

Report of review of the pace and progress of activities pertaining to implementation of Bonded Labour System (Abolition) Act, 1976 and Child Labour (Prohibition and Regulation) Act, 1986 for the State of Jharkhand from 3rd March, 2008 to 7th March, 2008 by Dr. Lakshmidhar Mishra, IAS (Retd.), Special Rapporteur, NHRC

Jharkhand was carved out of Bihar as an independent State on 15th November, 2000. This was the culmination of a long drawn out struggle of the people of the area under the stewardship of Jharkhand, Mukti Morcha (JMM). It made administration of an area compact and manageable as also provided improved accessibility of administration to the people.

Originally the State had 22 districts, comprising of 4 divisions and covering an area of 79,714 sq.km. Subsequently (about a couple of months back) 1 more Division and 2 more districts have been carved out making it a total of 24. Since it is a new State it may be useful to mention the names of all the Divisions and districts in a table as under:-

S.No.	Division	Name of the District	No. of Blocks
1.	South Chhotanagpur, Ranchi	1. Ranchi	20
		2. Khunti	
		3. Gumla	11
		4. Simdega	7
		5. Lohardega	5
2.	West Singhbhum, Chaibasa	6. West Singhbhum	15
		7. E. Singhbhum	9
		8. Saraikela	8
3.	Palamau	9. Palamau	12
		10. Garhwa	14
		11. Latehar	7
4.	North Chhotanagpur, Hazaribagh	12. Hazaribagh	15
		13. Chatra	10
		14. Koderma	5
		15. Giridih	12
		16. Dhanbad	8
		17. Bokaro	8
	18. Ramgarh		

5.	Santhal Paragana	19. Dumka	10
		20. Jamtara	4
		21. Deoghar	8
		22. Godda	8
		23. Sahebganj	9
		24. Pakur	6

The State has 152 towns and 32,615 villages with a total population of 26.91 million and a population density of 338 sq.km. The sex ratio is 934 while the State average literacy rate is 54.13% (male 67.94% and female 39.38%).

The State has a bounty of natural resources in as much as it commands 32% of coal reserve, 37% of iron ore and 25% of copper. It has a huge reserve of 1500 billion cubic metre of coal-bed-methane. Recently gold, nickel, semi precious and precious stones have come to light. The State has 29% forest land out of which 19% is under forest cover.

The State has 32 tribal groups out of which 8 are primitive. The total tribal population is 66,16,914 (1991 Census) of which Santhals account for 35%. The members of the SC constitute 11.85% of the total population. Each one of the tribal groups has got its own peculiarities in relation to the tribal society, marriage, kinship, economy, religion and political organization the totality of which make an immensely interesting reading from the socio-anthropological point of view.

Strategy adopted for the review:-

The same strategy as has been adopted for undertaking similar reviews on bonded labour and child labour for Haryana (Nov.06), Orissa (Dec.06), Madhya Pradesh (Jan.07), Rajasthan (Jan-Feb.07) and Karnataka (May.07) was adopted for Jharkhand. The strategy is as under:-

- I Two questionnaires – one on elimination of bonded labour system and another on elimination of child labour covering all aspects of the 2 issues relevant for both at the macro as well as micro level were

circulated in advance with a view to eliciting the desired response from the State Government and district administration. The response was to be further cross checked and validated in course of field visits.

II Two separate texts – one on elimination of bonded labour system and another on elimination of child labour had been prepared for making a powerpoint presentation to the senior officials of State Labour Department and those of other concerned departments of the State Government with the following objectives:-

- familiarizing them with the basic facts (International Treaty Provisions, Constitutional and Legal Provisions, judgements of the apex Court, National Policy and Programme of Action);
- removing doubts, misgivings and reservations, if any, and establishing complete conceptual clarity in their minds;
- sensitizing the insensitive.

The power point presentation was made at the Sachivalay Conference room from 10 AM to 1.30 PM on 3.3.2008 and was attended by all senior officials of Labour Department and a few other Departments (Agriculture, Animal Husbandry and Veterinary, Food and Civil Supply, SC and ST Welfare, Health, Law, Women and Child Development etc.).

III To undertake field visits selectively within the constraints of time to study the ground level realities and compare the same with the response to the questionnaire received from the State Government to establish facts beyond doubt.

The districts of Hazaribagh and Chatra were selected for my field visits. At the district headquarters and immediately after my arrival I addressed the district level officials (Agriculture, Animal Husbandry and Veterinary, Education, Forest, Fisheries, Food and Civil Supplies, Health, Home, Law, Labour, Revenue, Rural Development, Women and Child Development Departments etc.) as also members of the Vigilance Committee. The address

was followed by a question answer session under the Chairmanship of the Collector and in presence of the SSP and other senior officials.

The following points were covered in the power point presentations as also in course of address to the functionaries of various departments at the State and district headquarters:-

Bonded Labour:

- I Concept and definition.
- II Causes and factors which have contributed to the origin and continuance of bonded labour system
- III Consequences of bonded labour system.
- IV Are the consequences required to be in existence together?
- V Is it necessary to prove beyond doubt the element of loan, debt and advance?
- VI If the answer is No according to the judgement of the Supreme Court, how to establish beyond doubt the incidence of debt bondage?
- VII What is the modality of conducting a survey by the Vigilance Committee(s) u/s 14 of BLS(A) Act with a view to identifying bonded labour system?
- VIII What procedure should be adopted for release?
- IX What is summary trial?
- X Whom should the release certificate be handed over?
- XI What are the various components of physical, economic and psychological rehabilitation of freed bonded labourers? How do

we adjudge the efficacy of the rehabilitation programmes to be permanent, effective and meaningful? How do we prevent the relapse of freed bonded labourers into bondage of the erstwhile master?

Child Labour:

- I Concept and definition.
- II Administrative infrastructure- adequacy and effectiveness thereof.
- III Determination of the age of the child.
- IV Prohibition of employment of children – number of occupations and processes where employment of children has been prohibited by issue of a notification by the Ministry of Labour.
- V Regulation of employment of children – how, when and by whom?
- VI Compliance of the State Government (Labour Department) and of the District Administration with the directions of the Supreme Court.
- VII Survey as a tool for identification of working children – strategy and methodology.
- VIII Withdrawal of children from hazardous occupations and processes and their rehabilitation through education, nutrition (mid day meal), vocational skill training programme, check up of health and treatment for specialized diseases through the special schools of NCLP.

Historical origin of bonded labour system (Kamia System) in Jharkhand

Palamau district of Jharkhand State has been characterized in the first survey and settlement of Mr. Bridge (1913-20) as the driest and poorest district in the then undivided Bihar and Orissa province. The district has been

subjected to successive spells of drought and famine since 1859. Poor landscape coupled with erratic and untimely rainfall and acidic character of soil (which cannot retain water) have reduced agriculture to a subsistence occupation with a number of attendant problems. These problems include restriction of avenues of employment in agriculture, shortage of drinking water, inadequate maintenance of livestock due to limited supply of fodder, acute malnutrition, frequent epidemics etc. In such a situation persons mostly belonging to lower castes and low income groups had to incur debts from the village landlords both for consumption and ceremonial purposes. The debtor on account of his inability to repay debt had to mortgage his services and services of any or all of his family members for a bare subsistence. This is what is known as Kamia System under which the kamia or the agricultural labourer had to bind himself to the landlord for his whole life and sometimes from generation to generation.

While the Kamiya system of Chottanagpur region in Jharkhand was a common form of bonded labour system it was observed through a detailed survey conducted by the Tribal Research Institute, Ranchi in Ranka and Bhandariya Blocks of Palamau district that some landlords employed 'attached labourers' known generally as Sevakias.

The Sevakia system which prevails in Palamau district even now and which figures in the explanation to Section 2(b) of BLS(A) Act represents one hundred percent bonded labour system on account of the following:-

- it is a form of forced labour;
- there is an element of advance; the amount being advanced by the landlord to the sevakia;
- the sevakia pledges/mortgages his services or services of any or all of his family members on account of his inability to repay the loan;
- the wages paid or payable in lumpsum for the whole year is much less than the notified minimum wage for agriculture;

- during this period (1 year) the sevakia is completely tied to the landlord (attached), cannot leave him and go in for any other alternative employer or alternative avenue of employment.

Dr. Sudipto Mundle in his seminal work, 'Backwardness and bondage: agrarian relations in South Bihar district' published by the Indian Institute of Public Administration, New Delhi, 1980 attributes the system of bonded labour in Palamau district of Jharkhand to the exploitation by the poor of the poorer, the backwardness of rural economy and commercialism and profit calculated on the part of the richer sections. The exploitation of the tribals by the liquor contractors who induce the tribal people to be addicted to liquor is yet another form of hydra headed monstrous system of bondage.

