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Report on the visit of Justice K. Ramaswamy, Member NHRC to
Mumbai on 18-19 January 2002

Dr. Justice K. Ramaswamy, Member visited Mumbai on 18-19 January 2002 to review the child labour and bonded labour situation in Maharashtra. He was accompanied by Shri Chaman Lal, Special Rapporteur. The Review-Meeting was preceded by a meeting with the NGOs working in the areas of child labour and bonded labour. The meeting was held in the Committee room of the Secretariat at 11 AM on January 19. It was attended by 11 NGOs including Samarthan, Bachpan Bachao Andolan and CRY.

The Special Rapporteur explained the mandatory duty of the NHRC to encourage the efforts of the NGOs working in the field of human rights and mobilise their participation and cooperation in the task of spreading human rights literacy and undertaking research in human rights. Besides giving a brief account of their activities, the NGOs made critical comments on the working of the Government Departments at the District and State level in tackling the problems of child labour and bonded labour. The following useful inputs emerged from this interaction:

1. There has been no systematic survey after the special survey ordered by the Supreme Court in 1996 to assess the magnitude of the problem of Bonded Labour & Child Labour in Maharashtra. The surveys carried out in some districts from

time to time were half-hearted attempts whose results do not reflect a correct picture of these problems.

2. Although Government records show admission of released child labourers to schools, the situation on the ground belies these claims. The administration has considered its job to be over after getting these children enrolled in the schools – formal or non-formal-and never bothered about their retention. Verification will reveal that a large percentage of these children has dropped out of schools rendering the whole exercise futile.
3. The economic rehabilitation of the affected families of child labourers and the released bonded labourers is not receiving any worthwhile attention from the administration. As such full benefits of the Centrally sponsored schemes for the rehabilitation of bonded labourers are not being derived.
4. The much talked about convergence of anti-poverty schemes in ensuring social & economic rehabilitation of the released bonded labourers could not be achieved because of lack of coordination among the concerning Departments like Labour, Education, Rural Development, Women & Child Development, Social Welfare etc.
5. The officers of the Labour Department at the functional level in most of the Districts are lacking in sensitivity towards the

issue of child labour and bonded labour. Very often they are found caring more for the exploiters than the poor victims.

6. There is a strong need for fixing accountability at all levels and its strict enforcement.
7. Contrary to the results of official surveys, the incidence of child labour is rampant in sugarcane industries, slaughter-houses and brick-kilns all over Maharashtra. Sexual exploitation of children is also fairly common in Maharashtra.
8. The DMs fight shy of admitting the existence of these problems in their respective area. Instead of acting responsively on the complaints made by the NGOs, every effort is ^{being} made to prove them wrong, ignoring at times the glaring evidence adduced by the petitioners.
9. Shri Vivek Pandit, Director, Samarthan narrated a case of bonded labour where the administration used all its means and resources to prove that the complaint regarding engagement of a woman as bonded labour in Chandrapur District was false. The poor lady ultimately died on 19 January 2000. (Shri Vivek Pandit was asked to send a separate petition to the Commission).
10. Some NGOs praised the NHRC for acting promptly on their complaints and making an effective and fruitful intervention. It

was suggested that the directions issued by the NHRC in these cases should be widely circulated to spread awareness on the subject.

11. Although most of the districts of Maharashtra are found afflicted by the problem of child labour, only 2 Districts namely Sholapur and Thane are covered under the Child Labour project of Government of India. The Administration has not bothered to get this useful project extended to other child-labour prone Districts.
12. Importance of non-invasive survey, free from the fear of prosecution was emphasised by all the NGOs. It was unanimously felt that the raid type of survey seldom results in revealing a true picture of the magnitude of the problem.
13. Prosecution of employers involved in engagement of child labour and bonded labour has remained totally neglected in Maharashtra.

Describing the NGOs as eyes and ears of the NHRC, Dr, Justice K. Ramaswamy exhorted them to continue their courageous and fearless mission and seek intervention of the Commission whenever and wherever they encounter lack of cooperation or sensitivity from the Government officers. He acknowledged the contribution of the NGO sector in providing authentic and useful information about the ground reality to the Commission.

