

MINUTES OF THE MEETING WITH THE MEMBERS OF CORE GROUP ON BONDED LABOUR HELD ON 28th January 2015 AT MANAV ADHIKAR BHAVAN, NEW DELHI

Introduction and Objectives

Core Group on Bonded Labour meeting was held in NHRC on 28 January, 2015 as a sequel to the meeting with the members of the Core Group on Bonded Labour held on **25/3/2014** which discussed the amendments to the Bonded Labour System (Abolition) Rules, 1976 for better implementation of the Bonded Labour System (Abolition) Act, 1976. The objective of the meeting was to discuss upon the various dimensions of Bonded Labour and whether there was a need for amendment of the existing Bonded Labour System (Abolition) Act, 1976 to completely eradicate the menace of bonded labour in all its forms in the country.

Justice Shri D. Murgesan, Hon'ble Member, NHRC welcomed both the Core Group members present and the special invitees to the meeting. The list of participants is at **Annexure-A**.

At the outset, the Hon'ble Member(JDM) said that the feedback/suggestions received from the participants would decide the amendment to the Bonded Labour System (Abolition) Act, 1976 or strengthen the Rules. The agenda circulated to all the invitees is just an indicative one and the members present in the meeting may also discuss other relevant issues. He said that the issues like proper functioning of the Vigilance Committees specified in the Act would be discussed and said that it would perhaps be better to strengthen the Bonded Labour System (Abolition) Rules than to suggest amendments to the Bonded Labour System (Abolition) Act, 1976. He further emphasized that for better results there is need for detailed discussion with the members of Civil Society Groups working in the field of Bonded Labour. The main issues which emerged for discussion were the following:-

- Measures to strengthen the Bonded Labour System (Abolition) Rules, 1976 rather than amending the Bonded Labour System (Abolition) Act, 1976.
- Sensitization of DMs/SDMs/State Police and State Labour Department for better implementation of the provisions of the BLS(A) Act, 1976.

The Hon'ble Member then requested the participants to introduce themselves and give their views/comments on the issues to be discussed.

Shri Chandan Kumar representing the NGO, Action Aid said that the BLS (A) Act needs amendment keeping in view that large number of people are working as Bonded Labour. Majority of bonded labour are migrant workers and there is also the concept of neo-bondage. He, therefore, suggested that the definition of the '**Bonded Labour**' needs to be changed to include such categories within the definition.

He also mentioned that there is a need for a National study to understand the prevalence of the Bonded Labour in informal sectors. He was of the view that Chapter VI of the Bonded Labour System (Abolition) Act, 1976 containing the Sections relating to punishment needs to be amended in line with the Criminal Law Amendment Act 2013 and pointed out that the word '**Forced Labour**' has been brought under the purview of the definition of human trafficking and majority of the Bonded Labourers are trafficked victims also.

Shri Kiran Kamal Prasad of the NGO, Jeevika Vimukti Trust stressed on the need to understand and implement the Bonded Labour System (Abolition) Act, 1976 rather than stressing on the lack of its implementation. He advocated that **there is no need to amend the present Bonded Labour System (Abolition) Act, 1976**. He referred to Article 23 of the Constitution of India which focuses on prohibition of traffic in human beings and forced labour.

He further stated that there was lack of 'Will Power' amongst large number of bureaucrats and political leaders to implement the Act and suggested sensitization about the Act amongst all the stakeholders and uniformity in training about the various dimensions of the Act and its sensitiveness amongst the DMs/SPs/Local administration at the grass root level. He said that there is a culture of denial and emphasized on the need for strengthening of the Rules through which the implementation of the Act would become possible. He also discussed about issue of migrant labourers, Section 2(b), 2(g) and Section 25 of BLSA, 1976, and stated that the definition of 'Bonded Labour' needs to be broadened inter-alia incorporating deterrent punishment of 3 years.

During the interaction, **Shri K.B. Saxena** mentioned that people have a fear of going to Courts and that thus criminals get away on many occasions since DM does not use powers conferred u/s 25. He stressed upon investigation rather than summary trial to stop this evil practice.

SG, NHRC stressed on amendment of smaller issues in the Act which will work for strengthening of rehabilitation measures for the Bonded Labourers.

