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Annexure - A

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Report of Dr. Ashok Sahu, Thematic Special Rapporteur (Child/Bonded/Migrant Labour), NHRC on Visit to Chhattisgarh (Raipur, Bilaspur, Janjgir-Champa) during 7-12, November, 2016.

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I. General

1.1 The State of Chhattisgarh, carved out of Madhya Pradesh, became a separate State on November 1, 2000 consisting originally of 16 Districts. These Districts, being reorganised over time, presently stand at 27. The State, rich in both agriculture and minerals, has substantial tribal population. A part of the State is also Left Wing Extremism (LWE) –affected. The problems of child, bonded and migrant labour are inter-related, all embedded in poverty. The percentage of people below poverty line was 39.93 in Chhattisgarh as against all India average of 21.92 in 2011-12.

Child Labour

1.2 According to 61st Round of National Sample Survey, 2004-05, child workforce in Chhattisgarh was estimated at 3.64 lakh. Through various measures taken, child labour intra-State is no longer a major problem, though child trafficking, especially of females, is.

1.3 The National Child Labour Project (NCLP) Scheme of the Ministry of Labour and Employment, which aims at mainstreaming child labour, was being operated since 1996 in 7 Districts of Chhattisgarh. As a sequel to the operation of the Right of the Children to Free and Compulsory Education (RTE) Act, 2009 under the Ministry of Human Resources Development, the Ministry of Labour & Employment issued Revised NCLP Guidelines w.e.f. 01-04-2016 which, inter alia provided for undertaking a Baseline Survey in each District, with provision for providing Rs.4 lakh per District, which would help to identify 'all working children' and 'adolescents in hazardous occupations and processes' in the target areas and develop a profile of project beneficiaries. Thereafter the Ministry also issued a letter to Labour Commissioners of all States (No.S.27025/9/2014-CL dated 26-08-2014) stating that the NCLP Scheme is not meant to be continued indefinitely. The incidence of child labour is gradually shrinking - from 1.26 crore in 2001 to 43 lakh in 2001 as per censuses in both years. Hence the number of rescued and rehabilitated child workers should shrink commensurately, so also the volunteer strength of NCLPs. If the children have been mainstreamed, then the voluntary teachers need to be disengaged till fresh survey reveals incidence of child labour and need for NCLPs. There is no provision for absorption of such volunteers under any scheme of Government of India; however, the State Government can consider their

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adjustment in their schools/Special Training Centres. In pursuance of this direction, the Government of Chhattisgarh made the entire NCLP Scheme, under which 261 Special Schools were functioning, inoperative in the State w.e.f. 30.09.2014. While about 11,055 students of NCLP Scheme were mainstreamed under the provisions of the Right of the Children to Free and Compulsory Education (RTE) Act, 2009 in regular schools, about 1227 voluntary teachers/employees were disengaged without any alternate employment having been provided.

1.4 The State Government has taken following measures to tackle the problem of child labour:

- In order to eradicate the problem of child labour officials of all Panchayats and 16 Departments of the State have been conferred the powers of Inspectors under Section 17 of the Child Labour (Prohibition and Regulation) Act, 1986.
- Under the Revised NCLP Guidelines, it is proposed to undertake a fresh child labour survey in each District.

Bonded Labour

1.5 Bonded labour in traditional sense has declined, though it exists in a subtle manner. The State has taken a number of steps in rehabilitating bonded labour. According to the Socio-Economic Caste Census, 2011, conducted by the Ministry of Rural Development, the number of rehabilitated bonded labour households stood at 221 (Bilaspur:146, Janjgir-Champa:74 and Mahasamund:1). Similarly, according to the Report submitted by the State Government, the number of bonded labour rescued from Tamil Nadu/Uttar Pradesh/Bihar and rehabilitated in Chhattisgarh was 3260 (1729 males, 1436 females and 95 children) during January, 2006 to June, 2016. The figure stands at 3321 till 30.09.2016.

