



**THE BONDED LABOUR SYSTEM  
(ABOLITION) ACT, 1976  
AND  
THE PROHIBITION OF EMPLOYMENT  
AS MANUAL SCAVENGERS AND  
THEIR REHABILITATION ACT, 2013**



**National Human Rights Commission  
India**

**THE BONDED LABOUR SYSTEM  
(ABOLITION) ACT, 1976  
AND  
THE PROHIBITION OF  
EMPLOYMENT AS MANUAL  
SCAVENGERS AND THEIR  
REHABILITATION ACT, 2013**



**NATIONAL HUMAN RIGHTS COMMISSION  
INDIA**

# **The Bonded Labour System (Abolition) Act, 1976 And the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013**

© 2021, National Human Rights Commission, India

Published by



**National Human Rights Commission**

Manav Adhikar Bhawan, C-Block

GPO Complex, INA, New Delhi - 110 023

Email : [covdnhrc@nic.in](mailto:covdnhrc@nic.in)

Website : [www.nhrc.nic.in](http://www.nhrc.nic.in)

Publication & Technical Assistance :

**Publication Unit, NHRC**

Designed & Printed by

**Indu Cards & Graphics**

2393/221 Vidya Market, Chhatta Shahji

Chawri Bazar, Delhi-110006

Phone : 011-23278811, 011-42281190 Mob : 9811419531

E-mail : [inducards@gmail.com](mailto:inducards@gmail.com), [inducards@hotmail.com](mailto:inducards@hotmail.com)

Website : [www.inducards.co.in](http://www.inducards.co.in)

# THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

## Constitutional Mandate:

### Article 23 of the Constitution of India- Prohibition of traffic in human being and forced labour

Article 23 of the Constitution of India provides that-

- (1) **Traffic in human beings** and *beggar* and other similar forms of **forced labour** are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.
- (2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

*Mr. Ram, who works for an MNC in Gurgaon forcefully brings Mrs. Zita from Jharkhand in Delhi to take care of his family's domestic work. He makes her work for 5:00 am to 11:00 pm and pays her 1000/- per month. Mr. Ram has violated the spirit of the Constitution of India and has committed an offence under Bonded Labour Act and Code on Wages.*

## What is Bonded Labour?

Bonded labour is debt bondage and is a form of slavery that has been practiced for ages. It is known as the worst form of modern slavery and is a profitable business as most of the labourers are made to work for maximum time with minimal payment. It also includes forced work by an employer for a fixed time without being paid, often as a way of repaying debt. A person becomes a bonded labourer when his/ her labour is demanded as means of repayment for a loan. Not all bonded labour is forced, but most forced labour practices,

whether they involve children or adults, are of a bonded nature.

## Definitions

**The 1976 Bonded Labour (Abolition) Act defines ‘bonded labour system’ as the system of forced labour under which a debtor enters into an agreement with the creditor that he would render service to him either by himself or through any member of his family or any person dependent on him, for a specified or unspecified period, either without wages or for nominal wages, in consideration of loan or any other economic consideration obtained by him or any of his ascendants, or in pursuance of any social obligation, or in pursuance of any obligation devolving on him by succession.**

The term ‘bonded labour’ has been defined by the National Commission on Labour as “labour which remains in bondage for a specific period for the debt incurred”. The Commissioner for Scheduled Castes and Scheduled Tribes explained the term bonded labour in its 24th report as “persons who are forced to work for the creditors for the loan incurred either without wage or on nominal wage”.

## What is Forced Labour?

Forced Labour is any kind of work or service where any person is coerced or forced to do against his or her will, under threat, coercion or violence, which amounts to forced labour. If any person is not allowed to have freedom of movement, freedom to sell his/her product at the market rate, this will amount to forced labour.

