

National Human Rights Commission
Director (A) Unit

Sub: Report of Dr. Ashok Sahu, Thematic SR on his visit to Uttar Pradesh from 18-24 June, 2017.

Dr. Ashok Sahu, Thematic Special Rapporteur (Child / Bonded / Migrant Labour), NHRC visited Uttar Pradesh (Lucknow, Barabanki and Sitapur) during 18-24 June, 2017. The visit report of the Special Rapporteur may kindly be seen at **F/A**.

According to 2011 census, the State had a population of 19.98 crore, SCs and STs accounting for 21.10% and 0.01% of the population respectively. The percentage of people below poverty line was 29.43 in UP as against all India average of 21.92 in 2011-12. UP has problems associated with all the three types of labour, namely child, bonded and migrant labour.

Apart from engagement of child labour in shops, embroidery industry and as domestic help, the state earlier was infamous for employment of child labour in hazardous industries like brick kilns, carpet weaving, glassware, brassware and hotels and dhabas. The State Govt. has taken measures in order to tackle the problem of child labour.

Rehabilitation of 3859 bonded labour in the State is pending. The position has been intimated to Govt. of India and their direction and assistance are awaited. Nevertheless, clarifications on following points on the 2016 scheme are required:

- In respect of newly rescued bonded labour, whether final conviction will be awaited for issuance of release certificate or it can be done after a summary trial, so that rehabilitation proceedings can start.
- Whether bonded labour in respect of 2-3 year old cases being release now will be entitled to get relief of Rs. 20,000/- being provided earlier and what procedure is to be adopted. If yes, whether the amount will be paid in cash or will be deposited in a Bank Account. Otherwise what relief these labourers will be entitled to.
- What is to be done in respect of old cases if the labour and / or employer is untraceable?

So far migrant labour is concerned, both in and out migration takes place in UP. It is a destination State for workers of neighbouring States like Bihar, Chhattisgarh and Jharkhand witnessing primarily circular migration to work in brick kilns. Migration of workers from UP especially from its Eastern parts takes place to its Western part as well as to other States like Punjab,

Uttar Pradesh and Rajasthan to work in agriculture. Lack of information about the migrant workers from other States due to non-registration in home state, lack of portability of many social security benefits, involvement of contractors etc. are proving to be major handicaps. Coverage under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 is rather low, the number of establishments registered during 2016-17 being only 36.

Human trafficking, especially of females working as domestic help, is an important facet of labour migration and bondage. UP is a transit point for trafficking outside and country, especially for Nepalese.

Recommendations of Special Rapporteur are as follows:-

- (i) Various clarifications required for operationalising the new Central Sector Bonded Labour Rehabilitation Scheme of 2016 need to be made available by the Ministry of Labour and Employment at the earliest; otherwise, the Scheme will remain a non-starter.
- (ii) Adequate and timely funds flow for rehabilitation of bonded labour also requires serious consideration.
- (iii) Since UP is a child labour sensitive State, Ministry of Labour and Employment may also take an early decision regarding the proposals referred to them for constituting NCLPs.
- (iv) The new and innovative Schemes to combat child labour being launched by the State Govt. need to be watched. If they are found to be successful in achieving desired objectives, they may be recommended for replication elsewhere.
- (v) Framing of the Code of Conduct for owners of Brick Kilns is a laudable step. But the State Labour Department has to ensure that its provisions are actually adhered to so that it brings relief to distressed migrant workers.

Report of Dr. Ashok Sahu, Thematic Special Rapporteur (Child/Bonded/Migrant Labour), NHRC on visit to Uttar Pradesh (Lucknow, Barabanki and Sitapur) during 18-24 June, 2017.

I. General

1.1 The State of Uttar Pradesh (U.P.), in the present form came into existence in November, 2000 after carving out of the hilly regions to form a new State, Uttarakhand. It consists of 75 Districts placed under 18 Administrative Divisions. In terms of NSDP, U.P. is the third largest economy in the country after Maharashtra and Tamil Nadu and contributes to about 7.8% of India's GDP. Wheat is State's principal crop and sugarcane main commercial crop, though all types of crops are cultivated in different parts of the State. Tertiary sector (service industries) is the largest contributor to State GDP (44.8%), compared to 44% from the primary (agriculture, forestry) and 11.2% from the secondary sector (industry and manufacturing). U.P. is the most populous State in the country. According to 2011 census, the State had a population of 19.98 crore, S.Cs and STs accounting for 21.10% and 0.01% of the population respectively. The percentage of people below poverty line was 29.43 in U.P. as against all India average of 21.92 in 2011-12. U.P. has problems associated with all the three types of labour, namely, child, bonded and migrant labour.