1.6 The State Government has taken following measures to tackle the problem of bonded labour:

- The earlier Centrally Sponsored Scheme for rehabilitation of Bonded Labour provided for rehabilitation assistance of Rs.20,000/-, being equally shared by the Central and State Government. The Government of Chhattisgarh had unilaterally increased its share from Rs.10,000/- to Rs.40,000/- w.e.f. 01.04.2013.
- When complaints are received about State's migrant labour being ill-treated and held captive as bonded labour in other States, rescue teams are sent to get them released. Rs.4,000/- is granted per each released

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bonded labour towards meeting costs relating to transport, food, clothing, health etc.

- In order to resolve the problem of bonded labour, a MOU has been signed with the State governments of Bihar, Jharkhand and Uttar Pradesh.
- Since most of the bonded labour work in brick-kilns which are a part of the construction industry, efforts are being made to register these workers as construction workers so that they can avail benefits being offered to such workers which are funded out of cess collected under the Building and Other Construction Workers Cess Act, 1996.
- It is being ensured that the rehabilitated bonded labour gets priority in allotment of housing units under the Indira Awas Yojana (IAY).
- Skill development training is being provided in trades like mason, electrician etc.. It has started in Bilaspur District.

Migrant Labour

1.7 So far migrant labour is concerned, Chhattisgarh is both a host and destination State. It is essentially a mono-crop (paddy) State; once the kharif harvesting is over people migrate during December-January to work in brick kilns, mostly in the vicinity of Allahabad (UP), but also in Bihar, Gujarat, Haryana, Jharkhand, Tamil Nadu etc. It can be characterised as circular migration with the entire family migrating in most cases and returning back during May-June with the onset of monsoon. The motivational factor is the absence of employment opportunities at home, the operation of the Mahatma Gandhi National Rural Guarantee Scheme (MGNREGS) being shabby and lure of receiving a lump-sum amount either as an advance or on completion of the work, as against daily wage received at home, which can be utilised for expenditures involving bulk-payment such as repayment of loan, marriage, construction of house etc. Since the payment is on piece-rate basis, the temptation is to move the entire family, which can contribute in one way or other to optimise output, though, inter alia, education of children is a casualty in the process. Interestingly, even though sometimes non-farm employment opportunities are available in local industrial units (as observed in case of Janjgir-Champa District), workers prefer migrating in lean season to earn lump-sum amount as against daily wages. Therefore, the problems of bondage and migration in Chhattisgarh overlap with each other. This has also led to in-migration to Chhattisgarh from Bihar, West Bengal, Odisha etc. to work as casual industrial workers. The other aspect of out-migration from Chhattisgarh relates to movement of tribal females to work as domestic help, which has acquired the menace of trafficking.

1.8 The State Government has taken following measures to tackle the problem of migrant labour:

- Efforts are being made to register all workers at Panchayat level who are going out of the State for work.
- Contractors taking workers both to other States and bringing workers from there are being registered under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

Human Trafficking

1.8 According to UN Protocol, 'trafficking in person' means recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of deception, of the abuse of power or of a position of vulnerability or of the giving and receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Human trafficking, especially of females working as domestic help, is an important facet of labour migration and bondage in Chhattisgarh. The State Government has taken following important measures to combat human trafficking:

- During 2010-11 and 2011-12, Anti Human Trafficking Units (AHTUs) have been established in 8 Districts. Anti Human Trafficking Cells have been established in Railways and Police Headquarters of other Districts.
- Female Crime Investigation Units have been established in 6 Districts (Raipur, Durg, Rajnandgaon, Bilaspur, Janjgir-Champa and Raigad) which will look intensively into female related crimes and trafficking.
- A State Act relating to private employment, which helps in combating trafficking, has been enacted in 1913.
- All directives issued by the Ministry of Home Affairs regarding human trafficking are followed meticulously.
- About 4800 police officials have been trained to act sensitively in the matter.
- A Judicial Colloquium was held in 2013 to deliberate on legal aspects of anti-trafficking measures.

1.4 Against this background, field visits were made to BakarKuda and Binhori villages in Bilaspur and to Murlidih and Kotmisonur villages in Janjgir-Champa Districts and discussions were held at Raipur with State level officials and at District headquarters with District level officials, whose outcomes are discussed below.