## Definition

According to the ILO Forced Labour Convention, 1930 (No. 29), forced or compulsory labour is:

***“All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.”***

***Mr. Ganga and Mrs. Nirmala work in a paddy field owned by Mr. Jatin Singh. After working there for 10 years, they were offered an opportunity to work for Mr. Karan, who was offering them higher pay for working 5 days a week. However, they were not permitted to take said opportunity.***

### **The Salient Features of Bonded Labour Act:**

- Bonded labour was declared illegal in the country in 1976. Thus, today it is against the law to withhold any person for forced labour
- Identification and rehabilitation of bonded labour
- Formulate schemes and committees at the district level
- Punishment up to three years, with fine for withholding any person for forced labour
- Any property attached with the bonded debt stands freed and discharged from the date of enforcement of the Act
- Employer cannot evict the bonded labourers from the accommodation provided

### **Situational Work Performed by Bonded Labourers**

- Brick kiln
- Stone quarry
- Mining
- Zari industry
- Agriculture in various forms and kinds
- Rice mill
- Domestic slavery in metropolitan cities
- Construction sites

### **What are their Living Conditions?**

- No Proper visibility
- No proper ventilation
- Insufficient amount of food

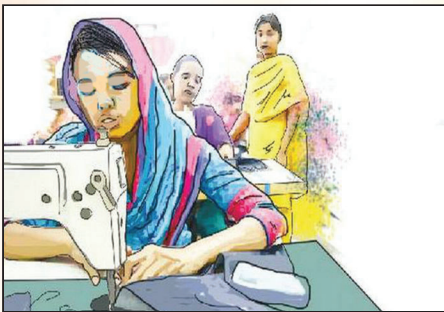
- Overtime working with no compensation for the overtime
- Very low wages
- No medical facility
- Not fit for minimum standards of human survival



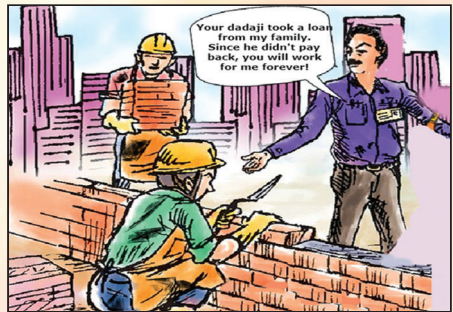
**STONE QUARRY**



**BRICK KILN**



**ZARI INDUSTRY**



**CONSTRUCTION SITES**



**DOMESTIC WORK**

## Bonded Labour Act:

**A law was enacted in order to abolish the bonded labour system in India in 1976, called “THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976”.**

### Objective:

The object of the Act is to provide for the abolition of bonded labour system in order to prevent the economic and physical exploitation of the weaker sections of the society and for matters with or incidental thereto.

### Definition of Bonded Labour as per the Act:

For the purposes of the Act, some of the important concepts and expressions have been defined as under:

- (a) **“Advance”** means an advance, whether in cash or kind, or partly in cash or partly in kind, made by one person (hereafter referred to as the creditor) to another person (hereafter referred to as the debtor).
- (b) **“Agreement”** means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

**Explanation:** The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social customs, in relation to the following forms of forced labour name:

**Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, GarruGalu, Hali, Hari, Harwail, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munishsystem, Nit Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti.**

- (c) **“Ascendant”** or **“Descendant”**, in relation to a person belonging to a matriarchal society, means



the person who corresponds to such expression in accordance with the law of succession in force in such society.

- (d) **“Bonded Debt”** means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system.
- (e) **“Bonded Labour”** means any labour or service rendered under the bonded labour system.
- (f) **“Bonded labourer”** means a labourer who incurs, or has, or is presumed to have, incurred a bonded debt.
- (g) **“Bonded labour system”** means the system of forced, or partly forced labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that –
- In consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or
  - In pursuance of any customary or social obligation, or
  - In pursuance of any obligation devolving on him by succession, or
  - For any economic consideration received by him or by any of his lineal ascendants or descendants, or
  - By reason of his birth, in any particular caste or community, he would-
    - i. Render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for

the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

- ii. Forfeit the freedom of employment or other means of livelihood for a-specified period or for an unspecified period, or
- iii. Forfeit the right to move freely throughout the territory of India, or
- iv. Forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

**(h) “Family”**, in relation to a person, includes the ascendant and descendant of such person;

**(i) “Nominal wages”**, in relation to any labour, means a wage which is less than-

- The minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force; and
- Where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality.

