

Minutes of Core Group Meeting of Members on Bonded Labour held in NHRC, New Delhi on 29th May 2018

1. A Meeting of the core Group on bonded Labour was held in NHRC on 29th May 2018 under the **Chairmanship of Hon'ble Justice D. Murugesan, Member**. This was in continuation of the last meeting which was held in the NHRC on 16/09/2016. The objective of the meeting was to Review/ Recommend amendments to the Bonded labour System (Abolition) Act & Rules, 1976 and to eradicate the menace of Bonded Labour from the Country.
2. **Dr. Ranjit Singh, Joint Secretary (P&A), NHRC** welcomed all the members of core group on behalf of NHRC. In his welcome note he mentioned that in last three years Commission has organised 18 Regional Workshops, among 29 states covered almost 26 states on the issue of Bonded Labour all over the Country and recently a regional workshop was held in the State of Punjab, Chandigarh. He also stressed upon the fact that NHRC is taking dedicated and sustained efforts to eliminate the menace of bonded labour in our society. He mentioned that the picture of bonded labour in the present time has changed from when the act came in 1975 till 2018. The concept has totally and drastically changed and new forms of Bonded Labour have emerged out like through Road construction Companies, Dam constructions, Mall constructions, buildings and such related unorganised sectors where this bondage is prevalent. He further requested Justice Murugesan to present the suggestions and recommendations.
3. At the outset **Hon'ble Justice Murugesan**, stated that there is a need to reconstruct the definition of Bonded Labour and sensitization is very necessary. He also mentioned that no state agrees to accept that they have bonded labour in their States; the reports which come to the Commission are incomplete, irrelevant or completely silent on the issue. This is due to lack of awareness and negligent behaviour on the part of officers.
4. As far as Vigilant Committee is concerned, it is not functional at all in any of the States. Till date no report from Vigilant Committee has been received. Furthermore, the prosecution is also not initiated at all. Statistics show that prosecution is very low and if there is any prosecution, there is no conviction.
5. It is suggested by the Hon'ble Justice that, if prosecution will go to regular courts it will go on for very long period and so it is recommended that summary trials be initiated and offences under Bonded Labour must be

tried by the Executive Magistrates and not by the regular Courts. Likewise, to prosecute the offender the penal provisions must be enforced strictly. Hon'ble Justice requested the members to give their recommendations/suggestions on the issue.

6. **Shri Ambuj Sharma, Secretary General NHRC**, stated that MoLE may publish a quarterly newsletter on bonded labour. He also suggested that Awards scheme be initiated for District Collectors and SP's based on achievement and progress. He believed there must be special task force of labour and police departments in chronic districts. He further stated that there must be a National Helpline (Toll Free No.) for a more responsive system. He also suggested that there must be a stringent mechanism of comprehensive action against Contractors and perpetrators of bonded labour.
7. **Shri R. S Chaurasia, Chairperson Bachpan Bachao Andolan**, stated that the Vigilance committee are not functioning anywhere with the result that the fund received by them are mis-utilised and they again go to their previous condition of poverty and unemployment. So, it is suggested that such Vigilance Committees in every sub division should be activated which includes sub divisional Magistrate of the area besides Animal Husbandry Officer. Manager of the Lead bank, BDO, education officer, Labour officer or any more deemed necessary may guide them for investment in profitable businesses so that the concerned family can stand on its own and nobody in the family ends up in bonded labour again.
8. He was also of the opinion that the Ministry of labour & Employment needs to conduct fresh surveys in all states as the State Governments are not issuing release certificates immediately and delaying the process unnecessarily. He further stated that the inter-state migrant workers cases are more vulnerable as they are found to be working under bonded/slave like conditions; they should be rescued, repatriated and rehabilitated at the place of their choice. He also suggested that there needs to be improvement in the inter-departmental coordination and cooperation between the Centre and the States/UTs.
9. **Shri Sudhir Katiyar, Prayas Centre for Labour Research & Action**, said that due to non-issuance of release certificates by the District Administration, the workers are denied the rehabilitation package. It was also mentioned that all the workers in certain sectors like brick kilns can be classified as bonded labourer. This is because workers are seasonal migrants who are hired through labour contractors who recruit them against advance amounts. After this they are forced to work without payment of regular wages. This makes them bonded. The various Labour Acts are especially the Inter State Seasonal Migrant Workmen Act to

regulate seasonal migration are not enforced. Thus, the roots of bondage lie in inability of the labour department to enforce these Acts.