The study which is nearly 3 decades old has brought out several interesting features of debt bondage. These are:-

1. The menace of exploitation does not know the barriers of caste, creed or tribe. If given an opportunity, a person belonging to the weaker sections of the society won't hesitate to exploit his own men.
2. The credit extended to the debtor(s) by the Mahajan is either in the form of cash or kind and sometimes both. During the lean season i.e. June to August when avenues of employment are limited, the Mahajan comes to the rescue of tribals by advancing consumption loan at a very high or usurious rate of interest.
3. Interest accruing on the principal is always at a compound rate. The rate varies from 50% on cash to 100% on paddy loan.
4. Only 2 out of 17 persons interviewed had informed that the Mahajans do not charge any interest to the labourers if they work regularly. Failing to do so, they would be charged 100% interest.

5. In most of the cases the loans were taken either for consumption or for ceremonial purpose. Even the poor have false notions about their own social status and expenditure on marriages is equated with social status of a man without realizing the consequences. One does not hesitate to spend beyond ones means and bondage is the ultimate consequence.
6. Indebtedness invariably precedes bondage. Even without taking any loan a person may bond oneself with the village moneylender due to abject poverty.
7. Landlessness in Palamau is not very acute (only 12.5% of the total households surveyed were found landless) but due to lack of proper irrigation, absence of other inputs (fertilizer and pesticides), poor nature and character of the soil (acidic) and its failure to retain water the average yield per acre is sometimes below 2 quintals.

Even though nearly 3 decades are over since the household survey (of 17 households in Bhanderia Block was conducted) conditions in Palamau district are very much the same today. I had also visited parts of the district as DG(LW)/JS, Ministry of Labour in 1982 and had observed the following:-

- poor landscape coupled with erratic and untimely rainfall and poor quality of soil has reduced agriculture to a subsistence crop;
- there are a number of other attendant problems such as less avenues of employment in agriculture, problems of drinking water, problems of maintaining livestock due to problems of growing fodder, acute malnutrition etc.;
- 737 bonded labourers were identified, released and rehabilitated in the year 1975-76. The rehabilitation assistance extended to these people did not prove successful due to the adverse conditions prevailing in the district

compounded on account of successive failure of crops and drought;

- The productive assets did not prove effective in generating additional income on account of lack of grazing facilities, lack of water for growing fodder and lack of animal husbandry and veterinary cover from the officials of AH&V Department (by way of provision of medicines, tonics, concentrates, arrangement for regular check up of health, insurance cover etc.);
- The productive assets did not survive; they became vulnerable to diseases and perished;
- With a view to preventing relapse of these beneficiaries to bondage a second dose of rehabilitation assistance by way of supply of productive assets was sanctioned in favour of 218 out of 737 beneficiaries;
- A visit to Simra Village in Chainpur Block 18 Kms away from Daltonganj on 4.12.1982 had confirmed that conditions of poverty and deprivation have not at all changed since 1975-76;
- Land allotted remained fallow, the soil being acidic and having less nutrient, and there being no avenues of irrigation;
- Ex bonded labourers released from bondage and rehabilitated in the village with provision of productive assets had literally been ostracized; their cattle and goats were not allowed to graze in the forest as they had to pass through the land of the landlords;
- This organized resistance from the landlords had left a void between the laudable objectives of the rehabilitation programme and its actual implementation.

The central objective of sharing this long historical interlude (1975-76 to 2007-08) is to drive home the following:-

- Government introduces programmes beneficial to the poor and the deprived but these programmes are seldom carried to their logical conclusion as there is no basic change in the hidebound stratified structure of the society;
- In implementation of programmes which are socially beneficial, geography and topography (land, nature and character of the soil, irrigation and other inputs, agriculture extension services etc.) do play an important role; man/Government cannot change them;
- Over the years, conditions in Palamau have not changed even though since 70s and 80s a spate of poverty alleviation and employment promotion programmes such as IRDP, NREP, IAY, RLEGP, DWCRA, TRYSEM and now Swarna Jayanti Swarojgar Yojana, NREGS etc. have been launched every now and then;

Apart from geography and topography, poor physical infrastructure (bad roads), and weak administrative structure/machinery, feudal structure of the society is the most formidable stumbling block to all reforms. As I was returning to Daltonganj after a day long sojourn to Simra on 4th December, 1982 I was confronted with a group of ex-bonded labour keepers who had the temerity to tell me, 'why have you come all the way from Delhi to Palamau on this cold and dusty winter morning? These hapless persons in Simra village were bonded to us in their previous birth, they are bonded to us in their present birth and will continue to be bonded for ever. All your laws, institutional mechanisms (Vigilance Committees) and procedures will not be able to provide them any relief, far less deliverance from bondage'.

This was unfortunate reminiscent of a feudal attitude and reminded me of what Michael Kalechy, a distinguished Economist had said on his return to Poland at the end of Second World War (6 million jews were exterminated in Poland by Hitler's Nazi Germany in the middle 40s), 'we have effectively contained capitalism but are still grappling with feudalism'.

The social relations in rural area are very much akin to feudalism even today. If development is basically an expansion of the spirit of human freedom such a freedom remains largely elusive in a feudal societal set up which does not allow all human beings to live and grow in the same climate of freedom and spontaneity.

Administrative infrastructure:

- Department of Labour, Employment and Training at the State level is responsible for monitoring, supervision and coordination of all matters relating to implementation/enforcement of Bonded Labour System (Abolition) Act.
- At the district level, the Dy. Commissioner is assisted by Sub Divisional Officer, BDO, Circle Officer and other officials including Assistant Director, Social Security in securing implementation of the provisions of BLS(A) Act.
- There is a Directorate of Social Security at the State level under the administrative control of Department of Labour, Employment and Training which also monitors and coordinates all matters relating to identification, release and rehabilitation of bonded labourers.
- Vigilance Committees have been constituted at the district and sub divisional level. Under the Bonded Labour System (Abolition) Rules, these Committees are required to be reconstituted once in 2 years. No officer at the State or district level was aware of this provision of law; consequently the Committees have been mechanically in existence year after year without any reconstitution.
- Vigilance Committees are required to identify bonded labour system through a survey u/s 14 of the BLS(A) Act.
- They can conduct such a survey only by going to the field, drafting a questionnaire, addressing the households in a simple and informal manner, elicit information, analyse the same and come to some definite and firm conclusion about the status of the individuals so interrogated.

- They are neither going to the field nor had ever any occasion to conduct a survey to identify the status of individuals as bonded labourers or otherwise.
- In case there was any problem in terms of availability of time (due to preoccupation) either for Chairman or members of the Committee to go to the field to conduct a survey with a view to identifying bonded labour system, the VC could have authorized any good, reliable or committed official or NGO to conduct the survey for such identification.
- In other words, VCs have completely failed in discharge of this very important statutory responsibility entrusted to them u/s 14 of BLS(A) Act.
- This aspect of the functioning of the VCs has never been evaluated by any one, far less being questioned.
- There is no state level body under Chairmanship of Chief Minister or Labour Minister or Chief Secretary or even Labour Secretary which could have evaluated this part of the functioning of the VCs.
- In other words, while the Committees may have been technically constituted and may be meeting from time to time, such meetings will be totally infructuous until and unless either Chairman or all members or a few members or even one official or even an NGO duly authorized by the VC has gone to the field, to a sensitive pocket or a pocket where prevalence of bonded labour system is endemic and has carried out a survey in a proper manner.
- In the absence of a State Level Committee to monitor and coordinate the functioning of Vigilance Committees senior officials of the State could be deputed to visit a district specifically entrusted to their charge and along with review of other programmes/activities; they could review the functioning of VCs. This has never been done and is a regrettable omission.

Identification of bonded labour system:

- In W.P. (Criminal) No. 1263 of 1982 Neerja Chaudhury Vs. State of M.P. (AIR 1984 SC 1099) dated 8.5.2004 the apex Court had made the following observations:-

'social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers on account of the following reasons':-

- MLAs though sincere and well meaning with welfare of the poor at heart would hardly have the time to carry out any inquiry or investigation for the purpose of identification of bonded labourers;
 - Commissioners and Collectors have multifarious duties to attend and even if they are anxious to help in eradication of the vice of bonded labour system they would not find time to make any personal inquiry or investigation;
 - They instead would have to rely on their subordinate officers who generally lack social commitment and are in sympathy with the exploiting class;
 - The panchayats are dominated by vested interests and having regard to their functioning may not be very effective in this task.
- The judgement of the Supreme Court under Article 141 of the Constitution is binding on all subordinate Courts within the territory of India.
 - Under Article 144 all authorities – civil and judicial shall act in aid of the Supreme Court.
 - This notwithstanding, the State Government vide letter No. 61sa.su.BL-311/2001-614 dated 13.10.2004 and 615 dated 13.10.2004 have

entrusted the responsibility for identification to revenue and panchayat officials and not to NGOs which is a clear violation of the directions of the apex Court.

