

**Report on the visit of Dr. Justice K. Ramaswami, Member, NHRC
to Lucknow on 7 July, 2001**

Dr. Justice K. Ramaswami, Member, National Human Rights Commission visited Lucknow on 7th July, 2001 to review the Bonded Labour and Child Labour situation in the State and assess the performance of the State in implementing the Bonded Labour System (Abolition) Act, 1976 and the Child Labour (Prohibition and Regulation) Act 1986. He was accompanied by Shri Chaman Lal, Special Rapporteur. The Member chaired the meeting held at Raj Bhawan, Lucknow in this connection. The meeting was attended by the following:-

Sl.No	Name	Designation	Department
1.	Smt. Manjulika Gautam	Principal Secretary	Labour
2.	Shri Harish Chandra	Principal Secretary	Rural Dev.
3.	Shri Madhukar Dwivedi	Special Secretary	Labour
4.	Shri Shyam Lal Keservani	Secretary	Labour
5.	Shri Anis Ansari	Commissioner	Labour
6.	Shri M.N. Siddiqui	Director	Factories
7.	Smt. Johra Chatterjee	Secretary	Women & Child Development
8.	Shri Ram Sahai Lal	Secretary	Social Welfare
9.	Shri Netram	Secretary	Basic Education
10.	Shri Jagnath Lal	Joint Secretary	Women Welfare

11.	Shri M.A. Siddiqui	Director	SC, Finance and Development
12.	Shri J.P. Arya	General manager	UP SC, Finance & Dev. Corpn.
13.	Shri Ram Sajan	Dy. Secretary	Labour
14.	Shri Ram Ganesh	Dy. Labour Commissioner	Labour
15.	Shri Suresh Chander		Labour
16.	Shri Bhagwan Shankar	Special Secretary	Urban Dev.

Shri Chaman Lal, Special Rapporteur explained the purpose of the review meeting held in pursuance of the directions given by the Supreme Court in its order dated 11.11.1997 in writ petition (civil) No. 3922 of 1985 requesting the NHRC "to get involved in the monitoring of the implementation of the Bonded Labour System (Abolition) Act 1976". The order of the Apex Court had clearly stated that "the directions issued by the NHRC in this regard would be promptly complied with by the authorities concerned". The Special Rapporteur narrated in brief the mechanism of monitoring evolved by the Commission through an informal institution of Special Rapporteurs/Special Representatives. He apprised the meeting of the Commission's keenness to ensure the realisation of the "objects and reasons" of the Act through periodical monitoring at the State level and field visits to B.L. Prone areas by its members and senior functionaries.

Shri Anis Ansari, Labour Commissioner, UP gave a comprehensive account of Bonded Labour and Child Labour situation in UP with details of various measures taken by the State Govt. in

compliance with the directions of the Supreme Court and the NHRC. The salient points of his presentation with observations made by the Special Rapporteur are given below:

Bonded Labour situation

Labour Commissioner, UP was declared as Head of the Department under the Bonded Labour System (Abolition) Ordinance 1975 and continues to handle the subject of Bonded Labour. All the Sub-Divisional Magistrates of the State were given powers of class I judicial magistrates to try offences under the Bonded Labour System (Abolition) Ordinance 1975 vide notification No.4625 (V)/36-5-66(V)/75 dated 12 December, 1975. District level Vigilance Committees are in position in 57 out of a total of 57 districts. The proposal has been sent to the State Government for issue of notification regarding constitution of the Vigilance Committees in the remaining 13 districts. As regards Sub-Divisional Vigilance Committees, only 190 out of a total 299 sub-Divisions are holding mandatory Vigilance Committees. Proposals in respect of 98 Sub-Divisions are pending consideration for issue of notification by the Govt. Proposals for the remaining 11 Sub-Divisions are awaited from the D.M. concerned.

Responding to the observation of the Special Rapporteur regarding the mandatory requirement of constituting Vigilance Committees at all Districts and Sub-Division levels, the Principal Secretary (Labour) assured that the target of constituting Vigilance

Committees in the remaining 13 districts and 109 Sub-Divisions will be achieved within one month.

