

Agenda No. ---

**National Human Rights Commission
Director (A) Unit**

Sub: Report of Shri G.B.Panda, Special Rapporteur, NHRC on his visit to Baran and Kota Districts of Rajasthan during 17-22 March, 2016.

Shri G.B. Panda, Special Rapporteur, NHRC visited Baran and Kota Districts of Rajasthan from 17-22 March, 2016 on Eradication of Bonded Labour System with special reference to Saharia, a particularly vulnerable Tribal Group and review of action taken for Elimination of Bonded Labour and Child labour.

The visit report of the Special Rapporteur may kindly be seen at **F/A**. The Recommendations / Suggestions of the Special Rapporteur are as under:-

Bonded Labour

1. The prevalence of bonded labour system need to be understood in the overall socio-economic conditions of the various sections of society and the overall cultural /social and customary laws that govern day to day social and economic relations between various sections of the society.
2. The problems related to bonded labour system need to be understood in relation to the Saharia Tribal community and the vulnerability arising due to their utter socio-economic backgrounds.
3. The existence of the bonded labour is not being captured on the ground as various established conditions that normally designate a Bonded Labour have been softened (such as non-admittance of taking any loan/advance by either parties, no terms and conditions of leaving work at any time that the labour desires, etc.). Intensive and deep proving need to be carried out in the areas and among the communities prone to bonded labour.
4. There is no established method or surveillance by the government agencies including Vigilance Committees to identify existence of bonded labour system. Thus the identification of bonded labour and existence of the same solely depend upon the complaints received. A sensitive method to locate the practice of bonded labour as suitable to the local scenario need to be devised and applied.

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5. The Patwaris and Revenue Officials are generally overwhelmed and pre-occupied by numerous tasks and exigencies, they do not have time and thought to devote and focus on the issues of bonded labour and their existence as they generally bypass or not sensitive enough to capture any incidence of bonded labour. Further, venturing into any survey and surveillance for identification of bonded labour would also amount to going against the influenced and dominant employers, which they cannot afford. Therefore, there is every possibility of ignoring existence of bonded labourers. No training or orientation programs are conducted for Vigilance Committee Members, Patwaris and Revenue Officers to sensitize as to how to go about capturing / identifying bonded labour (soft or rigid), nor any survey conducted periodically or otherwise to that effect. There is a felt need to have a dedicated village level worker round the year to assist the Patwaris at least in the areas prone to bonded labour system.

6. The District Administration (District Magistrate) needs to carry out intensive survey at least once in two/three years associating the Vigilance Committees. But such survey, although needed, not being carried out.

7. Regular and periodic surveys are imperative and prerequisite, especially in the districts like Baran which traditionally nurtured the bonded labour system. Otherwise the bonded labour system would persist without being noticed. It may not be that difficult to the District Administration to provide funds to carry out surveys in time utilizing the discretionary / contingent funds available with them.

8. The District and Sub-Divisional Vigilance Committees reported meeting every two months. However, the agenda and the outcome of the meetings do not indicate any efforts made to conduct any probing into the practice and prevalence of the bonded labour system in their jurisdictions. The Vigilance Committees should therefore be sensitized, primarily to be able to devise methods and process of identification of bonded labourers involving local voluntary agencies, social activists, SHGs and NGOs.

9. The Vigilance Committees should, along with the DMs and SDMs need to revisit time and again the areas where the bonded labour system persists – explicitly or implicitly. The Vigilance Committees should reaffirm, through their probing visits to their respective jurisdictions, the existence or non-existence of the bonded labourers. To this effect, record in the form of benchmark reports should be prepared and discussed in their meetings for initiating necessary action.

10. The Vigilance Committees also need to organize meetings, camps and campaigns in the local areas, Panchayats and various industries for sensitizing the natives, especially the youth and grass root workers about the bonded labour system and its various manifestations and forms, that often do not confirm easy determination of bondage.

11. The District Administration is, however, reported that mapping of bonded labour is being carried in the district and this is being carried out for the first time across various industries and sectors to locate and identify the practice of bonded labour system. The mapping should overcome naivety of its approach in identification of bonded labour as the system of bondage and conditions thereof may not strictly fall in the standard norms and measures adopted to establish bondage and identification of bonded labourers. The dynamics of bonded labour system has evolved from time to time. Unless its nuances understood and notified could not be captured and confirmed to the standard methods of probing and surveillance.

12. The Vigilance Committees need to devise a dynamic proforma pinpointing varied conditions and characteristics that subscribe to bondage in labour employment. The proforma points need to be examined and probed in the area especially prone to bonded labour recruitment on a regular basis and the findings of the same need to form the essential agenda, among others in the meetings of the Vigilance Committees. The Vigilance Committee, on proactive basis, should visualize the possibilities of the new and evolving bondage arrangements, beyond the conventional practice so that the system of bondage is captured in all its forms and dynamics. Such deliberations and proactive visualization of bondage by the Vigilance Committees should be shared with Patwaris, NGOs, Panchayati Raj functionaries and others concerned.

13. While involvement of the NGOs in the pursuit be appreciated and also be encouraged, the Vigilance Committees on its own also make surprise visits to the locales where bonded labour system traditionally reported and still prone to. Findings of such visits should be recorded and discussed in the Vigilance Committee meetings. Also, it is necessary that the action taken or need to be taken should also be finalized with stipulated time frame and the details of the same should be shared with all concerned.

14. The Patwaris should be provided with a proforma in advance which clearly points out various nuances and forms of existence of bonded labour system in the rural areas. Similarly concerned Revenue and Labour Department officials need to be provided with similar proforma for urban areas - covering such units/ industries where bonded labour system possibly present. These filled-in proformas should be regularly evaluated on

benchmark basis. The focus of an enquiry or survey should especially be laid upon the Scheduled Tribes, Scheduled Castes, other weaker section and migrants from other states.

Saharia (The Particularly Vulnerable Tribal Group)- The traditional bonded labours.

15. Prolonged settlement of the issue will possibly dissuade the Saharia bonded labourers from cultivation and opting for alternative source for livelihood for which they are not skilled and qualified as yet. Further there is every fear that they may fall back into the debt trap and bondage. Skill training need to be provided to enable them alternative source of livelihood.

16. Due to fear of law against the practice of bonded labour system and compulsion and vulnerability of the poverty stricken helpless bonded labourers from Saharias and other weaker sections, the cases of bonded laborer do not surface. Therefore, a deep probing survey periodically across the regions needs to be carried out to identify the existence of bonded labour system in its changing forms and characteristics.

17. The Saharias, the traditional bonded labourers, still continue to persist in utter backwardness and poverty, needing contribution from the children in production. The situation thus makes the parents think children as economic assets. In fact, a child starts working at home or field almost like an adult at the age of 11 or 12. The bonded labour system reported to have engulfed children as early as when they are 11 or 12. Thus the existence of invisible child labour even in bondage condition cannot be ruled out. Therefore, micro level intensive study/survey needed to be carried out focusing situation of children among the Saharias.

18. The landlords who are used to exploits of bonded labour are hard pressed to get labourers needed for cultivation at cheaper rate. They will possibly, always in look out for victims to be trapped under bondage. The administration, therefore, need to be watchful and proactive in preventing any bonded labour recruitment.

19. The employers who have kelp bonded labour could not be penalized or punished due to the fear of conflict and unrest in the region. This implies that the landlords are powerful enough to create feud if they are concerned. In such social equations of super ordination and sub ordination, the Administration need to carefully and proactively devise strategy and plan for release and rehabilitation of bonded labourers in adherence to the provisions of legislations and Supreme Court directives in the matter.

Bonded labourers Rehabilitation colony at Eklera Danda

20. The bonded labourers migrated from Madhya Pradesh, due to lack of legitimate domicile residential claims are far more vulnerable. Therefore, a survey needs to be carried out both to identify/locate bonded labourers hailing from Madhya Pradesh or any other state. There should be a mechanism in place involving the States concerned to chalk out strategies in maintaining an inventory of such labourers migrating from state to state as a joint effort, as per the Inter-state Migrants Workmen (Regulation of Employment and Conditions of Services) Act, 1979. Further they need to be in constant touch in the process of rescuing and rehabilitating the rehabilitated bonded labourers. Concerned states, through negotiations, channelize the benefits and support to the freed bonded labourers through their respective welfare and development programmes. Every action taken by the State(s) individually or jointly in abolition of bonded labourers should be posted to the NHRC.

21. One of the serious problems faced by the rehabilitation colony of Eklera Danda is that most of the men are addicted to alcoholism. This was especially expressed by women. In the meeting itself many have come drunk and completely disoriented. Alcoholism assumes an endemic threat. Many women complain that all their earnings go to alcoholism. Many have been subjected ill health and in very fragile condition. An immediate plan of action needs to be worked out to counter the menace of alcoholism. Otherwise, the good effort made for rehabilitation will be at jeopardy and would appear as counterproductive. It is a general feeling that alcoholism is not restricted to the colony alone; rather it is rampant among the Saharia Tribe and the region at large.

22. The forest land adjoining the Eklera Rehabilitation Colony, actually a barren terrain of 200 bighas. If the same is allotted to them - they being good at agriculture, convert the forest land to agricultural land and cultivation of which will bring about economic upliftment and empowerment.

23. The trauma of bondage has affected all those were subjected to the same mildly or severely. The rehabilitation package should therefore need to include counselling by professional psychiatrists to restore their normal mental condition.

24. A fresh comprehensive socio-economic Study may be carried out to capture and understand the magnitude, problems, dimensions and dynamics of bonded labour system as prevalent in the Saharia Tribal areas before next conservation-cum-development Plan is prepared. Simultaneously in the

same vein evaluation of the rehabilitation programmes of freed bonded labourers also needs to be carried out.

25. There is an urgent need to conduct a survey by the District Administration not only to gauge the magnitude of Saharia land alienation but also to evaluate and review the Tribal Land Alienation Act. After having identified the cases of land alienation immediate action need to be taken restore the same to the legitimate owners of the land – the Saharias.

26. Immediate restoration of mortgaged land back to the Saharias families as may be exercised as per the provisions of the Bonded Labour System (Abolition) Act, 1976, Prevention of Tribal Land Alienation Act, Prevention of Atrocities and Protection of Civil Rights Acts meant for SCs and STs. Expedious action in restoring Saharia land back to owner would not only proactively prevent the possibilities of bonded labour recruitment but also help release the ones under labour bondage.

27. The Saharias alleged encroaching the government land may be given ownership rights which could be considered as per the policy of the government providing land to the STs under Tribal Sub-Plan (TSP), Grant-in-aid under Article 275(1) of the Constitution, Special Central Assistance to TSP, ST Finance and Development Corporation, State Tribal Development Corporation and for the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This may be included as a priority activity in the forthcoming CCD plan for the Saharia, the Particularly Vulnerable Tribal Group (PVTG).

28. The Janjati Balaka Aavasiya Vidyalaya (JBAV) should introduce science subjects since the students have aptitude and interest in Science subjects. Moreover, promotion of science subjects would enhance the eligibility of students to have more multiple avenues for careers and placements. Introduction of science subject is an urgent imperative as these girls when qualified technical subjects will contribute to their society as the agents of social change and economic development.

29. Some of the freed bonded labourer's hutment / houses are built on the government land and are illegally occupied. And hence are being deprived of basic amenities. Such settlements need to be surveyed and studied and necessary services and support need to be extended to ensure that they are provided with at least basis amenities and benefits. Notwithstanding their residential status, special strategy and programme need ot be conceived / formulated and implemented.

Brick Kilns

30. The mapping of all the brick Kilns need to be done urgently in meticulous and probing manner to identify the facts and conditions that subscribe to the existence of bonded labour. Regular and periodic surprise visits need to be carried out by the Sub-Divisional Vigilance Committee members and submit their reports to the District Vigilance Committee for taking further necessary action in the matter. Detailed documentation of the brick kilns units, bonded labourers, employers, action taken (identification, release and rehabilitation) should be maintained, updated periodically and regularly.

31. A special targeted approach need to be adopted by the District Administration, Vigilance Committees, Police Department and the other concerned to identify industries (small or big) and other work units, where there could exist recruitment of labourers under conditions that could be attributed to bondage.