**(j) “Prescribed”**, means prescribed by rules made under this Act.

## Penalizing Sections

The Act makes the following actions punishable offences-

- Accepting payment against a bonded debt which has been extinguished
- Compelling a person to work in the bonded labour system
- Advancing a bonded debt
- Enforcing/perpetuating the bonded labour system
- Omission/failure to restore possession of property to bonded labourer
- Abetment of any of the above offences

### **The relevant provisions laying down the punishments for these offences are as under: -**

#### **Section 9- Creditor not to accept payment against extinguished debt-**

- (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.
- (2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years and also with fine.
- (3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

#### **Section 16- Compelling a person to work in bonded labour system:**

Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with

imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

**Section 17- Advancing money in a bonded labour system:**

Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

**Section 18- Punishment for enforcing and extracting bonded labour under the bonded labour system:**

Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

**Section 19- Punishment for omission or failure to restore possession of property to bonded labourers:**

Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

**Section 20- Abetment to be an offence:**

Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

The Act also lays down the functions to be carried out by the District Magistrate to implement the provisions of the Act. The relevant provisions have been reproduced hereunder: -

**Section 10- Authorities who may be specified for implementing the provisions of this act:**

“The State Government may confer such powers and impose such duties on a District Magistrate, as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.”

**Section 11- Duty of district magistrate and other officers to ensure credit:**

“The District Magistrate authorized by the State Government under Section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

**Section 12- Duty of district magistrate and officers authorised by him:**

“It shall be the duty of every District Magistrate and every officer specified by him under Section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate such forced labour.”

## Employing or keeping a person as a bonded labourer is against the law:

### How does a person become a bonded labourer?

**Scenario 1:** A person can become a bonded labourer due his/her ancestor having borrowed money or grains or other kinds of things from rich landlord(s) or money lender(s) in the community. The person is then made to work as a form of repayment of that loan or interest on that loan, for the rest of his life: this debt, and its subsequent repayment, may sometimes be passed on to the next generation. For Example:

*Pradip was a farmer. There was a drought and he couldn't bring good harvest to provide enough for his family. He went to borrow Rs. 1000 from the local money lender, Mr. Lal, in 1980. Pradip and his family were still working for Mr. Lal in 1995. After Pradip's death, his son Santosh and his family continue to work for the money lender, without any payment, for the loan that his father had borrowed in 1980.*

**Scenario 2:** A person is forced to do some work simply because he/she belongs to a lower caste or community.

*Dinesh and Avinash were brothers born to a couple belonging to a lower caste community. They were made to work as bonded labourers because of their birth into a particular caste or community.*

### Legal procedure on how a bonded labourer is freed under the act-

**Scenario 1:** A bonded labourer can be rescued **with the help of the police and local Tehsildar's office**. The bonded labourer will be given a **Release Certificate** soon after their statement is recorded. The case will be tried by the District Magistrate.

**Scenario 2:** As a bonded labourer, **you can approach the Supreme Court or High Court** to release you from bonded labour. In case, you are afraid of the threats, any person or advocate can do it on your behalf free of cost.

## After receiving the release certificate:

You will not have to pay any debt you incurred, for which you have been required to serve as a bonded labourer.

### Scenario 1:

**In case, any of your property is confiscated for debt, it will be returned to you legally. You are entitled to receive the interest on that property, which up until now has been taken by the creditor. Also, if any of your property is mortgaged against such debt, your mortgage shall be redeemed. Thus, your creditor will not be able to take anything from you for the discharge of the said debt.**

*Sunil took a loan from the local money lender and mortgaged his paddy field. Sunil worked at the money lender's paddy field to take care of his field. Sunil couldn't repay the loan he took from the money lender. Eventually, the money lender took over Sunil's paddy field. The money lender shall return the property to Sunil and Sunil does not have to pay any money to the money lender under this Act in discharge of the debt.*