- To quote from their letter:-

'All officials at village and Panchayat level such as revenue, Panchayat and supervisory officers at the block level have to play a key role in identification of bonded labour. It is so as they have a direct and regular contact with all villagers. It is precisely for this reason that they should be made fully familiar with the provisions of BLS(A) Act, responsibility for identification be entrusted to them so that they continue to have access to information relating to bonded labourers and make such information available at the Block level'.

- Such guidelines may have been issued in an innocuous manner and with good intentions but they, apart from being violative of the directions of the apex Court will not produce the desired results on account of the following reasons:-
 - the landed aristocracy usually constitutes the bonded labour keepers at the village level;
 - the lower echelons of bureaucracy at the village, panchayat and block levels are usually hand and glove with such landed aristocracy;
 - the apex Court was aware of this nexus and had, therefore, observed that they are in sympathy with the exploiting class.
- A number of good, reliable and committed NGOs (Nav Bharat Jagruti Kendra, Hazaribagh is one) at the State, district; sub divisional, block and GP level are available in Jharkhand.
- The State Government even for once is not referring to the need for enlisting the involvement and support of NGOs.

- There is no policy for involvement of NGOs in social action (eradication of bonded and child labour, trafficking, dowry etc.).
- The correct course of action for the State Government would be –
 - constitute VCs at the level of all 24 districts and sub divisions and reconstitute them after expiry of 2 years;
 - Membership of VCs should go to women and men of character, integrity, having empathy and sensitivity for the poor, deprived and disadvantaged sections of the society; political consideration should be the last resort in such vital matters;
 - Orientation and training regarding how to go about identification of bonded labour system should be imparted to them;
 - If there are good, reliable and committed NGOs in a particular district and VCs have first hand knowledge about them they might as well entrust the responsibility for conducting the survey for identification of bonded labourers to them;
 - By no stretch of imagination this responsibility should be entrusted to Patwaris, Talatis, Kanungos and other revenue and Panchayat officials; apart from being a violation of the directions of the Supreme Court such an act would be counter productive for reasons mentioned earlier.

Modality of identification:

- The State Government of Jharkhand shared with me a compilation which they have brought out recently and which contains the following:-
 - Extract from Provisions of Article 23 of the Constitution;

- Extract of a note circulated by me (when I was Union Labour Secretary in 1996-2000) on the definition and interpretation of bonded labour system;
 - Extract of the Provisions of the Centrally Sponsored Scheme for rehabilitation of freed bonded labourers;
 - Extracts from a few judgements of the Supreme Court;
 - A copy of the background paper prepared by me as Union Labour Secretary for the first meeting of the Task Force constituted by Justice Shri M.N. Venkatachaliah, former Chairperson, NHRC;
 - Check list for identification of bonded labour prepared by Shri S. Muralidhar, Advocate, Supreme Court.
- There are 2 important components in the process of identification to be kept in view. These are:-
 - how much loan/debt/advance was taken by a potential bonded labourer from a creditor, under what conditions (rate of interest, period of repayment), how much has been repaid, how much has been outstanding etc. who has the documentary evidence about the principal amount, rate of interest, period of repayment etc.;
 - what have been the consequences of obtaining such loan/debt/advance and whether one of the four consequences listed in Section 2(g) of BLS(A) Act has been fulfilled.
 - In disposing off the W.P. No. 2135 (Feb.82) filed by Swami Agnivesh of Bandhua Mukti Morcha, Justice Shir P.N. Bhagwati of Supreme Court had held that it is not necessary to prove the element of loan/debt/advance beyond doubt. To quote from the operational portion of that judgement dated 16.12.83:-

'Ordinary course of human affairs would show, indeed judicial notice can be taken of it, that there would be no occasion for a labourer to be placed in a situation where he is required to supply forced labour for no wage or for nominal wage, unless he has received some advance or other economic consideration from the employer and under the pretext of not having returned such advance and other economic consideration he is required to render service to the employer or is deprived of his freedom of employment or of the right to move freely wherever he wants. Therefore, whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but until and unless satisfactory matter is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the Provisions of the Act'.

- In other words, it is not necessary to prove the element of loan/debt/advance beyond doubt while investigating into a complaint on prevalence of bonded labour system.
- The second component in identification which remains to be proved or established beyond doubt is one of the 4 consequences arising out of the phenomenon of loan/debt/advance. These are:-
 - denial of wage or minimum wage notified by the appropriate Government under Minimum Wages Act or where no such wage has been notified denial of wages prevailing in the same locality for same or similar labour;
 - or
 - denial of the choice of alternative avenues of employment;

or

- denial of the freedom of movement as a free citizen of a free country;

or

- denial of the right to appropriate or sell at market value any of his property or product of labour or labour of a member of his family or any person dependent on him.
- The checklist of 27 points prescribed by Shri S. Muralidhar, Advocate, Supreme Court and reproduced at Annexure-A of the compilation brought out by the State Government referred to earlier is too long and many of the points are unnecessary. Many of these questions (Point No. 7) will be extremely difficult for the person working under bondage to respond. Points No. 11, 12, 13, 14, 15, 16, 17 are not directly related to the status of the person as a bonded labourer even though they are related to welfare of the person and, therefore, they could be deleted.
 - A comparatively simplified questionnaire would cover the following:-
 - what is the status of the person – landed or landless?;
 - if landless how does he subsist?;
 - with whom or for whom does he work?;
 - for how many hours a day?;
 - does he get any spread over, weekly off and overtime (at double the rate of normal wage for work in excess of 8 hrs a day and 48 hrs a week)?;
 - wages earned – time rate/piece rate;
 - is he aware of the concept of minimum wage?;
 - if he is aware, does he get minimum wage?;
 - is he happy with the treatment meted out to him by the employer?;

- has he ever thought of leaving the current employer and going away for an alternative employment precisely for this reason (maltreatment) or for any other reason which in his assessment is beneficial to him?;
- does he have the freedom to leave?;
- does he work alone or with any of his family members?.

Latest status of bonded labourers identified in Jharkhand:

The 24 districts of Jharkhand may be divided into sensitive and non-sensitive ones. While Ranchi, Gumla, Simdega, Lohardega, Latehar, Dumka, Pakur, Sahebganj, Jamtara, Palamau, Garwah, Hazaribagh, Giridih, Chatra and Deoghar fall in the category of sensitive, Kodarma, Dhanbad, Saraikela, Kharswan, Godda, Bokaro, East Singhbhum and West Singhbhum fall in the category of non-sensitive. While Vigilance Committees u/s 13 of BLS(A) Act constitute the only statutory mechanism for conducting such surveys, actual survey in these districts has been conducted either by officers of Labour, revenue and Panchayat departments or by other officers of district administration not specified. Only survey in respect of Dumka, Garwah and Deoghar has been conducted by NGOs. In either case, it is not clear if authorization of VCs concerned in favour of a particular agency was obtained prior to that agency proceeding to conduct the survey. It is equally unclear if (a) survey teams comprising of 2 persons in the minimum i.e. one person to canvas questions and another to record responses were formed and (b) if any orientation and training was imparted to the members of the said teams.

- It is also not clear who collected, compiled and analysed the findings of the survey and who came to the conclusion about the status of a person being in the category of a bonded labourer or not.
- Only in Simdega (2002) and Giridih (2002) full amount of Rs. 2 lakh has been utilized while in Gumla, Lohardega, Latehar, Sahebganj, Jamtara, Palamau amount utilized is nil.

- The outcome of the survey is equally frustrating. Except Garwah, where only one bonded labourer was found, no bonded labourer was found in the remaining districts.
- At the end of this analysis, the following conclusions may be drawn:-
 - no survey teams were formed;
 - no orientation and training was imparted to the functionaries who conducted the survey;
 - no questionnaire was used to elicit certain basic facts about the life, livelihood and working conditions of the person interrogated;
 - it is not clear from the materials on record as to who collected, compiled and analysed the findings of the survey and who came to the conclusion about the status of the person surveyed.
- While within Jharkhand only one bonded labourer was identified in Deoghar district in 2006, four bonded labourers (mostly children) have been identified outside Jharkhand in the same year and brought to Jharkhand for rehabilitation. The details of these 4 bonded labourers are:-
 1. Shri Dinesh Kumar S/o Shri Parameswar Sab Village Rehriya, PS Pratappur;
 2. Shri Shamsheer Khan S/o Jehangir Khan Village Barura Sharif, PS Pratappur;
 3. Shri Mujahir S/o Jane Alam Village Rehriya, PS Pratappur;
 4. Shri Sahare Imam S/o Shahrukh Khan Village Chavaka PS Pratappur.

- These 4 persons were released from bondage of the owner of a Zari making unit at Delhi and release certificates were issued by SDM Delhi who also sent a formal intimation to the State Government of Jharkhand after which the children were repatriated to their native places in Chatra district in Jharkhand. Soon after their release and repatriation the following measures were taken for the rehabilitation:-
 - each one of them was allotted a residential unit as well as social security pension. The first instalment of Rs. 10,000/- each towards construction of residential unit has also been released;
 - each of the released bonded labourers was required to undergo a thorough check up of health by the medical officers of Chatra Civil Hospital; on the basis of the findings of the said check up the line of treatment has been prescribed;
 - in case of Sahare Imam various alternatives were explored; eventually and as per his wishes he was rehabilitated by supply of productive assets (poultry);
 - the remaining 3 released bonded labourers i.e. Dinesh Kumar Mujahir and Shamsher Khan have been provided with Kiraya shops for sale of essential commodities in close neighbourhood of the place they belonged to.

