

## **KEYNOTE ADDRESS ON BONDED LABOUR**

Bonded labour - or debt bondage - is probably the least known form of slavery today, and yet it is the most widely used method of enslaving people. A person becomes a bonded labourer when their labour is demanded as a means of repayment for a loan. The person is then tricked or trapped into working for very little or no pay.

Bonded labour is prohibited in India by law vide Articles 21 and 23 of the Constitution. A specific law to prohibit the practice was legislated only in 1976 known as the Bonded Labour System (Abolition) Act. With the commencement of the Act the following consequences followed: bonded labourers stand freed and discharged from any obligation to render to bonded labour. All customs, traditions, contracts, agreements or instruments by virtue of which a person or any member of family dependent on such person is required to render bonded labour shall be void. Every obligation of bonded labourer to repay any bonded debt shall be deemed to have been extinguished. No suit or any other proceeding shall lie in any Civil Court or any other authority for recovery of any bonded debt.

Every decree or order for recovery of bonded debt not fully satisfied before commencement of the Act shall be deemed to have been fully satisfied. Every attachment for the recovery of bonded debt shall stand vacated. Any moveable property of bonded labourer, if seized and removed from his custody shall be restored to him. Any property possession of which was forcibly taken over by the creditor shall be restored to the possession of the person from whom seized. Any suit or proceedings of the enforcement of any obligation under the bonded labour system shall stand dismissed. Every bonded labourer who has been detained in Civil Prisons shall be released from detention forthwith. Any property of a bonded labourer under mortgage, charge, lien or any other encumbrance, if related to public debt shall stand freed and discharged from such mortgage. Freed bonded labourer shall not be evicted from the homestead land.

Despite the statutory prohibition, bonded labour is widely practiced. The worst affected are the children and women particularly those from the Dalit community. The legal framework against bonded labour provided in the Bonded Labour System (Abolition) Act, 1976 is supported by other legislations like the Contract Labour (Regulation and Abolition) Act, 1970; the Inter-State Migrant Workmen

(Regulation of Employment and Conditions of Service) Act, 1979; the Minimum Wages Act, 1948.

Bonded labour is characterized by a relationship between employer and employee, through a loan, and is embedded intricately in India's socio-economic culture—a culture that is a product of class relations, a colonial history, and persistent poverty. Also known as debt bondage, bonded labor is a specific form of forced labour in which compulsion into servitude is derived from debt. Categorized and examined in the scholarly literature as a type of forced labor, bonded labour entails constraints on the conditions and duration of work by an individual. Not all bonded labor is forced, but most forced labor practices, whether they involve children or adults, are of a bonded nature. Bonded labour is most prevalent in rural areas where the agricultural industry relies on contracted, often migrant laborers. However, urban areas also provide fertile ground for bondage. Characterized by a creditor-debtor relationship that a labourer often passes on to his family members, bonded labor is typically of an indefinite duration and involves illegal contractual stipulations. These contracts deny an individual the basic right to choose his or her employer, or to negotiate the terms of his or her contract. Bonded

labor contracts in India are not only economic, as they are reinforced by custom or coercion in many sectors such as the agricultural, silk, mining, match production, and brick kiln industries, among others.

Bonded labourers are forced to work to repay debts their employer says they owe, and they are not allowed to work for anyone else. Various forms of force are used to make sure that they stay. In many cases they are kept under surveillance, sometimes under lock and key. Bonded labour in the farming sector is mostly due to caste-based prejudices practiced against the Dalit communities and due to the absence of a proper land reform policy.

In states like Kerala, where land reforms have been implemented by statute, bonded labour virtually has been eliminated as opposed to States like Gujarat, Uttar Pradesh, Bihar, Tamilnadu and Karnataka where large portions of land are still held by families who practice feudal forms of land ownership and labour employment. Owing to lack of livelihood options, large number of rural population are forced to work for landlords and eventually end up in perpetual debt traps resulting in entire families and villages ending up as bonded to the landlord for generations. The absence of

public health facilities and education opportunities literally push the rural population to work either as bonded labourers or to migrate into urban areas seeking odd jobs. A large number of children employed as bonded labourers by the non-farming sectors like small-scale textile, firecracker, leather goods manufacturing, brick kilns and granite extraction units are from the families who are subjected to distress migration from the rural villages. In the cities, children from these families are employed as bonded labourers in restaurants and eateries or end up being employed as bonded beggars or fall prey to sex trade.