### Scenario 2:

**If anyone has been imprisoned for recovery of any debt, the person shall be released immediately.**

### Scenario 3:

- **A bonded labourer cannot be evicted from the premises where he was living during the course of the bonded labour.**

*Sanjay and his family were rescued from a bonded labour situation. The Zamindar was evicting Sanjay's family from the hut in which they were living. Under this Act, the Zamindar is not allowed to evict Sanjay's family from his hut.*

- **If a bonded labourer is evicted in spite of the provision of this Act, one can approach the Executive Magistrate for immediate restoration to the said property with the help of the local Vigilance**

**Committee or any local social organisation that works on the issues of bonded labour.**

### **Rehabilitation scheme under the Act:**

Under the Act, it is the responsibility of State governments to identify, release and rehabilitate the bonded labourers.

The Act affords protection to the freed bonded labourers from eviction from their homestead. District Administration is mandated to restore the bonded labourer to the possession of such homestead or other residential premises as early as practicable. The Act also provides for the economic and social rehabilitation of the freed bonded labourers.

In order to assist the State Governments in the task of rehabilitation of identified and released bonded labourers, a Centrally Sponsored Plan Scheme for Rehabilitation of Bonded Labour was in operation since May, 1978. The Government has revamped the said scheme with effect from 17<sup>th</sup> May, 2016. The revamped scheme is known as the 'Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016'.

### **The salient features of the Scheme are as under:**

- (1) The revised scheme is a Central Sector Scheme. The State Government is not required to pay any matching contribution for the purpose of cash rehabilitation assistance.
- (2) Financial assistance has been increased from Rs. 20,000/- to **one lakh per adult male** beneficiary, **Rs. 2 lakhs for special category beneficiaries** such as children including orphans or those rescued from organized & forced begging rings or other forms of forced child labour, and **for women Rs. 3 lakh** in cases of bonded or forced labour involving extreme cases of deprivation or marginalization such as trans-genders, or woman or children rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies etc., or



trafficking, or in cases of differently able persons, or in situations where the District Magistrate deems fit.

- (3) The amount of assistance for survey of bonded labourers is Rs. 4.50 lakh per district.
- (4) The release of rehabilitation assistance has been linked with conviction of the accused. In cases where the trial has not been concluded, but the District Administration has arrived at prima facie finding and proof of bondage, then the proposal for cash assistance shall not be stopped for want of details of conviction. However, final disbursement of cash assistance and non-cash assistance shall be made upon proof of bondage and other legal consequences as per judicial process.
- (5) Scheme provides for creation of a **Bonded Labour Rehabilitation Fund at District level** by each State with a permanent corpus of at least Rs. 10 lakhs at the disposal of the District Magistrate for extending immediate help to the released bonded labourers.
- (6) The fund is released by the Ministry of Labour and Employment under the Scheme to the District National Child Labour Project Society and the District Project Society in turn releases the fund to the implementing agencies including the district administration.
- (7) Special care is made available by the State for addressing the needs of the disabled persons, female freed bonded labourers and bonded child labour by providing safe and secure environment for the capacity building of child bonded labourers, facilities for ensuring their proper education, short stay home till education up to class 12<sup>th</sup>, skill development, marriage assistance etc.
- (8) The benefits prescribed above shall be, in addition to, other cash or non-cash benefits which a beneficiary under this scheme is entitled to, by or

under any other scheme or law applicable for the time being in force.

Further, the above benefits would be additionally to other land and housing elements, allotment of house-site and agricultural land, land development, provision of low-cost dwelling units, wage employment, enforcement of minimum wages, collection and processing of minor forest products, supply of essential commodities under targeted public distribution system, education for children etc.

