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**Report of Dr. Ashok Sahu, Thematic Special Rapporteur (Child/Bonded/Migrant Labour), NHRC on Visit to Bihar (Patna, Bhojpur and Saran) during 07-11, February, 2017.**

**I. General**

1.1 The State of Bihar, after its southern part was segregated to form the State of Jharkhand, presently consists of 38 Districts divided between 9 Divisions. It is an agriculturally prosperous State, the river Ganges flowing in the middle. Agriculture, Industry and Services sectors account for about 22, 5 and 73 per cent of the Gross State Domestic Product. It has also plenty of tourism potential. According to 2011 census, the State had a population of 10.38 crore of whom 16 and 1.3 per cent belonged to Scheduled Castes (SCs) and Scheduled Tribes (STs) respectively. But part of the State is flood and migration-prone. Hence poverty ratio is relatively high, the percentage of people below poverty line being 33.74 in Bihar as against all India average of 21.92 in 2011-12.

**Child Labour**

1.2 According to 61<sup>st</sup> Round of National Sample Survey, 2004-05, child workforce in Bihar was estimated at 3.64 lakh. The most prevalent forms of child labour in the State are employment in hotels/dhaba and as domestic

workers etc. Through various measures taken, child labour intra-State is no longer a major problem.

1.3 The National Child Labour Project (NCLP) Scheme of the Ministry of Labour and Employment, which aims at mainstreaming child labour, covered 24 Districts of Bihar. 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. 01-04-2014 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 2011 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 adjustment in their schools/Special Training Centres. In pursuance of this direction, NCLP presently is continuing in only 5 Districts in Bihar.

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

- The State Government has put in place a framework for creating Child labour-free Bihar. While the Labour Resources Department is the Nodal Department, it envisages hand-holding by various other Departments/ institutions like Rural Development, Urban Development, Revenue & Land Reforms, Health, Human Resource Development, Social Welfare, Food & Civil Supplies, S.C, S.T. & O.B.C. Welfare and Minorities Welfare Departments and Bihar Education Development Council, Bihar Child Labour Commission and UNICEF (Bihar). The Nodal Department has been entrusted with the responsibilities of child labour survey, awareness generation, implementation of laws to stop child trafficking, implementation of NCLP, rehabilitation of child labour repatriated from other States, implementation of other important labour laws etc.
- The Government of Bihar has formulated a Scheme for rescued child labour. As per the Scheme, an amount of Rs.25,000/- will be deposited

in an annuity scheme in the name of the child whose details are entered in child labour tracking system (CLTS). The principal amount will be given when the child attains the age of 18.

- Preparation for conducting comprehensive Child Labour Survey.

### **Bonded Labour**

1.5 According to Government of Bihar, 2857 bonded labourers have been rehabilitated in the State, out of whom 1178 bonded labourers are fully rehabilitated and 1679 are partially rehabilitated who have received State Share of Rs.10,000/- and for whom the Central share has been recently received and is in the process of disbursement. However, according to the Socio-Economic Caste Census, 2011, conducted by the Ministry of Rural Development, the number of rehabilitated bonded labour households in Bihar stood at 13,587; Patna, Bhojpur and Saran Districts accounting for 2014, 579 and 333 such households respectively. Bonded labourers have been rescued from places like New Delhi, Jhajjar and Karnal (Haryana), Jaipur (Rajasthan), Lucknow (UP), Murliganj (Madhepura) and Dhamdah (Purnea), both in Bihar.

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

- Vigilance Committees have been constituted with adequate representation of the Civil Society.
- Awareness generation is given a lot of attention.
- The State Government is preparing to harness the benefits provided under the new Central Sector Scheme as and when they are made available.
- Facilities under various poverty alleviation Schemes, including social security pension, are being given to the rehabilitated bonded labour.
- Skill development training is being emphasized.

### **Migrant Labour&Human Trafficking**

1.7 So far migrant labour is concerned, Bihar being part agriculturally very prosperous and part flood prone, is both a destination and host State. Migration into the State takes place from Jharkhand, Chhattisgarh etc. primarily to work in brick kilns in off-season. Migration out of the State takes place to work in different types of industries as well as in agriculture in various places. Human trafficking is not considered a major issue except that the State is used as transit point for both Nepalese children and females. MGNREGS seems to be operating reasonably well.