In Meghalaya, extraction of coal in private coal mines in the Jaintiya hills region is exclusively undertaken by manual labourers, thousands of them being bonded, who have come to work in the mines from neighbouring States to beat acute poverty.

It was reported in the Hindu news paper on 19/10/2012 that a person had sold himself and his wife as bonded labourers against a loan of Rs. 45,000/- four years ago to the village landlord. He died this August leaving behind the unpaid debt. The fact that both husband and wife had worked for virtually no money and ate only

stale food at the farm of the landlord day and night did not help. The debt only accumulated interest. The husband was often beaten up so brutally at work that he wouldn't be able to stand the next day. The wife is now being ex-communicated from the village until she pays the landlord's unpaid debt. It is illegal but accepted practice in Punjab to employ labourers against the loan. These bonded labourers are paid almost no or very little salary and are kept poor deliberately so that they are never able to pay back the dues to the landowners.

These are glaring examples. However many States take a stand that there are no bonded labourers in their States and that all that was required to be done has been done. Eradication of bonded labourers is not a one time event. It can occur and recur any time in any industry/occupational/process.

The need of the hour is to focus on safeguards for release of bonded labourers and prevention from their lapsing into bondage again. For instance, identification, release and rehabilitation should be simultaneous. Between identification and release there should not be any gap and in the same way between release and start of rehabilitation process. It is important to ensure that release

certificates in respect of individual bonded labourers identified as such are issued promptly in the language which is intelligible to the bonded labourers. Prosecution of employers must go simultaneously but separately with identification and release of bonded labourers. Delay in conviction of the bonded labour keeper or even his eventual acquittal should not inhibit or stall the rehabilitation process.

The Ministry of Labour, Government of India has initiated a Centrally Sponsored Scheme under which Rs. 20,000 is provided for the rehabilitation of each bonded labourer, to be equally contributed by the Centre and the State Governments. In the case of North Eastern States, 100% central assistance is to be provided if they express their inability to provide their share. But, by and large, the process of rehabilitation is poor and is frequently delayed, particularly in the case of inter-state bonded migrant labourers, and the degree of concerted convergent action required on the part of the administration is rarely forthcoming.

Prosecution of employers is also weak. Since the bonded labourers are very poor and assetless, most of them relapse into bondage, while others experience only a very marginal increase in

income. The financial assistance from the Government, even if realized, in the absence of any additional support mechanism for a released and assetless labourer is not sufficient support to start a new life. However, increasing the quantum of the support amount is not a viable solution. Instead to end the practice, what is required is strict implementation of labour laws in India. Other than this, the State Government should dovetail the Centrally Sponsored Scheme for rehabilitation of bonded labourers with other ongoing poverty alleviation schemes such as Swarna Jyanti Gram Swaraj Rozgar Yojana (SJGSRY), Special Component Plan for Scheduled Castes, Tribal Sub Plans, etc.

Preventive efforts must recognize the social dimensions of bondage, and thereby address it through public sensitization and rights awareness, adult literacy, organizing workers, income generation and vocational skills development. The strategies to eliminate bonded labour need to go beyond the symptoms to address the root causes. The multifaceted and deeply rooted nature of those causes requires an integrated and long term strategy.



The role of District Magistrates in elimination of bonded labour is significant. The law provides for the duties and responsibilities of the District Magistrate and every officer specified by him. They have to ensure that the provisions of the Act are properly carried out. The law also provides for the constitution of Vigilance Committees at the district and sub-divisional level, duties and responsibilities of such Committees in the area of identification and rehabilitation of freed bonded labourers. The District Magistrates have to ensure the release of identified bonded labourers on the basis of reports submitted by the Vigilance Committees after conducting the survey at the district and sub-divisional level. They would also formulate suitable schemes for the rehabilitation of freed bonded labourers-land based, non land based and skill/craft based occupations, keeping in view the preferences, felt needs and interest of the beneficiaries.