### **The Act requires the State Government to constitute vigilance committees in every district:**

The State Government, as per Section 13 of the Act, is required to constitute **Vigilance Committee(s) in every district**

### **Functions of the Vigilance Committees:**

#### **The functions of each Vigilance Committee shall be:**

- a. To advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made there under are properly implemented;
- b. To provide for the economic and social rehabilitation of the freed bonded labourers;
- c. To co-ordinate the functions of rural banks and co-operative societies with a view to channelize adequate credit to the freed bonded labourer;
- d. To keep an eye on the number of offences of which cognizance has been taken under this Act;
- e. To make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

- f. To defend any suit instituted against a freed bonded labourer or a number of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.
- g. A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

### **The Constitutional Provisions:**

The main provision displaying prohibition, against bonded labour is Article 23 of Constitution which provides that human trafficking and begar and other form of forced labour is prohibited and any violation of this provision is punishable under the law. Article 24 prohibits employments of children under the age of 14 years. These Articles are further supported by other Articles such as Articles 14, 15, 16, 19(1) (g), 21, 42, 43 and 46

### **Statutory Provisions against Bonded Labour:**

1. **Indian Penal Code: Section 370** Section 370 of the Indian Penal Code has been substituted with Section 370 and 370A IPC after Criminal Law (amendment) Act 2013 came into force. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which shall not be less than 3 years and may be extended to seven years, and shall also be liable to fine.
2. **Indian Penal Code: Section 370A**
  - (1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term

which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

- (2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished With rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.

### **3. Indian Penal Code: Section 374**

Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

4. **Bonded Labour System (Abolition) Act, 1976-** The main object of the Act is identification, release and rehabilitation of Bonded Labourers. The Act also lays down constitution of vigilance committees in district and sub- divisional level for better implementation of the Act and also penal sanctions for protection of bonded labourers.
5. Many other Acts were enacted which indirectly referred prohibition of bonded labour like Children (Pledging of Labour) Act, 1933, Contract Labour (Regulation and Abolition) Act, 1970, Interstate migrant workers (Regulation of employment and conditions of Service) Act, 1979, Minimum wages Act, 1948. But the main legislation dealing directly with bonded labours is the Bonded Labour System (Abolition) Act, 1976.

### **Other Laws applicable to Bonded Labour:**

- **Chapter 5 Of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**

- **Indian Penal Code, 1860**
- **The Protection of Children from Sexual Offences Act, (Amendment), 2019**
- **The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989**
- **Weekly Holidays Act, 1942**

### **Legal Rulings:**

#### ***People's Union for Civil Liberties Vs State of Tamil Nadu & Others.***

In the case of ***People's Union for Civil Liberties vs. State of Tamil Nadu & Others***, Writ Petition (No. 3922/1985), the Supreme Court of India had directed the National Human Rights Commission (NHRC) should be involved in the monitoring the pace and progress of the law, national policy, and programme of action as also directions of the apex court issued from time to time. The NHRC is monitoring the bonded labour situation in the country.