32. There is an urgent need for all the officials and personnel concerned including Tehsildars, Patwaris, Gram Sevaks, Police officials Vigilance Committee members, Labour and Revenue officials to be sensitized and trained intensively periodically on regular basis so that the much detested exploitation and bondage of labour can regularly be attended/addressed.

33. In order to ensure that the brick kiln workers are not exploited socially and economically and also made vulnerable to any inhuman conditions reflecting bondage, there is an urgent need for the District Administration to conduct a probing survey and mapping of such industries (small or big) that are prone to bonded labour system and ensure with the well charted plan of action for effective implementation of Bonded Labour System (Abolition) Act, 1976; Inter-State Migrant Workmen Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986 and other related Acts, viz. Minimum Wages Act, 1948 etc.

Child Labour

34. The parents of the rescued child labourers are not paid any transport charges nor any facility/support to stay in town is provided. The parents thus do not turn up to take the child. The child is kept in the orphanage home (Palanhar). Transport and stay Cost of the parents may be met by the Government.

35. Periodic contact with the Child Welfare Committee (CWC) of the native place of freed / rehabilitated the child labour should be maintained and

monitoring of progress made by the child in rehabilitation and support provided to him through child welfare programmes should be done and the records to this effect should be maintained.

36. Rural areas and small towns generally do not picture in the investigative visits made by the officials working for elimination of child labour. A planned schedule may be chalked out to visit all areas of rural and urban locales, industries and establishments.

37. Local Panchayati Raj personnel and Gram Sevaks should be involved in the process of identification and release of child labourers. Minimum staff, if not sanctioned strength, should be posted in place. Total absence of Labour Inspectors in Baran district speaks of handicaps of the Administration in squarely addressing the jobs of eradication of child labour in the district.

38. Efforts should be made to provide jobs to the parents of the freed child labour under MGNREGA, among others, as per the entitlement of BPL families.

39. The survey, reported being undertaken, is required to probe and investigate various dimensions and nuances of child labour engagement across industries to register accurate findings. A comprehensive report of the phenomenon of child labour will help devise suitable action plan in rescuing and providing relief to the victims.

40. Periodic and regular orientation and training programmes should be organized to sensitize the field level officials about various aspects of child labour, to probe identification and their rehabilitation in an effective and sustained manner.

41. The Labour Officer and the Child Labour are subjected to predicament as to what to do with rescued child labour when there is no taker. There is a need for an Inter-State Mechanism to attend and resolve such situation keeping in view the provisions of Inter-State migrant Workmen (Regulation of Employee and Conditions of Services) Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986 and Bonded Labour System (Abolition) Act, 1976.

42. In fact there is need for an over arching plan of action for eradication of child labour. These include Intensive Survey on regular intervals; accurate documentation of data (collected, computerized and analyzed); and rehabilitation of the rescued children with their families or any other special institutional placement ensuring their well being and development especially by providing education, including vocational education (skills), nutrition and health check-up.

9.

43. Too many agencies and departments working in the eradication of child labour involving identification, release and rehabilitation, need to clearly overcome overlapping of activities and confusion arising there from. There should be clear cut structure of jobs and division of assignments across the designated agencies to ensure convergence of activities in coordinated manner towards effective and sustained rehabilitation of the released child labourers. The same approach is also required to be adopted in rehabilitation of the freed bonded labourers as well.

44. Conclusively, it emerges from the field visits that the society at large functions day to day on the basis of the social norms and customary laws in practice. The judicial norms as provided under various legislations viz. abolition of bonded labour and eradication of child labour have to make effective inroads to the society and adopted to as way of life through inducing appropriate campaign for social change at the grass-root levels.

10.

Report of Shri G. B. Panda, Special Rapporteur, NHRC, on Eradication of Bonded Labour System in Baran and Kota districts of Rajasthan with special reference to Saharia, a Particularly Vulnerable Tribal Group, and review of action taken for Elimination of Bonded Labour, Child Labour.

1. I visited Baran and Kota districts of Rajasthan from 17th March 2016 to 22nd March 2016 in order to study the situation as regards to practice of bonded labour system and to review the efforts made in preventing the practice of bonded labour especially through implementation of Bonded Labour System (Abolition) Act, 1976 and Child Labour (Prohibition and Regulation) Act, 1986. Realizing the fact that occurrence of bonded labour in the region is directly related and incidental to the prevailing socio-economic backwardness among the Saharia Tribal Community, the field study was focused on the intertwined issues of socio-economic backwardness among the Saharia tribal community and that of the bonded labour.

2. On the 17th March, 2016 a meeting was organized by District Administration at my instance in the Circuit House of Baran. The meeting was attended by the District Magistrate (DM), Sub-Divisional Magistrate (SDM) and other officials. The details of the officials attended the review meeting are given at Annexure-I.

3. At the outset I have briefed about the purpose of my visit and to that effect deliberated upon various aspects of bonded labour abolition as emerging through the Constitutional provisions, Bonded Labour Abolition Act, 1976 and Child Labour Prohibition Act, 1986 and other related legislations and judgments of Supreme Court. The discussions in the meeting were focused upon various aspects concerning the identifications of bonded labour, release and providing release certificates and rehabilitation of the liberated /released bonded labourers. The discussions were also held on the Saharia Tribal Community who are predominantly recruited as bonded labourers in the region. The other aspects were deliberated upon in the meeting were related to role and responsibilities of DMs, SDMs and other designated officials and mechanism viz., District Vigilance Committee/ Sub Divisional Vigilance Committee, etc.

4. The main issues / points that emerged during discussions are as given below:

- i. The prevalence of bonded labour system need to be understood in the overall socio-economic conditions of the various sections of society and the overall cultural /social and customary laws that govern day to day social and economic relations between various sections of the society.
- ii. The uniqueness of the Baran district is that the bonded labour system predominantly prevailed in agriculture sector and the bonded labourers are traditionally from the Saharia Tribal Community.
- iii. The problems related to bonded labour system need to be understood in relation to the Saharia Tribal community and the vulnerability arising due to their utter socio-economic backgrounds.
- iv. The existence of the bonded labour is not being captured on the ground as various established conditions that normally designate a Bonded Labour have been softened (such as non-admittance of taking any loan/advance by either parties, no terms and conditions of leaving work at any time that the labour desires, etc.)
- v. There is no established method or surveillance by the government agencies including Vigilance Committees to identify existence of bonded labour system. Thus the identification of bonded labour and existence of the same solely depend upon the complaints received.
- vi. Besides, Saharia Tribal community, there are a few families who have come from other neighboring district of Rajasthan and Madhya Pradesh are engaged as labourers in same small scale brick kiln units. The conditions labour deployment in these industries may not overtly establish the existence of bonded labour system, but the implicit conditions cannot rule out bondage.
- vii. The District Magistrate and all other present in the review meeting have contended that there prevails harmony between the employers and the employee. The contention is that there is no complaint or reporting of bonded labour. This indicates complacency and presumption about non-existence of bonded labour system.
- viii. It is, however, established that bonded labour system locally known as 'Hali' was endemic in the region mostly employing the Saharia tribal community as the bonded labourers. The traditional system of 'Hali' although at one time engulfed all most all the Saharias, presently its existence is not reported as per the government records. However, the existence of the same in concealed conditions cannot be ruled out.
- ix. The District Level Vigilance Committees/ Sub-Divisional Vigilance Committees have been set up in the Baran District. During 2005-

2012, 86 cases of Bonded Labour reported/identified and freed. All of them belong to Saharia Community and are inhabitants of Kishanganj Tehsil of Baran District.

- x. The Vigilance Committees both at District and Sub-Division have all mandatorily required representations except from bank side. The need for local bank representation arises especially in the process of rehabilitation as regards extending soft loans and other financial support at ease, which is one of the much required supports for rehabilitation of the freed bonded labourers.
- xi. It was reported in the meeting that since last three years that not a single case of bonded labour reported. The identification of bonded labour essentially depends upon the Patwaris and Revenue officials. The Patwaris and Revenue Officials are generally overwhelmed and pre-occupied by numerous tasks and exigencies, they do not have time and thought to devote and focus on the issues of bonded labour and their existence as they generally bypass or not sensitive enough to capture any incidence of bonded labour. Further, venturing into any survey and surveillance for identification of bonded labour would also amount to going against the influenced and dominant employers, which they cannot afford. Therefore, there is every possibility of ignoring existence of bonded labourers. No training or orientation programs are conducted for Vigilance Committee Members, Patwaris and Revenue Officers to sensitize as to how to go about capturing / identifying bonded labour (soft or rigid), nor any survey conducted periodically or otherwise to that effect. There is a felt need to have a dedicated village level worker round the year to assist the Patwaris at least in the areas prone to bonded labour system.
- xii. The District Administration (District Magistrate) needs to carry out intensive survey at least once in two/three years associating the Vigilance Committees. But such survey, although needed, not being carried out. The reason that funds were not made available for conducting the survey, despite requests were made to Central government.
- xiii. Regular and periodic surveys are imperative and prerequisite, especially in the districts like Baran which traditionally nurtured the bonded labour system. Otherwise the bonded labour system would persists without being noticed. It may not be that difficult to the District Administration to provide funds to carry out surveys in time utilizing the discretionary / contingent funds available with them.
- xiv. The District and Sub-Divisional Vigilance Committees reported meeting every two months. However, the agenda and the outcome of the meetings do not indicate any efforts made to conduct any

probing into the practice and prevalence of the bonded labour system in their jurisdictions. The Vigilance Committees should therefore be sensitized, primarily to be able to devise methods and process of identification of bonded labourers involving local voluntary agencies, social activists, SHGs and NGOs.

- xv. There exists general awareness especially among the government agencies and locals at large that the practice of bonded labour system is an offence and punishable under the law. In view of the legal implications involved in dealing with the problems of bonded labourers, the general tendency is to ignore or bypass the issue. Therefore, the Vigilance Committees should, along with the DMs and SDMs need to revisit time and again the areas where the bonded labour system persists – explicitly or implicitly. The Vigilance Committees should reaffirm, through their probing visits to their respective jurisdictions, the existence or non-existence of the bonded labourers. To this effect, record in the form of benchmark reports should be prepared and discussed in their meetings for initiating necessary action.
- xvi. The Vigilance Committees also need to organize meetings, camps and campaigns in the local areas, Panchayats and various industries for sensitizing the natives, especially the youth and grass root workers about the bonded labour system and its various manifestations and forms, that often do not confirm easy determination of bondage.
- xvii. The District Administration is, however, reported that mapping of bonded labour is being carried in the district and this is being carried out for the first time across various industries and sectors to locate and identify the practice of bonded labour system. The mapping should overcome naivety of its approach in identification of bonded labour as the system of bondage and conditions thereof may not strictly fall in the standard norms and measures adopted to establish bondage and identification of bonded labourers. The dynamics of bonded labour system has evolved from time to time. Unless its nuances understood and notified could not be captured and confirmed to the standard methods of probing and surveillance
- xviii. The Vigilance Committees need to devise a dynamic proforma pinpointing varied conditions and characteristics that subscribe to bondage in labour employment. The proforma points need to be examined and probed in the area especially prone to bonded labour recruitment on a regular basis and the findings of the same need to form the essential agenda, among others in the meetings of the Vigilance Committees. The Vigilance Committee,

on proactive basis, should visualize the possibilities of the new and evolving bondage arrangements, beyond the conventional practice so that the system of bondage is captured in all its forms and dynamics. Such deliberations and proactive visualization of bondage by the Vigilance Committees should be shared with Patwaris, NGOs, Panchayati Raj functionaries and others concerned.

- xix. It was mentioned that NGOs working in the area usually identify the cases of bonded labour and such cases are presented to the Vigilance Committees. While involvement of the NGOs in the pursuit be appreciated and also be encouraged, the Vigilance Committees on its own also make surprise visits to the locales where bonded labour system traditionally reported and still prone to. Findings of such visits should be recorded and discussed in the Vigilance Committee meetings. Also, it is necessary that the action taken or need to be taken should also be finalized with stipulated timeframe and the details of the same should be shared with all concerned.
- xx. The Patwaris should be provided with a proforma in advance which clearly points out various nuances and forms of existence of bonded labour system in the rural areas. Similarly concerned Revenue and Labour Department officials need to be provided with similar proforma for urban areas - covering such units/ industries where bonded labour system possibly present. These filled-in proformas should be regularly evaluated on benchmark basis. The focus of an enquiry or survey should especially be laid upon the Scheduled Tribes, Scheduled Castes, other weaker section and migrants from other states.