A total of 1738 bonded labourers have been identified and released in the State during the period from 1996-97 to 2000-2001. Before this, a total of 27,489 bonded labourers were released after the B.L. Act came into force and 27,469 of them were rehabilitated by 1997.

Of the 1738 bonded labourers released during the last 5 years (1996-97 to 2000-2001), 978 were migrants from other States. The balance 760 and 10 released bonded labourers received from other States were to be rehabilitated in the State. Only 332 out of a total of 770 have actually been rehabilitated till March 31, 2001. 2 died, 2 refused to accept assistance and one has been declared untraceable, thus leaving a balance 433 for rehabilitation. The Labour Commissioner informed that funds for rehabilitation of only 18 of these (433) have been provided to the districts (Maharajganj 3, Chittrakoot 2 and Sonebhadra 13).

Explaining the financial implications of rehabilitation, the Labour Commissioner stated that a total of Rs.28.85 lakh (State share 16.40 and Central share 12.45) was received till March 31, 2001 against the total requirement of Rs. 94.00 lakh. As 61 bonded labourers belonging to Banda, Chittrakoot were rehabilitated with funds already available at the districts, only Rs.59.05 lakh was demanded from the Govt. for 415 bonded labourers left for

rehabilitation at the end of the year 2000-2001. This includes Rs.27.55 lakh as State share and Rs.31 lakh as Central share. Under the modified scheme of rehabilitation, the amount is increased to Rs.20,000/- per labourer. As such, a fresh demand for an amount of Rs.83.35 lakh (Rs.39.70 lakh as State share and Rs.43.65 lakh as Central share) has been projected on 19 June, 2001. Principal Secretary Labour assured that the matter will be pursued vigorously to clear the huge backlog.

The Member expressed his dissatisfaction with low figures of identification and release of bonded labourers – just 1738 - in a period of 5 years. He remarked that many districts of UP are notorious for the practice of bonded labour rampant in stone quarries, brick kilns and agricultural sector and the enforcement machinery could have performed much better. The Member described the rehabilitation of the released labourers as slow and unsatisfactory.

The Special Rapporteur observed that he has during his visits to the Districts of carpet belt found that the rehabilitation is confined merely to disbursement of cash at most places. The Labour Commissioner refuted by mentioning that a total of 307 released labourers including 114 in Sonbhadra, 101 in Mirzapur, 63 in Chittrakoot and 21 in Varanasi were rehabilitated under various schemes such as cattle rearing, poultry, shop keeping, rickshaw pulling, bycle-repairing etc.

The Special Rapporteur remarked that the released bonded labourers can now be helped under the Swaranjyanti Swarojgar Yojna (SJSY). Shri Harish Chandra, Principal Secretary, Rural Development offered help from his department if the details of self-help groups (SHG) of the released labourers constituted by the Labour Department are forwarded to him. The Principal Labour Secretary requested that a circular could be sent by the Rural Development Department to all the CEOs to target the released bonded labourers in poverty alleviation programmes. The integration of the Centrally sponsored scheme for rehabilitation with the anti-poverty programmes and other developmental schemes in existence, repeatedly emphasised by the Govt. of India does not seem to have been tried seriously in UP.

The Govt. of India has sanctioned a sum of Rs. 10 lakh for surveys in 5 B.L. Prone districts of UP. These surveys have been undertaken in Chitrakoot, Mirzapur, Sonbhadra, Varanasi and Mathura. The State Govt. has also received a grant of Rs.10 lakh for awareness generation against Bonded Labour System and Rs. 10 lakh for arranging evaluatory studies of the scheme in selected 5 districts. No details of utilisation of this grant were presented by the Labour Commissioner. The Special Rapporteur clarified that the NHRC would be monitoring utilisation of these grants from the Govt. of India as part of its monitoring the implementation of B.L. Act under the directions of the Supreme Court.