I had in course of my visit to Chatra the occasion to meet all the 4 children (they were brought to Chatra on my request for interaction as going to meet them at their respective places was ruled out by district administration on security considerations). The following came out of these interactions:-

- they were taken to Delhi by people of the village; they were not formally recruited by any one;
- once at Delhi, they were working in Zari manufacturing units of their own accord;

- even though the nature of work was hazardous where employment of children stands prohibited, they were looked after well and all their needs were met.
- the earnings were as per piece rate wages notified by the UT of Delhi.
- once released and repatriated to native place there was no steady flow of income as before.
- they did not go to school earlier.
- their family size is large and corresponding opportunities for employment and earnings are limited.

The interaction brought out the essential dilemma between the world of economic security and world of freedom. Being at Delhi the children had good earnings and full economic security but no freedom to leave the employer while after release they have lost that world of economic security even though they have won their much cherished and long awaited freedom. It was impressed on them that (a) education is a matter of their fundamental right (b) by going outside the State for work at the school going age they were deprived of the opportunity of access to education (c) now they have not only won their much cherished freedom but also got an opportunity to enter the world of education (d) simultaneously they as released bonded labourers have also received a few units of economic assistance which if properly managed would go a long way towards their economic rehabilitation and that of their poor families and (e) they should not, therefore, have any qualms about their release from bondage and about the loss of economic security which was more illusory than real.

Rehabilitation of bonded labourers:

According to the information furnished to me in all 218 bonded labourers have been released within Jharkhand with the following breakup:-

Garwah	-	144
Palamau	-	40

Giridih	-	12
Gumla	-	02
East Singhbhum	-	05
Deoghar	-	04
West Singhbhum	-	11

Of them 206 only have been rehabilitated. It was reported that in Garhwa 3 bonded labourers died and one is not traceable, in Palamau, one case has been transferred to Gaya in Bihar and one case is under process, in Giridih 5 bonded labourers are not traceable and in Gumla one person was wrongly identified as a bonded labourer.

This is not a very happy state of affairs on account of the following:-

I Rule 7 of Bonded Labour System (Abolition) Rules has prescribed that certain records are required to be maintained by the Vigilance Committees such as:-

- a register containing the names and addresses of freed bonded labourers;
- a register containing statistics relating to vocation, occupation and income of every freed bonded labourer;
- a register containing details of the benefits which the freed bonded labourers are receiving including benefits in the form of land, inputs for agriculture, training in handicrafts and allied occupations etc.

If these registers would have been maintained in respect of all identified and released bonded labourers who are being rehabilitated within Jharkhand and the Vigilance Committee would have maintained the desired level of vigilance/surveillance over their movements/whereabouts there would be no occasion to take a stand that 'x' number of bonded labourers are not traceable.

II No efforts have been made to contact these rehabilitated bonded labourers to ascertain the following:-

- avenues of employment;
- extent of earnings;
- linkage with public distribution system;
- access to education for the children of bonded labourers;
- access to health and medical care of all family members of bonded labourers including their children;
- proper upkeep and maintenance of milch animals of the beneficiaries with the involvement of officers of Animal Husbandry and Veterinary Department;
- training in acquiring new skills and developing existing skills.

On 2.9.82, Shri B.G. Deshmukh, the then Secretary, Ministry of Labour had sent a comprehensive blue print on rehabilitation of freed bonded labourers to all State Governments/UTs. Jharkhand State was not in existence then. The circular letters and guidelines which were sent to the undivided State of Bihar then have not percolated down to Jharkhand till date. DG(LW)/JS should, therefore, arrange to pass on the following inputs to Secretary (Labour), Government of Jharkhand for his reference as also for wider circulation among officers of the Department:-

- I Manual of circular letters, instructions and guidelines compiled by Dr. L. Mishra, former Union Labour Secretary;
- II Study reports of Dr. L. Mishra, former DG(LW) on visit to A.P., Bihar, M.P., Karnataka, Orissa, Rajasthan, Tamil Nadu, U.P., Kerala (1982-85);

- III Proceedings of a National Seminar on bonded labour held at Viswa Yuvak Kendra (February, 1983) and organized jointly by Dr. L. Mishra, DG(LW)/JS and National Labour Institute, Sector-24, Noida.

Even though the Secretary, Labour, Employment and Training has issued a circular letter dated 13.10.2004 addressed to all Dy. Commissioners containing a few guidelines on rehabilitation of freed bonded labourers the same is not self contained and has not adopted a step by step approach to rehabilitation such as:-

- allotment of homestead land;
- construction of low cost dwelling unit;
- allotment of agricultural land;
- enforcement of minimum wage;
- payment of substantial portion of the wages in cash in a monetized economy to enable a householder to defray certain components of expenditure like payment of house rent, electricity bills etc. in cash;
- linking minimum wages with public distribution system;
- improving productivity of agriculture through land development and through adoption of a package approach and T&V approach; establishing forward and backward linkages;
- facilitating easy access to credit;
- training in acquiring new skills and refining, sharpening and upgrading existing skills;
- revival and development of traditional arts and crafts;
- facilitating easy access of bonded labourers and their children to health, medical care and specialized treatment for occupational diseases:

- facilitating easy access to education for all children in 6-14 age group of bonded labourers;
- special protection to bonded labourers, their women and children who belong to SC and ST communities;
- protection of civil and political rights of all freed bonded labourers.

Identification, release and rehabilitation are parts of a larger whole, the whole being enabling and facilitating every bonded labourer to lead an autonomous existence and restoring the dignity, decency, equality and freedom to all such persons. Even now in Jharkhand there are serious problems in legal, definitional and conceptual clarity without which no identification and release is possible and rehabilitation will follow in close and quick succession only if there is correct identification and prompt release. All these would need proper orientation and reorientation for a thorough familiarization and sensitization of all functionaries. If that is ensured question of wrong identification of a bonded labourer as in Gumla will not arise or would not have arisen.

Besides, the State Government needs to issue clear guidelines about special problems of migrant bonded labourers. It is common knowledge that regardless of the reasons or motivations for migration, large number of persons (women, men and children) are migrating to other States from out of Jharkhand and are getting into bondage at the destination points. In all such contingencies special teams comprising of officers of labour, revenue and police officials will have to be constituted and deputed to the destination points for interaction with these migrant workers so that their problems and grievances can be addressed to the officials of the recipient State. If they are working under conditions akin to bondage they are statutorily required to be released by taking up the matter with the competent authority at the destination point so that release certificates can be issued, the bonded labourers repatriated back to the home State and rehabilitated. Even though the apex Court has left the option and discretion about rehabilitation at a particular point to the freed bonded labourers, the forces at work at the

destination point would always continue to be either indifferent or hostile to the special needs of migrant workmen and, therefore, in all fairness and in the larger interest of a qualitative rehabilitation such persons should be brought back and rehabilitated at the originating point.

There are 2 other issues which deserve the focused attention and priority consideration of the State Government. One is the individual beneficiary oriented approach vis a vis the group or community oriented approach to rehabilitation. It is well known that individual beneficiary oriented approach has many limitations. These limitations arise on account of the peculiar social background of the beneficiary, his poverty and backwardness, the milieu in which he has lived and grown which is one of deprivation and repression, deceit and fraud. Even after rehabilitation, they are apt to look up to others for guidance and help. And 'these others' will continue to be either indifferent or hostile, not very positive or proactive to the special needs of the bonded labourers. As against this, rehabilitation as a group or community effort has many plus points. It promotes social integration. It promotes a sense of belonging, a togetherness, a feeling of cohesion which will be difficult to expect in an individual beneficiary oriented approach. It would also unite the beneficiaries against possible onslaughts and atrocities of erstwhile and present bonded labour keepers and provide better protection. It would bring together officers of development departments and banks and secure their involvement with the welfare of the beneficiaries. And last but not the least it will ensure economies of scale. The State Government of Jharkhand may, therefore, consider the efficacy of the group approach and adopt it in future in implementing schemes of rehabilitation.

Formation of self help groups (SHGs) is yet another major step which could counter indebtedness and promote economic self-reliance-both individual and collective in the long run. This has been effectively demonstrated by Prof. Mohammad Yunus, Founder Director of Grameen Bank and winner of Nobel Peace Prize for his outstanding contribution to eradication of poverty and promotion of self reliance in Bangladesh. All the released bonded labourers in a particular area could be mobilized and organized into thrift and credit groups or self help groups. Such formation rests on a sound

premise, 'you contribute and I contribute and those among us who also contribute but who are more needy than us stand to reap the benefits'. As a corpus is formed on the basis of contribution made by the members of a SHG, the poor and the needy could draw from the corpus to meet their pressing needs at a nominal rate of interest (say 2 to 3 PC) which is much lower than the usurious rate of interest charged by the moneylenders. The Government of Jharkhand could make a beginning in such areas where the freed bonded labourers have been rehabilitated. This will impart a new momentum to the rehabilitation efforts.