The meeting with the Government officials was also held in the Committee room of the Secretariat at 4 PM on 19 January 2002. Besides Shri V. Ranganathan, Chief Secretary and Shri Ashok Khot, Principal Secretary (Labour), the Secretaries of Urban Development, Health, School Education, Tribal Development and Home Departments attended this meeting. Shri Vivek Pandit of Samarthan, Dr. A. Samad of SETU Charitable Trust, Shri Srinivas Kulkarni of BBA, Shri Suryakant Kulkarni of Socio-Economic Development Trust were also allowed by the Member to attend this meeting.

After the Special Rapporteur explained the mandate received by the NHRC from the Supreme Court to monitor the implementation of laws relating to Bonded Labour and Child Labour, Shri Ashok Khot, Principal Secretary made a brief presentation of the situation in the State. Main points of his presentation are discussed below.

CHILD LABOUR

A total of 1023 child labourers were detected in two surveys (10 March to 31 May and 10 November to 20 November 1997) which covered a total of 70231 Establishments. No survey was carried out in 1998. In a survey carried out during the period from 1st October 1999 to 28 February 2000, 1,31,866 Establishments were covered and 2983 children detected working in 2041 Establishments.

Presumably, after learning that the NHRC would be monitoring the child labour situation, the Maharashtra Government ordered a fresh survey from 1st September 2001. A total of 83,304 establishments were inspected till 31 December 2001 and 4552 children were detected working in 2444 hazardous establishments. The Principal Secretary informed that this survey is still in progress and will continue till 31.1.2002.

The follow-up action on withdrawal of children from hazardous occupations as per the directions of the Supreme Court was taken only in respect of the first survey of 1997 in which a total of 1002 children were withdrawn from hazardous work. The Principal Secretary (Labour) informed that 257 children were subsequently found to be above 14 years of age. 115 children were migrant and were sent to their parent State. 57 children could not be traced for want of address. As such, only 573 children were admitted to schools. (in the meeting taken by the Member at NHRC on 30 October 2000, the number of such children was given as 983).

The actual number of families in respect of the detected children (1002) has not been intimated despite pointing out its significance to the Principal Secretary (Labour) in the meeting taken by the Member at NHRC on 30 October 2000. The Principal Secretary explained that employment was offered but refused by 131 families. 24 affected families were having adult members already working. 117 affected families were migrant families which could not be offered employment. Only one family out of the entire survey of 1997 conducted under the directions of the Supreme Court was given employment.

A proposal for grant of Rs. 5000/- per child as per the directions of the Supreme Court in respect of families which are not offered employment is now under the consideration of the Government of Maharashtra. The Commission would like to pursue this and expect periodical progress reports from the Principal Secretary (Labour). (8)
proceed

As explained to the Principal Secretary (Labour) by the Member in the meeting of 30 October, recovery of Rs. 20,000 per child was to be made from the offending employers in respect of all the 1002 children withdrawn from hazardous work. The presentation made by the Principal Secretary (Labour) showed that recovery of Rs. 20,000 has been made only in 38 cases (Rs. 7,60,000) and 707 cases of recovery of Rs. 20,000 each are yet to be taken up.

440 prosecutions were launched in respect of the detection of 1002 children from 742 Establishments. Only 64 cases have been disposed of till now – 13 in conviction and 51 in acquittal. In addition, a total fine of Rs. 88,200 has been imposed on 6 convicts. As many as 376 cases are pending trial. In the meeting of 30 October, the Member had expressed his readiness to write to the Chief Justice of the High Court to Maharashtra requesting him to issue suitable directions to the concerning Courts for expeditious disposal of the pending cases. The Principal Secretary (Labour) has accordingly sent a list of 386 cases under Child Labour Act which are pending in 5 Divisions namely Konkan, Pune, Nasik, Aurangabad and Nagpur of Maharashtra. The matter is being examined separately for further action. However, the Special Rapporteur requested the Principal Secretary (Labour) and also the Chief

Secretary to direct the District Magistrates to review this matter regularly in monthly Coordination Meetings.

The presentation was silent on educational and economical rehabilitation of 21 children detected in the survey of November 1997 as well as 2983 children detected in the survey of October 1999 –February 2000. It is understandable that follow-up action on the survey currently in progress is yet to be initiated.