II.Meeting at Raipur

2.1 The meeting at Raipur was attended by Labour Commissioner and other officials representing State Labour Department, Director General of Police and other Police officials, Coordinator and other officials in charge of Women and Child Development, Deputy Collector, Regional Welfare Commissioner (Central), Project Director, NCLP and Zilla Parishad official, Raipur. NGOs were met outside the meeting.

2.2 At the outset it was explained by me that since child, bonded, migrant and trafficked labour are all rooted in poverty, though they have separate features, there is need for comprehensive attack on all of them and effective coordination between various Government Departments as well as civil society in this regard. In respect of child labour, the Child Labour (Prohibition and Regulation) Act, 1986, as earlier enacted, was to prohibit employment of children in specified hazardous occupations and processes and to regulate the working conditions of children in non-hazardous occupations. Now the Act has been amended with a new name 'the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986' to prohibit the engagement of children (age up to 14 years) in all occupations and to prohibit the engagement of adolescents (age between 14 to 18 years) in hazardous occupations and processes. Hereafter no child shall be employed or permitted to work in any occupation or process except where the child helps his family or family enterprise, which is other than any hazardous occupations or processes, after his school hours or during vacation or works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed, provided that no such work shall affect the school education of the child. With this amendment, the way one looks at the problem of child labour and the way labour inspection has to be carried out undergo a change. Now that the NCLP Scheme is inoperative in the State, the considered views of the participants were sought as to how far the SSA and the Administration are going to cope with the child labour challenge and whether revival of NCLP Scheme is necessary. In respect of Bonded Labour, the contours of the new Central Sector Bonded Labour Rehabilitation Scheme were briefly touched upon as it was noticed that the officers were broadly aware of them. It was impressed upon the officers that even though the overall impression existed that the State had effectively dealt with the problem of bonded labour, especially in terms of their rehabilitation, it should be noted that new forms of bonded labour are emerging, like informal sector employees engaged in small unorganised sector enterprises or

trafficked labour taking advance and getting bonded to the employers, which is called 'neo-bondage'. These need to be captured by an appropriate Survey, for which there is provision for funding by the Central Government in the new Scheme and consequently be dealt with. Besides, the officials were asked to express whether proper procedure is being followed while dealing with identification and rehabilitation of bonded labour and whether there is any relapse and constraints noticed, if any. In respect of migrant and trafficked labour, especially on female trafficking, the officials were asked to indicate the seriousness of the problem, remedial measures being provided and steps being taken to generate awareness.

2.3 In the meeting various measures being taken to promote welfare of children, like those under the Integrated Child Protection Scheme (ICPS), were discussed. All the participants felt that there is a need for fresh Baseline Surveys to identify both child and bonded labour under changed conditions. It was informed that steps in this regard have already been initiated. For tackling the issue of child labour effective coordination between three Central Ministries, namely, the Ministry of Human Resource Development (through SSA), the Ministry of Labour & Employment (through NCLP) and the Ministry of Skill Development and Entrepreneurship (through National Skill Development Mission) and their State Government counterparts is necessary. Since needs of the child labour are special and can be and were being tackled by Special Schools run by NCLPs, revival of the Scheme in the State is necessary. The Revised NCLP Guidelines provide that rescued child workers in the age group of 5-8 years should be directly linked to schools under SSA. Identified children in the age group of 9-14 years will be rehabilitated through NCLP Special Training Centres (STCs) run under the District Project Society and finally mainstreamed into the formal educational system. NCLP STCs would have to be made operational if it is certified by District Education Officer that no Special Training Centre(s) under SSA is in operation in the specified areas. The participants, however, felt that it should be supplemented by way of such children after 14 years of age getting vocationally trained in various Vocational Training Centres, including ITIs, depending on the level at which they have completed their school education, under the National Skill Development Mission, which will enhance their employability. In respect of bonded labour, the general feeling was that it would take a little more time for the provisions of the new Ministry of Labour & Employment Directive to percolate down. Besides, the State Government will have to establish a mechanism for the bonded labour rehabilitation funds to flow from the Centre as the NCLP system is presently not functioning. It was also pointed out that non-receipt or late-receipt of release certificates from other States in respect of Chhattisgarh-