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

- Efforts are being made to implement different provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service Act), 1979.
- An Accident Compensation Scheme for Bihar State Migrant Workers, 2008 (amended in 2011) is in operation.
- Efforts are being made to register migrant workers.
- There is continuous vigilance to combat human trafficking.

1.9 Against this background, field visits were made to Dechnabal and Balwahi Totavillages in Bhojpur District and two institutions in Saran District and discussions were held at Patna with State level officials and at District headquarters with District level officials, whose outcomes are discussed below.

## **II. Meeting at Patna**

2.1 A meeting was held with State level officials at Patna which was attended by Labour Commissioner and officials of labour Department, Chief Inspector of Factories, Deputy Superintendent of Police, Weaker Section & Criminal Investigation Department (CID), Assistant Director, Social Welfare Department and Consultant, UNICEF. By way of initial remarks I mentioned that coordinated efforts are required to combat evil practices of child, bonded, migrant and trafficked labour, especially female trafficking, formation of Vigilance Committees and rescue teams, effective involvement of Panchayati

Raj Institutions (PRIs), CWCs, NGOs and Civil Society, conduct of District level Surveys of bonded and child labour and preparation of data base, proper identification of victims, preparation of effective rehabilitation package and ensuring payment of admissible assistance to prevent any relapse, effective implementation of MGNREGS, proper awareness generation, provision of vocational training and livelihood mission and State Government laying down a road map and pragmatic strategies, which require priority attention of the State Government. Further I stated that the enhanced provisions of the new Central Sector Scheme on bonded labour should be availed and the proposed Survey on bonded labour should capture the extent of neo-bondage. Besides, the Child Labour (Prohibition and Regulation) Act, 1986 has been amended recently and the proposed Survey on Child Labour should capture its ramifications especially whether education of children under 14 years of age and their helping in family work can proceed concurrently. Since Bihar is a border State, the participants were requested to touch upon any issue arising on account of child/migrant labour from Nepal.

2.2 The Labour Commissioner stated that presently NCLP is functioning only in five Districts. While education of small children is looked after by Aanganwadi Centres, Bridge Schools are functioning under SSA for mainstreaming child labour. There is no serious problem of bonded labour

inside the State, but some of the migrant labour who have gone outside the State are treated as bonded labour there and are being released from there for being rehabilitated in the State. But some fraud has been noticed in issuance of release certificates by officials of Rajasthan and the matter has been taken up with that State Government. The problem is likely to multiply with higher assistance having been announced under the new Central Sector Scheme.

Migration is also not a major problem as employment is available in rural areas due to double/triple cropping in fertile irrigated pockets. But where mono cropping is practised, circular migration, especially to work in brick kilns takes place in off-season. Besides it also takes place due to displacement if cropped area becomes flood-ravaged. Migration to far-off areas like Punjab, Haryana etc. has come down substantially. Similarly, human trafficking in the State is very rare. The State Government has taken significant steps in awareness generation and institutional arrangements like Vigilance Committees, vocational training through Jeevika etc. are in place. MGNREGS is being operated successfully and jobs are being provided as and when demanded, though they are not considered attractive due to low wages and abhorrence for manual jobs. Building and construction workers are being registered and provided assistance from the cess collected. He, however felt that since provision of assistance to bonded labour is getting linked to Aadhaar



No., steps should be taken for its universal coverage and application. Steps are also required for regulating the recruiters/agents. The Committees provided for monitoring various Schemes should be small and business-like. NHRC may consider being more discrete in filtering various complaints received by it while asking for investigation. Other participants felt that the definition of family in the Child Labour Act is very broad as a result of which it becomes difficult to decide whether the child is working for the family or other employers under the amended Act. In the matter of rehabilitating Nepalese child labour released from working in India, a Standard Operating Procedure (SOP) needs to be developed to prevent adhocism, in the manner it exists between India and Bangladesh. The preponderance of male child labour released, and not females, needs to be looked into. To prevent trafficking, vigilance has been institutionalised in all railway stations. In case of bonded labour if a portal can be developed to which the release details are uploaded, their early and effective rehabilitation can be facilitated.