5. As has been mentioned, the uniqueness of the existence of bonded labour in Baran district is attributed to Saharia Tribe – who traditionally and predominantly have been subjected to bonded labour system in agricultural sector. Therefore, an understanding of the Saharia Tribal community in terms of their socio-economic backwardness and vulnerability to the bonded labour system is felt necessary so as to capture the phenomenon of the bonded labour, comprehensively, both reflecting the socio and economic context of genesis and prevalence of bonded labour system and efforts made by the administrative agencies in abolition of the same through implementation of Bonded Labour System (Abolition) Act, 1976 and other related Acts.

Saharia - The Particularly Vulnerable Tribal Group:

6. The Saharia is a Scheduled Tribe Community mainly inhabiting Kishanganj and Shahbad Tehsils of Baran District, Rajasthan. As per 2011 Census, their population is 1,11,377 in Rajasthan. The region inhabited by the Saharias once covered by thick forest and was called as Jungli Nizamat under the erstwhile ruler of Kota State. Traditionally, Saharia community derived their livelihood from collection of forest produce.

7. They were then landless community and also worked as labourers predominantly in agricultural sector. Saharias also indulged in shifting cultivation when forest land was abundantly available and no restriction was there then on shifting or slash-n-burn cultivation. Thus traditionally, the economy of the Saharias was largely forest based and supplemented by shifting cultivation which is locally known as 'Dahi' or axe cultivation.

8. The Saharias are the most backward tribe of Rajasthan. Due to their utter socio-economic backwardness and assetlessness they live in very fragile condition. They being a weaker section having no voice and social and economic strength, reduced them to the level of serfdom eventually due to their contact with other caste communities who reported to have migrated to the region which was originally the habitat of the Saharias. The habitat of the Saharias at one time provided them enough forest land as required for land rotation in shifting cultivation. However, restriction on shifting cultivation and low yielding made the Saharia to give up to the practice of shifting cultivation. On the other hand, availability of the forest produce viz. Chironji, honey, gum, lac, Tendu, Mahua, Tubers, fruits, wood etc. also got diminished corresponding depletion of forest resources and deforestation. In the absence of any alternative source of livelihood and lack of capacity for earning from any other source had not only pauperized them, but also lead them to abject poverty and vulnerability. They even reported to have taken upon odd jobs like playing music band, cutting grass, cutting wood in the forest and other menial jobs.

9. In 1960, it was mentioned that certain outside caste communities were brought to the region by the then rule of Kota, and were provided with land to introduce improved cultivation methods. With the influx of outsiders who were more advanced and equipped with dominant economy and social supremacy, subordinated the local Saharia community and made them vulnerable to be subjected to exploitation,

land alienation and deprived rights overresources. The Saharias thus, ended up having no viable source of livelihood and therefore, their survival had been at stake. Eventually, they fell in debt trap which extended from generation to generation with perpetual bondage.

10. The non-tribal migrants have taken advantage of the situation especially due to absence of any planned effort to regularize their contact, encroached upon native resources - both human and material. Thus the exploitation of Saharias continued uninterruptedly more so as bonded labourers.

11. Lack of proper land records that establishes ownership of Saharias once cultivated the land has resulted into land alienation through outsiders encroachment, and forceful occupation. Lack of awareness, education and capacity to negotiate with authorities has denied Saharias their right on the land and resources once they enjoyed. To mitigate this, the Government in 1980s, provided land and pass-books to the Saharias to that effect. The land allotted to them was not fit for cultivation, nor are the pass-book holder had economic capacity to develop the land and cultivate. In this predicament, the passbook holders abandoned the land to let others who could develop the land and cultivate. The land allotted to Saharias thus was cultivated by others i.e. non-passbook holders. The Patwaris could not enter the Pass book holder names in to the revenue records as cultivators or owners since they were not cultivating the land. Instead, whoever was physically cultivating land their names were entered into revenue records. There are also cases where passbook holders allotted with specific lands are instead cultivating the land allotted them are cultivating lands allotted to other passbook holders. There are several such cases of disputes. Such conflicting situations generate risk and uncertainties among the Saharias who feel helpless in the matter and wait for certain amicable solution by the Settlement Department. It was given to understand that the Settlement Department is in the process of setting the disputes through conducting appropriate survey of the land. Immediate action in resolving the land ownership and land records will not only resolve the conflict among the cultivators but also ensure confidence in them to pursue cultivation. Prolonged settlement of the issue will possibly dissuade the Saharia from cultivation and opting for alternative source for livelihood for which they are not skilled and qualified as yet. Further there is every fear that they may fall back into the debt trap and bondage.

12. It was during the erstwhile feudal ruler of Kota State, Jaswant Singh Sikhs and Jats cultivators were promoted to settle in the Saharia habitations of Kishanganj Tehsil. These emigrants occupied the irrigated area of Kishanganj Tehsil and were thus made to settle in Saharia belt. Influx of powerful emigrants was the first blow to Saharia economic living. The migrants being better farmers had further cleared large forest areas and converted them to cultivable lands and occupied the same. As and when a large part of irrigated land was captured by the emigrants, the Saharias were pushed back further interior in to forest areas. As a result, in due course of time, the Saharias impoverished and subjected to indebtedness in exploitative terms. Many Saharias even mortgaged their land to the migrants and eventually got alienated from their own land. Devoid of any assured economic source, even at the subsistence level the very survival of the Saharias was at threat. They had no option but to approach the rich moneylenders for loan on very exploitative terms including bondage. Often the entire family of the labourer gets into bondage trap and being poor illiterate and dependent could not get out of the bondage as also for the reason that they could never clear the loan.

13. The system of bonded labour in the region is called 'Hali'. Under the system of 'Hali' a landlord used to engage a Saharia at a 'bare-minimum rate i.e. Rs. 20 or little more, per month to work as agricultural labourer. The labourers' earning was adjusted against the loan, usually falling short of paying interest on the principal loan. It was told that during 1960s and also in 1970s, for a loan of Two to Three hundred rupees, one has to work as 'Hali' for at least one year. The majority of victims who become 'Hali' were the landless ones and those who have small land holding which are unproductive and uneconomic. Sometimes the 'Hali' is given a pair of used clothes and some food grains which is for the 'Hali' alone and not to his family. The food grain and the clothes given were also treated as loan, adding further vows of the borrower. In fact the interest on the loan taken becomes so huge that a 'Hali' is never in a position to clear the interest part let alone the principal loan amount. The vicious situation perpetuates in such a way that a 'Hali' system continues generation after generation with no escape from the strong clutches of the bondage. The borrowing also included food grains.

14. There have been legal disputes between Saharias and the emigrants (Sikh Jats) as regards land ownership in Kishanganj Tehsil of Baran. In 1960 a settlement was made, subsequent to enactment of Rajasthan Jamindari Abolition Bill 1958 (i.e. abolition of collection of cash rent by Jamindars from tenants); the land was leased out to

Saharias. The Saharias had become Katedars or pass-book holders of nearly 1,000 Bighas of land to that effect. There had been protests by the Sikh Jats against land being entered in the names of Saharias. Fraudulent acquisition of lands from Saharias also taken place especially by luring through payment of meager loan or advance, which the Saharias always in need.

15. It was mentioned during the discussions in the field that a particular Sikh had registered a Farmers' Cooperative Society to cultivate about 200 bighas of land at Chainpura Sunda. It was in 1998, the then Collector of Baran visited the Cooperative Farming and on investigation found that the names of the farmers who are registered as members of Cooperative farmers actually did not exist. Then it was decided to dissolve the so called Cooperative Farming Society and freed the entire land from the hold of Sikh Jats and awarded to Saharias to cultivate. However, the land continued to be in hands of Sikh Jats, as the Saharias had to forego physical possession of the land due to fraudulent means adopted and loans extended by the landlords. Consequently the Saharias continued to work as agricultural labourers mostly under the system of bondage i.e. 'Hali'.

16. There had been expression of discontent and protest from many Saharias with the initiatives and support extended by a local NGO by the name of 'Sankalp' located in the neighbouring Shahbad Tehsil. Representation to this effect was made to the Baran District Collector to address to the problem. It was in 2012, the Collector along with Additional District Magistrate-in-charge of Saharia Development Project, SDM, Patwari and Tehsildar visited the farm land at Chainpura Sunda and released the land from the possession of Sikh Jats. The District Administration then identified 135 Saharia families including that of freed bonded labourers belonging to six villages namely Chainpura, Khedla, Dakka, Amroli, Laxmipur and Ganeshpur Gaon. The District Administration present there carried out measurements of altogether 625 Bighas land and handed over the same to freed bonded labourers and other Saharia families. Necessary inputs like seed, fertilizers and other support were extended by Administration to the Saharias to take up cultivation in the 625 bighas of land. It was also decided the land to be cultivated communally. Those who do not join community cultivation, will not be entitled for right on the lands. To handle all aspects of cultivation a Committee has been set up. A grain bank was also set up by the freed bonded labour. Further, it was also decided that the Committee

constituted not only to identify various problems of the freed bonded labourers but also call meeting every month to address the same.

17. This success story of community farming by the Saharia Tribe in general and that of the freed bonded labourers, goes to the credit of the District Administration for recognizing the problem of land alienation, existence of the bonded labour system and taking necessary action for its abolition. The role of 'Sankalp' is not only restricted to leading the movement in abolition of the bonded labour system but also in their rehabilitation through motivating and especially organizing the Saharias in successfully initiating into the communal farming. Besides Saharias there are also 12 families of Bairva community (Scheduled Caste) who are also part of community farming.

18. I visited the community farming land and the associated villages. A meeting with the farmers including the freed bonded labourers reveals that there is general awakening against bonded labour system in the region. The success story of the community farming by freed bonded labourers is confined to six to seven villages, there has been general admittance that the 'Hali' system is still persists. However, due to fear of law against the practice of bonded labour system and compulsion and vulnerability of the poverty stricken helpless Saharias and other weaker sections, the cases of bonded laborer do not surface. Therefore, a deep probing survey periodically across the regions need to be carried out to identify the existence of bonded labour system in its changing forms and characteristics.

19. Once a bonded labour for 20 years, Shivsankar (32 years) of Eklara Village is now a member of communal farming. All the members who join the communal farming, they have made a payment of Rs. 1,200 per family. So far the communal farming Committee has accumulated Rs. 50 Lakh which has been kept under fixed deposit. The interest accrued is used as revolving fund to provide loan to the needy. The Committee also owns 2 tractors. The 'Chaupal' or the committee meeting is held every Tuesday and Thursday to discuss day to day developments and issues.

20. I visited 'Sankalp' office at Mainum Village in Shahbad district and discussed, various aspects relating bonded labour and communal farming by the freed bonded labourers. In fact, the above details were not only based upon the discussions held with natives and freed bonded labourers but also meeting held with 'Sankalp' representatives (Ramesh Chandra Saini and others) and also representatives of Jagriti Mahila Sangh than (one of the voluntary agencies spearheading the

movement against the practice of bonded labour system in Baran District). Both 'Sankalp' and 'JagritiMahilaSanghthan' hold meetings every month wherein the Saharias and the freed bonded labourers also participate. The meetings deliberate upon various issues related to the villages of Saharias, well being and rehabilitation of bonded labourers and communal cultivation, etc. They have organised a group of people working in this area to get periodic feedback and also reports of developments taking place.

21. It was told that although about 200 bonded labourers have been identified by 'Sankalp' and reported to the District Administration for issue of identification certificates, only 137 have been certified, liberated and supported with rehabilitation package. There are 67 applications of bonded labourers pending with the administration for identification certificate and rehabilitation. This was revealed in front of the ADM, Tehsildar and the Labour Welfare Officer.