- 10. Shri Kiran Kamal Prasad, Secretary, Jeevika/Vimukti trust Karnataka,** stressed that NHRC should take steps to make the Central government notify an elaborate and more specific new set of Rules at the earliest. The new rules should clearly elaborate on the powers, functions and modus operandi regarding identification, release and rehabilitation and prosecution, and all other matters connected therewith. Corrections to be made in the new CSS for rehabilitation of bonded labour effective since May 17, 2016- Scheme to apply to every bonded labour to be rehabilitated after May 17, 2016 and not only those identified after that date.
- 11.** The spirit of the BLSAA and the New scheme must be respected and hence proper amendment in the New CS is called for, to the effect that rehabilitation to the freed bonded labourers, who have not yet been rehabilitated prior to May 17, 2016 should be according to the new CSS even if they were freed earlier than May 17, 2016.
- 12.** He mentioned about the pathetic condition of implementation of minimum wages despite Globalisation, rural development schemes etc. In case of Inter-state Labourers, originating state and destined state both are responsible on their part of failure. He also suggested that there should be no time gap after release for meaningful rehabilitation so that they do not relapse in further bondage and there should be timely payment of rehabilitation money i.e. on the date of rehabilitation. He further suggested that clarifications are required on the relation of BLSAA and the proposed new Bill on Trafficking of Persons 2018.
- 13.** The Central MoLE has sent around SOP (Standard Operating Procedure) for identification and release of bonded labourers to be effective since August 23, 2017. This SOP must be scrutinized and proper one must be substituted by the NHRC at the earliest. Traditional form of service called Bitti chakri has been discovered. He requested NHRC to set up a fact-finding committee, investigate the matter, take an informed decision on it and give directions to the Karnataka Government and the DM's concerned to take action treating them as bonded labour.
- 14.** He also recommended that a direction to all the DMs that while constituting the Vigilance Committees under BLSAA, one of the members should be a former freed and rehabilitated bonded labourer, as far as possible.
- 15. Rebecca George, International Justice Mission (IJM)** stated that recurring workshops must be organised at the grass root level for the purpose of sensitization and awareness. She also mentioned that online

courses need to exist for District Magistrates to sensitise and make them more aware about the laws and schemes relating to Bonded Labour akin to the Rajasthan Digital Awareness programme. She pointed out that even with all the sensitising programmes there is still a high acquittal rate and there is a need to strengthen the prosecution.

16. Dr. L Mishra, IAS (Retd.), appreciated the Commission's broad, liberal and expansive approach of the Commission towards both definition as well as the process associated with identification, rescue/release and rehabilitation of freed bonded labourers. definition of Bonded Labour instead of confining it to debt bondage.

17. He was of the view that the provisions of Bonded Labour System (Abolition) Act should be read along with those of Inter-state Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979, Prevention of SC & ST (Atrocities) Act, 1989 and Criminal Law (Amendment) Act, 2013 so that the incidence of bonded labour system could be better appreciated in the context of distress migration, atrocities against members of SC/ST as also trafficking of girls and women. The latter takes place for a variety of purposes such as commercial sexual exploitation, forced /bonded labour, forced transfer of organs, forced adoption, forced marriage, forcing children to be used as camel jockeys, circus artistes and domestic help with an element of coercion and regimentation and is one of the worst forms of bonded labour system.

18. He also mentioned the following points:

- **Functionality of VCs at the district and sub-divisional levels:** He fully agreed with Hon'ble Member that the VCs are not at all functional in any State. He attributed the following reasons to the non-functional character of VCs as under:
 - The procedure for constitution and re-constitution and life of VCs has been given in S.3 & 4 of BLS (A) Act read with Rule 3 & 4 of BLS (A) Rules;
 - The DM initiates the proposal for both and sends the same to the State Govt. concerned;
 - Apart from the long time taken for approval of the proposal, the State Govt. invariably alters the names recommended by the DM;
 - Field experience indicates that some of the VCs whose composition has been finally approved at the level of State Govt. do not contain names of members who are particularly empathetic and sensitive to abolition of bonded labour system;
 - they lack both qualification and experience as also a positive attitude and approach to the problem;
 - The VCs do not meet at regular intervals;

