population access to safe drinking water (hand pumps and rainwater harvesting), reinforce hygiene practices (pit latrines), and provide mother and infant care (pre- and post-natal follow-up, training of traditional birth assistants). In some places services also extend to the creation of health posts, implementation of a system of referrals and emergency transport to hospitals.

## 7. NATIONAL HUMAN RIGHTS COMMISSION ON BONDED LABOR

Bonded labor is prohibited in India by law vide Articles 21 and 23 of the Constitution. A specific law to prohibit the practice was legislated only in 1976 known as the Bonded Labor System (Abolition) Act. The legal framework against bonded labor provided in the Bonded Labor System (Abolition) Act, 1976 is supported by other legislations like the Contract Labor (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Minimum Wages Act, 1948. The NHRC has been focusing on States where bonded labor is prevalent, it took stock of the situation and the following charter of activities has been taken up by the Commission on the issue of Bonded Labor:

- a) Constitution of Core Group on Bonded Labor:** A Core Group on Bonded Labor has been constituted by the Commission who will advise in chalking out and suggesting strategies to the State/Central Government for elimination of bonded labor in the country. The last meeting of the Core Group took place on 26 June 2013.
- b) Organized a National Level Seminar:** The Commission organized a National level Seminar on elimination of bonded labor system on 30/9/2011 at IIC, New Delhi. The Officers from State Government/UTs participated in the seminar.

- c) **Workshops conducted in Bonded Labor prone States:** The Commission altogether has organized five Workshops on Elimination of Bonded and Child Labor system. These have been organized in collaboration with the State Governments to sensitize District Magistrates, Sub Divisional Magistrates, SSPs and officers from the Labor Department. These Workshops were held at Gujarat, Karnataka, Maharashtra, Haryana and Uttar Pradesh.
- d) **Recommending States to constitute a State Level Monitoring and Coordination Committees** under the chairmanship of Chief Secretary with Secretaries to Government of various departments as Members. The committee will also convene meetings to take stock of bonded labor situation in their States and will apprise the Commission every six months.
- e) **Development of an instructional manual on Bonded Labor:** As of now, the Commission has brought out a booklet under the Know your rights series on Bonded Labor which is being disseminated to all concerned.
- f) **Review existing schemes of the Central and State Governments on Bonded Labor:** The Commission has taken up the issue with the Ministry of Labor and Employment. It has conveyed that they have adopted an integrated convergence based approach to prevent bonded labor with the help of ILO. Recently, Justice Shri B.C. Patel held a meeting with the Director General in the Ministry of Labor & Employment to discuss increase in the rehabilitation grant under the centrally sponsored scheme.
- g) **Recommendation to State Government for organizing orientation training programme in each bonded labor prone district:** The Commission has written to all the Chief Secretaries of the State Government /UTs for organizing orientation training programmes for DMs/DSMs/SSPs and also for the field functionaries of labor law enforcement.

## 8. PLANNING COMMISSION RECOMMENDATIONS ON REHABILITATION OF BONDED LABOR

### 8.1 Action to be taken by Government of India:

- ✓ Present rehabilitation amount is Rs. 20,000 per rehabilitated bonded laborer, which is not sufficient for facilitating income generating activities to provide income on sustainable basis at least at par with wages available for wage laborers. Many officials with whom the discussions were held in this regards felt that the amount should at least be raised to Rs. 50,000 per rehabilitated bonded laborer.
- ✓ A monitoring mechanism may be designed at the Central level in the Ministry of Labor and Employment to ensure that the gap between identification and rehabilitation of bonded laborers should not be more than two months. For this, the cases of incidence of the bonded labor should be reported to the Ministry as soon bonded laborers are identified in the states and it

should monitor rehabilitation by asking for bi-annual reports rather than annual reports with specific information on the reasons for delays in rehabilitation, if any. Simultaneously, the Central grant for rehabilitation under Centrally Sponsored Scheme should be released timely.

- ✓ Rehabilitation package was designed decades back and after that only the rehabilitation amount has been enhanced but not much thinking has gone into designing a sustainable livelihood package for the rehabilitation.
- ✓ Ministry of Labor and Employment or the Planning Commission should commission a study or form a task force to design a rehabilitation package in close participation with various stakeholders specially the released bonded laborers and their family members.
- ✓ Ministry of Labor and Employment should ask State Governments to converge bonded labor rehabilitation with various other Central and State Government welfare schemes meant for the poor as part of the package.
- ✓ It was observed that all the rehabilitated bonded laborers do not have rationed cards/Below Poverty Line (BPL) cards. There should be a directive to the states that Below Poverty Line cards and ration card to access Public Distribution System should be issued within a month of the release as a rule as part of the rehabilitation package. Also state governments should ensure availability of ration on a regular basis at PDS shops.

## **8.2 ACTIONS TO BE TAKEN BY STATE GOVERNMENTS ON REHABILITATION OF BONDED LABOR**

- ✓ Gap between identification and rehabilitation of bonded laborers should not be more than two months.
- ✓ Vigilance and Monitoring Committees as per section 13 of the Bonded Labor System (Abolition) Act, 1976 should be constituted in all the districts and sub-divisions and meetings should be held regularly. Actions on the minutes of the meeting of Vigilance and Monitoring Committees should be taken in both letter and spirit. The agencies concerned for implementation of these decisions should be asked to submit action taken report within 15 days.
- ✓ A strong linkage should be established with the rehabilitated bonded laborers and various developmental agencies, which are implementing different poverty alleviation schemes/programmes like **NREGA, IAY, SGSY, SGRY** etc. so that the rehabilitated bonded laborers become economically independent in order to avoid relapse into bondage for any of their family members in future.
- ✓ Guidelines circulated by the Ministry of Labor and Employment, and the State Governments on Identification, Release and Rehabilitation of Bonded Laborers should be strictly followed. There

should be uniformity in identification, release and rehabilitation of bonded laborers in all cases and in all districts.

- ✓ Massive awareness campaign should be organized regularly in all the districts of the state especially in rural areas about the evils of bonded labor system.
- ✓ Orientation/sensitization workshops in consultation with the Ministry of Labor and Employment, Government of India should be organized at sub-division level to discuss the issues relating to identification, release and rehabilitation of bonded laborers with the officials concerned with these issues at ground level and NGOs working for the cause of bonded laborers.

### **CONCLUSION**

An objective and dispassionate analysis of the magnitude of the problem of bonded labor in India vis-à-vis the constitutional and legal provisions and the countrywide efforts made to deal with the pernicious practice of debt bondage with a view to putting an end to it reveals the following. India is a sovereign democratic republic with a free press, a parliament and an independent judiciary. It has clear constitutional and statutory provisions relating to elimination of bonded labor. The Supreme Court of India has taken cognizance of the issue of forced/bonded labor on more than one occasion, has given a broad, liberal and expansive interpretation of the definition, has issued a number of directions to the central and state governments on the subject and has now entrusted the responsibility for overseeing the extent of compliance with its directions to the National Human Rights Commission. The latter is now directly monitoring the pace and progress of implementation of the directions of the Apex Court and will be reporting to the Apex Court from time to time. The state governments who are directly responsible for implementation of the provisions of the law as also the centrally sponsored scheme for rehabilitation of freed bonded laborers have filed independent affidavits before the Apex Court by way of reporting to the latter the present status of compliance with its directions. These are positive developments and deserve to be commended. The magnitude of the problem, however, remains very large and even though a number of positive steps have been taken, a lot more remains to be done by way of planned, coordinated, concerted and convergent efforts. The issue of bonded labor deserves to be attended to with a lot more urgency and seriousness of concern and in a time-bound manner.

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