Child Labour

1.2 According to 61st Round of National Sample Survey, 2004-05, child workforce in U.P. was estimated at 20.74 lakh. According to 2011 Census, there were 21.76 lakh child workers in U.P., of whom 8.96 lakh were main

workers. Between 2013-14 and 2017-18 (up to May) 5,389 inspections took place, in which 6,633 child workers were identified, of whom 2,313 were educationally and 287 economically rehabilitated. During this period, 1096 cases have been filed and Rs.159.99 lakh recovered. Apart from engagement of child labour in shops, embroidery industry and as domestic help, the State earlier was infamous for employment of child labour in hazardous industries like brick kilns, carpet weaving, glassware, brassware and hotels and dhabas. The State Government has taken following measures in order to tackle the problem of child labour:

- Tri-monthly special campaigns to identify and rehabilitate child labour: between 16.02.2016 and 12.04.2017, during 4 weekly campaigns, 3290 child labour (1327 in hazardous and 1963 in non-hazardous industries) were identified.
- Conditional Cash Transfer Scheme: U.P. is the only State in the country to implement such a Scheme from its own resources. The purpose is to provide education to children in such households (basically child-headed households). It is being implemented in 34 Districts of 8 Divisions (Agra, Ajamgarh, Aligarh, Ghaziabad, Kanpur, Lucknow, Moradabad and Pipri-Sonbhadra). Under the Scheme the child receives scholarship of Rs.3,000/- while taking admission, Rs.5,000/- while passing out the class and Rs.100/- every month.
- National Child Labour Project(NCLP): Earlier NCLP was operating in 47 Districts. Presently it is functioning in 18 to 19 Districts and 5 to 6 Districts have been added after conducting Child Labour Survey. Proposals for opening NCLPs in 40 more Districts have been sent to Ministry of Labour & Employment.
- Training is being given for capacity enhancement of all stake holders.

- Awareness campaigns are being launched continuously.
- In collaboration with UNICEF 'Naya Savera Scheme' has been launched. The objective of the Scheme is to identify hot-spot village where more than 25 main child workers have been found in the last Census and to promote their educational and intellectual development in order to mainstream them so as to make the villages child-labour free. This Scheme is proposed to be implemented in phases. It is being taken up in 600 villages of 11 Districts in the first phase and 316 villages in 9 Districts in the second phase. The Scheme envisages a Survey to identify working children, constitution of Child Rights Committees in identified Blocks and villages, sending resource persons and volunteers to the affected areas, preparation of agenda, admitting the identified children in schools and ensuring that there is there is no dropout and running special programmes for older and severely disadvantaged children.
- Holding meetings of the Core Committee under the chairmanship of the Chief Secretary and the Monitoring Committee under the chairmanship of Principal Secretary (Labour).

Bonded Labour

1.3 The bonded labour problem in U.P. is primarily associated with the brick kiln industry. It concerns about 27 Districts located mostly in Western part of the State. According to the Socio-Economic Caste Census, 2011, conducted by the Ministry of Rural Development, the number of rehabilitated bonded labour households in U.P. was 21,660 (Barabanki:31 and Sitapur:11). However, according to Government of U.P., the total number of bonded labour released during last four years was 5,352 (875 in 2013-14, 706 in 2014-15, 695 in 2015-

16 and 3,076 in 2016-17, of whom 651 were residents of other States (Assam, Bihar, Chhattisgarh, Haryana, Jharkhand, Odisha and West Bengal) and 2,110 were U.P. residents released from other States (Delhi, Gujarat, Haryana, Himachal Pradesh and Gujarat). The spurt in the number during 2016-17 could be to avail higher benefits contemplated in the revised Central Rehabilitation Scheme, 2016 which is to some extent anticipated but discretion needs to be applied to eliminate bogus claims. Availability of Central share in rehabilitating bonded labour has been erratic (Rs. 180 lakh in 2013-14, nil in 2014-15, Rs.280.70 lakh in 2015-16 and Rs.25.80 lakh in 2016-17). About 182 and 176 cases are still pending consideration in SDM and CJM Courts respectively. U.P. Government has taken following steps to eliminate bonded labour in the State:

- Constant monitoring at the level of Labour Commissioner.
- Monitoring by the Committee headed by Principal Secretary (Labour) once in three months.
- Constitution and re-constitution of District and Sub-District level Vigilance Committees.
- Action taken on complaints received from NHRC.
- Laying down of Code of Conduct for Brick Kiln owners.
- Issuing Government Directives and Orders from time to time.
- Creation of corpus in every District for providing immediate relief to rescued bonded labour (The corpus has to be of Rs. 10 lakh; presently Rs.6 lakh has been provided and Rs. 4 lakh will be provided during the next financial year).