- They do not undertake field visits to study the ground level situation and make a proper assessment of the magnitude of the problem on the ground;
- Despite the clear direction of Hon'ble Supreme Court in Neerja Chaudhury Vs. State of MP AIR 1984 SC 1099, the VCs do not ordinarily involve voluntary social action groups, having regard to the nature & quality of work done by them at the grass-root level;

No secretarial assistance has so far been made available to any VC by the concerned DM/SDM contrary to the spirit of the Provision u/s 13(4) of BLS (A) Act.

He was of the view that if the VCs are constituted and re-constituted properly and if voluntary social groups are involved in their functioning as emphasized by the apex Court, this would substantially contribute to the achievement of the central object i.e. abolition of the bonded labour system.

- **Role of officers of other deptts of the State Govt**-Since the DM is heavily pre-occupied, the power and authority vested in him/her u/s 10 of BLS (A) Act can be exercised by the ADM/SDM /any other executive magistrate by issue of an appropriate order /notification by the State Govt. with adequate arrangements for their orientation / training for necessary familiarisation /sensitisation.
- **Involvement of other Deptts. (like Agriculture, Horticulture, Sericulture, skill-training, Animal husbandry & veterinary, Forest, Fisheries, Handlooms, Handicrafts, Revenue, Rural & Urban Development)** - Dr. Mishra clarified that the involvement of other departments will be needed as far as rehabilitation of freed bonded labourers is concerned. While Revenue Department is concerned with allotment of land, agriculture department is to assist in land development, supply of quality seeds, fertilizer & pesticides. Animal husbandry & veterinary department is to assist in delivery of quality productive assets (milch animals) and their maintenance for optimal yield. Industry & skill training are to assist in imparting skill training to the beneficiaries so that they can harness these skills for better self-employment or wage-employment.

Rural development and Panchyati Raj deptts through DRDA and Panchayats at various levels are to assist in collection of intelligence and building up of database pertaining to the landless, assetless and resourceless sections of the population who ordinarily are victims of bonded labour system; such a database will also help in tracking victims of bonded labour system who have been identified, rescue

/released, rehabilitated and who have lapsed back to tutelage under erstwhile bonded labour keepers.

- **An alternative strategy in communication for better and more effective awareness generation-** Dr. Mishra fully agreed with the observation of the Hon'ble Member that there is total lack of awareness about provisions of the law (including case laws) on the part of officers of State Govts. He observed that 42 years after enactment of the law, it is pathetic to hear from all the three constituents i.e. law enforcement officers, offenders of law and victims (who are entitled to the benefits but in effect are denied) that they are ignorant of the provisions of the law. For this, he suggested a two-pronged strategy as under:
 - i. For law enforcement officers, the desired level of awareness and sensitization may be imparted with the help of orientation workshops to be organized in a discussion mode (as opposed to lecture mode) to make it fully communicative and participative.
 - ii. For perpetrators of crime (offenders of the law and victims) we need to devise strategies and methodologies, which should be totally un-conventional and un-orthodox (in sharp contrast with traditional print and electronic medium of communication).

For this purpose, a role play/street theatre centring round the causes and consequences of the pernicious bonded labour system may be designed. A cultural troupe comprising first rate natural communicators may have to be constituted. The members of the troupe may be given necessary orientation prior to their performance. As they perform on the stage and the performance is watched by both bonded labour keepers and victims of bonded labour system, the desired impact will be created. The bonded labour keepers will be more than convinced that (a) it i.e. cheap labour & exploitation does not go to their credit to retain the vestiges of such a perverse system for all time to come (b) while the short-term outcome of such an abominable system may be acquisition of 'surplus value' of labour, the long-term impact will be reflected in dehumanization and poverty of human resource which will not contribute to high production & productivity.