19 districts of UP have been identified as Bonded Labour endemic districts and a target of 500 identifications has been set for 2001-2002. 99 bonded labourers have been detected till 7 July (26 in Allahabad, 25 in Meerut and 48 in Faizabad). 74 of these are found to be migrants from other States. The Member did not like the idea of target-setting and wanted the State Govt. to launch effective drives in all the identified districts. On the suggestion of the Special Rapporteur, the Member requested the State Govt. to send to the Commission quarterly returns covering all aspects of the implementation of B.L. Act.

The presentation included information on prosecution for the year 2000-2001. A total of only 13 cases have been registered. 11 have been challaned, one has been stayed by the High Court and one is under investigation. Only 14 employers are facing prosecution for engaging 232 bonded labours released in districts Faizabad, Ambedkar Nagar, Partapgarh, Meerut, Muzaffar Nagar, Varanasi, Ghaziabad, Allahabad and Jaunpur. The presentation gave no information about the disposal of cases in the courts. The Special Rapporteur remarked that the pace and quality of prosecutions under the B.L. Act are uniformly poor in all the Districts of carpet belt that he has been monitoring.

Child Labour situation

A total of 56,665 child labourers have been detected and withdrawn from work in UP since 1997 following the directions of the

Supreme Court dated 10.12.1996 in M.C. Mehta Vs. State of Tamil Nadu. 27,352 of these were identified and withdrawn from hazardous industries and 29,313 from non-hazardous industries. Besides this, 6,099 child labourers have been detected in district Moradabad as a result a non-evasive survey carried out during May-August, 1999 by the Labour Department in association with DPEP. The survey had revealed a total of 15,562 non-school going children in the District.

The above figures include 1361 children identified in 2000-2001 – 394 in hazardous and 967 in non-hazardous industries. 140 (hazardous 121, non-hazardous 19) of these belong to the carpet belt comprising the districts of Allahabad, Bhadoi, Jaunpur, Mirzapur, Sonebhadra and Varanasi which are being directly monitored by the Commission through the Special Rapporteur.

43,718 out of a total of 56,665 identified children have been admitted to schools. This gives a percentage of 77.15. In the year 2000-2001, 8,307 actual/potential child labourers have been admitted to schools, which includes 1,823 in the carpet belt.

The number of families of the child labourers withdrawn from work since 1997 is 20,322. Only 3,607 of these have been provided employment as per the Supreme Court ruling. 1940 are migrant families belonging to other States. 5,162 are already employed and 2374 have reportedly refused to accept employment/assistance. This leaves a huge balance of 7239 families who are yet to be rehabilitated. The number of affected families for the year 2000-2001 is 325

including 98 belonging to the carpet belt. 1335 families including 639 from carpet belt have been provided employment/assistance in 2000-2001 which obviously includes the previous backlog which has been cleared as a result of constant monitoring by the NHRC.

The Member observed that the rehabilitation of the affected families in accordance with the ruling of the Supreme Court is slow and inadequate and the D.Ms of the concerning districts have to be reminded about their legal responsibility in this regard. Shri Harish Chandra, Principal Secretary, Rural Development offered the services and facilities of his Department for the rehabilitation of the families of children withdrawn from work and suggested that district-wise lists should be sent to him. The Principal Secretary, Labour desired that the Labour Commissioner the Principal Secretary, R.D. as well as the Secretary, Education should meet periodically to ensure schooling of the withdrawn child labourers and economic rehabilitation of their families.

The quality of legal action initiated against the offending employers has shown good improvement in UP during the past 2/3 years. Out of a total of 8,473 employers involved in the identification and withdrawal of child labourers since 1997, 6,294 are facing prosecution. 587 prosecutions have been launched in 2000-2001 which includes 41 in the carpet belt. The total amount of RCs issued at the rate of Rs. 20,000 per child from the offending employers comes to Rs. 2,794.99 lakh. Recovery of Rs.1067.50 lakh has been stayed by court orders which is heartening to note that an amount of

Rs.64.39 lakh has actually been recovered in UP which includes Rs. 20.42 lakhs recovered in 2000-2001. Rs.5.85 lakh has been recovered in the carpet belt alone in 2000-2001.