1.4 Summons/Notices received by the State Government from NHRC numbered 60 in 2013-14, 44 in 2015-16 and 38 in 2016-17, all of which have

been dealt with. During 2017-18 (up to 15.06.2017), 43 Summons/Notices have been received, of which only 10 are pending.

1.5 The Code of Conduct arrived with the Brick Kiln owners have following provisions:

- No child labour will be employed.
- If there are children accompanying parents, efforts will be made to provide educational and creche facilities.
- The owner will help the willing workers to open bank accounts.
- First aid box as well as primary health care will be provided.
- Labour laws will be adhered to.

1.6 Rehabilitation of 3859 bonded labour in the State is pending. The position has been intimated to Government of India and their direction and assistance are awaited. Nevertheless, clarifications on following points on the 2016 Scheme are required:

- In respect of newly rescued bonded labour, whether final conviction will be awaited for issuance of release certificate or it can be done after a summary trial, so that rehabilitation proceedings can start.
- Whether bonded labour in respect of 2-3 year old cases being released now will be entitled to get relief of Rs.20,000/- being provided earlier and what procedure is to be adopted. If yes, whether the amount will be paid in cash or will be deposited in a Bank Account. Otherwise what relief these labourers will be entitled to.
- What is to be done in respect of old cases if the labour and/or employer is untraceable?

1.7 It is interesting to note that the State Government conducted a Survey in 5 Districts (Ghaziabad, NOIDA[Gautam Budh Nagar], Baghpat, Aligarh and Badaun) and an Evaluation Study in 5 Districts (Buland Shahr, Baghpat, Shaharanpur, Aligarh and Mirzpur) on bonded labour. Major findings of the Survey are as follows:

- Most of the bonded labourers are seasonal migrants working in brick kilns. A significant number came from Bihar and Bundelkhand Districts and belong to Scheduled Castes.
- Wages settled are low and are on piece-rate basis. Advance (on an average Rs.27,000/- per family) is given/taken at the beginning of the season. Only minimal food expenses are paid and not wages. Negative balance leads to bondage and compels such workers to come back year after year.

1.8 Major findings of the Evaluation Study are:

- About 21% have used the rehabilitation assistance to build pucca houses which has led to livelihood security and cover major expenditure like marriage, illness and repayment of past debt, preventing further pauperization.
- Provision of rehabilitation assistance to more than one member of the family has amounted to a significant sum being given, going up to Rs. one lakh in some cases.
- But the objective of shifting from wage labour to other alternative means of livelihood has not been achieved. As a result, while about 50% have recovered from bondage, 50% have relapsed into bondage by working again in brick kilns.
- Reforming working conditions in brick kilns is, therefore, essential.

Migrant Labour

1.9 So far migrant labour is concerned, both in and out migration takes place in U.P. It is a destination State for workers of neighbouring States like Bihar, Chhattisgarh and Jharkhand witnessing primarily circular migration to work in brick kilns. Migration of workers from U.P. especially from its Eastern parts takes place to its Western part as well as to other States like Punjab, Haryana and Rajasthan to work in agriculture. Lack of information about the migrant workers from other States due to non-registration in home State, lack of portability of many social security benefits, involvement of contractors etc. are proving to be major handicaps. Coverage under the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979 is rather low, the number of establishments registered during 2016-17 being only 36.

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

- Efforts are being made to register more number of establishments, workers and contractors under the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979.
- Steps are taken to provide various benefits to the migrant workers. Arriving at a Code of Conduct with the owners of Brick Kilns is a pointer in this regard.

Human Trafficking

1.11 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

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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. U.P. is a transit point for trafficking outside the country, especially for Nepalese. The State Government has taken following important measure to combat human trafficking:

- The focus is on creating awareness and taking preventive action is considered necessary.