### **III. Visit to Bhojpur**

3.1 In Bhojpur District a meeting with District level officials was held in its headquarters at Ara which was attended by ADM, Bhojpur, officials of Labour Resources Department, Deputy Superintendent of Police, District Minority Welfare Officer and officials of District Child Welfare Centre. At the outset

pointed out that apart from taking legal measures, the long term solution lies in eradicating poverty in a comprehensive manner by providing assistance available under various Central and State Government Schemes, generating employment opportunities especially in the lean period and encouraging students to undergo vocational training in ITIs. The officials pointed out that feudal society does not exist in Bhojpur District. It is agriculturally prosperous but witnesses certain degree of Left Wing Extremism because unemployment situation has arisen due to mechanisation. So far as child labour is concerned, their employment has come down drastically. Wherever it is noticed, child labour is rescued. But there is neither any child helpline nor any shelter home in the District. It was decided that the Child Welfare Committee would give a proposal in this regard which the District Administration would consider favourably. So far bonded labour problem is concerned, some of them who have become bonded in other States have been rescued and rehabilitated in the District. Migration out of the State from Bhojpur District is not a major problem though there is in-migration of workers from other States like Jharkhand to work in brick kilns etc. Similarly, human trafficking is also scarce and the police is both sensitive and vigilant about the problem. In respect of awareness generation, it was mentioned that all legal support available under various labour laws including those relating to child, bonded and migrant

labour are disseminated in ShramAdhikar Divas, held almost bi-monthly. The District Labour Department has also prepared a simple pamphlet in the matter for wider distribution. Jobs are made available under MGNREGS whenever asked for. VikasMitras help workers in this regard at Panchayat level though the general feeling is that Panchayats are over-burdened.

3.2 A visit was made to Dechnabal village to interact with about 9 rehabilitated bonded labour households. It was observed that they had gone to Karnataka on their own but were extremely exploited by their employer. They were made to work for about 12 hours each day, not paid wages (only food and some maintenance allowance), scolded and abused. When their plight was made known by a local NGO, Karnataka police rescued and repatriated them to their home District. They stated to have received Rs.12,000/- each and have almost spent the entire amount in consumption, except in some cases where investment has been made in piggery. They were advised to get Aadhar Card made in those cases who did not possess one and apply for houses under Prime Minister AwasYojana, register as building and construction workers to get various benefits and avail jobs under MGNREGS.

3.3 I also visited another village, namely, BalwahiTota where about 25 migrant workers from Jharkhand are working in a brick kiln, while most of them are undergoing circular migration during lean seasons for last 3 to 4

years. While some of these labourers have taken advance, others would collect their wages while returning back. Facilities like accommodation, potable water etc. have been provided to them. Both males and females have in-migrated but not children. They were advised to register themselves in their Gram Panchayats in Jharkhand while migrating again, open bank accounts there and also avail benefits as building and construction workers after registration back in Jharkhand. The brick kiln employer was advised to pay workers' dues properly and take care of their health.

#### **IV. Visit to Saran**

4.1 A meeting with District level officials was held at Chhapra which was attended by Additional District Magistrate and officials of Labour Resources Department, Police Department, District Child Welfare Committee and Child Protection Unit. By way of initial remarks I requested the officials to let me know about the situation relating to the child, bonded, migrant and trafficked labour in the District. It was pointed out that the District is mostly a triple cropped area as the soil is fertile and irrigated. As a result the extent of bondage and migration is less. In the recent past only two bonded labour rescued from other States had to be rehabilitated. There is prevalence of child labour to some extent which is more an outcome of perverse mind set of parents. Hence awareness generation among parents and children is most

important. The District was earlier covered by NCLP but the Scheme has not been operating here presently. It was indicated that NCLP will be successful if there is provision for residential accommodation and counselling. For generating employment, horticulture, goat keeping, poultry and mushroom cultivation are being practised and encouraged. In the matter of skill development, recently a District Registration and Consultation Centre (DRCC) has been made functional in the District. Besides there are ITIs, Motor Driving Schools etc. imparting vocational training. Human trafficking is not a problem though there were instances of Nepalese females being transited in the aftermath of last massive earthquake. However, the District has a legacy of international migration, indentured labour had gone earlier whose descendants now occupy high places in the Caribbean, Mauritius, Suriname etc. This is presently replaced by people going to Middle East and Western countries in search of decent earnings which can be classified as benign migration. Various other Schemes like Parvarish (Special Needs) Scheme, Sponsorship and Foster Care Scheme etc. are in place. But there is need for Child Labour Tracking System and online transfer of rescued child so that immediate rehabilitation measures including economic rehabilitation can be put in place.