The Labour Commissioner briefed the meeting about the disposal of the cases which is shown in the following table:

Year	Previous Balance	Prosecutions filed	Total	Convicted (Fined)	Non-convicted	Balance
1997-1998	2731	3761	6492	110	407	5975
1998-1999	5975	800	6775	16	210	6549
1999-2000	6549	1344	7893	42	220	7631
2000-2001	7631	381	8012	51	95	7866
2001-2002	7866	5	7871	0	0	7871

It shows the rate of disposal as 127 per 1000 and gives a conviction rate of 19.02 %. The districts of carpet belt (Varanasi, Bhadoi, Mirzapur, Jaunpur) have registered good improvement in achieving convictions in cases under the Child Labour Act.

The non-evasive survey carried out in Moradabad in 1999 had proved very useful in making an authentic assessment of the Child Labour situation. Similar surveys are proposed in association with the DPEP in districts of Mirzapur, Meerut, Etah (Jalesar), Bhulandsher (Khurja) and Jaunpur. A non-evasive survey has also been carried out in Aligarh with the assistance of UNICEF, Lucknow to identify non-school going children and working children in 60 urban wards of Aligarh during January-April 2001. Report is under preparation.

The State Govt. has provided Rs. 5.0 lakh as seed capital to each of the 23 Child Labour endemic districts for establishing a fund for running the activities relating to elimination and rehabilitation of child labour. District level child labour elimination societies have been formed in 59 of a total of 70 districts in UP. The State Govt. has also provided Rs.100 lakhs as a corpus for the child labour rehabilitation and welfare fund as per the directions of the Supreme Court in MC Mehta's case and a sum of Rs.36.28 lakh has been earned as interest on this till 31.3.2001. The Labour Commissioner informed that it is proposed to distribute the interest amount among the District Level Child Labour Elimination Committees for utilisation on welfare and rehabilitation of child labourers. The Special Rapporteur observed that the generous financial grant made by the UP as long back as December, 1997 has not yet been put to any use because of delay in the finalisation of rules governing their utilisation. The Labour Commissioner informed that these rules have been notified by the Government in November, 2000. The Special Rapporteur remarked that the welfare and rehabilitation of the children remains on paper. The DMs express their inability to make any arrangements for the boarding and lodging of the detected children for want of funds.

Under the patronage of the NHRC, the UP Govt. had launched an Enforcement Manual for the Child Labour Abolition Programme in six districts of the carpet belt with effect from 1.4.1999. The main components of the programme are: registration of all carpet looms, effective enforcement of various labour laws and certification

scheme of declaring a particular area/zone free from the presence of child/bonded labour. District-level Child Labour Elimination Societies have been formed in all the six districts and got duly registered. The registration of the looms, however, has been very slow with only 14,090 looms out of an estimated number of 79,500 registered so far. The Special Rapporteur observed that the implementation of the scheme launched with great fanfare has not been very satisfactory.

The State has done very well in creating general awareness on the issue of Child Labour and sensitising various sections of the society. A number of seminars, workshops and special campaigns have been held in various districts since 1997 by the Labour Department. Education Department of UP has also been involved in these activities. In the year 2000-2001, 4 workshops were organised with the assistance of UNICEF - at Aligarh (lock and hardware industry) on 30.9.2000, Kanpur (brick-kiln) on 9.10.2000, Allahabad (bidi making) on 10.10.2000 and Moradabad (glassware) on 9.11.2000. The workshops proved very useful in identifying the magnitude of the problem of the Child Labour in these specific areas and sensitising the concerned agencies associated with this problem. A welcome feature of these workshops has been the willing cooperation from the industries themselves who have come forward to help the affected children and their families.