- In several of its judgements, Hon'ble Supreme Court has observed that rescue / release, repatriation (in case of inter-state migrant labour) and rehabilitation of released victims should be de-linked from prosecution. Prosecution may no doubt be filed separately but its outcome need not bind rescue / release, issue of release certificate and rehabilitation which are time bound and cannot wait.
- Hon'ble Supreme Court has also emphasized equal importance of immediacy and simultaneity in handling all cases of rescue / release and rehabilitation. If these cases are not handled with a sense of urgency & seriousness of concern, the released bonded labourer in all

likelihood will either lapse back to bondage or migrate in search of alternative livelihood.

- 19. Shri Rajit Punhani, Joint Secretary (LW), Ministry of Labour and Employment**, assured that rules can be amended, and work has already been initiated in this regard. He also pointed out that there are funds for awareness, survey, and rehabilitation programmes but there are no proposals from the States. He informed that Rs 20,000 can be immediately given by District Magistrate even without the Prosecution. He also noted that all transactions are through PFMS and states will have to come on board through PFMS to bank Account.
- 20.** He made it pertinent that Aadhar card is very important and that DM should get the released Bonded Labourer the Aadhar card. It would serve dual purpose by keeping track of the released bonded labourer and assist him in getting a bank account too.
- 21. Shri K.B Saxena, IAS (Retd.)** started off by pointing out that bonded labour is increasing and adopting new forms and he made following suggestions on the point:
- The main task should be to identify areas, vocations and communities where bonded labour exists and create awareness amongst those.
 - He also mentioned that District Magistrates often claim that they are unaware of the relevant laws and procedures and suggested that we keep a designated person in the area who could train and sensitise the new District Magistrates
 - He also talked about the lack of employment opportunities and suggested that some form of Immediate Alternative Employment be provided, or advance payments be given to the released Bonded Labourers otherwise there is a good chance that they would relapse into Bonded Labour.
 - Lack of Sensitivity in the involved officials since they do not make bonded labour a priority. There needs to be awareness from person to person.
 - There needs to be Identification, Verification and Release of Bonded Labour. Prosecution is on a very low priority and needs to be given a higher priority.
 - He also made a point regarding Bonded Child labour and chiefly mentioned Domestic Child Labour as a very important issue that needs to be dealt with. There is a need to regulate Domestic Child Labour.
- 22. Shri Rajendra Dhar Additional Labour Commissioner, Delhi** pointed out that Delhi government has enhanced penalty under Minimum Wages Act of defaulters from Rs 500 to Rs 50000 likewise deterrent punishment should be adopted by other States. He also stated that most of the DMs

barring few states have not opened the fund/account to receive Central government funds for carrying out sensitization and publicity programmes district wise rather no intimation regarding claiming of funds has been sent to Central government, due to this fact most of the officers including DM, ADM, SDM and down the line staff are not aware about the process and the provisions of the said Act.

23. He also mentioned that rescued Child Labourers should be provided skill enhancement opportunities through education. He suggested that a holistic treatment be given to the whole family of an adult bonded labourer.
24. **Shri A. Mahaboob Batcha, Managing Trustee, SOCO Trust** stated that there is a need to provide eligibility criteria for Vigilance Committee members. He also talked about lack of sensitivity on the part of the officials.
25. **Dr. Onkar Sharma, Regional labour Commissioner (Central), New Delhi** again reiterated the much-discussed point that prosecution needs to be taken seriously since there is a lack of conviction under the Act. He also pointed out that there is a need to amend the definition of Bonded Labour and revisit it keeping in mind the changing dynamics of bonded labour. It was also discussed by him that there is a need to create curriculum for administrative officials which includes Bonded Labour. Lack of sensitivity and a need to create corpus fund by States are other points raised by him.
26. **Dr. H. Srinivas, Director General V.V. Giri National Labour Institute,** stated that there is a need to create a forum for interaction between State and Districts on a common platform. He also suggested that a Nodal Agency should ensure that labourers are rehabilitated according to their skills.
27. **Shri Ashok Sahu, IES (Retd.) Thematic Special Rapporteur, NHRC,** put up the point that there is a need to capture new forms of bondage or neo-bondage in changing scenario through fresh surveys. How can this be done requires further deliberations so as to avoid both over and under reporting.
28. **After due deliberations, the following recommendations emanated from the meeting:**
- i. For implementing effectively, the provisions of the Act, it is not only desirable but extremely important to lay down and prescribe rules under the Bonded Labour System (Abolition) Act, 1976 to give teeth to the Act for its effective enforcement. The present mechanism provided in the Act regarding bonded labour is debtor based while as with

passage of time the Contours of bonded labour has undergone lot of changes. Protocol/SOPs/Guidelines need to be prescribed for authentic bonded labour by way of rules under the Act. The New rules should clearly elaborate on the powers, functions and modus operandi regarding identification, release and rehabilitation and prosecution and all other matters connected herewith. MoLE to take necessary action to amend the rules at the earliest.