#### ***Bandhua Mukti Morcha vs. Union of India***

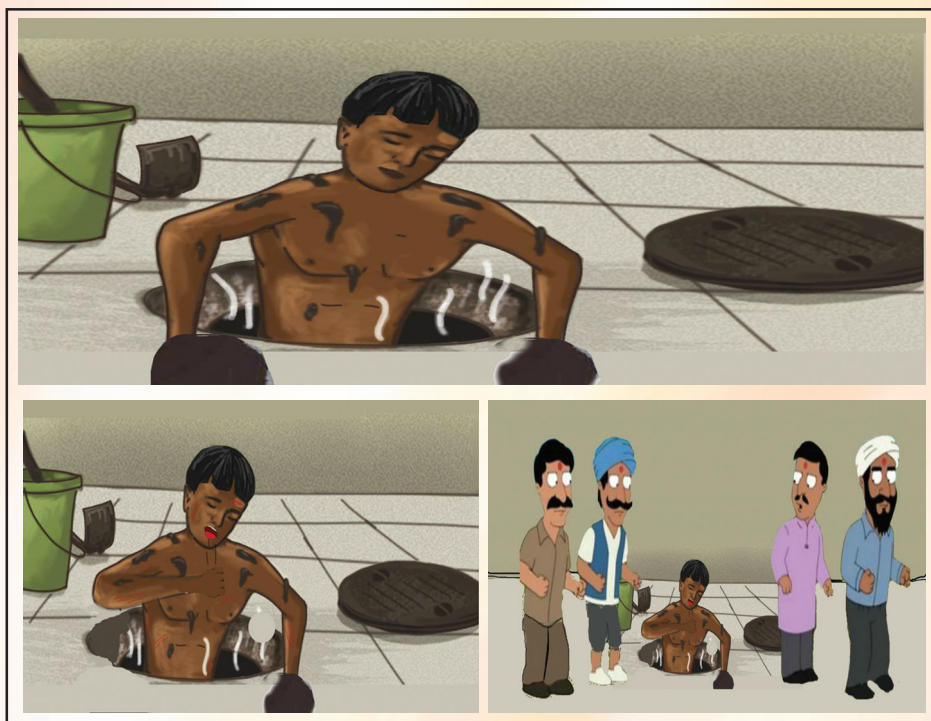
##### **FACTS:**

In the case of ***Bandhua Mukti Morcha vs. Union of India*** (1984 3 SCC 161), a public interest litigation was brought against the inhuman working conditions in stone quarries. This was primarily brought as the various directions given by the Apex Court in the 1984 petition brought by the same appellants, had not been implemented by the various State Governments. It may be noted that in this case a letter addressed to this Court complaining about the prevalence of bonded labour system in Cutton, Anagpur and Lakkaarpur areas in Haryana, was treated as a Writ Petition under Article 32 of the Constitution of India.

## What the Court held:

- The Supreme Court observed that before a bonded labourer can be regarded as a bonded labourer, he must not only be forced to provide labour to the employer, but must receive an advance or other economic consideration from the employer, unless he is made to provide forced labour in pursuance of any custom or social obligation or by reason of his birth in any particular caste or community.
- The Court held that what is necessary is provision of a permanent base for residence of the labourers, at or near the work site. This would necessitate reasonable housing, supply of water, a reasonable provision store at hand, schooling facility, facility of a hospital, recreational facilities and attention to the law and order problem. The Court directed the State of Haryana to attend to the needs of the workmen in a well-considered and systematic way and to provide them with the facilities mentioned above. It was alleged that majority of the workers were compelled to migrate from other states, and were turned into bonded labourers. Thus, a violation of various labour laws and the Bonded Labour System (Abolition) Act, 1976 was established.

# THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION BILL, 2013



## *Health Hazards/Risks of Manual Scavenging*

Manual Scavenging is a manual removal of excreta (night soil) from “dry toilets”, i.e., toilets without the modern flush system. Manual scavenging involves the removal of human excreta using brooms and tin plates. The excreta are piled into baskets which scavengers carry on their heads to locations sometimes several kilometres from the latrines. The right to be free from manual scavenging is an economic, social and cultural right and it imposes obligation on the State to abolish manual scavenging system and give relief and rehabilitation to the manual scavengers and their dependents by adopting suitable initiatives.

## Definition of manual scavengers:

A person engaged or employed in the commencement of this act by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing off, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.

## Manual scavenging & Constitution of India:

- **Article 14-** Right to Equality
- **Article 17-** Untouchability
- **Article 21-** Right to Life & Liberty
- **Article 46-** Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- **Article 47-** Duty of the State to raise the level of nutrition and the standard of living and to improve public health.



*Ways of Putting an End to Employment of Manual Scavenging:  
Raising Voice and Educating People*



## Prohibition on Manual Scavenging:

Previous Laws on Manual Scavenging-

- I. Employment of Manual Scavengers and Constructions of Dry latrines (Prohibition) Act, 1993
- II. National Commission for Safai Karamcharis Act, 1993,
- III. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 were enacted for social inclusion and upholding the Indian constitution in spirit.

## Manual Scavengers Act, 2013

With the dehumanising practice of manual scavenging still persisting in various parts of the country and the existing laws having proved to be insufficient to do away with the same, the Parliament felt the need to enact **The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013** with the object of prohibiting employment as manual scavengers, rehabilitation of manual scavengers and for related matters.