National Child Labour Project (NCLP)

A total of 370 NCLP schools have been sanctioned under NCLP Project in districts of Ferozabad, Aligarh, Bhadoi, Mirzapur, Moradabad, Varanasi, Khurja, Allahabad, Saharanpur, Kanpur and Azamgarh. At present 346 schools are operational wherein 19,807 actual/potential child labourers are receiving accelerated primary education (3 years) with benefits of supplementary nutrition and stipend of Rs.100/- per month. The Principal Secretary assured that the remaining 24 schools (23 in Azamgarh, 1 in Khurja) will be commissioned by the end of July, 2001. 4 of the 6 carpet belt districts are covered by this scheme. The Labour Commissioner informed that the Government of India has been approached for opening 20 additional schools in Bhadoi (20 already working), 50 additional schools in Moradabad (20 working) 3 new schools in Bareilly, 30 additional schools in Varanasi (10 working) and 100 additional schools in Allahabad (40 working). The Special Rapporteur observed his inspection of the schools in carpet belt shows that a very small number of actual child labourers are being admitted to these schools and the benefit is being largely enjoyed by other non-school going children. Since this scheme is meant exclusively for the children withdrawn from hazardous industries, the implementation is not strictly in compliance with the directions issued by the Union Labour Ministry.

As many as 116 schools are being run by the District administration without any involvement of the NGOs – 31 in

Ferozabad, 20 in Aligarh, 10 in Moradabad, 40 in Saharanpur and 15 in Azamgarh. The Special Rapporteur observed that these activities can be run very efficiently and effectively through NGO sector. The Commission has already come to know about the poor functioning of the schools in Ferozabad and Aligarh being run by the District administration.

Special Rapporteur referred to a Govt. notification of October, 1999 which has severely restricted the powers of the Labour Department to inspect factories and other manufacturing establishments and check the enforcement of various labour laws. Though it has been done with the intention of creating a favourable climate for promoting investment in the State and putting an end to "Inspector-raj", it has adversely affected the enforcement of Child Labour Act. The officers of the Labour Department are now required to obtain permission from the District Magistrates before visiting any unit. Most of the District Magistrates are reportedly reluctant in granting permission. The notification is violator of the Child Labour Law which, for its compliance, depends entirely on the Child Labour Inspector. It also violates the provisions of the Factory Act. It has to be withdrawn forthwith to ensure proper implementation of Child Labour and Bonded Labour Law. The matter was brought to the notice of the Chief Secretary when he called on the Member at Raj Bhawan. The Chief Secretary asked the Principal Labour Secretary to refer the matter to him on file immediately.

The Special Rapporteur reminded the Principal Secretary, Labour about the report of the Committee constituted by the NHRC to look into the Child Labour situation in Lock Industry of Aligarh. The report was sent to the Govt. of UP on 21 May, 2001 for comments. The Chief Secretary, UP had promised to send the comments latest by 30 June, 2001. The Special Secretary, Labour informed that the report is being examined by the Labour Commissioner and the comments will be forwarded within a week's time.

Address by Member

Dr. Justice K. Ramaswami, Member, NHRC, in his address, explained the significance of the laws relating to the evil practices of Bonded Labour and Child Labour and requested the State Government to impress upon the District Magistrates their Constitutional obligation under these Acts arising from the trust the Parliament has reposed in them. Describing the role of the NHRC as a catalyst and facilitator in ensuring humane governance which alone can guarantee promotion and protection of human rights of the vulnerable sections of the society, the Member explained that the purpose of the review undertaken by him is not to find faults and flaws in the working of the State Government but to engage them in a meaningful interaction which would help both the parties to discharge their respective Constitutional responsibilities effectively. The purpose of the meeting, he said, was to ascertain the difficulties and constraints of the State Government in matters relating to implementation of the Bonded Labour and Child Labour Acts. He

told the Labour Commissioner that the number of bonded labourers identified during the last 5 years (1738) is too low a figure for a State like UP where incidence of bonded labour can be seen in many pockets in varying manifestations. He urged that the State Govt. should get Vigilance Committees constituted at all the districts and Sub-Divisional levels and strengthen supervision over their functioning by involving the Divisional Commissioners in this task as is being done in some other States. He also pointed out the need for greater involvement of NGOs in the process of identification and rehabilitation of bonded labourers. He expressed his sense of dismay at the poor record of prosecutions under the Bonded Labour Act and wanted the Govt. to give their special attention to this aspect. He pointed out the need for strict enforcement of the provisions of the Minimum Wages Act, Contract Labour Act and Inter-State Migrant Workers Act which have a direct bearing on the incidence of Bonded Labour.