(Action: MoLE)

- ii. Summary trials be initiated and offences under Bonded Labour must be tried by the Executive Magistrates and not by the regular Courts. Likewise, to prosecute the offender the penal provisions must be enforced strictly.

(Action: MoLE/ State Government)

- iii. MoLE may have a quarterly newsletter on bonded labour and Awards scheme must be started for District Collectors and SP's on the basis of achievement and progress.

(Action: MoLE)

- iv. Vigilance committee under Section 13 need to be well defined in terms of conducting the business of the vigilance committee. Government should consider and consult the recommendations of the district magistrate with regard to appointment of non-official member as a member in Vigilance committee. Some capping, eligibility criterion is required to be laid down for appointment of non-official members in the Vigilance committee.

(Action: MoLE / State Government)

- v. Due to lack of knowledge and sensitization, the release certificate are extraordinarily delayed which effects the rehabilitation of bonded labour in his native state and due to this fact chances are that he goes back to bondage.

(Action: MoLE / State Governments/ NGOs)

- vi. Rescue, rehabilitation and conviction should be simultaneously executed by the concerned authority so that they have their own effect and utility. There must be special task force of labour and police departments in chronic districts and there must be a National Helpline (Toll Free No.) for a more responsive system.

(Action: MoLE/ State Governments)

- vii. In the process of rehabilitation concept of holistic rehabilitation for entire family of the rescued bonded be considered i.e. providing the benefits under the various schemes of Central/State govt. to which the individual and his family members are entitled to.

(Action: State Governments)

- viii. NGOs and other Civil Society members associated with bonded labour should ensure their association till complete rehabilitation and not only up to the issue of release certificate. Their feedback information is important for policy makers as well as enforcement machinery.

(Action: Civil Society)

- ix.** As far as adult bonded workman is concerned, component of skill development (village based) be imparted to him on the recommendation of the District Magistrate to which he belongs. This will ensure financial sustainability not only of an individual but entire family.

(Action: State Governments)

- x.** Nodal officers should be notified by various State Government who would act as one-point contact and will also address various concerns/complaints connected with bonded labour system.

(Action: State Governments)

List of Participants

NHRC

1. Hon'ble Justice D. Murugesan, Member
2. Shri Ambuj Sharma, Secretary General
3. Dr. Ranjit Singh, Joint Secretary (P&A)
4. Dr. Sanjay Dubey, Director
5. Shri Surajit Dey, Registrar (Law)
6. Shri Sunil Arora, Joint Registrar (Law)
7. Dr. Ashok Sahu, IES (Retd.) Special Rapporteur
8. Jitmanyoo Sahu, JLRC
9. Mujtaba Hussain, JLRC
10. Mahak Acharya, JLRC
11. Alo Dutt, JLRC

Core Group Members and Special Invitees

1. Shri Rajit Punhani, JS (LW), Ministry of Labour & Employment
2. Dr. L. Mishra, IAS (Retd.)
3. Shri Chandan Kumar, National Cordinator, Action Aid India
4. Shri A. Mahaboob Batcha, Managing trustee, SOCO Trust
5. Shri Sudhir Katiyar, Prayas Centre for Labour Research & Action
6. Shri R.S. Chaurasia, Chairperson, Bachpan Bachao Andolan
7. Shri Manish kumar gupta, IAS DG, V.V. Giri National Labour Institute
8. Ms. Rebecca George, IJM
9. Ms. Tina Kuriakose, IJM
10. Shri Kiran Kamal Prasad, Secretary, Jeevika/Vimukti Trust
11. Shri K.B. Saxena, IAS (retd.) Professor, Social Justice & Governance Council for Social Development
12. Dr. Onkar Sharma, Deputy Chief Labour Commissioner, MoLE
13. Dr. Rajendra Dhar, Add. Labour Commissioner