## Some of the important provisions of the Act are discussed hereunder-

- **(Section 5)** No person, local authority or any agency shall construct an insanitary latrine or employ or engage manual scavengers
- **(Section 6)** Any contract/agreement entered into, employing a person for manual scavenging, shall be treated as void/non-existent.
- **(Section 7)** No person, local authority or any agency shall engage a person for hazardous cleaning of a sewer or a septic tank.
- **(Section 8)** Whoever contravenes the provisions of Sections 5 and 6, shall be punished with imprisonment for upto 1 year or with fine up to

Rupees. 50,000 or both.

- **(Section 9)** Whoever contravenes the provisions of Section 7 shall be punished with imprisonment for up to 2 years or with fine up to Rupees. 2 Lakh or both.
- **(Section 10)** Complaint with respect to any of the offences is to be made within 3 months from the date of the commission of the alleged offence.

## **Rehabilitation of Manual Scavengers:**

**Section 11-13:** The Act makes exhaustive provisions for rehabilitation of manual scavengers;

Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be given, within one month,

- A photo identity card, containing, inter alia, details of all members of his family dependent on him.
- One time, cash assistance, as may be prescribed.
- His children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities.
- He shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority.
- He, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training.

- He, or at least one adult member of his family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority.

He shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

***Self Employment Scheme for Rehabilitation of Manual Scavengers (SESRMS):*** The objective of the scheme is to assist the scavengers and their dependents for rehabilitation irrespective of their income, which are yet to be provided assistance under any scheme of Government of India/ State Government.

### **Authorities for Rehabilitation and to Implement the Act:**

The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of Sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.



*Manual Scavengers protesting for basic human rights*

## **Authorities for rehabilitation and deal their cases legally:**

The District Magistrate of the district shall be responsible for rehabilitation of each manual scavenger.

- **Section 21**-All offences will be tried by Executive Magistrate and the offences may be tried summarily
- **Section 22**-Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and non-bail able.
- **Section 25**- Vigilance Committee for each district headed by District Magistrate. The Vigilance Committee is to advise the District Magistrate/Sub-Divisional Magistrate on the actions which need to be taken to oversee the economic and social rehabilitation of manual scavengers, to monitor

registration of offences under the act and their investigation and prosecution.

### **The functions of Vigilance Committee:**

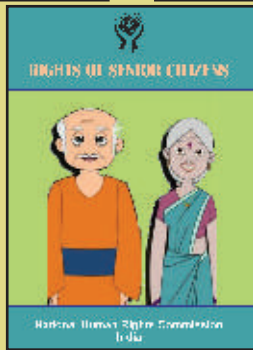
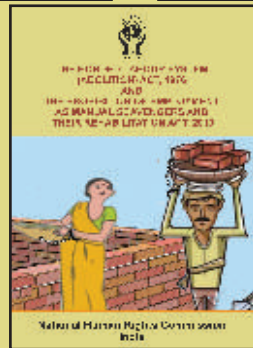
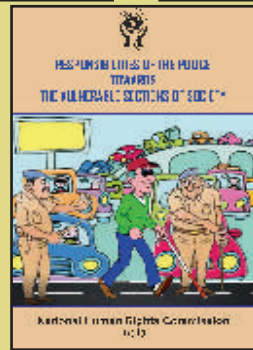
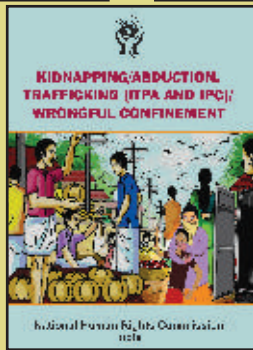
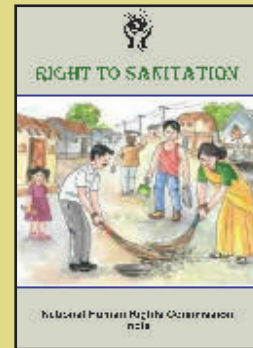
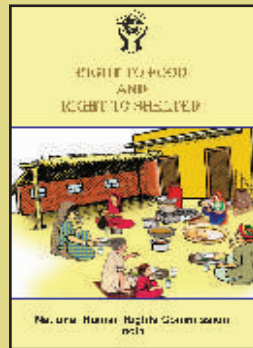
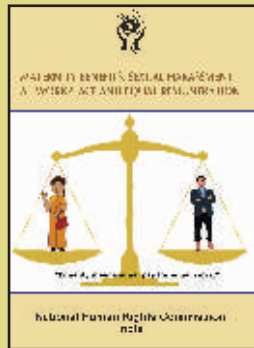
- A. To advise the District Magistrate or the Sub-Divisional Magistrate, on the action to be taken.
- B. To oversee the economic and social rehabilitation of manual scavengers.
- C. To co-ordinate the functions of all concerned agencies with a view to channelize adequate credit for the rehabilitation of manual scavengers.
- D. To monitor the registration of offences under this Act and their investigation and prosecution.