### **Initiatives of the National Human Rights Commission**

The Supreme Court in the Writ Petition (No. 3922/1985) - Public Union for Civil Liberties Vs State of Tamil Nadu & Others - requested the NHRC in 1997 to get involved in the monitoring of the

implementation of the Bonded Labour System (Abolition) Act, 1976. Since then, the NHRC has been focusing on States where bonded labour is prevalent. During 2011, it took stock of the situation and the following charter of activities have been taken up by the Commission on the issue of Bonded Labour:

1. **Constitution of Core Group on Bonded Labour:** A Core Group on Bonded Labour has been constituted by the Commission who will advise in chalking out and suggesting strategies to the State/Central Government for elimination of bonded labour in the country. The last meeting of the Core Group took place on 10/1/2012.
2. **Organized a National Level Seminar:** The Commission organized a National level Seminar on elimination of bonded labour system on 30/9/2011 at IIC, New Delhi. The Officers from State Government/UTs participated in the seminar.
3. **Workshops conducted in Bonded Labour prone States:** The Commission altogether has organized five Workshops on Elimination of Bonded and Child Labour system. These have been organized in collaboration with the State Governments to sensitize District Magistrates, Sub Divisional Magistrates, SSPs and officers from the Labour Department. These Workshops were held at Gujarat, Karnataka, Maharashtra, Haryana and Uttar Pradesh.

4. **NHRC team to carry out surprise visits to bonded labour prone areas:** Teams have been constituted in NHRC to carry out surprise visits to bonded labour prone areas. The team consists of officers from the Investigation and Law Divisions of the Commission. Recently, one team conducted a surprise visit in Ghaziabad, Bhagpat, Meerut and Bulandshahar Districts of Uttar Pradesh. Due to off season at brick-kilns, no workers were found. The next surprise visit is likely to be conducted between November, 2012 to May 2013.

5. **Development of an instructional manual on Bonded Labour:** As of now, the Commission has brought out a booklet under the Know Your rights series on Bonded Labour which is being disseminated to all concerned.

6. **Revised format for Monitoring of Bonded Labour in States:** A new format has been devised for compiling bi-annually status from States/UTs regarding identification, release and rehabilitation of bonded labourers. However, almost all the States/UTs are sending the information in old format only. This issue is being taken up with the Chief Secretaries of the State Governments to send the information as per the revised format. A copy of the revised format is at **Annexure-III.**

7. **Review existing schemes of the Central and State Governments on Bonded Labour:** The Commission has taken up the issue with the Ministry of Labour and Employment. It has

conveyed that they have adopted an integrated convergence based approach to prevent bonded labour with the help of ILO. Recently, Justice Shri B.C. Patel held a meeting with the Director General in the Ministry of Labour & Employment to discuss increase in the rehabilitation grant under the centrally sponsored scheme.

**8. Recommendation to State Government for organizing orientation training programme in each bonded labour prone district:** The Commission has written to all the Chief Secretaries of the State Government /UTs for organizing orientation training programmes for DMs/DSMs/SSPs and also for the field functionaries of labour law enforcement.

**9. Recommending States to constitute a State Level Monitoring and Coordination Committees** under the chairmanship of Chief Secretary with Secretaries to Government of various departments as Members. The committee will also convene meetings to take stock of bonded labour situation in their States and will apprise the Commission every six months.

**REVIEW WORKSHOP ON BONDED LABOUR AND CHILD  
LABOUR DURING THE YEAR 2011-2012**

Sl.No.	Name of the State	Member	Date of workshop	Remarks
1.	Gujarat	JBCP	8-9 Nov,2011	Meeting held. Proceedings received from the State Govt.
2.	Karnataka	JBCP	17-18 <sup>th</sup> Dec.2011	Meeting held. Proceedings received from the State Govt.
3.	Maharashtra	JBCP	5 <sup>th</sup> and 6 <sup>th</sup> January, 2012	Meeting held. Proceedings received.
4.	Uttar Pradesh	JBCP	7/9/212	Meeting held. Proceedings awaited
5.	Haryana	JBCP	21/9/212	<b>Workshop held at Kurukshetra on 21/9/2012. Minutes awaited</b>