22. Traditionally, ahas been mentioned, the Saharia derived livelihood from collection of forest produce and supplemented with shifting cultivation. With the arrival of emigrants who are better agriculturists have taken advantage of the vulnerability of the Saharias and forced them to bonded labour system -'Hali'. This has, however, made Saharias acquire better knowledge and techniques of cultivation. Thus, as of now it was told that 90 percent of the Saharias depend upon agriculture and majority of them are agricultural labourers including those subjected to bondage. The need for providing skill training in suitable vocations that will help them earn alternative source of income should be taken up under the Skill Development Programmes.

23. The Saharias including the released bonded labourers among them, as of now, have the essential knowledge and skills of agriculture. But they do not have any other skill or qualification to find placement in any other occupation to find placement in any other occupation. In view of this, the landless Saharias including the freed bonded labourers are seeking allotment of wasteful forest land to them for cultivation. There is not much of flora and fauna in the adjoining forest land. Virtually the forest area is barren with scanty vegetation hardly portrays forest landscape. It was mentioned in the meeting that 443 applications were made by the landless Saharias (including those who were once bonded laborers) to provide the barren forest land for cultivation. Response from the Government is awaited. It was mentioned by the natives of Amroli, Kheda and Kelewada villages that the school dropout is very high in the region. The villages viz. Garada, Karhari Kala, Nanotri, Khaspur, Dikenia

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and Sunwada either do not have teachers in the school or not in adequate number as sanctioned/required. Regular presence of teachers in the schools will encourage the parents to send their children to the school. Otherwise school dropout's rates would persist. The Saharias still continue to persist in utter backwardness and poverty needing contribution from the children in production. The situation thus makes the parents think children as economic assets. In fact, a child starts working at home or field almost like an adult at the age of 11 or 12. The bonded labour system reported to have engulfed children as early as when they are 11 or 12. Thus the existence of invisible child labour even in bondage condition cannot be ruled out, unless micro level intensive study/survey is carried out focusing situation of children among the Saharias.

24. It is necessary to visualize agriculture and agrarian economy in the region as labour intensive. It is always a strategy of landlords to mobilize and recruit cheap labour, notwithstanding the minimum wage stipulations. The circumstances of desperation of the Saharias always made them to take advances or loans from in the exploitative terms. Unless economic and social rehabilitation is done in a sustainable manner, the erstwhile bondage system may revert to be as usual. This is because the forces and strengths of the landlords are more powerful than the capacity of the Saharias. When more and more Saharias are released from bondage and made free, their emergence shortage of cheap agricultural labour. The landlords who are used to exploits of bonded labour are hard pressed to get labourers needed for cultivation at cheaper rate. They will possibly, always in look out for victims to be trapped under bondage. The administration, therefore, need to be proactive in preventing any bonded labour recruitment.

25. In the meeting with Collector, Baran and other official, it was mentioned that the employers who have kelp bonded labour could not be penalized or punished due to the fear of conflict and unrest in the region. This implies that the landlords are powerful enough to create feud if they are concerned. In such social equations of super ordination and sub ordination, the Administration need to carefully and proactively devise strategy and plan for release and rehabilitation of bonded labourers in adherence to the provisions of legislations and Supreme Court directives in the matter.

Bonded labourers Rehabilitation colony at Eklera Danda

26. I visited bonded laborers rehabilitation colony located at about 3 kms away from Eklera Danda village in Kishanganj Tehsil. This is an exclusive colony of the released bonded labourers. There are 45 houses in the colony. The houses in the colony were built under the Central Sector Schemes of "Conservation-cum-Development for Saharia Primitive Tribe Group Programme". Smt. Mamta Bai (55) once belonged to a bonded labour family now associated with 'Jagriti Mahila Andolan' mentioned that the colony was set up subsequent to release of bonded labourers by the District Administration in 2012. Most of the released bonded labourers were working under bondage to the local landlords and money lenders belonging to Ahir and Bohra communities. The other rehabilitated bonded labourers interacted with include Kheta Ram (60), who mentioned that he was bonded labour for entire life till he was released. Kajar another bonded labourer of age of 50 but looks very old as would be in his 70s, hails from Alampura of Chabu Block. The main reason for borrowing from local land lords/moneylenders against bondage include, marriage, sickness, to clear earlier loans, hunger etc. Kajar borrowed Rs. 6,000/- and claimed that he could not clear the loan even after 10 years of bondage. During bondage period he was given 20 to 30 kgs. of food grains annually to feed his entire family. Shiv Sankar (36) was under bondage for 20 years that is since when he was 12 years of age. In the beginning he was getting Rs. 5,000/- per annum, but later at the rate of Rs. 1,200/- per month. He cannot be absent from work for a day even on sickness. If he did, Rs. 40/- per day was deducted from the Salary as he is not entitled for any holiday.

27. Of the 45 families of rehabilitated bonded labourers belonging to Saharia, 16 of them are from the neighboring Shivpuri District of Madhya Pradesh from Sabakara village. These Saharias of Madhya Pradesh were migrated to this area at the instances of their relatives in Kishanganj area for employment even under bondage system as their conditions back home was miserable that their survival was at stake. One such bonded labourer is Prakash, while he worked as bonded labourer he was subjected to economic exploitation and was physically beaten up. The police at Kethegam did not even register FIR. Brij Mohan, another bonded labourer rehabilitated in the colony narrated that he had come from Kusipur, Madhya Pradesh, had taken loan of Rs. 20,000 from a landlord (Hansraj) at Barwara (Chabra Block). He worked under bondage and used to get Rs. 2,000/- per month. Even after working for 3 years the loan outstanding was Rs. 40,000/-. An interesting dimension of bonded labour system operation came to the

surface, when the Brijmohan's case was further probed. Another land lord by name Chotmal of Nagar community was in need of a bonded labourer to work under him, has negotiated with Hansraj, to transfer Brijmohan to him and he will clear the outstanding loan of Rs. 40,000/-. This was agreed upon and Brajmohan was transferred to Chotmal. Brajmohan , as a result owes Rs. 40,000/- to Chotmal as loan and hence under bondage. He was mentally and physically abused by the landlord and being illiterate not able to know details of his earnings deductions against the loan. It was one of his relations in Alampura who contacted him and the movement initiated by MahilaJagritiAndolan and Sankalp initiatives that his case was taken up and now he is freed bonded labourer.

28. These cases of bonded labourers not only suggest possibility of the system is persistent and lack of voice of the victims (bonded labourers) but also the evil phenomenon continue to exist in silence. These bonded labourers migrated from Madhya Pradesh, due to lack of legitimate domicile residential claims are far more vulnerable. Therefore a survey needs to be carried out both to identify/locate bonded labourers hailing from Madhya Pradesh or any other state. There should be a mechanism in place involving the States concerned to chalk out strategies in maintaining an inventory of such labourers migrating from state to state as a joint effort, as per the Inter-state Migrants Workmen (Regulation of Employment and Conditions of Services) Act, 1979. Further they need to be in constant touch in the process of rescuing and rehabilitating the rehabilitated bonded labourers. Concerned states, through negotiations, channelize the benefits and support to the freed bonded labourers through their respective welfare and development programmes. Every action taken by the State(s) individually or jointly in abolition of bonded labourers should be posted to the NHRC.

29. The houses built for the rehabilitation of the bonded labourers although pucca with a single window and entrance, has no ventilation otherwise. It is a single room structure and the cooking is done on the verandah or in the very same single room. While some houses do not have toilets, many have toilets in front the house (on either sides of the road). These structures are constructed under 'Swachchh Bharat Abhiyan'. There is not a single tree planted in the colony. The colony has however, has a community hall for the residents to have meetings and conduct other social events. The colony is still not provided with electricity. The colony does not have drainage facility which is a requirement, the inhabitants aspiring for. Many houses have seepage problem in the rainy season as their concrete roofs leak.

30. When a query was made about a hut existing adjoining the pucca houses of the bonded labour rehabilitation colony, it was told that this belongs to Kanulal (40 years) who lives with his family. He was a bonded labourer once in Sakrabala Village employed under ShobramMeena. He has taken an advance of Rs. 20,000/- and worked under extreme bondage conditions. And when he resisted against the atrocities inflicted upon him, he was beaten up by the employer and others also joined him. Hearing the news, the Superintendent of Police was contacted by one Gyarsi of 'JagritiMahilaAndolan' and the police rescued him from near death. It is unfortunate that till date no certificate has been issued to him to make his case as a legitimate bonded labourer so that he could claim benefit as per the entitlement under rehabilitation programme.

31. Each Saharia family in EkleraDanda being a BPL family belonging to Saharia community, a Particularly Vulnerable Tribal Group (PVTG) gets 35 kgs. of wheat, 2 kgs. of oil, 1 kgs. Desi Ghee, 5 Kgs. of pulses and 5 litres of kerosene every month. Almost all in the colony work under Mahatma Gandhi National Rural Employment Guarantee Act programme (MGNREGA). They mentioned they earn Rs. 200 per day and can work for 200 days in a year under MGNREGA. Persons above the age of 60 also receive old age pension. Within the colony there is a 'Maa Bari', a preschool cum elementary school regularly attended by a teacher. An Anganwadi Centre is also there functioning properly and attended by children. The supplementary feeding, vaccination and pre-school education is provided through the Anganwadi Centres. All the rehabilitated bonded labourers are holding Aadhar Cards, Job cards, Ration cards, BPL cards and most of them have opened Bank Accounts.

32. The entire colony looms in darkness in the night, hence the villages made a request for Solar powered lamps. The colony still not connected with pucca road, making it difficult for the village to commute especially in the rainy season. One of the serious problems faced by the colony that most of the men are addicted to alcoholism. This was especially expressed by women. In the meeting itself many have come drunk and completely disoriented. Alcoholism assumes an endemic threat. Many women complain that all their earnings go to alcoholism. Many have been subjected ill health and in very fragile condition. An immediate plan of action needs to be worked out to counter the menace of alcoholism. Otherwise the good effort made for rehabilitation will be at jeopardy and would appear as counterproductive. It is a general feeling that alcoholism is not restricted to the colony alone; rather it is rampant among the Saharia Tribe and the region at large.

33. There was a general demand that they may be provided with some land to cultivate. The forest land adjoining the Eklera Rehabilitation Colony, actually a barren terrain of 200 bighas. If the same is allotted to them - they being good at agriculture, convert the forest land to agricultural land and cultivation of which will bring about economic upliftment and empowerment.

34. The residents of the colony have organized themselves to establish a Grain Bank, with the help of the 'Jagriti Mahila Sangathan' and Sankalp. Generally the aspirations of the colony residents indicate the new awakening to be self sufficient and also exert their rights. Amidst the positive developments, there are some issues such as the depression that prevail among some freed bonded labourers, as they have gone through years of tyranny and torture for bondage in solitude. While interacting with the residents, one freed bonded labour (Shivsankar, 40 years) was there to speak about his woes, but his mental condition is so disoriented due to severe depression, he could not speak coherently and clearly. The trauma of bondage has affected all those who were subjected to the same mildly or severely. The rehabilitation package should therefore need to include counseling by professional psychiatrists to restore their normal mental condition. It is also possible that the alcoholism prevalent among residents of the colony may have to do with depression they are under.

35. The Saharias are listed as a Primitive Tribal Group (PTG) by the Ministry of Tribal Affairs at the centre. A Primitive Tribal Group is identified on the basis of their small number (whose population is either declining or stagnant), low level of literacy, pre-agricultural level of technology and economically backward. The Saharias, just like any other PTG remain very backward as they have not attained any significant level of social and economic progress. Therefore, they became the most vulnerable section even among the Scheduled Tribes. They are the only PTG in the state of Rajasthan. In order to give special and specific attention to their survival, protection and development, they have been covered under the Scheme of Development of Primitive Tribal Groups by the Ministry of Tribal Affairs launched in 1998 as Central Sector scheme. In view of the fact that they are the most vulnerable and often live in scattered habitats and in very fragile condition, the Scheme of Development of Primitive Tribal Groups provides for socio-economic development in a holistic manner with suitable action plan and activities with flexible approach as per their specific situation, needs and problems of a PTG such as the Saharias.

36. The term 'Primitive Tribal Group' has been renamed as Particularly Vulnerable Tribal Group (PVTG) in view of derogatory attributed attached to it. The State Government as the implementing agency prepared suitable Comprehensive Conservation-cum-Development Plan (CCD) for each PVTG as an extremely flexible scheme focusing the areas that state government consider relevant and suitable to a PTG and critical to their survival, protection and development. The state government is required to conduct a baseline survey of the PTGs on the basis of which CCD plan is prepared.