Referring to the delay in identification and release and in release and rehabilitation, the Member explained that the release and rehabilitation are to be undertaken simultaneously which is sadly not being done in most States. He pointed out another common flaw in the processing of Bonded Labour cases which relates to the omission of issuing formal orders under Section 6 of the Act freeing the labourer from debt and bondage. This is found to be one of the major causes of relapse of the released labourers into bondage with the clever ex-masters. He asked the State Govt. to reiterate to the District Magistrates the instructions regarding the rehabilitation of migrant

bonded labourers. The District Magistrate is required to make arrangements for their repatriation to their native place/State if they so desired under intimation to the Ministry of Labour. If the released labourers do not want to return to their parent States the District Magistrate has to arrange for their rehabilitation in the State where they are identified. The Member felt that special care and attention has to be given to the rehabilitation of the migrant bonded labourers.

The Member emphasised the importance of associating Panchayatraj institutions, especially village Sarpanch in identification of Bonded Labour and Child Labour. He cited the example of Karnataka which has amended the relevant Act to make Gram Panchayats accountable for reporting the incidence of Bonded Labour/Child Labour in their respective areas. He urged the State Govt. to give greater attention to the monitoring of rehabilitation of released labourers to ensure that the incidence of relapse is minimised. He suggested that efforts should be made to rehabilitate the labourers collectively by constituting Cooperative Societies or self-help groups. He appreciated the positive attitude displayed by the Secretary, Rural Development, U.P in this regard.

The Member desired that the NHRC will be interested in knowing the outcome of the surveys being conducted in 5 districts with financial grants received from the Union Labour Ministry. The Commission would also like to be informed about the evaluatory studies of the Centrally sponsored scheme for rehabilitation of bonded labour (modified in May 2000) being made in selected 5 districts.

Referring to the Special Rapporteur's observation about non-utilisation of the grant in 2001-2002, the Member hoped that the funds would be fully and properly utilised in 2001-2002.


The Member expressed his satisfaction with the Child Labour situation in the State and the efforts of the Labour Department in implementing the Child Labour Act and the directions of the Supreme Court and the NHRC. He gave the following specific directions:

1. The child labour schools should be periodically visited by the senior Officers and their working should be closely monitored. He pointed out the need for surprise visits to these schools.
2. Seats in the NCLP schools should be allotted to the children actually withdrawn from the work so that the affected families receive the benefit of stipended.
3. Admission of withdrawn children to schools should be considered the responsibility of the Education Department and not of the parents of the children concerned.
4. The Education Department should look into the phenomenon of drop-out particularly of the girl children at the primary and middle school level and find out the reasons and devise ways and means to tackle it.

Pointing out the huge backlog (7239) of economic rehabilitation of the affected families, the Member requested the Principal Secretary Labour to direct the District Magistrates

concerned to complete the task at the earliest. Smt. Jhora Chatterjee, Secretary, Women and Child Development also offered the assistance of her department if some NGOs-oriented proposal for rehabilitation of affected families could be sent to her. The Member advised the Principal Secretary Labour to direct all concerned to send to the Rural Development and Women and Child Development Departments the list of the affected families required to be rehabilitated under the directions of the Supreme Court.

Commenting on the slow progress in implementation of the enforcement of Manual under the Child Labour (Abolition) Programme launched by the Labour Department on 1.4.1999, the Member requested the Govt. to release sufficient funds for the registration of the looms which could ultimately lead to fulfilment of certification scheme of declaring a particular area/zone free from the Child Labour/Bonded Labour. He appreciated the efforts of the Labour Department in carrying out non-evasive surveys to ascertain the real magnitude of the problem of child labour and advised the Education Secretary to expand and extend the scope of formal and non-formal education facilities in Child Labour endemic districts. He wanted the Government to give special attention to the Child Labour Prone districts in the matter of developing and expanding the facilities of non-formal education.



(Chaman Lal) 17/7
Special Rapporteur
17.7.2001