bound bonded labouris creating difficulties in rehabilitating such labour in the State. In respect of migrant/trafficked labour, the overall impression was that their registration at Panchayat level which has already been initiated under a system of 'MusafirPanji' should be rigorously pursued. Since such labour are invariably coming from poor families which find necessary wherewithal to survive scarce, the long term solution lies in finding viable employment opportunities, especially for the younger members, which is possible only if they are vocationally trained. It was stated that the trafficking of female labour is confined to some areas like Jashpur and Sarguja Districts and the problem can be resolved through above-stated measures.

2.4 After the meeting, some NGOs who were running the NCLP schools discussed with me about the ordeal faced by the laid-off teachers and pleaded for reopening of these schools where they can be re-employed. It was suggested to them that the State Government would certainly take appropriate action after examining the results of the proposed Survey.

2.5 The office of the DattopantThengadiNational Board for Workers Education and Development, Ministry of Labour and Employment was also visited. It was impressed upon the officials to apprise the participants while organising rural camps about the new Central Sector Scheme regarding rehabilitation of bonded labourers and need for curbing human trafficking resulting from distress migration.

III. Visit to Bilaspur

3.1 In Bilaspur a meeting was held which was attended by the District Collector, Superintendent of Police, Chairperson of Child Welfare Committee (CWC), officials of Labour, Child Development and Tribal Development Departments and ZillaPanchayat and a NGO. In the meeting the District-specific problems were discussed, which mostly centred around steps being taken to rehabilitate bonded labour and provide vocational training to different types of trainees as the District is centrally located with good road and rail connections and resource-rich with many industries in the vicinity.

3.2 I visited certain Institutes located in and around Bilaspur. These were District Pariyojana Livelihood College, Nipaniya where vocational training is imparted in various courses like basic automatic servicing, beauty therapy and hair styling, tailoring, leather and rexene goods making. But the most conspicuous feature was that young tribal girls from Jashpur and Sarguja, who are educated but prone to trafficking, are accommodated in hostels and trained in courses like 'Health Care Multipurpose Worker', all free of cost, and are ultimately engaged as para-medical staff in public and private medical

institutions. It is an effective step to combat female trafficking. I also visited a Government Women's ITI in Bilaspur which is well-equipped and providing vocational training to young girls in various trades which are in demand. The third Institution was Sandipani Academy located at Pendri(Masturi), about 10 K.Ms away from Bilaspur and recognised under Chief Minister Skill Development Scheme, which is providing free vocational training in trades like mason, plumber, domestic electrician, tailoring, computer hardware etc.

3.3 I visited two villages, namely, Bakarkuda and Binhori, in which 8 and 10 bonded labour households have been rehabilitated respectively. It was observed at Bakarkuda that one person has constructed a pucca house and purchased agricultural land which is being cultivated. Another person also stated that he now has a semi-constructed house and is working as a daily labourer in agriculture as well as house construction. The labourers had been taken out to work in brick-kilns by Agents who received commission from employers. There was no registration during migration and advance was taken only in some cases but invariably there was harassment at work place in terms of inadequate ration, improper accommodation, excess workload etc. They could inform Chhattisgarh authorities about the harassment, who rescued and rehabilitated them. They have got RSBY (Smart) cards but have not utilised them. They have been registered as construction workers and are receiving benefits available to such workers. So far as employment opportunities are concerned, both men and women workers were critical about the functioning of the MGNRES as they had received neither work nor wages on time. In the other village, Binhori, similar situation was observed but it was a matter of surprise to notice that not all migrant labour who ultimately become bonded are uneducated. In fact one of the rehabilitated bonded labourer who was interacted with, was a Graduate. The need for his migration was non-availability of full-time employment and lure of receiving lump-sum payment, though his being educated helped his group to come out of the clutches of bondage. It was heartening to note that the children of the rehabilitated bonded labour are being educated. Even one of them claimed to have been employed after receiving vocational training in an ITI. This trend augurs well for elimination of the pernicious system of bondage in the country.