There is yet another dimension of rehabilitation of freed bonded labourers which cannot be lost sight of. This relates to regularization of forest land being cultivated by the forest dwellers most of whom happen to be members of the ST community. The Scheduled Tribes and other traditional forest dwellers (recognition of forest rights) Bill has been passed by both Houses of Parliament and received the assent of the President on 29th December, 2006 (Act No. 2 of 2007). The Rules have also been framed and notified. Jharkhand has a sizeable tribal population (70.87 lakh or 26.3% of the total population) and many members of the ST community who are otherwise landless (even without homestead land) have been dwelling in the forest and cultivating the forest land. It is in their interest and with a view to removing their landlessness that the new law as above has been enacted. Regularization of land in favour of those members who have been cultivating the forest land for generations by taking up land development and providing all the essential inputs of agriculture would be one of the surest ways of preventing debt bondage of these communities.

Child Labour:

I Magnitude of the problem:

The decennial census operations were conducted for the State of Jharkhand and the total number of working children (below 14 years) according to the said census enumeration comes to 4,07,200.

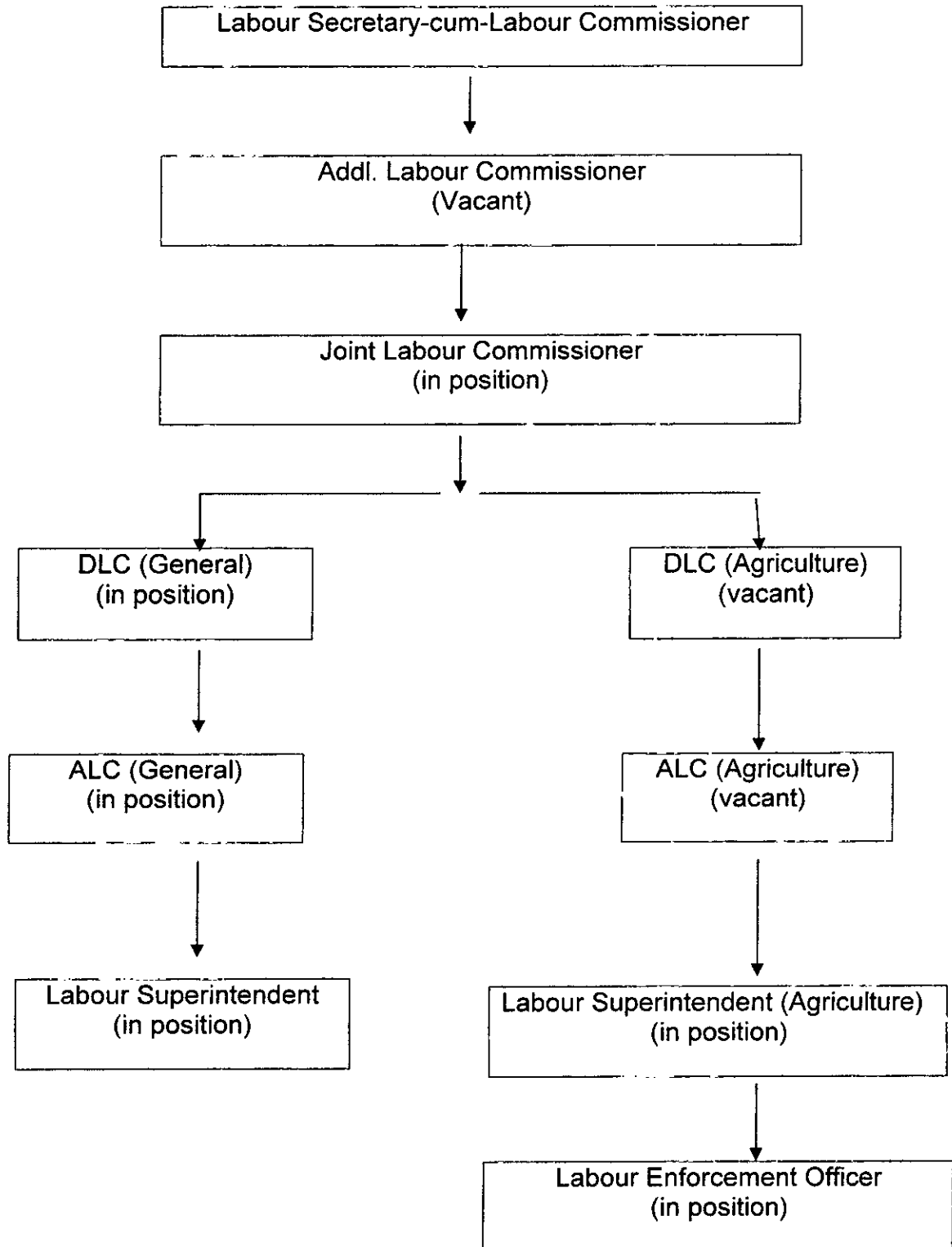
Statistical data base constitutes an important tool of planning. In the context of elimination of child labour such data base would comprise of –

- Total number of working children;
- Break up between urban and rural areas;
- Break up between different occupations; hazardous and non-hazardous;
- Break up between boys and girls.

The State Government should write to the office of Registrar General and Census Commissioner, Government of India, New Delhi, get these details, computerize them and use them for purpose of planning elimination of child labour.

II Administrative Infrastructure:

Labour Department is responsible for overall planning, implementation, monitoring and supervision of all matters relating to Child Labour (Prohibition and Regulation) Act. It is headed by Secretary, Labour, Employment and Training. Below him, there is a Labour Commissioner who functions as a Head of the Department. As of now on account of exigencies of the situation, the 2 positions have been combined in one incumbent. There are 2 Joint Labour Commissioners under him but there is no DLC or ALC as middle level officers between the headquarters and the field. There are in all 8 Zones and the staffing pattern in these Zones is as under:-

Administrative Structure of Labour, Planning and Training Department

Headquarters of Officers and their jurisdiction in the Organized Sector

S.No.	Designation of the Officer	Headquarters	Jurisdiction
1.	Labour Commissioner	Labour, Planning and Training Department.	Whole of Jharkhand.
2.	Addl. Labour Commissioner	Dumka/Jamshedpur	Vacant (both) DPC has not yet met and promotions have not yet been decided.
3.	Joint Labour Commissioner	Labour, Planning and Training Department.	Whole of Jharkhand (in position).
4.	Dy. Labour Commissioner, Bokaro	Bokaro Steel City	Bokaro and Dhanbad (in position).
5.	Dy. Labour Commissioner, Ranchi	Ranchi	Gumla, Ranchi, Lohardega, Palamau, Garhwa, Laatehar, Simdega, Khunti districts (in position).
6.	Dy. Labour Commissioner, Jamshedpur	Jamshedpur	Jamshedpur, Chaibasa, Saraikela and Kharsuan districts. (in position)
7.	Dy. Labour Commissioner, Hazaribagh.	Hazaribagh	Hazaribagh, Kodarma, Chatra, Girdih, Ramgarh districts (in position).
8.	Dy. Labour Commissioner, Dumka.	Dumka.	Dumka, Godda, Sahebganj, Aamtara, Deoghar and Pakur districts (in position).

Labour Law enforcement machinery comprises of supervisory officers and enforcement officers who are appointed as Inspectors u/s 17 of Child Labour (Prohibition and Regulation) Act, 1986. They are required to inspect the establishments (Shops and commercial establishments, factories, household establishments like (like beedi rolling, beedi packaging and beedi labeling), identify the nature and character of the occupation and process, withdraw the children from work if the nature of work is hazardous and comes in the prohibited category and enrol such children into formal schools as per direction of the Supreme Court in W.P. No. 465 (1986) M.C. Mehta Vs. State of Tamil Nadu dated 10.12.96. Additionally, they are also required to recover @ Rs. 20,000/- per child from every offending employer and deposit the same into the corpus of a District Child Labour Welfare-cum -Rehabilitation Fund which is required to be constituted at every district level under the Chairmanship of Collector and DM. Simultaneously they are also required to initiate legal and penal action against these offending employers for having violated relevant provisions of Child Labour (Prohibition and Regulation) Act, 1986

According to the judgement of the Supreme Court as referred to above, the enforcement machinery is required to be made accountable to the DM of the district and the latter is required to monitor, supervise and coordinate the functioning of the former.