HM (JDM) however mentioned that the Act has general Rules and directions as other Acts and hence has less scope for discussion. The Member pointed out that NHRC has already recommended amendment of the BLS (A) Rules 1976 and as per Rule 12 mentioned therein the issue of utilizing emergency funds for rehabilitation is proposed.

Shri Pravin Sinha, National Labour Law Association, Delhi The Act needs overhauling and **the Bonded Labour System (Abolition) Act, 1976 needs amendments** because there is a gap in enforcement of law and its implementation. He discussed about various types of bonded Labour i.e. rural labour, urban labour, IT sector labour etc and about domestic workers and migrant workers who also fall in the category of Bonded Labour. He emphasized that as DMs/SPs are already over occupied in their existing functions the Vigilance Committee's responsibilities should be shared by others. He further emphasized upon the need to include domestic workers and migrant workers within the definition of Bonded Labour.

He stressed on the need to have a subsistence allowance which would sustain the released bonded labourers and also the need to have systematic programmes for both released Child Labour and bonded labour. He further emphasized that there is a need to create jobs for longer periods, incorporating new definition of 'Bonded Labour' in the Act, and also for revising the structure of the Vigilance Committees for effective work.

HM (JDM) stressed upon the rehabilitation package and giving land instead of money to the released bonded labourers.

Registrar (Law) clarified that the Commission has already issued guidelines on rehabilitation as per which Rs. 5,000/- should be paid immediately to the bonded labourer on his/her release as subsistence allowance. A released bonded labourer receives the total amount of Rs. 50,000/- for implementation of rehabilitation package within three months of his release.

Shri Baghambar Patnaik, Goti Mukti Andolan, Odisha was of the opinion that **the Bonded Labour System (Abolition) Act, 1976 needs no amendment** and is strong by itself. Notwithstanding this due to the prevailing situation of debt bondage, caste based bondage, customary bondage, economic bondage etc. in various parts of the country, there is emergent need to strengthen the Bonded Labour System (Abolition) Rules, 1976 prevailing in the society.

He mentioned that the practice of untouchability is still prevalent. He also pointed out that as per the report published by the Ministry of Labour & Employment, as on 31/3/2009, 2,88,279 bonded labourers have been released across the country but statistics relating to rehabilitation aspect is not available. This needs to be looked into.

Shri Chaman Lal, IPS (Retd) Ex- Special Rapporteur emphasized that **there is no need to amend the Bonded Labour System (Abolition) Act, 1976** but that there is need to strengthen the Rules to protect victims of Bonded Labour in the country. He stated that the objectives of the Act are very clear and stressed that Section 21 of the BLS (A) Act, 1976 must be protected. He, however, mentioned that the DMs were not exercising the powers given to them under the Act and therefore, steps should be taken to ensure that these powers are exercised. He further emphasized on the need for convergence of all rehabilitation packages/schemes. He stated that if convergence is implemented, greater involvement of NGOs could be achieved.

He was of the view that there is a need to approach the Supreme Court against the judgment of the Hon'ble Bombay High Court striking down Section 21 of the BLS (A) Act and stressed on the importance of protecting Section 21 of the BLSA Act, 1976. He further elaborated that the road ahead lies in upholding the Minimum Wages Act, protecting the rights of migrant labour workers and effective monitoring mechanism to check the bonded labour

HM(JDM) stated that for human rights violations cases, Human Rights Courts be constituted for taking cognizance in the matter.

Shri Vivek Pandit, Shramjeevi Sangthan, Maharashtra was of the view that **there is no need to amend the Bonded Labour System (Abolition) Act, 1976** as this is one of the best Acts. He mentioned that in fact if amendment is proposed, Government would be likely to dilute the provisions contained in the present Act. He said that the major problem faced is with regard to its implementation and this is often because officials are not aware of the provisions and hence they need to be sensitized. The District Vigilance Committees also need to be sensitized regarding the release procedure under the Rules.

During the interaction, HM (JDM) highlighted that instead of amending the BLS(A) Act, the BLS (A) Rules be strengthened. He said that there is no provision in the Rules to lodge a complaint with the police and therefore, police cannot take action. He said that if this provision could be included in the Rules it would help in dealing with the problem of Bonded Labour.