### **Monitoring Committee to Implement the Act:**

- **Section 26-27** Every State Government shall, by notification, constitute a State Monitoring Committee, to monitor and advise the State Government and local authorities for effective implementation of this Act, to co-ordinate the functions of all concerned agencies and to look into any other matter incidental thereto or connected therewith for implementation of this Act.
- **Section 30-** Central Government will also constitute a **Central Monitoring Committee** which will advise central and state governments for effective implementation of the Act.
- **Section 31- National Commission for ‘Safai Karamcharis’** will monitor the implementation of this Act and advise central and state governments for effective implementation of the act and also to take Suo-motu notice of matter relating to non-implementation of the Act.



# THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 AND THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013



**NATIONAL HUMAN RIGHTS COMMISSION, INDIA**  
Manav Adhikar Bhawan, C-Block, GPO Complex  
INA, New Delhi - 110 023  
Email : covdnhrc@nic.in Website : www.nhrc.nic.in

**National Human Rights Commission  
India**



**THE BONDED LABOUR SYSTEM  
(ABOLITION) ACT, 1976  
AND  
THE PROHIBITION OF EMPLOYMENT  
AS MANUAL SCAVENGERS AND  
THEIR REHABILITATION ACT, 2013**



**National Human Rights Commission  
India**

WALDEN IS BEHIND SOCIAL MANAGEMENT  
A WISDOMY ACT AND FORM OF REVOLUTION

National Human Rights Commission  
India

RIGHT TO FOOD  
AND  
RIGHT TO SHELTER

National Human Rights Commission  
India

RIGHT TO SANITATION

National Human Rights Commission  
India

KIDNAPPING/ABDUCTION,  
TRAFFICKING (ITPA AND IPC);  
WRONGFUL CONFINEMENT

National Human Rights Commission  
India

RESPECTING LIVES OF THE PEOPLE  
TOWARDS  
THE VULNERABLE SECTIONS OF SOCIETY

National Human Rights Commission  
India

EMPLOYMENT COMPENSATION ACT,  
THE MINIMUM WAGES ACT,  
THE PAYMENT OF GRATUITY ACT,  
THE PENSIONERS ACT

National Human Rights Commission  
India

PROTECTION AGAINST THE  
MISUSE OF  
POWER AND  
INVESTIGATION OF  
MISDEEDS AND  
THEIR REDRESSAL

National Human Rights Commission  
India

Constitutional and Civil Rights  
to Promote Scheduled Caste And  
Scheduled Tribe Students Rights of  
the Law against Child Marriage

National Human Rights Commission  
India

RIGHTS OF SENIOR CITIZENS

National Human Rights Commission  
India

RIGHT TO WATER

National Human Rights Commission  
India



**NATIONAL HUMAN RIGHTS COMMISSION, INDIA**

Manav Adhikar Bhawan, C-Block, GPO Complex  
INA, New Delhi - 110 023  
Email : covdnhrc@nic.in Website : www.nhrc.nic.in