IV. Visit to Janjgir-Champa

4.1 A meeting was held with District-level officials at Janjgir-Champa which was attended by Superintendent of Police, Deputy Collector, District Education Officer and officials of Labour, Child Development, ICPS and Zilla Panchayat. In

the meeting District-level problems were discussed. It was pointed out that circular migration is endemic in the District and has virtually become a pattern followed year after year. However, no precise data is available as registration of such workers at Janpad (Panchayat) level has only started recently. It was also pointed out that the agents taking the workers out are mostly their own relatives for which they are hesitant either to register out-migration or protest against ill-treatment encountered. On the other hand, some officials pointed out that the workers migrate on their own volition and after encountering difficulties raise the bogey of bondage so that they are officially rescued and get rehabilitation assistance. The remedial measures mostly include emphasis on education, vocational training, registration of migrant workers and their agents and provide assistance available under various developmental schemes. The District Education Officer stated that the educational facilities being provided cater to the requirements of all types of children including mainstreamed child labour and differently-abled. The Superintendent of Police informed that the District Police Authorities received complaints about 13 cases of bondage. After enquiry, in 9 cases the complaints were not found sustainable as the concerned persons had returned home. Investigation in other cases was continuing. The Female Crime Investigation Cell had received 14 complaints, of which 11 had been placed before the Court and the rest were being investigated. During January to October, 2016 there were 137 cases of missing children (31 boys and 106 girls) of whom 85 (22 boys and 63 girls) had been traced and investigation was going on for the rest.

4.2 I visited two villages, namely Murlidih and Kotmisonur where 8 and 10 bonded labour households have been rehabilitated. But the overall condition of these households was not found to be good. In Murlidih, in one case wrong spelling in his name in the release certificate has deprived the bonded labour of the rehabilitation benefits. With the help of the Assistant Labour Commissioner accompanying me a possible way was found to resolve this problem. Even though other persons have received their rehabilitation assistance, all persons interacted with expressed displeasure regarding release of rehabilitation funds through Janpad (Panchayat) under the existing system as the officials are insensitive to their plight (there was indirect hint of having paid a cut). The utilisation of the funds received was also found to be unsatisfactory as no permanent or productive assets seemed to have been created. Even though all persons declined any relapse into bondage, there appeared to be a distinct possibility for the same, which needs to be guarded. The situation at Kotmisonur was still worse. About 36 members of 10 households, who had migrated, were held captive by the employer. Once the agent left after receiving his commission, the labourers were harassed without

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proper food or accommodation and not paid wages. One person could escape and get others released through police help. In the release certificates, only the names of the heads of the households in each case was mentioned which deprived them of the total rehabilitation assistance for the families to which they were entitled. No immediate solution to the problem could be found.

V. Conclusion

5.1 The visit to Chhattisgarh was quite educative. The recommendations are annexed. NHRC may like to take up relevant issues with concerned Ministries and State Government

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Recommendations

- (i) The Baseline Survey relating to child labour for which funds would be provided under the Revised NCLP Guidelines should be undertaken early by the State government.
- (ii) Tackling the problem of child labour by effective coordination between three Central Ministries, namely, the Ministry of Human Resources Development (through SSA), the Ministry of Labour & Employment (through NCLP) and the Ministry of Skill Development and Entrepreneurship (through National Skill Development Mission) and their State Government counterparts as mentioned in para 3.2 needs to be given serious thought.
- (iii) The Baseline Survey relating to bonded labour for which funds would be provided under the new Central Sector Scheme should be carried out by the State Government early. It should capture the prevalence of neo-bondage also.
- (iv) The problems relating to bondage, migration and trafficking need to be comprehensively tackled. On the one hand, it requires dissemination of information relating to their adverse impact, developmental provisions existing under various Government Schemes, administrative measures like timely issuance of accurate release certificates in respect of bonded labour to facilitate their speedy rehabilitation and strict implementation of relevant laws. On the other hand, emphasis has to be put on vocational training and creation of adequate employment opportunities.
- (v) Implementation of the MGNREGS is not up to the mark at all. It needs to be geared up.

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