Shri Yogesh Dube, Ex- Member NCPCR stressed upon the need for strengthening of the Bonded Labour System (Abolition) Act, 1976 and **supported amendment of the Act.** He said that media will play a vital role by broader coverage of Bonded Labour cases. Awareness could be spread through training programmes He emphasized that NHRC should monitor the disbursement of emergency funds through DMs uniformly to all bonded labourers released and in a timely manner.

Shri Richard Ebenezer, International Justice Mission was of the **opinion that there is no need to amend the Bonded Labour System (Abolition) Act, 1976** but only to strengthen the Rules. He stressed upon monitoring the problem of bonded labour in the country and implementation of provisions of the BLS (A) Act especially in identification, release and rehabilitation of bonded labourers. He emphasized the need for issuance of Release Certificate to the bonded labour immediately by DM concerned on its identification as bonded labourer and also discussed Section 370 of the IPC which focuses on 'human trafficking'. He said that the Will is lacking on the part of district administration in combating this problem.

Ms. Esther Daniel, International Justice Mission stated that instead of amending the BLS (A) Act, the Bonded Labour Rules be strengthened in order to give more teeth to the Act. Hence she **advocated for no amendments in the Bonded Labour System**

(Abolition) Act, 1976. She said that the local machinery is insensitive and needs to be sensitized. She suggested that instead of money, land be given to landless for maximum financial gains and also that one year wages should be paid to the released bonded labour as financial help. She emphasized on deterrence as being very important and stressed on utilizing the provisions of punishment if booked under Section 370 of IPC.

Dr. Lenin Raghuvanshi, PVCHR, Varanasi, UP was of the opinion that **there was no need to amend the Bonded Labour System (Abolition) Act, 1976.** He spoke about the prevailing caste system and the need for mapping out areas, community and data collection on bonded labour

He stressed on the importance of rehabilitation measures and quoted the Supreme Court judgment on Neerja Chaudhary Vs State of M.P. which has laid emphasis on the rehabilitation of bonded labour - because without rehabilitation, they would be driven by poverty, helplessness and again trapped into debt bondage. He also said that for effective implementation of the Act, accountability of concerned officers is a must.

Shri R.C. Chaurasia, Bachpan Bachao Andolan (BBA) stressed on need for sensitization of DM/SPs and State Labour Departments with regard to provisions of the BLS (A) Act, 1976 and suggested that three years wages be paid to the released bonded labourers. He gave examples of Badhoi Carpet industry and Ferozabad bangles industry where children are working as bonded labourers. These children do not get the rehabilitation package in time and therefore again fall prey to bonded labour. He said that BPL cards must be issued for all released bonded labourers and they should be provided accommodation under Indira Awas Yojna. He also suggested that NHRC should monitor all children rescued from bonded labour.

During interaction, **Registrar (Law)** stated that before the release certificate is issued to bonded labour, DM/SDM has to make an enquiry as to whether the minimum wages were paid to them or not

Shri Ramesh Srivastava, Prayas, Centre for Labour Research and Action, Rajasthan was of the view that the Act should not be amended as it is a very progressive and effective legislation. He was of the view that though experience shows that Executive Magistrates are not trying offences as provided under Section 21, the power to investigate and rescue should continue to be vested in the Executive Magistrate. He said that Vigilance Committees are not functioning and are only on paper and that they would be more effective if police are included in the same. He also suggested that the rehabilitation amount should be enhanced to Rupees One Lakh and DM/Local administration must take action to settle all outstanding dues of the released bonded labourers.

During the interaction, Section 12 of the BLS (A) Act which focuses on the duty of the District Magistrates and officers authorized by him for implementing the provisions of the Act was also discussed. Registrar (Law), NHRC mentioned that before issuance of Ration Cards, DM/SDM should make an inquiry with regard to the payment of Minimum Wages to the released bonded labourers.