Judged by any standard, enforcement is an onerous responsibility and its success is dependent on the following:-

- reasonable and manageable geographical area within the jurisdiction of an officer;
- reasonable number of establishments to be inspected under various labour laws;
- mobility to be ensured through availability of office vehicles;
- adequate number of enforcement officers keeping in view the extent of the geographical area and number of inspections to be made:

- effectiveness of orientation and training imparted to the officials to make them sensitive and empathetic to the tasks and to enable them to do justice to the inspection.

Jharkhand has 152 towns and 32,615 villages and there will be minimum 10 establishments on an average to be inspected in every village and minimum 100 establishments in every town (in Cities like Dhanbad, Bokaro, Jamshedpur the actual number of establishments will be much larger – may be in the vicinity of 1 lakh). There are approximately 50 inspecting officials both at the headquarters and in the field. None of them, it was reported, has been provided with a vehicle, not even a motorcycle. After the inspection when irregularities are found, a lot of clerical work is involved in issue of show cause notices, defending prosecutions in the Court of Law, following up recovery proceedings and so on. For this extra staff is required which has not been provided. In other words, in the absence of vehicles not only mobility is restricted, adversely affecting the pace of inspections, follow up action is weak due to non sanction of required number of officers and clerical staff.

Despite these limitations a number of inspections have been conducted u/s 14 read with Section 3 of Child Labour (Prohibition and Regulation) Act during the last 3 years as would be evident from the following:-

Year	No. of inspections conducted
2005-2006	5297
2006-2007	7026
2007-2008	7127

The number of prosecutions are, however, negligible and number of convictions are fewer still with a heavy pendency of proceedings and slow rate of disposal as would be evident from the following:-

Year	2005-2006	2006-2007	2007-2008
Prosecution	233	331	253
Disposal	07	04	06
Conviction	07	03	07
Acquittal	Nil	Nil	16
Pending	226	224	235

Determination of the age of the child:

- Age can be determined with reference to the date of birth as recorded by the competent authority at the time of registration under Registration of Births and Deaths Act, 1969.
- Births, however, are not universally registered and notably in rural areas.
- In response to my question in the questionnaire circulated to the State Government in advance regarding number of children registered after birth the State Government have responded that the number of children in 0-6 age group is 49,56,827.
- It is not clear from this response if all these children were/have been registered at the time of birth and if so what is the date of registration.
- If yes, determination of age becomes comparatively easier.
- If no, age is to be determined with reference to physical and mental growth.
- The WHO has laid down clear scientific parameters to correlate what the height, weight, chest, circumference of the armpit and forehead and overall growth of a person in physiological terms should be with the age of that person.
- Growth is related partly to genes and partly to nutrition.
- Nutrition is the science of food in relation to health while malnutrition is the disparity between what the body needs and what it consumes while under nutrition results from the consumption of inadequate quantity of food.
- Today we have a situation of chronic malnutrition in Jharkhand.
- According to the findings of NFHS III over 59% of children in Jharkhand are under weight; 31% are wasted and 41% are stunted. The percentage of children in relation to total population who are victims of

malnutrition in rural areas is 63% while the same is 43% in urban areas. The rural urban differential is the highest in Jharkhand. The percentage of children immunized is also 35% only. The provisioning of health services, care of children especially the new born ones and nutritional status of women are very poor in Jharkhand. The only silver lining in Jharkhand according to NFHS-3 is that 58% are exclusively breastfed while progress in reducing under nourishment between 1998-99 (NFHS-II) and 2005-2006 (NFHS-III) has been disappointing. 78% of children in 6-35 months continues to be anaemic.

- In a situation like that of Jharkhand where real growth may be stunted or concealed on account of malnutrition it will be extremely difficult to correlate age with growth.
- For the prescribed medical authority notified by the State Government who is statutorily required to determine the age of a child u/s 10 of Child Labour (Prohibition and Regulation) Act it will be an uphill task to correctly determine the age of a child in such a situation.
- As the Supreme Court has observed when a law or a regulation or a ruling of the Court is capable of diverse/multiple interpretation, we should go in for that interpretation which should be beneficial to those sections of the society for whom the law has been enacted.
- In order that the prescribed medical authority does justice to the mandate entrusted to it u/s 10 of Child Labour (Prohibition and Regulation) Act we need to organize special orientation and training programmes with the help of WHO, Ministry of Women and Child Development (Food and Nutrition Board) and Ministry of Health.
- The fact that of 39 disputes relating to age only 8 have been decided and there too all the decisions have gone in favour of employers does not speak well of the track record of performance of the prescribed medical authority.

- The Secretary, Health, Government of Jharkhand needs to issue instructions to the Civil Surgeons or Chief Medical Officers of all districts to review and revamp the functioning of the authority so that the disputes are adjudicated promptly and that too they go in favour of the working children.

Compliance with the directions issued by the Supreme Court in Civil Writ Application No. 465 (1986) decided on 10.12.96:

The track record of the State Government in terms of compliance with the directions issued by the apex Court has not been every encouraging as would be evident from the following facts:-

- only 412 children (of a total of 4644 who were found to have been employed in such hazardous occupations/processes) have been withdrawn from hazardous occupations and processes whereas children in very large number are employed in different prohibited categories of employment (brick kilns, hotels, motels, dhabas, motor garages and auto repairing workshops)
- at the rate of Rs. 20,000/- per child a sum of Rs. 82,40,000/- should have been collected as against which only Rs. 1,20,000/- has been recovered from the offending employers which is only a pittance;
- the State Government has not provided a single job to every able bodied adult member of the family which has been sending children for employment in hazardous work nor has it deposited at the rate of Rs. 5000/- per child in the District Child Labour Welfare-cum-Rehabilitation Fund. This is a flagrant violation of the directions of the apex Court by the State Government;
- the District Child Labour Welfare-cum-Rehabilitation Fund has been constituted under the Chairmanship of DM but hardly any money has been deposited into the corpus of the said Fund;

- A cell has been formed and is functioning in Labour Department under the Chairmanship of Labour Commissioner. The other staff manning the cell are:-
 - DLC-1
 - LS-1
 - Enforcement officials - 2

- Twenty two children are reported to be working in non hazardous work and are receiving non formal education at the cost of the employers concerned.

Comments:

Over 11 years have passed by since the apex Court delivered the judgement on 10.12.96 and issued series of directions for compliance by State Governments/UTs. In the first survey conducted by the State Government 4644 children were found to have been employed in hazardous work. All of them should have been withdrawn from work and should have been enrolled into formal schools as directed by the apex Court. As against this only 412 were withdrawn but no confirmation could be given if all of them have been enrolled into the formal school system. Besides @ Rs. 20,000/- per child a sum of Rs. 82,40,000/- should have been collected from the offending employers as against which only a sum of Rs. 1,20,000/- has been collected. No explanation was forthcoming as to why such a small amount was collected. While District Child Labour Welfare-cum-Rehabilitation Funds have been constituted at the district level, no confirmation was forthcoming as to whether even the small amount of Rs. 1,20,000/- has been put into the corpus of the Fund, whether the said amount has been invested and what is the dividend out of that investment. At the rate of one member per family the State Government was to provide a job failing which it should have credited the required amount @ Rs. 5000/- per child or Rs. 20,60,000/- into the district child labour welfare-cum-rehabilitation fund. This has not been done and no explanation has been forthcoming about this significant omission.

- As reported by the State Government a cell has no doubt been formed in Labour Commissioner's office. It is headed by the Labour

Commissioner with one Dy. Labour Commissioner, one Labour Superintendent, two Labour Enforcement Officers one Assistant and one Class IV staff. Ten years have passed since constitution of the cell but no account of the work done by the cell is available nor any one has attempted to evaluate the work of the cell upto date.

- What was intended by the apex Court was not a mechanical structure but an effective truly monitoring mechanism which will be keeping itself abreast of the latest developments in the field of elimination of child labour.
- If the cell exists only in name it needs to be activated. The functionaries should be young, energetic, computer literate with a PC/laptop for building up a computerized data base on child labour and a vehicle for mobility. The functionaries of the Cell should discharge the following functions:-
 - maintain a close and constant liaison with the district administration to get accurate information about endemic pockets of child labour, getting task forces or teams of officers constituted with the full knowledge and approval of the Collector, getting raids conducted in sensitive pockets, tracking and rescuing children who were found employed in hazardous work, getting transit camps opened, bringing children to such transit camps and later rehabilitating them through education, nutrition, skill training, check up of health etc. – activities which constitute an integral part of the special schools of NCLP.
 - collect, compile and disseminate important events extracted from newspapers (press clippings), radio and television (which are of relevance to NCLPs) to all Collectors/DMS, NCLPs and other field functionaries of Labour Department;
 - take initiative to design a few simple and intelligible messages relating to elimination of child labour and have

them broadcast and telecast at prime time through AIR and Doordarshan, Ranchi;

- have the same messages appear as advertisements in all local newspapers published from different parts of the State;
- have the same messages appear as advertisements on all the buses of Jharkhand State Road Transport Corporation (since these buses go to all villages, the messages will also travel to the villages);
- take initiative to organize essay and debate competitions on elimination of child labour as the dominant theme in all schools and colleges of Jharkhand and have trophies/prizes awarded to successful individuals and teams;
- take initiative to flash messages on elimination of child labour in simple bolchal Hindi in all Panchayat offices (at the village level, block level and district level) for the benefit of the parents as also with a view to sensitizing all parents that what they have been doing so far is wrong, they have no moral and ethical right to push their children involuntarily to work and they must stop doing once for all what they have been doing so far.