The presentation of the Principal Secretary (Labour) confirmed the unanimous view voiced by the NGOs in the morning meeting that the rehabilitation of child labourers and their families has been far from satisfactory in Maharashtra. While expressing unhappiness with the scant regard shown by the Government of Maharashtra to the clearly enunciated directions of the Supreme Court in the matter of detection, withdrawal and rehabilitation of child labourers, the Member expressed the hope that follow-up action on the survey which started on 1st September 2001 and will continue till the end of this month, will be taken up with all seriousness and the Principal Secretary and Labour Commissioner will give personal attention to all aspects – admission of children withdrawn from schools, providing of employment to one adult member of the affected family or depositing of Rs. 5000 per child in the Child Welfare-cum-Rehabilitation Fund, prosecution of the employers concerned and recovery of Rs. 20,000 per child from the offending employer. The Commission would expect a detailed report on the survey by 15 February 2002 and monthly reports of follow-up action from March 2002 onwards.

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As asserted by the NGOs in the morning meeting, the evil of child labour exist in most of the Districts of Maharashtra. The Principal Secretary (Labour) informed that National Child Labour Project (NCLP) is in operation in two districts namely Thane and Solapur and proposals to cover 15 more districts have been submitted to the Central Government. Since NCLP Schools can be sanctioned only if a specific number of children are actually withdrawn from hazardous work, the Principal Secretary (Labour) was advised to send fresh proposals to the Government of India after the results of the current survey are finalised. A copy of the proposal can also be marked to the NHRC for seeking the Commission's help in the matter.

Shri S.Tripathi, Principal Secretary (Home) informed the meeting about the commendable work being done by the SETU Charitable Trust for rehabilitation of workers engaged in Slaughter-houses, (Parbhani Aurangabad and Bhiwandi) power-looms and the children of commercial sex workers. Dr. A. Samad of SETU explained the organisation's work in providing education to the children working in Slaughter-houses, Power-looms as well as the children of sex workers, leprosy patients and scavenging community. The Chief Secretary mentioned good work being done by 'PRATHAM' in providing education to children of slum-dwellers and migrant labourers engaged in sugarcane industries. The Principal Secretary (R&R) mentioned that with the active involvement of NGOs, a good number of children are being withdrawn from work and provided education. The Secretary, Tribal Development Deptt. informed that 412 Government and 507 Govt.-aided Ashram Schools are engaged in imparting education to the tribal children in Maharashtra. He informed that special attention is being given to the education of children belonging to primitive

tribes – Korku, Pardhi and Karkalis. One school exclusively for Pardhis community is working in District Aurangabad and another is likely to come up in Mumbai. The Member advised the Secretary to consider creating such facilities for children of other primitive tribes as well.

The Principal Secretary (R&R) explained the special measures being taken by the Government of Maharashtra to expand education facilities for geographically disadvantaged and economically backward sections of society and also for the physically handicapped children. He informed that the level of enrolment in primary schools is now around 96% but the drop-out rate is also high ranging from 40-60%. An estimated 20-30 lakh children are still out of school in the State. The Government has designed and put into operation an innovative scheme called Mahatma Phule Education Guarantee Scheme for child labourers and other out of school children in the age group of 6-14. 3614 schools with 78,000/- children are reported to have started. The representatives of the NGOs questioned this claim by alleging that the Government has so far not released any funds for operationalising this scheme. The Member commended the Govt.'s initiative but emphasised early and honest implementation of the scheme. Shri Vivek Pandit of SAMARTHAN raised the issue of education of children of Brick Kiln workers. The Special Rapporteur advised that the owners of the Brick Kilns should be persuaded to develop such facilities at sites as is being done in UP. The Secretary (R&R) informed that this idea has been successfully tried in developing education facilities for children engaged in sugar industry.

Under the NCLP Solapur 34 schools with authorised capacity of 1700 were sanctioned in April 1996. Actually 30 NCLP schools with 1500 children are being run by 22 NGOs. Efforts are being made to open 4 more schools by the end of year 2001-2002. Majority of the children admitted to these schools belong to Bidi-making families. Under the NCLP Thane, 25 NCLP schools holding 1353 children are being run in District Thane by 3 NGOs viz. Vidhyak Sansad, Shramjeevi Sangathan and Shantiseva Mandal. Majority of the child labourers are the children of brick-kiln establishments. The Commission would like to get some of these schools formally inspected by the Special Rapporteur.