Shri K.B. Saxena, IAS Retd shared his vast and rich experience towards protection and promotion of rights of Bonded Labourers. He was of the opinion **that the present Bonded Labour System (Abolition) Act, 1976 is strong by itself and needs no amendments.** However, there is a lot of scope in strengthening the Bonded Labour System (Abolition) Rules, 1976 to give more teeth to the Act and safeguard the rights of victims of Bonded Labour. He said that lack of implementation is entirely on account of lack of sensitivity and lack of bureaucratic will. The Government machinery should be sensitized towards the provisions of the Act.

He was of the opinion that in places where new Vigilance Committees are not appointed in the Districts, the old Vigilance Committees may be allowed to continue. He was further of the opinion that members appointed in the Vigilance Committee should have knowledge about the Act and Rules and the capacity to implement them in the true spirit.

Shri P.P. Mitra, DG, V.V.Giri National Labour Institute was of the view that more rural camps need to be organized to raise awareness pertaining to bonded labour as mostly the bonded labourers are from rural background.

Shri A.K. Nanda, Consultant, NCPCR mentioned that 40 percent of the missing children remain untraceable and most of them are either in bonded labour or working under the pressure of somebody. He said that children should be given proper education and their upbringing be in a clean environment. Therefore, He urged that the definition of bonded labour should be expanded to include:

- (a) Child brought to work through trafficking or chain or trafficking irrespective of debtor or creditor relationship.
- (b) Child who has been pledged/sold by parent or guardian and landed in working conditions in a slave like situation or exploitation.
- (c) The punishment for the offence under bonded labour w.r.t minor be made non-bailable and more stringent.

His suggestion was that the children rescued should be rehabilitated by providing them food shelter and education rather than financial compensation only.

Dr. Sanjay Dubey, Director, NHRC stressed on the need for involvement of media – print, electronic, audio, visual etc to cover large sections of society for spreading greater awareness amongst the masses and also suggested that help line number may also be developed for lodging a complaint relating to bonded labourers.

Dr. Ranjit Singh, JS (P&A), NHRC said that inspite of socially progressive legislation, there are gaps and voids in the implementation which needs to be addressed by strengthening the rules and its implementation. Hence, **no amendments to the Bonded Labour System (Abolition) Act, 1976** is required. He said that there is a need in synergizing the efforts amongst all the stakeholders including NGOs for mapping and creating a data bank related to the issues pertaining to bonded labour. This may include FIRs registered, number of properties restored to the bonded labourers and punishment awarded to the persons responsible for keeping bonded labour. He also suggested identifying the best practices in the States and sharing with the other stakeholders/States.

Shri Rajesh Kishore, SG, NHRC mentioned that a monitoring mechanism and accountability procedure for all the stakeholders at the States and Centre level be implemented. He also said that there is a need to develop a data bank of all the issues pertaining to bonded labour and that the Law Division of NHRC should disseminate the information on the number of bonded labour cases reported in the Commission and display the same on NHRC website. He also suggested that a roster of all NGOs working in the field of bonded labour be forwarded along with their particulars to NHRC and this roster of NGOs be uploaded on the NHRC website

Conclusions

Concluding the meeting, the Hon'ble Member Shri Justice D. Murugesan thanked those present for their active participation in the deliberations and mentioned that based on the discussions and suggestions made, some important issues pertaining to Bonded Labour had emerged. With regard to the need for amendment of the Bonded Labour System (Abolition) Act, 1976, he said that out of the 15 speakers who articulated their opinion on the Bonded Labour System

(Abolition) Act, 1976, 9 were of the opinion that this Act needs no Amendment. He, therefore, reiterated that it was clear that by and large the opinion of the House during the meeting with the members of Core Group on Bonded Labour is that **the Act need not be tampered with** and instead the focus may be on strengthening of the Rules by incorporating the suggestions received from the participants. The suggestions which emanated were the following:-

- 1.** Time limit be fixed for completion of process by District Magistrates and bringing the case to a logical conclusion.
- 2.** Inquiry to be conducted by DM/SDM within the prescribed time limit.
- 3.** Accountability of all stakeholders should be clearly defined and fixed for effective implementation and monitoring. .
- 4.** NGOs should be included in the investigation and rehabilitation process of the bonded labourers.