National Child Labour Projects:

So for 136 special schools or centres under NCLP have been opened under 6 Projects the break up of which is as under:-

Ranchi	-	30
Hazaribagh	-	30
Dumka	-	40
Garhwa	-	09
Pakur	-	19
Sahebganj	-	08

Total - 136

In all 6621 children have been released from hazardous work and enrolled into the special schools. Of them 4215 children have completed 3 years schooling in the special schools and have been mainstreamed into the formal schools.

Visit to Hazaribagh and review of the pace and progress of NCLP:

4.3.2008

4.30 PM to 9.30 PM

The NCLP, Hazaribagh was founded on 15.6.2006. One of the redeeming features of this Project is that it is being implemented by an NGO called Jan Jagaran Kendra, Hazaribagh which is an NGO of repute and standing at the national level and in close collaboration with Sarva Shikshaya Abhiyan, Jharkhand.

Process:

A survey was conducted in June – July, 2006 by the NCLP functionaries in collaboration with Nehru Yuva Kendra Sangathan and Jan Shikshan Sansthan, Hazaribagh. In course of the survey 8538 working children were freed of whom 1557 children were found engaged in hazardous occupations/processes and 6981 children in non hazardous ones. On the basis of the findings of the survey a project proposal was formulated and sent to GOI with the following innovative features:-

- the special schools or centres will be run in a residential mode (like Ashram Schools for tribal children) which is a significant departure from the NCLP non residential mode.

Approval of Ministry of Labour, GOI for opening 31 centres was received and steps were taken for operationalization of these centres with the joint initiative and efforts of the then Labour Commissioner – Smt. Nidhi Khare and Dy. Commissioner, Hazaribagh – Shri Rahul Kumar Purwar. The most striking feature of NCLP, Hazaribagh is the total involvement – physical,

emotional and psychological of 20 NGOs in management of special schools of the NCLP. The residential centres were opened at one time on 15.6.2006 in presence of Minister, Labour, local MP, MLA and other distinguished citizens of the city.

The current status of the 30 centres (which are operational) is as under:-

- District Child Labour Project Society has been registered;
- 30 NGOs are managing 30 centres of NCLP @ 1 each;
- Of the 30 centres 8 are meant for girls and 22 are meant for boys;
- In all 90 teachers have been selected and given orientation and training;
- In all 1477 children have been enrolled in 30 centres;
- Complete profile of these children and their grades are being maintained by the special school;
- The teachers and students of the special school have undertaken a few activities such as Prabhat Pheri, wall writings and organizing workshops at the district and sub divisional level with a view to generating mass awareness, building up of a positive environment and making the society free from the scourge of child labour;
- A participative and collaborative approach has been adopted in management of the centres. Resources are being pooled from a variety of sources and integrated imaginatively and skilfully to achieve the object of health and well being of children. Blankets for children have been made available by the Bank of India and Social Security Wing of Labour Department, Government of Bihar, text books by the officers of Sarva Shikshya Abhiyan, Jharkhand and check up of health by functionaries of Health Department;

- The teachers have been exposed to an orientation and training programme for 15 days with full involvement of Sarva Shikshya Abhiyan, Jharkhand and Ramakrishna Mission, Hazaribagh;
- Two representatives of NGOs have been trained in V.V. Giri National Labour Institute;
- There is a regular review of the Project through interaction with the NGOs.

Some of the achievements of the project are as under:-

- Fifty working children who have passed out from the NCLP schools have been mainstreamed into the formal system of education;
- A campaign, 'School Chale Hum' was launched in April, 2007 in collaboration with the officials of Labour Department, functionaries of NCLP and NGOs and 108 children have been released from work and have been mainstreamed into the formal educational system;
- A raid was conducted on 10.10.2007 in various hotels and restaurants of Hazaribagh city with the initiative of local administration, Labour Department officials, NCLP officials and activists of Bachpan Bachao Andolan and 53 children were released and kept in the Child Labour Welfare-cum-Rehabilitation Centre, Hururu. Legal and penal action was initiated against offending employers;
- A second raid was conducted on 2.2.2008 in hotels and other commercial establishments with the collaboration of local administration and Bahpan Bachao Andolan activists, 50 children were released and necessary legal and penal action was initiated against the management of the establishments;

- The students of Dipugada and Cemetery Road, Huruhuru Special Schools were imparted training in life skills by the NGO managing the Special Schools and Nehru Yuva Kendra, Hazaribagh. The curriculum of the training programme included importance of cleanliness in life, health related issues, cultural issues etc.

I visited 2 special schools one for girls at Dipugada and another for boys at Banadag. Both the schools were operational on 15.6.2006. While the first one is being run by Jan Jagaran Kendra, Hazaribagh, the second one is run by Ramakrishna Sarada Math and Mission, Hazaribagh.

The following is a gist of the impressions emanating from the first visit to the girls school:-

- The girls (43) have been provided with dormitory accommodation;
- There was one girl in Class I, twelve girls in Class II, twenty four girls in Class III and 6 girls in Class IV;
- The girls prior to their enrolment in the school were working as domestic help;
- They are not aware of the wages earned by them;
- They speak the native dialect of Khoratha at home;
- Their levels of general and social awareness was found to be average though wit and intelligence of some of the students were sparkling;
- The girls are learning their lessons (mother tongue, arithmetic, social sciences) with a lot of excitement and joy;
- They are learning a few vocational skills such as making handkerchief, making a petty coat, stitching a pillow cover, knitting a sweater etc. with a lot of zest and joy;

- In the residential school, both the food and clothing of the students are being taken care of;
- The food package is a good example of convergence i.e. Rs. 5/- from NCLP budget and Rs. 12/- from Sarva Shikshya Abhiyan;
- The food served for both breakfast, lunch and dinner was found to be adequate, wholesome and nutritious;
- Between the period when they were working as domestic help and when they were brought to the special school, they have perceived and are able to articulate that it's a world of difference;
- The pace and progress of their learning and the skills acquired by them and the levels reached by them are encouraging;
- There is a lot of histrionic talent among the girls. They sing, dance and perform. The skit performed by them on dowry (through which the anguish and deprivation in their personal lives came out clearly and tellingly) was deeply moving;
- They have also simultaneously excelled in games and sports;
- Good quality human material has been selected as teachers (including craft teachers).

Suggestions:

- Achievement of the minimum levels of learning and proficiency in mother tongue, arithmetic, social, physical and earth sciences and environment is the central objective in opening and running special schools in a condensed period of 2 years; it is also the key to success of the special schools. For such achievement drills and exercises through dictation, question answer, writing on the black board and repeated practices with a view to ensuring flawless reading and writing and being able to write neat and in a straight line are a must.

Students must be encouraged to maintain daily classroom transactions in the note book and have the same seen and corrected by the teachers.

- The wishes of children to continue studying must be fully respected. Some students were apprehensive that after they have left the school they may either be pushed involuntarily to work or may be given away in early marriage. The parents and guardians of such girls may be invited to the school and may be counselled by an activist of the NGO who happens to be a good communicator to discourage such practices which are detrimental to the health, safety and well being of children.
- There are only 2 sewing machines against 30 students. The local administration, NCLP Project Director and NGO were requested to mobilize local resources and provide atleast 10 sewing machines in the ratio of 1:3 which will provide a fillip to craft training.

Visit to Special School meant for boys:

3.3.2008:

8.00 PM to 9 PM

- The school was started on 15.6.2006 and is being managed by Ramkrishna Sarada Math and Mission; involvement of the Mission in this programme is a big help to the students – physically, morally and ethically.
- Initially 47 boys were enrolled in the special school. Seven boys have since been mainstreamed into formal education leaving 40 boys;
- The boys were found to be neatly attired. I was told that the uniforms have been donated by the SP, Hazaribagh which is an excellent gesture;
- The boys came from a poor socio-economic background, were employed as domestic help and earnings (Rs. 5/- per day) were a pittance;

- Some of the boys were found to be very good in reading passages while some were good in arithmetic;
- They are learning with a lot of excitement and joy. They would like to continue with further studies ahead and would like to pursue a career devoted to teaching learning;
- A boy (Naresh Kumar) was found to be very good in articulation despite handicaps (he had problem of vision in his eyes). Another boy was able to read a passage from the text related to the life of Saraojini Debi Naidu with felicity and ease, proper pause and rhythm.
- The craft teacher is of outstanding quality, the manner of imparting vocational skills, the number of skills taught and the products made by making use of locally available materials (jute) were also equally very good;
- Proper classification of students has been done according to age, levels of competencies acquired and past experience in teaching learning;
- The teachers appeared to be highly motivated and were found to be exercising close personal supervision.