4.2 Subsequently, two institutions, namely, District Registration & Consultation Centre (DRCC) and a Shelter Home called Children Home (Boys), Chhapra, operated by a NGO called 'Moral Association for Nature and Society (MANAS) were visited. Under Bihar Skill Development Mission (BSDM), necessary infrastructure is being put in place to operate KushalYuva Programme (Training for Youth Programme) which is preparing candidates for (i) Bihar State – Certificate in Communication Skills (BS – CCS), (ii) Bihar State – Certificate in Information Technology (BS – CIT) and Bihar State – Certificate in Soft Skills (BS - CSS). The DRCC is providing single window facility to obtain assistance under the Chief Minister's Assured Self-help (MukhyaMantriNischaySwayamSahayataBhatta) Yojana and Bihar Student Credit card Yojana. There appeared to be good response for the Schemes, going by the response of a large number of candidates present at the Centre during our visit. The Shelter Home is being assisted by the State Social Welfare Department and houses about 39 destitute inmates in the age group of 6 to 18 recommended by District Child Welfare Committee. They are being provided with bridge education, food, clothing and vocational training and are either relocated to their parents or mainstreamed in regular schools. The chairperson of the NGO, Shri DiveshNath Dixit, who was earlier involved also in operating NCLPs was interacted with. He opined that some sort of bridge school either

through SAA or NCLP is necessary to mainstream child labour. In the matter of the controversy whether allowing children up to 14 years to assist in the family work as permitted under the amended Child Labour Law is desirable, he was of the opinion that such children assisting their own families may help them in respecting labour and acquiring livelihood skills and it will not hinder their schooling.

4.3 There was also interaction with Shri SashiBhusan Kumar from the Press who publishes a magazine called 'Manabadhikar Today' (Human Rights Today) regarding the purpose of my tour.

## **V. Conclusion**

5.1 The visit to Bihar was both an enriching and educative experience. The recommendations are annexed. NHRC may like to take up relevant issues with concerned Ministries and State Government.

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## Annexure

### **Recommendations**

(i) The Baseline Surveys relating to child labour for which funds would be provided under the Revised NCLP Guidelines and the Baseline Survey relating to bonded labour for which funds would be provided under the new Central Sector Scheme should also be carried out by the State Government early.

(ii) On the issue of some fraud having been noticed in issuance of release certificates for bonded labour by officials of the Destination States (para 2.2), which is likely to multiply with higher assistance having been announced under the new Central Sector Scheme, some pre-emptive measure needs to be taken by the Ministry of Labour & Employment. Otherwise it will lead to serious leakage in future. Linkage to Aadhar or uploading of release data in a prescribed format in a designated portal may be a possible solution.

(iii) In respect of recent amendment to the Child Labour (Prohibition and Regulation) Act, 1986, there is an ongoing controversy whether education of



children under 14 years of age and their helping in family work can proceed concurrently. A point was made (Para 2.2) that because of liberal definition of 'family' in the amended Act [Exclamation (a) to Section 3 defines 'family' in relation to a child as his mother, father, brother, sister and father's sister and brother and mother's sister and brother] by including both parents' brothers and sisters would make implementation of any penal clause for employing children very difficult. This might require a further amendment to the Act on which both NHRC and the Ministry of Labour & Employment may like to take a view.

(iv) In the matter of developing a Standard Operating Procedure (SOP) for rehabilitating Nepalese child labour released from working in India (para 2.2), both Ministry of Labour & Employment and Ministry of External affairs may like to take a view.

(v) A child helpline and shelter home need to be established in each District (especially in Bhojpur District as it was noticed to be not there).

(vi) Vocational training needs to be given priority for uplifting the youth in future.

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