5. It was suggested that since it was not possible for the entire Group to meet frequently, a Committee of persons, including legal experts, Academicians, Government officials and NHRC officers be constituted for suggesting the amendments to the Rules. The Committee may submit a report within two months of being constituted. The report may be circulated to all Core Group Members/Special invitees.
6. The Core Group on Bonded Labour be reconstituted to include representation from all parts of the country. A suggested list of NGOs working in the field is **Annexure-B**. The next meeting of the Core Group may be convened to discuss the report and also to finalize the proposed amendment to the Rules so that the Act could be strengthened.
7. That atleast three Workshops be organized in a year by NHRC in collaboration with NCPCR/ SHRCs/ NGOs for sensitization of DMs/SPs, State Departments and other stakeholders for effective implementation of the Act.

Meeting of Core Group on Bonded Labour on 28/01/2015ATTENDANCE SHEETNational Human Rights Commission

S.No.	Names
1.	Justice Shri D. Murugesan , Member, Chair
2.	Shri Rajesh Kishore , Secretary General
3.	Shri A.K. Garg , Registrar (Law)
4.	Dr. Ranjit Singh , Joint Secretary (P&A)
5.	Shri Sanjay Dubey , Director
6.	Shri O.P. Vyas , Assistant Registrar (Law)

Core Group Members

S.No.	Names
1.	Shri Kiran Kamal Prasad Jeevika/Vimukti Trust, Bengaluru
2.	Shri K.B. Saxena , IAS (Retd.)
3.	Shri Chaman Lal , IPS (Retd.)
4.	Dr. Pravin Sinha Executive President National Labour Law Association Delhi
5.	Shri Vivek Pandit President, Shramjeevi Sanghtan, District Thane, Maharashtra

Special Invitees

S.No.	Names
1.	Shri Baghambar Pattanaik Goti Mukti Andolan, Odisha
2.	Shri A.K. Nanda Consultant-Programme, NCPCR
3.	Shri Bipin Mallick JS/DGLW, Min. of Lab. & Emp.
4.	Shri Chandan Kumar Action Aid India, Delhi
5.	Shri R.S. Chaurasia Bachpan Bachao Andolan, Delhi
6.	Shri Ramesh Srivastava Prayas Centre for Labour Research and Action, Rajasthan
7.	Shri P.P. Mitra DG, V.V. Giri National Labour Institute, Noida
8.	Dr. Lenin Raghuvanshi PVCHR, Varanasi, UP
9.	Shri Yogesh Dube Ex. Member, NCPCR
10.	Ms. Esther Daniel International Justice Mission
11.	Shri John Richard Ebenezer International Justice Mission, Bengaluru

List of suggested members for inclusion in re-constituted Core Group on Bonded Labour

S.No.	Names
1.	Shri B. Malik JS/DGLW, Min. of Lab. & Emp.
2.	Dr. L.Mishra, IAS (retd.) former Special Rapporteur
3.	Shri Chandan Kumar Action Aid India, Delhi
4.	Shri A. Mehboob Batcha Soco Trust, T.N.
5.	Shri Sudhir Katiyar Prayas Centre for Labour Research and Action, Rajasthan
6.	Shri R.S. Chaurasia Bachpan Bachao Andolan, Delhi
7.	Dr. Lenin Raghuvanshi CEO, People Vigilance Committee on Human Rights (PVCHR), Varanasi, Uttar Pradesh
8.	Shri P.P. Mitra DG, V.V. Giri National Labour Institute, Post Box No. 68, Sector-24, Noida-201301
9.	Ms. Easther Daniel International Justice Mission, 66/2253, Sarvpriya, Gurudwara Road, Karol Bagh, ND-5
10.	Shri Yogesh Dube Former Member NCPCR Dube House, Carter Road No. 9, Borivali (East), Mumbai -400066
11.	Shri Kiran Kamal Prasad Secretary, Jeevika/Vimukti Trust, Bengaluru
12.	Dr. Pravin Sinha Executive President, National Labour Law Association. BG-3, Law Apartments, Karkardooma, Delhi-110 092
13.	Shri Chaman Lal, IPS (Retd.) Former Special Rapporteur, NHRC, Gurgaon
14.	Shri K.B. Saxena, IAS (Retd.) Professor, Social Justice and Governance Council for Social Development, 53, Lodi Estate, New Delhi-110003