37. In 2002, as baseline socio-economic survey of Saharias PVTG was conducted by the Tribal Research Institute, Udaipur. Based upon the survey, the Conservation-cum-Development Plan for Saharias PVTG was prepared by the District Collector, Baran. The problems of Saharia PVTG identified to be attended in XIIth Plan on priority basis include Housing, Inadequate Educational facility, Sustainable livelihood, Health, Social Security and Electricity. The baseline survey conducted seems to had not taken in to account the problem of the bonded labour system prevalent in the area, which mostly employed Saharias under bondage in agriculture sector. Therefore, the CCD except for mildly referring and addressing the problem of bonded labour among Saharias in terms of their rehabilitation, there is no focused and comprehensive plan of action. In fact, the issue of bonded labour directly impeach upon their survival and protection.

38. The socio-economic survey then conducted in 2002, had missed out taking out a survey of Bonded Labourers among Saharias. Had it been done, then the burning problem of bonded labour and its magnitude could have been projected and suitably addressed in the Saharia PVTG CCD Plan. However, no study to evaluate the Saharia CCD Plan is done (as was given to understand) till date. A fresh comprehensive socio-economic Study may be carried out to capture and understand the magnitude, problems, dimensions and dynamics of bonded labour system as prevalent in the Saharia Tribal areas before next CCD Plan is prepared. Simultaneously in the same vein evaluation of the rehabilitation programmes of freed bonded labourers also needs to be done.

39. The Saharias have changed their traditional occupation of collection of forest produce to agriculture. The occupational change is mainly due to their vulnerability arising due to degradation of forests and their survival compulsions that made them bonded labourers (Hali) of the

local landlords. The 2002 survey on Saharias indicate that among the total working population of 33,352, 29,537 i.e. little above than 88 % were labourers (essentially as agricultural labourers), 1873 persons around for 5.6% were then engaged other occupations. In another instance it is mentioned that while one fourth of their population were cultivators rest three fourth of them were agricultural labourers. The agriculture which was earlier secondary has become primary source of livelihood.

40. The Survey recognized that the Saharias were alienated from their lands and land transfers are made through unscrupulous methods adopted by the local money lenders and land lords and this was happening despite the law in place preventing tribal land alienation at the time of survey i.e. in 2002. The Saharia land alienation need to be prevented unless they from being owner of the land, will become a bonded labourers. This was the general feeling among the Saharias and NGOs visited. There is an urgent need to conduct a survey by the District Administration not only to gauge the magnitude of Saharia land alienation but also to evaluate and review the Tribal Land Alienation Act. After having identified the cases of land alienation immediate action need to be taken restore the same to the legitimate owners of the land – the Saharias.

41. In the field it was learned that many Saharias mortgage their land to the local money lenders and landlords. Often they forfeit the land as they fail to pay back loan borrowed at compounding interest rates. The survey suggested also need to focus on the magnitude of Saharias land that are given out on mortgage. Immediate restoration of mortgaged land back to the Saharias families as may be exercised as per the provisions of the Bonded Labour System (Abolition) Act, 1976, Prevention of Tribal Land Alienation Act, Prevention of Atrocities and Protection of Civil Rights Acts meant for SCs and STs. Expedious action in restoring Saharia land back to owner would not only proactively prevent the possibilities of bonded labour recruitment but also help release the ones under labour bondage.

42. The 2002 Saharia PVTG survey report indicates both Saharias encroaching land and their being encroached by others. The land encroached by Saharias (9,861 bighas by 217 households) is government land which includes forest land, waste or barren land. Whereas Saharia land encroached by others (918 bighas of 118 Saharia households) is agricultural land which is fertile and irrigated. On the one hand the lands of the Saharias encroached by others need to be restored back immediately in a time bound manner and on the other,

the Saharias encroaching the government land may be given ownership rights which could be considered as per the policy of the government providing land to the STs under Tribal Sub-Plan (TSP), Grant-in-aid under Article 275(1) of the Constitution, Special Central Assistance to TSP, ST Finance and Development Corporation, State Tribal Development Corporation and for the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This may be included as a priority activity in the forthcoming CCD plan for the Saharia PVTG.

43. I visited a government residential school meant for ST girls located in the sub-urban locality of Kishanganj, en-route to Sahabad. The school is known as Janjati Balika Avasiya Vidyalaya (JBAV). There are 188 inmates in the school studying in class VI to XII. While majority of the inmates (80%) belong to Saharia PVTG, others belong to Meena - a ST community of Rajasthan. Most of the inmates are from Kishanganj and Sahabad Tehsils of Baran District. However, there are a few belonging to Meena community from the neighboring Sowai Madhopur District. The JBAV is being run under the CCD programme of Saharia PVTG. It was observed that the infrastructure and other facilities in the JBAV are maintained well. The store where the food items, viz. Atta, Rice, Sugar, Oil, vegetables, etc. are kept under clean and a hygienic condition in an organized manner. There is a tube well to ensure adequate clean water. The toilets, of course, could have been in better conditions, as they emanate a foul smell wanting better cleaning efforts. The rooms where the inmates live are clean and kept tidy. The residential school is surrounded by compound walls and has enough space for students to play.

44. At the time of visit, all the teachers and other staff except for the Superintendent were present. The inmates appeared healthy indicating normal growth and good nutritional status. Educationally, the JBAV is performing satisfactorily with 100 percent result with some passed out with First class. Considering the Saharia girls with their socio-economic backwardness having no opportunity and awareness could be able to perform well in education indicates their optimism and inclination for aspiring a better social and economic status. The inmates are ambitious and confident to bring about change in their society. These students desire to take up the professions of teaching, science and technology including computer science, engineering, sports etc. However, JBAV only provides subjects of Humanities viz. Home science, Political Science, Hindi etc. The JBAV should introduce science subjects since the students have aptitude and interest in Science subjects. Moreover, promotion of

science subjects would enhance the eligibility of students to have more multiple avenues for careers and placements. Introduction of science subject is an urgent imperative as these girls when qualified technical subjects will contribute to their society as the agents of social change and economic development. The JBAV need to be provided with Telephone Connection, since it is located away from the main settlements. Once connected with telephone not only it would ensure security but also help both the children and parents to be in touch with each other.

45. While leaving the JBAV and heading towards the Shahpur Main Road, on both side of the connecting road there are clusters of nearly 40-50 hutments. These hutments are mostly one room sets and many seen covered with polythene sheets. The conditions of these hutments appear to be devoid of almost all basic amenities. Though could not visit the settlement due to a meeting fixed at another place, one can visualize from the very appearance of the settlement which manifest the miserable conditions that the people live in there. On query, the state government officials mentioned that these hutment/houses are built on the government land and are illegally occupied. And hence are being deprived of basic amenities. It was not ruled out that some of the settlers could be of Saharias working as daily wage workers. In view of the vulnerability of Saharia especially as bonded labourers (either under some bondage/ or freed from bondage), such settlements need to be surveyed and studied and necessary services and support need to be extended to ensure that they are provided with at least basis amenities and benefits. Notwithstanding their residential status, special strategy and programme need ot be conceived / formulated and implemented.

Visit to Brick Kiln

46. It was given to understand in the meeting held with District Official at Baran that bonded labour system is prevalent only in agriculture sector. It was also given to understand that there is no other industry that practice bonded labour system in the Baran District. However, one gets skeptical of the narrative, mainly because if a system which traditionally practise bonded labour recruitment it would have a pattern and conditions of bondage in labour appointment in the same manner in other industries. An investigator would, therefore, vigilant and curious to find out in the field of any bondage in labour deployment exist in any form (rigid or soft) in any industry or establishments.

47. At about 15 kilometer from Kishanganj on both sides of Mangrol Road, there are a chain of small scale brick kilns. These brick kilns are seen with both male and female labourers of different age groups ranging from 12 to 50 years. I stopped at a brick kiln at Samaspur randomly. I met Dholuchand, Rajendra, Rajkumar and Rampal working in brick kiln. They are working in the brick kiln unit owned by Ram Kumar belonging to Kumhar (potter) community, resident of Kishanganj. However, the workers are from different villages of Baran District. The workers generally belong to the backward communities including SCs viz. Berwa, Horija, Meena, Dhakde, Kumhar, Mali, Koli, etc. They are either landless or have such small holdings that their families cannot subsist upon. There are about 10 families of laborers living in temporary huts in a cluster adjoining the brick kiln itself. These huts have electric connection. However, are devoid of toilet and water facilities. There is no school at an accessible distance from the settlement, nor is there any medical facility. They virtually live in seclusion and isolation.

48. The labourers and their families have been working for several years (no less than 4 to 5 years). They work for 8 months in a year barring for 4 months of rainy season. During the break of four months they return to their native villages, as in the monsoon season the brick kilns do not function. Some of them also have been working for 20 years or more. They are paid Rs. 450/- for 1,000 bricks (for laying, drying and burning). There are at least 25 families known to them working in brick kilns in the vicinity. The children of 12-14 are also actively participating in all the work involved in brick kiln. After all manufacturing number of bricks which accounts for the family earning. The younger children of school going age, when asked, the parent mentioned that they do not go to school. Taking advance from the brick kiln owner is the general practice. The contract is for eight months and no labour can leave in between. They do not have any middlemen involved in arranging labour for brick kilns.

49. While discussing with the labourers, the brother of the brick kiln owner, Naresh arrived. His arrival made the entire scenario changed. The labourers ceased to speak and understandably avoided meeting and interacting. The stage was taken over by Naresh who on his own mentioned that the children of the labourers go to school, to ease out the situation, I had to call off the meeting as I witnessed tense and discomfort among the labourers. Much I wanted to gather information as regards the conditions and magnitude of the problems in terms of advance or indebtedness, with the entry of the brother of the owner, but I had to leave the query then and there. It may be inferred from the

situation that there exists some sort of bondage and this cannot be admitted by the labourers due to their dependency on the employer, as he provides livelihood. Evidently, thus their voice and freedom ceased as soon as the owner of the brick kiln arrived.

50. The labourers working in the brick kilns mentioned that they were never visited by any government official. They are not aware of any records exist about them as brick kiln workers. It was surprising that so many brick kilns operating in the adjacent to Baran District Headquarters, none from government side have ever visited these units. As per the Supreme Court directions the District Administration need to carry out regular monitoring of the brick kiln units to ensure protection of the interests of the labourers working there in under bondage. Moreover, in 2015 NHRC directed the District Administration to do mapping of all the brick kilns units to ensure that all provisions of Bondage Labour System (Abolition) Act, 1976 and other related Acts are implemented. The district officials mention that the shortage of officials, especially there being not a single Labour Inspector posted in the district and one Labour Welfare Officer attending to both Kota and Baran Districts; is the reason that they much needed mapping and monitoring are not done.

51. The mapping of all the brick Kilns need to be done urgently in meticulous and probing manner to identify the facts and conditions that subscribe to the existence of bonded labour. Regular and periodic surprise visits need to be carried out by the Sub-Divisional Vigilance Committee members and submit their reports to the District Vigilance Committee for taking further necessary action in the matter. Detailed documentation of the brick kilns units, bonded labourers, employers, action taken (identification, release and rehabilitation) should be maintained, updated periodically and regularly.

52. The general impression among the officials of District Administration in Kota district is that there exists no bonded labourer as neither such a case was reported nor noticed. There has been no special effort, nor any special approach adopted by the District Administration, Vigilance Committees, Police Department and the other concerned to identify industries (small or big) and other work units, where there could exist recruitment of labourers under conditions that could be attributed to bondage.

53. In view of the above, I decided to visit randomly any work unit having labour deployment. On locating a few brick kilns units at Jagpuraon Jharod Road (National Highway-12), at about 15 kms from Kota town., approached to a brick kiln unit where the labourers were seen working, even though it was Sunday. Both men and women seen working. There are some dwelling units (hutments) for the labourers' families to live, adjoining the brick kiln units. Children of all age groups seen roaming around and seen giving helping hand to their parents by pushing brick loaded trolley and looking after younger siblings. There is no electricity supply to these dwelling although electricity connection is there to the water pump for watering soil for framing bricks. Incidentally the labourers use the water that is supplied for brick laying as there is no other source of water. There are about 20 families working in 4 brick kilns in the locality.