1.12 Against this background, field visits were made to Amron Foods Private Ltd. at Kursi Village (Barabanki) and Balgriha (Balak) [Shelter Home (Boys)] and Balgriha (Balika) [Sheter Home (Girls)] at Sitapur. Discussions were held at Lucknow with State level officials and at District headquarters of Barabanki and Sitapur with District level officials, whose outcomes are discussed below.

II. Meeting at Lucknow

2.1 The meeting at Lucknow was attended by Special Secretary (Labour), Additional Labour Commissioner and other officials of Labour Department, Special Secretaries of Social Welfare, Revenue and Women Welfare Departments and representatives of Social Welfare, Health, Medical Help, Revenue and Home Departments.

2.2 At the outset the State government made a presentation whose broad features have been incorporated in para 1.2 to 1.9. Thereafter it was pointed out 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. In respect of Bonded Labour, it was impressed upon the officials that even though the overall impression existed that the State had effectively dealt with the problem of bonded labour, 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. In respect of migrant and trafficked labour,

especially on female trafficking, including those trafficked from Nepal, the officials were asked to indicate the seriousness of the problem, remedial measures being provided and steps being taken to generate awareness.

2.3 During the interaction it was pointed out that non-provision of matching grant by the Centre in respect of rehabilitation of bonded labour is proving to be a major constraint. In respect of the new Scheme for Rehabilitation of Bonded Labour, 2016 the Ministry of Labour & Employment is asking for one clarification after another, the latest being furnishing the Aadhaar No. of the beneficiaries. Despite compliance, funds are not forthcoming. The difficulty encountered in providing relief only after prosecution is launched and release certificate issued needs to be sorted out. The problem can be resolved if there is provision for issuing 'provisional certificate' on the basis of which further action can be taken. It was reiterated that in about 30 to 50% of cases which are back-dated but are being decided and release certificates issued now, it is not clear whether the beneficiaries are to be covered under the old Scheme or the new Scheme; a clarification needs to be issued. Besides, in many such cases both the employers and bonded labour are untraceable. Hence the Administration is helpless in providing relief; such cases may be allowed to be dropped. One-time Corpus Fund has been created in all Districts and in some cases money has been spent but reimbursement is not being provided by the Centre which is proving to be a major handicap. In respect of child labour, it was felt that the role of NCLP in rehabilitating child labour is very crucial. Introduction of the 'Conditional Cash Transfer' Scheme and the 'Naya Savera' Scheme to tackle the problem of child labour are proving to be highly beneficial. It was opined that the definition of 'family' in the amended Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 is too wide and needs to be restricted to the immediate family only; otherwise the provision

dilutes the scope and makes monitoring and application of penal provisions too difficult. Similarly, the implication of the word 'help' in the amended Act needs to be amplified as otherwise it may lead to varied interpretations. It was also pointed out that what is required to be done in case of adolescent labour rescued from hazardous employment needs to be clarified. In respect of migrant workers, who mainly work in brick kilns, the Code of Conduct laid down for the employers has proved helpful. Besides, efforts are being made to register such workers as construction workers so that they can avail the benefits from out of cess collected from building and construction industry for the welfare of their workers. It was pointed out that various social welfare facilities like old age pension, assistance at the time of death, marriage, atrocities etc. are available to bonded labour. Ashram Schools have been established where all facilities are being provided to inmates which can be availed by the children of bonded labour. MGNREGA is being implemented earnestly but it was pleaded that its tenure should be extended to more than 100 days, at least in distressed areas. Besides, self-employment is being encouraged under Aajeevika Scheme. It was pointed out that in the Aftermath of earthquake in Nepal, trafficking of women and children via Mathura and Delhi to Saudi Arabia was noticed. While medical assistance is being provided to rescued destitute children including child labour, it was pointed out that the facilities especially for age-determination by radiologist close generally at 2 P.M. which cause inconvenience for managing such children rescued late. So a Government Order needs to be issued for attending to such cases in late hours. It was also noted that Children Shelter Homes, either maintained by Government or NGOs are not available in all Districts which creates difficulties for both Child Welfare Committees (CWCs) and the Labour Departments in

housing the rescued children. The State Government was requested to look into the matter.

III. Visit to Barabanki

3.1 The meeting with District level officials was held at Barabanki which was attended by Deputy Labour Commissioner and officials of Labour Department, Members of CWC, Additional Chief Medical Officer and representatives of Department of Basic Education and Childline.