BONDED LABOUR

The presentation added hardly anything to the information given by the Principal Secretary (Labour) in the meeting of 30 October 2001. It was then reported that only 20 out of a total of 35 districts are having the mandatory Vigilance Committees and sub-Divisional level Vigilance Committees are available only at 46 places. The Principal Secretary had then assured that constitution of Vigilance Committees at all the District and sub-Division HQs. will be completed by December 2001. He informed the meeting that the proposals have since been finalised and the orders will be issued within a week. The Member firmly told the Principal Secretary that the Government may take one month but compliance must be reported about constitution of the Mandatory Vigilance Committees at all the Districts and sub-Divisional HQ.

The presentation made by the Principal Secretary (Labour) gives figures of release and rehabilitation of bonded labour which are at variance with the information he had supplied in the meeting of the 30 October. He had then stated that 1543 bonded labourers were identified and released prior to 1997 and only 1325 were actually rehabilitated. He has now stated that the number of bonded labourers released before 1997 was 1397 and 1305 of them were actually rehabilitated. The remaining 92 bonded labourers had either died or become untraceable.

17 bonded labourers were detected in the survey of January 1997 in Thane district. 9 were rehabilitated well in time. Financial assistance of Rs. 10,000/- each has been received in respect of 3 more and is being disbursed. 2 cases are under process. 3 cases have been referred by the DM. to the Government for guidance to overcome of some practical difficulties.

In another survey of 1999, 3 bonded labourers were identified and released in District Ratnagiri. The Principal Secretary (Labour) mentioned that they are being considered for "payment of Rs. 1000/- each" from the Centrally sponsored schemes of rehabilitation. The Special Rapporteur remarked that the amount of Rs. 1000/- each was required to be paid immediately after release and the balance of Rs. 19,000/- under the Centrally sponsored schemes should have been arranged long back.

In the meeting of 30 October, the Commission was informed that 39 bonded labourers were found in Ratnagiri District and 35 were freed during 2001-02. Of these 38 belong to Tamil Nadu and were sent to their native State. Action for rehabilitation in respect of two bonded labourers was

without being freed.

reported to be in progress and 3 cases were reported under investigation. Now the Principal Secretary informed that only 33 bonded labourers were detected in Ratnagiri district and released on 6 July 2000. They all belonged to Tamil Nadu and were sent to their native State. The DM Ratnagiri has informed that in all these 33 cases the concerned DM in Tamil Nadu has paid Rs. 1000/- to bonded labourers. The information submitted by the Principal Secretary (Labour) does not appear to be correct because immediate payment of Rs. 1000 was to be made by DM Ratnagiri and not by the Tamil Nadu State. This only confirmed the utter casualness with which these matters are being dealt with by the Labour Department.

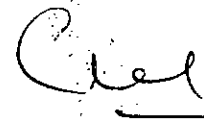
The Government of India, Ministry of Labour had sanctioned in November 2000 a grant of Rs. 25 lakh – Rs. 10 lakh for awareness generation, and Rs. 10 lakh for survey of bonded labourers in 5 Districts and Rs. 5 lakh for five evaluatory studies. The importance of this matter was explained to the Special Secretary (Labour) and Labour Commissioner in the meeting of 30 October. The Principal Secretary (Labour) informed that no action has been initiated in this regard because of a tussle between Labour Department and Revenue Department as to who should handle this matter. The Labour Deptt. is of the view that it is not concerned with this matter. The Commission however feels that it is the legitimate concern of the Labour Deptt. Further action should therefore be initiated immediately by the Labour Department.

No information at all was given about prosecution of offenders under the Bonded Labour Act. In all probability, no prosecutions have been launched.

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No grant
to
Labour
Deptt.

The Member expressed his unhappiness over the poor implementation of the Child Labour and Bonded Labour Act in Maharashtra. The Bonded Labour Act seems to have remained totally neglected for the past several years. It is hard to believe that the highly industrialised State of Maharashtra with a sizeable population of migrant workers is free of the evil of bonded labour. The Member felt that the DMs have not been taking their obligation under these Acts with due seriousness. Hardly any supervision and control is being exercised on their work in this area from the State HQ. He urged the Labour Department to start a state-wide drive for detection of rehabilitation of the bonded labour with the help of the NGOs working in this field. He advised the Chief Secretary that the Panchayati Raj Institutions should be associated with detection of Bonded Labourers and their rehabilitation and suitable amendment should be made in the Panchayati Raj Act to make them accountable for detection of the evil in their area as has been done in Karnataka. The Bonded Labour prone-Districts should be identified and survey work should be taken up in 5 such districts to utilise the grant released by the Government of India.



(Chaman Lal) 12/02
Special Rapporteur