54. All the families working in brick kiln visited are from Madhya Pradesh. They hail from Makimpura and Sajapur of Susner Tehsil, Gagonivillage of Jeerapur Tehsil, Jheria and Pragari of Joshpur Tehsil of Rajgarh District of Madhya Pradesh. Devial a labourers (30 years) lives with his wife and child of one year old. Recently his brother-in-law (wife's brother), Rakesh, 18 years of age, also joined them to work as a labourer in the brick kiln. They belong to low ranking castes, viz. Tabhaand Erwal (SC families of Ravidas Panth). People from Madhya Pradesh have been working in these brick kilns since 50 years in the region. Those in unit visited, however, have been working since 7 to 8 years. Every year they come to work in brick kiln in Karthik month (October) and work till arrival of monsoon in June. During monsoon season being rainy season no brick kiln work could be carried out, the break is for 4 months, when they return to their native villages.

55. Just as in the Baran, majority of the labourers are either landless or have very small land holdings that which cannot sustain their families. Majority of them take advance from the brick kiln owners, there is no payment on the daily basis or working hours basis. It is contractual where in Rs. 350/- is paid for 1,000 bricks in case of those taken advance and Rs. 400/- per 1,000 bricks paid to those who have not taken any advance. No interest is charged against advance taken as the same is otherwise, indirectly charged with lesser payment for the same number of bricks (1,000) paid to the non-borrowers. The advance which is actually a loan, is adjusted from the earnings of the labourers. I was told by the labourers that two persons can lay about 1,400 to 1,500 bricks a day. The day is not restricted to 8 hours of working rather can be upto 12 hours. There cannot be any fixed time or routine. They may

have to work both in day and night to achieve a viable fixed target of number of bricks. The labourers are in possession of mobile phones, and brick kiln owner contacts them directly on regular basis. There are no middlemen involved in the process of labour placement. Payment is made every week. The owner directly summons them on phone as soon as monsoon comes to an end. The amounts and details of the payment against earning is maintained by both the employer and the employee if literate. Otherwise an illiterate labourer depends upon a fellow literate labourer. However, a written account is available with all the employees.

56. If the advance is not cleared in the same year, i.e. within the cycle of brick laying period of 8 months, he is bound to continue next year. Kamal borrowed so far Rs. 90,000/- in two installments i.e. Rs. 50,000 earlier and Rs. 40,000 later, is yet to clear his debt and hence continues work and may continue further. They can only take two days off in a month i.e. on Amavasya (Dark moon day) or Purnima (full moon day). These twodays break are also avoided by the labourers often as that could reduce the quantity of brick production. Except Baram who holds a BPL card (issued by government of Madhya Pradesh) no other labourer hold any BPL Card though seems entitled. Baram goes once in a month, on one of the two holidays entitled, to collect ration provided to the BPL family or as Antodaya Anna Yojana bringing (35 kgs. of wheat, 4 kg of oil, 1 kg sugar and salt) he spends around Rs. 200 per visit to his native place. No other labourer mentioned to have received any benefit from any government programme neither from the origin state Madhya Pradesh nor from the state of Rajasthan where they work.

57. There is no school nearby at an accessible distance for children to attend schools. There are about 10 children of school going age. However, when they go to their native places during monsoon (4 to 5 months) then they attend the School and also said they get passed, despite remaining absent during rest of the academic session. Whether taken advance or not, a labour cannot leave the work for one year (i.e. October to June). There is no medical facility available within accessible distance. Nearest medical centre is located at about 4 kms. from their dwelling area and it costs Rs. 10 per ticket (one way) to go by bus to avail medical services. Four to five months of break from brick kiln does not ensure them of any temporary employment at the native place. The crisis time for the family which leads them to borrowing? Eventually, this perpetual cycle forces them to vulnerability including working as labour at any condition including bondage.

58. These brick kilns units located in the very outskirts of the Kota town ships, no officials from Labour or any other Department ever visited these units, said the brick kiln labourers. In the meeting held with Additional District Magistrate, Sub-Divisional magistrate, Labour officers, Police and other enforcement agencies, it was established that generally the Patwari and Gram Sevaks (village level workers) who report about the existence of bonded labourers and thus the District Administration depend upon these two field level officials. Besides, they through complaints received come to know about the existence of bonded labour. However, no complaints received in the recent times, said the officials present in the meeting. In the 'Jan Sunwai' or public hearing held on every Thursday across the Gram Panchayats also never reported of the bonded labour. The District and Sub-Divisional Vigilance Committees also reported not having come across any bonded labour. On specific question regarding advance or loan taken by the labourers, the SDM has said no such case had been reported.

59. The facts as they are found as per the visit to the Jagpura brick kiln unit and the facts as surfaced on the meeting with District officials, indicate that neither the concerned District officials or SDM level officials ever made any visit to the brick kiln unit let alone probing existence of bonded labour system. Absence of priority and focused attention to the subject: 'abolition of bonded labour system' is the reason for not noticing the brick kiln units and the existence of the bonded labour. The presence of brick kiln units without any record, register, or any survey conducted about the conditions of labourers indicate that the District Magistrate has not followed the recommendation of NHRC (2011), to have proactive approach towards abolition of bonded labour system and exercise their powers judiciously, diligently and with empathy and sensitivity as empowered under section 10,11 and 12 of the Bonded Labour System (Abolition) Act, 1976. It was also recommended (8) by the NHRC (2011) to conduct surveys in bonded labour prone areas by the Vigilance Committees associating NGOs and social action groups. However, such survey is pending. The survey or mapping had it been undertaken these brick kiln units could have been registered and their functions could have been recorded. One of the important recommendations (4) of the NHRC (2011) to the States to adopt Standing Operating Procedures (SOP) for developing mechanisms through the labour department of registration of Brick Kilns and procedures for proper application of empowerment of agencies. The situation at the District Kota do not reflect honouring this aspect (Same is in the case of brick kilns in Baran district). There is an urgent need for all the officials and personnel concerned including Tehsildars, Patwaris, Gram Sevaks, Police officials Vigilance Committee

members, Labour and Revenue officials to be sensitized and trained intensively periodically on regular basis so that the much detested exploitation and bondage of labour can regularly be addressed.

60. The labourers working in the brick kiln unit said that they were never been visited by an official from the government side. This implies that these brick kilns might have not been registered and thus not covered under any survey or surveillance. Under sections of "Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act , 1979" no employer of an establishment employing inter-state migrant workers in the establishment viz. the brick kiln unit, unless a certificate of registration is issued by the appropriate authority to run such units. In other words registration of ther brick kiln units is a prerequisite (Sections 4). Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

61. The workers in the brick kiln when asked, in presence of District officials especially from the Labour Department, expressed ignorance of any particulars have been submitted about them by the employer to the designated authority, although this is one the prescribed duties of the contractor or employer as per section 12(a) of the Inter-State Migrant Workmen Act, 1979. The labourers in the brick kilns also denied of being in possession of any Pass-Book affixed with his/her photograph and furnishing details viz. the name and place of the establishment wherein he/she is employed; period of employment; rates and modes of wages; deductions made etc. Issue of Pass-Book to the workers is the duty and responsibilities of the employer under section 12(b) of Inter-State Migrant Workmen Act, 1979, seemed not been fulfilled in respect of the establishment (brick kiln units) visited.

62. Under section 20 of the Inter-State Migrant Workmen Act, 1979, State is to appoint Inspectors to ensure implementation of the Act and in letter and spirit and exercise the powers as provided under the Act. However, the fact that no visit of any official including the designated officer (Inspector) if any, ever came across by the brick kiln workers, amply establishes that Act is not being implemented as required. In order to ensure that the workers are not exploited socially and economically and also madevulnerable to any inhuman conditions reflecting bondage, there is an urgent need for the District Administration to conduct a probing survey and mapping of such industries(small or big) that are prone to bonded labour system and ensure with the well charted planof action for effective implementation of Bonded Labour System (Abolition) Act, 1976; Inter-State Migrant Workmen Act, 1979; Child

Labour (Prohibition and Regulation) Act, 1986 and other related Acts, viz. Minimum Wages Act, 1948 etc.

63. In the District Vigilance Committee meeting held as recently as on 2th Feb. 2016, it was decided to conduct a survey as regards issuing identification and release certificates to the bonded labourers. In the meeting it was mentioned by the Joint Commissioner, Labour Welfare Department that as per the survey was carried out earlier during November- December 2015 only in Kanwas Subdivision, there was no report of existence of bonded labourers. However, no survey was carried out in other Sub-Divisions of Kota district. Instructions were given DM to the District and Sub-Divisional Vigilance Committee members to make intensive and probing field visits to the bonded labour prone areas. It was told specifically to visit the brick kilns and mining areas.

Child Labour

64. According to the report "Children in India – 2012", Ministry of Statistics and Programme Implementation, the proportion of children engaged as workers in different activities account to 19.6 per cent of the total population in the age group of 5-14 years in Rajasthan. They are engaged as both paid and un-paid workers at his/her own household or outside, in different vocations including agriculture, household industry, dhabas, confectioneries, small mechanic shops, brick kilns etc. The district of Baran and Kota are not exceptions so far as the child labour situations is concerned in the State of Rajasthan. While travelling through villages and towns, children especially in the age groups of 12-14 (assumed on the basis of their physical appearance) seen engaged as venders, helpers in small automobile repair shops, dhabas, brick kiln units, etc. it was also told in the field that the girl children are generally engaged as domestic help.

65. In the meeting held with the officials of Labour and Child Welfare Departments reveal that due to media coverage and increased campaign against child labour, there is general awareness among all sections of the society about the prohibition on engaging children as workers. The awareness about prohibition on child labour is however, seen more in urban areas when compared to the rural areas. The enforcement agencies such as the Police, Labour Department, Child Welfare Departments seldom visit rural areas with focused intention of probing in to the existence of child labour. Where as in towns like Baran, the police conduct raids in market every week to rescue child labour if

engaged in any shop, workshop, hotel, dhaba or any other production unit. Before any raid of the premises is conducted, the police beat constables in civil dress are deputed to investigate into the work places to see whether any child is being illegally engaged as a labour. After establishing the fact that child labour is employed, complete videography of the premises is carried out as an evidence to the case. The Dy. Superintendent of Police mentioned that such raids are done every week in market and other places prone to child labour deployment.

66. Once the raid is carried out and the Child Labour rescued, unless written or any legitimate proof is available to establish the age of the child; the Doctors, (designated for the purpose) at PHCS and SHCS are contacted and the age of the child is established. The police files FIR immediately. The Anti Human Traffic (AHT) unit also visits the places and conduct incognito raids. Every district has an AHT unit consisting a squad of 1 Police Inspector, 2 Head Constables, 5 Constables and one driver. The AHT unit is provided with a vehicle. The Child Welfare Committee is informed about the children rescued on the same day when the raid conducted. The case is produced in the Court immediately for legal proceedings in the matter.

67. The child labourers rescued are mostly from the shops, hotels, eating joints and dhabas. There is no fixed hours for work for a child labour. Generally they are working through out working hours of the establishment. Children are generally working in eating places as they get free food. The remuneration paid for working is not revealed as the children are scared of disclosing about their working conditions. Onproven guilty of offence committed an employer of child labour can be fined up to Rs. 20,000/-. The employer also taken on custody, it is the court which gives the bail to the offender. The Child Welfare Committee (CWC), which functions under the aegis of the Child Developed Department, takes charge of the case and the Police do not have any say after they hand over the rescued child labour to CWC. The CWC is composed of a Chairperson, 5 members representing NGOs and voluntary agencies and others related officials. The CWC is constituted every three years.

68. During January 2015 to March 2016, as many as 27 child labourers were rescued. All rescued are from Baran town only and were working mainly in Hotels and Dhabas. All children rescued are from urban areas of Baran Distrit. The child labourers rescued are from the backward and poor families belonging to communities viz. Lohar (Black smith), Koli, Rajput, Gujjar and Kumawat/Kumhar (potter) and all are

boys. Soon after a child labour rescued, his whereabouts are established and his parents are contacted. The rescued child then handed over to the parent(s). The entire antecedents of child rescued and his parents are kept on record by the CWC. The parents are not paid any transport charges nor any support to stay in town if so required. Then parents do not turn up to take the child, the child is kept in the orphanage home (Palanhar). The local NGOs running orphanage homes also come in aid to host a rescued child labour when parents disown him.