3.2 At the outset the purpose of the meeting was explained suggesting that the District-specific problems would be discussed. During interaction it was pointed out that Barabanki is an agriculturally rich District where both wheat and paddy are being cultivated along with cash crop like menthol which is used for producing peppermint. Once upon a time this area was famous for opium cultivation. Hence out-migration is virtually non-existent. The problem of child and bonded labour is not acute. During 2015, 13 bonded labour rescued from Jaipur were rehabilitated and during 2016-17, 15 child labour were rescued. There are a few brick kilns in this District but with the onset of monsoon they are closed. In-migration takes place to these kilns every year mostly from nearby areas. Labour Department is monitoring provision of basic facilities along with wages to these workers as well as trying to register them as building and construction workers so that benefits meant for such workers can be provided to them. Both Childline and CWC are functioning and there is effective coordination between them and Health and Labour Departments. But no Balgriha (Shelter Home) exists in the District and the rescued children are being transferred to Lucknow. While CWC has tried to have one Balgriha in the District, its efforts have not fructified so far. The CWC was asked to continue with its efforts, as there is a felt need for the same.

3.3 A visit was made to Amroon Foods Pvt. Ltd. at Kursi village which prepares halal meat for being exported to Egypt and other Middle East countries. It employs about 250 workers, of whom 50 are migrant workers from Assam and West Bengal. It is, however, a modern plant and even though the migrant workers are contract workers, the management is providing them with accommodation, potable water, cooking facilities, subsidized meat during Ramadan, health check-up etc. While the Labour Department has not received any complaints from workers, the management lamented about restrictive Government policies which limits the scope for further expansion of the business as well as employment opportunities.

IV. Visit to Sitapur

4.1 The meeting with District-level officials was held at Sitapur which was chaired by the District Magistrate and attended by an IAS Probationer, Members, CWC, Additional Chief Medical Officer, District Social Welfare Officer, Manger, Shelter Homes (Boys/Girls), Mining Officer, Development Planning Officer and representatives of Labour Department and District Brick Kiln Owners Association.

4.2 During the meeting I briefed about the purpose of my visit and the nuances associated with the three types of labour, namely child, bonded and migrant labour. Even though the problem of bonded and child labour is not acute in the District, it was suggested that when Surveys take place, these should address the issues of neo-bondage and whether children's studies are not hampered when they help in family work. There are 243 brick kilns in the District and migration takes place to work there for about 3 months in a year. The representatives of the Brick Kiln Owners Association stated that they are aware of the Code of Conduct and are adhering to it. In addition, they are

trying to improve the environment by planting trees in the vicinity of brick kilns. The District magistrate was requested to resolve the problem relating to giving Government grants for running Balgrihas, which were visited earlier. I also briefed about the contours of the cess-funded welfare schemes for building and construction workers once they are registered.

4.3 A visit was made to Balgriha (Balak) and Balgriha (Balika) at Sitapur , housing 13 and 10 inmates respectively at present, even though provision exists for housing more inmates if need arises, both being managed by a NGO, namely, Uma Mahila Uthan Samity. While facilities provided to inmates appear to be reasonable and teachers are taking good care, the Manager complained about inadequate Government funding whereby dues are pending for a considerable time period.

V. Conclusion

5.1 The visit to U.P. was an experience of different kind considering the diversities existing in the State, problems encountered by the Government and the way steps are being taken to resolve them. The recommendations are annexed. NHRC may like to take up relevant issues with concerned Ministries and State Government.

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Recommendations

- (i) Various clarifications required for operationalising the new Central Sector Bonded Labour Rehabilitation Scheme of 2016 need to be made available by the Ministry of Labour and Employment at the earliest; otherwise, the Scheme will remain a non-starter.
- (ii) Adequate and timely funds flow for rehabilitation of bonded labour also requires serious consideration.
- (iii) Since U.P. is a child labour sensitive State, Ministry of Labour and Employment may also take an early decision regarding the proposals referred to them for constituting NCLPs.
- (iv) The new and innovative Schemes to combat child labour being launched by the State Government need to be watched. If they are found to be successful in achieving desired objectives, they may be recommended for replication elsewhere.
- (v) Framing of the Code of Conduct for owners of Brick Kilns is a laudable step. But the State Labour Department has to ensure that its provisions are actually adhered to so that it brings relief to distressed migrant workers.