69. The officials including that of CWC, Police and Labour Department categorically denied any child labour engaged in any hazardous industry in Baran District. While travelling from Shahpur to Kishanganj (close to Kishanganj town) on the road side we stopped at Ramparia- a JatDhaba, as expected a boy from Lohar community of age 13 to 14 was seen working. He was attending to every work that a Dhaba needs including chopping wood, cleaning plates, attending customers, lighting the hearth/oven etc. Generally all the road side dhabhas open all night in attending the drivers and helper of trucks that ply night long on the highways. I asked the boy, about his working hours and holidays. He said in chaste Hindi 'Nothing like that'. Nothing further could be asked as their owner and other bystanders around were watching us. Not to create any trouble to the child after we left; I stopped (talking to the boy) there and then and left the place. The chopping of wood with an axe, lighting hearth, frying and cooking are all risky jobs for a child of his age and could be hazardous. Therefore, it is not enough to say that there is no obvious hazardous industries in the area, rather the department concerned need to study each and every activity in industry/establishment that could be hazardous but not identified and listed.

70. It was noted that no follow up action is taken once the child is rescued and sent back to the parents. The CWC is required to ascertain that the rescued child is rehabilitated with the conditions that are conducive to his survival, well-being and development. As they belong poor families, efforts should be made to contact the CWC and other agencies responsible at his native place (the place of origin) to ensure that all benefits to his parents as BPL family are provided, arrangements to be made to provide education and other skills to the child. Periodic contact with the CWC of the native place of the child should be maintained and monitoring of progress made by the child in rehabilitation and support provided to him through child welfare programmes should be done and the records to this effect should be maintained.

71. Rural areas and small towns generally do not picture in the investigative visits made by the officials working for elimination of child labour. A planned schedule may be chalked out to visit all areas of rural and urban locales, industries and establishments. Local Panchayati Raj personnel and Gram Sevaks should be involved in the process of identification and release of child labourers. Minimum staff, if not sanctioned strength, should be posted in place. Total absence of Labour Inspectors in Baran district speaks of handicaps of the Administration in squarely addressing the jobs of eradication of child labour in the district. Efforts should be made to provide jobs to the parents of the freed child labour under MGNREGA, among others, as per the entitlement of BPL families.

72. The last Survey of child labour was done in 2011 under National Child Labour Project (NCLP) involving 6 NGOs. In 2011 Survey of child labour identified 2100 children not going to school implying that they were engaged in some work or the other. These educationally deprived children should be made to go to school and necessary arrangements should be made by the District Administration, unless already done. It was informed that presently a fresh survey is being carried out.

73. The grass root level officers viz. Gram Sevaks, Panchayat/ Gramsabha members and social activists need to be educated about various provisions of Child Labour (Prohibition & Regulation) Act, 1986. The survey, reported being undertaken, is required to probe and investigate various dimensions and nuances of child labour engagement across industries to register accurate findings. A comprehensive report of the phenomenon of child labour will help devise suitable action plan in rescuing and providing relief to the victims.

74. Periodic and regular orientation and training programmes should be organized to sensitize the field level officials about various aspects of child labour, to probe identification and their rehabilitation in an effective and sustained manner.

75. In Baran district the child labour is found at larger in the eateries (Dhabas, Hotel, Restaurants, etc.), while in Kota District children are employed in various other establishments including bakery, stone cutting units, shutter fabricators, motor mechanic shops, etc. In the meeting held with the officials of Kota on 21st March 2016, it was told that many a times both the parents and children refuse to accept the children working are labourers and claim that they are engaged in their own household

industry as novices to get trained and skilled. The places they are working often claim that these belong to their close kins. This version is generally narrated in the areas and work places belong to their minority community. It was revealed that girl children also go to work but they accompany their mothers to work. They do not go alone to any workplace.

76. Surprise checking of child labour prone work units are carried out by the Police and Anti Traffic Unit. But these checking are restricted to urban centres and repeated in the same areas. A larger portion of rural areas and other small town are generally missed out. Notwithstanding staff constraints, periodic checking should be carried out in areas that are otherwise missed out. To this effect well planned strategy and action plan need to be worked out by the Task Force constituted for the purpose in the District. The Task Force consists of representatives of Departments of Labour Welfare, Women and Child Development, Social Welfare, Sub-Divisional Magistrate, Child Welfare Committee, Railways, Police and other concerned. The Task Force meets every two months to discuss and address the problem of child labour in the district.

77. In the year 2015, as many as 80 child labourers were rescued in Kota District. Of these, 65 child labourers were from urban locales and the rest 15 were from rural areas. Most of these children rescued are from the states of Bihar, Uttar Pradesh and Madhya Pradesh. These children come in groups. They are generally motivated to come to Kota at the instance of some who are from their native place and known to them and working in Kota. Soon after they are rescued, they are handed over to Child Welfare Officer. The parents of the children are contacted to take the children back home. Till the parents arrive the children are sheltered in Ashraya School or any other orphanage run by NGOs. Many a times, the parents of the rescued child labourers do not turn up. The Child Welfare Officer of the rescued child native (place of origin) do not response. The Labour Officer and the Child Labour are thus subjected to predicament as to what to do with rescued child labour when there is no taker. There is a need for an Inter-State Mechanism to attend and resolve such situation keeping in view the provisions of Inter-State migrant Workmen (Regulation of Employee and Conditions of Services) Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986 and Bonded Labour System (Abolition) Act, 1976.

78. In fact there is need for an over arching plan of action for eradication of child labour. These include Intensive Survey on regular intervals; accurate documentation of data (collected, computerized and

analyzed); and rehabilitation of the rescued children with their families or any other special institutional placement ensuring their well being and development especially by providing education, including vocational education (skills), nutrition and health check up.

79. The districts like Kota being second in the State in rescuing number child labour, needs to do more intensive and rigorous probing in all areas (rural & urban). Appropriate plan of action should be drawn under NCLP, to provide shelter to orphan children, education, skill training etc. Not only the children should be rescued from the identified hazardous industries, there is need to identify activities that could be hazardous even in the establishment otherwise known as non-hazardous. Too many agencies and departments working in the eradication of child labour involving identification, release and rehabilitation, need to clearly overcome overlapping of activities and confusion arising there from. There should be clear cut structure of jobs and division of assignments across the designated agencies to ensure convergence of activities in coordinated manner towards effective and sustained rehabilitation of the released child labourers. The same approach is also required to be adopted in rehabilitation of the freed bonded labourers as well.

Officials of Baran District, Rajasthan present in the Meeting with Shri G B Panda, Special Rapporteur, NHRC In the Circuit House, Baranon 17.03.2016

Sl. No.	Name	Designation
1.	Mr. G B Panda	Special Rapporteur
2.	Dr. S P Singh	Distt. Magistrate, Baran
3.	Mr. Ram Prasad Meena	ADM, Shahbad
4.	Mr.PannaLalRaigar	Tehsildar
5.	Mr.Ghanshyam Sharma	BDO, Kishanganj
6.	Mr.GajananLalVerma	PCO kishanjanj
7.	Mr. Ashok Pushwai	SDM Kishanganj
8.	Mr.SatenderRath	DDCDS
9.	Mr. Kana Ram	SDM
10.	Mr.Rohit Kumar Meena	Dy. SP
11.	Mr. Ram Raj Meena	AD SJ & ED
12.	Mr.Bahadur Singh	E E
13.	Mr. Anil Aggarwal	Labour Officer
14.	Mr.Pradeep Kr. Jha	LC

Annexure – 2**Officials of Baran District, Rajasthan present in the Meeting with Shri G B Panda, Special Rapporteur, NHRC in the Circuit House, Baran on 19.03.2016**

आजदिनांक 19.03.2016 को निजी सचिव गोपाबिहारी पंडा स्पेशल रेपोर्टर से न्द्र ल जो न राष्ट्रीय मानवाधिकार आयोग नई दिल्ली की अध्यक्षता में सर्किट हाउस बारां में प्रातः 10.00 बजे पर मीटिंग का आयोजन किया गया जिसमें निम्न अधिकारी गण उपस्थित रहे।

Sl. No.	Name	Designation
1.	Mr. G B Panda	Special Rapporteur, NHRC
2.	Mr. Anil Aggarwal	Labour Officer, Baran
3.	Mr. Satyendra Prakash Rathi	Dy. Director, WCD
4.	Mr. Ram Raj Meena	Add. Director, SJ&ED
5.	Mr. Mahesh Kr. Singh	Member, CWD
6.	Mr. Jagdish Chand	AHTU
7.	Mr. Rohit Kumar Meena	Dy SP
8.	Mr. Mahavir Sharma	FO, NCLP

Recommendations of Shri G. B. Panda, Special Rapporteur, NHRC, on Eradication of Bonded Labour System in Baran and Kota districts of Rajasthan with special reference to Saharia, a Particularly Vulnerable Tribal Group, and review of action taken for Elimination of Bonded Labour, Child Labour.

Recommendations

Bonded Labour

1. The prevalence of bonded labour system need to be understood in the overall socio-economic conditions of the various sections of society and the overall cultural /social and customary laws that govern day to day social and economic relations between various sections of the society.
2. The problems related to bonded labour system need to be understood in relation to the Saharia Tribal community and the vulnerability arising due to their utter socio-economic backgrounds.
3. The existence of the bonded labour is not being captured on the ground as various established conditions that normally designate a Bonded Labour have been softened (such as non-admittance of taking any loan/advance by either parties, no terms and conditions of leaving work at any time that the labour desires, etc.). Intensive and deep proving need to be carried out in the areas and among the communities prone to bonded labour.
4. There is no established method or surveillance by the government agencies including Vigilance Committees to identify existence of bonded labour system. Thus the identification of bonded labour and existence of the same solely depend upon the complaints received. A sensitive method to locate the practice of bonded labour as suitable to the local scenario need to be devised and applied.
5. The Patwaris and Revenue Officials are generally overwhelmed and pre-occupied by numerous tasks and exigencies, they do not have time and thought to devote and focus on the issues of bonded labour and their existence as they generally bypass or not sensitive enough to capture any incidence of bonded labour. Further, venturing into any survey and surveillance for identification of bonded labour would also amount to going against the influenced and dominant employers, which they cannot afford. Therefore, there is every possibility of ignoring existence of bonded labourers. No training or orientation programs are conducted for Vigilance Committee Members, Patwaris and Revenue Officers to sensitize as to how to go about capturing / identifying bonded labour (soft or rigid), nor any survey conducted periodically or otherwise to that effect. There is a felt need to have a dedicated village level worker round the year to assist the Patwaris at least in the areas prone to bonded labour system.
6. The District Administration (District Magistrate) needs to carry out intensive survey at least once in two/three years associating the Vigilance Committees. But such survey, although needed, not being carried out.

7. Regular and periodic surveys are imperative and prerequisite, especially in the districts like Baran which traditionally nurtured the bonded labour system. Otherwise the bonded labour system would persist without being noticed. It may not be that difficult to the District Administration to provide funds to carry out surveys in time utilizing the discretionary / contingent funds available with them.

8. The District and Sub-Divisional Vigilance Committees reported meeting every two months. However, the agenda and the outcome of the meetings do not indicate any efforts made to conduct any probing into the practice and prevalence of the bonded labour system in their jurisdictions. The Vigilance Committees should therefore be sensitized, primarily to be able to devise methods and process of identification of bonded labourers involving local voluntary agencies, social activists, SHGs and NGOs.

9. The Vigilance Committees should, along with the DMs and SDMs need to revisit time and again the areas where the bonded labour system persists – explicitly or implicitly. The Vigilance Committees should reaffirm, through their probing visits to their respective jurisdictions, the existence or non-existence of the bonded labourers. To this effect, record in the form of benchmark reports should be prepared and discussed in their meetings for initiating necessary action.

10. The Vigilance Committees also need to organize meetings, camps and campaigns in the local areas, Panchayats and various industries for sensitizing the natives, especially the youth and grass root workers about the bonded labour system and its various manifestations and forms, that often do not confirm easy determination of bondage.

11. The District Administration is, however, reported that mapping of bonded labour is being carried in the district and this is being carried out for the first time across various industries and sectors to locate and identify the practice of bonded labour system. The mapping should overcome naivety of its approach in identification of bonded labour as the system of bondage and conditions thereof may not strictly fall in the standard norms and measures adopted to establish bondage and identification of bonded labourers. The dynamics of bonded labour system has evolved from time to time. Unless its nuances understood and notified could not be captured and confirmed to the standard methods of probing and surveillance.

12. The Vigilance Committees need to devise a dynamic proforma pinpointing varied conditions and characteristics that subscribe to bondage in labour employment. The proforma points need to be examined and probed in the area especially prone to bonded labour recruitment on a regular basis and the findings of the same need to form the essential agenda, among others in the meetings of the Vigilance Committees. The Vigilance Committee, on proactive basis, should visualize the possibilities of the new and evolving bondage arrangements, beyond the conventional practice so that the system of bondage is captured in all its forms and dynamics. Such deliberations and proactive visualization of bondage by the Vigilance Committees should be shared with Patwaris, NGOs, Panchayati Raj functionaries and others concerned.

13. While involvement of the NGOs in the pursuit be appreciated and also be encouraged, the Vigilance Committees on its own also make surprise visits to the locales where bonded labour system traditionally reported and still prone to. Findings of such visits should be recorded and discussed in the Vigilance Committee meetings. Also, it is necessary that the action taken or need to be taken should also be finalized with stipulated time frame and the details of the same should be shared with all concerned.

14. The Patwaris should be provided with a proforma in advance which clearly points out various nuances and forms of existence of bonded labour system in the rural areas. Similarly concerned Revenue and Labour Department officials need to be provided with similar proforma for urban areas - covering such units/ industries where bonded labour system possibly present. These filled-in proformas should be regularly evaluated on benchmark basis. The focus of an enquiry or survey should especially be laid upon the Scheduled Tribes, Scheduled Castes, other weaker section and migrants from other states.

Saharia (The Particularly Vulnerable Tribal Group)- The traditional bonded labours.

15. Prolonged settlement of the issue will possibly dissuade the Saharia bonded labourers from cultivation and opting for alternative source for livelihood for which they are not skilled and qualified as yet. Further there is every fear that they may fall back into the debt trap and bondage. Skill training need to be provided to enable them alternative source of livelihood.

16. Due to fear of law against the practice of bonded labour system and compulsion and vulnerability of the poverty stricken helpless bonded labourers from Saharias and other weaker sections, the cases of bonded laborer do not surface. Therefore, a deep probing survey periodically across the regions needs to be carried out to identify the existence of bonded labour system in its changing forms and characteristics.

17. The Saharias, the traditional bonded labourers, still continue to persist in utter backwardness and poverty, needing contribution from the children in production. The situation thus makes the parents think children as economic assets. In fact, a child starts working at home or field almost like an adult at the age of 11 or 12. The bonded labour system reported to have engulfed children as early as when they are 11 or 12. Thus the existence of invisible child labour even in bondage condition cannot be ruled out. Therefore, micro level intensive study/survey needed to be carried out focusing situation of children among the Saharias.

18. The landlords who are used to exploits of bonded labour are hard pressed to get labourers needed for cultivation at cheaper rate. They will possibly, always in look out for victims to be trapped under bondage. The administration, therefore, need to be watchful and proactive in preventing any bonded labour recruitment.

19. The employers who have kelp bonded labour could not be penalized or punished due to the fear of conflict and unrest in the region. This implies that the landlords are powerful enough to create feud if they are concerned. In such

social equations of super ordination and sub ordination, the Administration need to carefully and proactively devise strategy and plan for release and rehabilitation of bonded labourers in adherence to the provisions of legislations and Supreme Court directives in the matter.

Bonded labourers Rehabilitation colony at Eklera Danda

20. The bonded labourers migrated from Madhya Pradesh, due to lack of legitimate domicile residential claims are far more vulnerable. Therefore, a survey needs to be carried out both to identify/locate bonded labourers hailing from Madhya Pradesh or any other state. There should be a mechanism in place involving the States concerned to chalk out strategies in maintaining an inventory of such labourers migrating from state to state as a joint effort, as per the Inter-state Migrants Workmen (Regulation of Employment and Conditions of Services) Act, 1979. Further they need to be in constant touch in the process of rescuing and rehabilitating the rehabilitated bonded labourers. Concerned states, through negotiations, channelize the benefits and support to the freed bonded labourers through their respective welfare and development programmes. Every action taken by the State(s) individually or jointly in abolition of bonded labourers should be posted to the NHRC.

21. One of the serious problems faced by the rehabilitation colony of Eklera Danda is that most of the men are addicted to alcoholism. This was especially expressed by women. In the meeting itself many have come drunk and completely disoriented. Alcoholism assumes an endemic threat. Many women complain that all their earnings go to alcoholism. Many have been subjected ill health and in very fragile condition. An immediate plan of action needs to be worked out to counter the menace of alcoholism. Otherwise, the good effort made for rehabilitation will be at jeopardy and would appear as counterproductive. It is a general feeling that alcoholism is not restricted to the colony alone; rather it is rampant among the Saharia Tribe and the region at large.

22. The forest land adjoining the Eklera Rehabilitation Colony, actually a barren terrain of 200 bighas. If the same is allotted to them - they being good at agriculture, convert the forest land to agricultural land and cultivation of which will bring about economic upliftment and empowerment.

23. The trauma of bondage has affected all those were subjected to the same mildly or severely. The rehabilitation package should therefore need to include counselling by professional psychiatrists to restore their normal mental condition.

24. A fresh comprehensive socio-economic Study may be carried out to capture and understand the magnitude, problems, dimensions and dynamics of bonded labour system as prevalent in the Saharia Tribal areas before next conservation-cum-development Plan is prepared. Simultaneously in the same vein evaluation of the rehabilitation programmes of freed bonded labourers also needs to be carried out.

25. There is an urgent need to conduct a survey by the District Administration not only to gauge the magnitude of Saharia land alienation but also to evaluate

and review the Tribal Land Alienation Act. After having identified the cases of land alienation immediate action need to be taken restore the same to the legitimate owners of the land – the Saharias.

26. Immediate restoration of mortgaged land back to the Saharias families as may be exercised as per the provisions of the Bonded Labour System (Abolition) Act, 1976, Prevention of Tribal Land Alienation Act, Prevention of Atrocities and Protection of Civil Rights Acts meant for SCs and STs. Expedious action in restoring Saharia land back to owner would not only proactively prevent the possibilities of bonded labour recruitment but also help release the ones under labour bondage.

27. The Saharias alleged encroaching the government land may be given ownership rights which could be considered as per the policy of the government providing land to the STs under Tribal Sub-Plan (TSP), Grant-in-aid under Article 275(1) of the Constitution, Special Central Assistance to TSP, ST Finance and Development Corporation, State Tribal Development Corporation and for the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This may be included as a priority activity in the forthcoming CCD plan for the Saharia, the Particularly Vulnerable Tribal Group (PVTG).

28. The Janjati Balaka Aavasiya Vidyalaya (JBAV) should introduce science subjects since the students have aptitude and interest in Science subjects. Moreover, promotion of science subjects would enhance the eligibility of students to have more multiple avenues for careers and placements. Introduction of science subject is an urgent imperative as these girls when qualified technical subjects will contribute to their society as the agents of social change and economic development.

29. Some of the freed bonded labourer's hutment / houses are built on the government land and are illegally occupied. And hence are being deprived of basic amenities. Such settlements need to be surveyed and studied and necessary services and support need to be extended to ensure that they are provided with at least basic amenities and benefits. Notwithstanding their residential status, special strategy and programme need to be conceived / formulated and implemented.

Brick Kilns

30. The mapping of all the brick Kilns need to be done urgently in meticulous and probing manner to identify the facts and conditions that subscribe to the existence of bonded labour. Regular and periodic surprise visits need to be carried out by the Sub-Divisional Vigilance Committee members and submit their reports to the District Vigilance Committee for taking further necessary action in the matter. Detailed documentation of the brick kilns units, bonded labourers, employers, action taken (identification, release and rehabilitation) should be maintained, updated periodically and regularly.

31. A special targeted approach need to be adopted by the District Administration, Vigilance Committees, Police Department and the other

concerned to identify industries (small or big) and other work units, where there could exist recruitment of labourers under conditions that could be attributed to bondage.

32. There is an urgent need for all the officials and personnel concerned including Tehsildars, Patwaris, Gram Sevaks, Police officials Vigilance Committee members, Labour and Revenue officials to be sensitized and trained intensively periodically on regular basis so that the much detested exploitation and bondage of labour can regularly be attended/addressed.

33. In order to ensure that the brick kiln workers are not exploited socially and economically and also made vulnerable to any inhuman conditions reflecting bondage, there is an urgent need for the District Administration to conduct a probing survey and mapping of such industries (small or big) that are prone to bonded labour system and ensure with the well charted plan of action for effective implementation of Bonded Labour System (Abolition) Act, 1976; Inter-State Migrant Workmen Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986 and other related Acts, viz. Minimum Wages Act, 1948 etc.

Child Labour

34. The parents of the rescued child labourers are not paid any transport charges nor any facility/support to stay in town is provided. The parents thus do not turn up to take the child. The child is kept in the orphanage home (Palanhar). Transport and stay Cost of the parents may be met by the Government.

35. Periodic contact with the Child Welfare Committee (CWC) of the native place of freed / rehabilitated the child labour should be maintained and monitoring of progress made by the child in rehabilitation and support provided to him through child welfare programmes should be done and the records to this effect should be maintained.

36. Rural areas and small towns generally do not picture in the investigative visits made by the officials working for elimination of child labour. A planned schedule may be chalked out to visit all areas of rural and urban locales, industries and establishments.

37. Local Panchayati Raj personnel and Gram Sevaks should be involved in the process of identification and release of child labourers. Minimum staff, if not sanctioned strength, should be posted in place. Total absence of Labour Inspectors in Baran district speaks of handicaps of the Administration in squarely addressing the jobs of eradication of child labour in the district.

38. Efforts should be made to provide jobs to the parents of the freed child labour under MGNREGA, among others, as per the entitlement of BPL families.

39. The survey, reported being undertaken, is required to probe and investigate various dimensions and nuances of child labour engagement across

industries to register accurate findings. A comprehensive report of the phenomenon of child labour will help devise suitable action plan in rescuing and providing relief to the victims.

40. Periodic and regular orientation and training programmes should be organized to sensitize the field level officials about various aspects of child labour, to probe identification and their rehabilitation in an effective and sustained manner.

41. The Labour Officer and the Child Labour are subjected to predicament as to what to do with rescued child labour when there is no taker. There is a need for an Inter-State Mechanism to attend and resolve such situation keeping in view the provisions of Inter-State migrant Workmen (Regulation of Employee and Conditions of Services) Act, 1979; Child Labour (Prohibition and Regulation) Act, 1986 and Bonded Labour System (Abolition) Act, 1976.

42. In fact there is need for an over arching plan of action for eradication of child labour. These include Intensive Survey on regular intervals; accurate documentation of data (collected, computerized and analyzed); and rehabilitation of the rescued children with their families or any other special institutional placement ensuring their well being and development especially by providing education, including vocational education (skills), nutrition and health check-up.

43. Too many agencies and departments working in the eradication of child labour involving identification, release and rehabilitation, need to clearly overcome overlapping of activities and confusion arising there from. There should be clear cut structure of jobs and division of assignments across the designated agencies to ensure convergence of activities in coordinated manner towards effective and sustained rehabilitation of the released child labourers. The same approach is also required to be adopted in rehabilitation of the freed bonded labourers as well.

44. Conclusively, it emerges from the field visits that the society at large functions day to day on the basis of the social norms and customary laws in practice. The judicial norms as provided under various legislations viz. abolition of bonded labour and eradication of child labour have to make effective inroads to the society and adopted to as way of life through inducing appropriate campaign for social change at the grass-root levels.