Suggestions:

- A lot more is required to be done to promote concentration on the part of students. To illustrate, after the lesson on Srimati Sarojini Debi Naidu was read out a few questions were asked with reference to the text but the listeners were unable to answer correctly due to lack of concentration even though the text was read out correctly with proper pause and rhythm.
- A lot more is required to be done to promote personal hygiene of the students. The teachers should pay particular attention to the proper

upkeep and maintenance of tooth brush, tooth paste, tongue scrapper etc.

- Teachers should pay particular attention to general and social awareness of students.
- The Public Relations Department of the State Government could arrange to show a couple of good films like Dosti, Insaniyat, Jagate Raho, Anand, Mamata, Ashirwad, Do Aankhe Bara Haath, Teri Surat Meeri Aankhe, Taare Zamin Par etc. These are highly instructional and motivational.
- The gap between breakfast, lunch and dinner should not exceed 6 to 8 hrs as a longer gap may cause gastritis. While breakfast may be served at 8 AM to 8.30 AM, and lunch at 1.30 PM to 2 PM, dinner may be served around 8 PM.
- While the amount being invested in daily food (3 meals) was more than adequate (Rs. 17/-) a dietician or nutritionist from Health Department may visit the school, remain present at the time of cooking and serving and satisfy himself/herself about the desired nutritive value of food being served and the total kilo calorie contained in the food.
- The GM District Industries Centre may be requested to pay a visit to the Craft Teacher's Class, observe the manner of teaching and skills being imparted and suggest what more remains to be done (in terms of range of products, new skills to be imparted which are income generating how to ensure marketability of products etc.).
- Functionaries of other development departments (Women and Child Development), Education, Health, Rural Development, IT etc.) should also make it a point to visit the special school from time to time and help in bridging the gap between expected outcome and actual outcome.

An Executive Summary of conclusions and recommendations arising out of 5 days visit to Jharkhand (9.3.2008 to 6.3.2008) for review of bonded labour and child labour programmes:

General Observations:

- As has been made abundantly clear from time to time, while making presentations on bonded and child labour at the State Headquarters or while addressing officers of divisional, district and sub divisional administration or reviewing various programmes that these are not witch hunting exercises to find fault with anyone but are really meant to bring about qualitative change and improvement in the overall situation.
- This objective can be fulfilled and the review can be meaningful if the responses to the questionnaire designed with meticulous care and circulated sufficiently in advance are properly formulated.
- This regrettably has not been the case with Jharkhand. Most of the responses to the questions are sketchy without sufficient supporting details.
- Often it is stated that either the information is not available or what is made available is the information which was not needed.
- This makes the task of the reviewer extremely difficult.
- The review of the measures taken for enforcement of Bonded Labour System (Abolition) Act and Child Labour (Prohibition and Regulation) Act for Jharkhand State was beset with these difficulties.
- A few observations and suggestions at the end of the review have been made in this backdrop with a view to make the task of similar reviews easier in future.

Child Labour:

- I The State of Jharkhand was carved out of Bihar on 15.11.2000. The decennial census operations were conducted in the same year and the report was ready by 2001. Instead of taking a stand that the total number of working children is not available, the State Labour Department would do well to take out relevant extracts of informations pertaining to working children in rural and urban areas, in different

occupations and processes and analyse the said information with a view to using it as a tool for further planning in the direction of elimination of child labour.

- II It is encouraging to note that a State wise survey to identify and enumerate working children is being conducted. Going by the outcome of the survey conducted in the wake of the judgement of the Supreme Court dated 10.12.96 which is anything but encouraging, a lot of care and caution needs to be adopted to conduct such surveys in future. Survey teams need to be properly constituted in respect of every district and they need to be given orientation and training so that they acquire the desired expertise to address simple and intelligible questions to the householders and establishments and are able to elicit simple responses. These need to be compiled and analysed before one can reach definite conclusions. The findings of the entire survey need to be computerized. It should be possible to cull out the following informations from the survey report:-
- absolute number of working children; size of the family; average earnings while at work etc.;
 - breakup between urban and rural areas, hazardous and non hazardous, boys and girls;
 - damage to life and limb suffered on account of exposure to hazardous work (relevant for health planning).
- III A drive should be launched by Women and Child Development Department for registration of all births under Registration of Births and Deaths Act, 1969. This would greatly facilitate the task of scientific determination of the age of the child in the event of any controversy being raised.
- IV The prescribed medical authority notified by the State Government should proceed to determine the age of children in a scientific manner by using the latest norms and parameters laid down by the WHO on the

subject and since accepted by Government of India. They should not only be just and fair but should appear to be so. The manner in which certain recent decisions have been taken by the authority leaves much to be desired.

- V The Chief District Medical Officer should monitor the performance of the prescribed medical authority with reference to number of disputes referred, number of disputes adjudicated and number of disputes pending. The prescribed medical authority should also be imparted orientation about the correct methodology to be adopted for determining the correct age of children.
- VI Children withdrawn from hazardous work should be either enrolled in the formal school system (judgement of the apex Court dated 10.12.96) or enrolled in the special schools under the NCLP. The first flows from the direction of the Supreme Court while the second flows from the national policy. The central objective in both is rehabilitation of children withdrawn from hazardous work with the only difference that there is a provision for vocational skill training in the second (the rest i.e. mid day meal, check up of health, acquisition of minimum levels of learning are common to both). If the formal school system is not in a position to absorb all children withdrawn from work, administration may plan for expansion of that system or may go in for special schools under the NCLP by formulating a proposal to that effect and getting the approval of GOI.
- VII The Cell which already exists in the State Labour Department needs to be both strengthened and activated. It can play a coordinational role with district administration. It can design IEC materials for wider dissemination. It can also plan publicity measures through print and electronic medium to carry conviction to all sections of civil society about the urgent and imperative need for universal prohibition of child labour as highlighted at page 37-39 of this report.

VIII Like ICDS (1975) NCLP and the Special Schools functioning thereunder should be a model of integration. Besides the Project Advisory Committee where representatives of all social Ministries/ Departments (Education, Health, Panchayatiraj, Rural Development, Urban Poverty Alleviation, Women and Child Development, Social Welfare etc.) of the State Government at the district level should be represented, representatives of these departments should find time to visit special schools under the NCLP as often as necessary, give the benefit of their advice as also provide resources – human, material and financial so that the special schools could ensure 100% enrolment, 100% retention, 100% participation of parents, teachers and students and 100% achievement of the minimum levels of learning as also proficiency in mother tongue, arithmetic, social sciences and environmental issues and could be model centres of learning (like Nalanda and Takshsheela) for emulation by others.

IX The State Level Monitoring Committee is currently headed by the Principal Secretary, Labour, Employment and Training Department with representatives of Primary Education, Rural Development, Urban, Poverty Alleviation and Social Welfare Departments as members. Even though Secretaries of these Departments are members very junior level officers on behalf of Secretaries come to attend the meeting which does not serve the purpose for which the Secretaries of the development departments concerned have been taken as members of the Committee. To make the Committee more broad based and effective in terms of better monitoring, coordination and supervision I would suggest the following:-

- Chief Secretary to Government should be the Chairperson of the Committee;
- In addition to the departments already represented, Health and Family Welfare, Panchayatiraj, Women and Child Development, Law, Information and Public Relations should also be represented;

- Secretaries to Government of all these departments should be made members (in place of JS/DS of the departments) and not their authorized representatives.

X The Chairperson of the Monitoring Committee should constitute special teams and task forces to visit special schools of NCLPs and through such visits get an accurate and timely feed back about the redeeming features and grey areas in their functioning. Such feed back should be placed before the monitoring committee, discussed threadbare and instructions/guidelines issued to remove the grey areas and ensure better planned and coordinated functioning.

Bonded Labour:

- I The same State Level Monitoring Committee should function as the Monitoring Committee for bonded labour. In addition to the Secretaries of the Departments to be members of the Committee as mentioned at page 51. Secretaries of Home and Welfare (of SC and ST) Departments should be coopted as members as involvement of these Departments is vital to effectively deal with issues related to atrocities against potential and released bonded labourers majority of whom belong to SC and ST.
- II Life of Vigilance Committees at the district and sub divisional levels is only 2 years (the representatives of the administrative department were unaware of this as is evident from their response to my questionnaire). They should be reconstituted, wherever due (at most of the places, it transpired that they have completed their two year life cycle).
- III While sending proposals for constitution of VCs the Collector/DM of the district concerned should take meticulous care to ensure that names of such women and men of character and integrity, who have a passion and commitment to work for the welfare of bonded labourers as also welfare of members of SC/ST are sent who would be able to do justice to their mandate. Similarly while sending proposals for reconstitution

only names of such persons/members would be sent for continuance as members who have shown genuine interest and concern about the functioning of the Committee.

IV Soon after Constitution/reconstitution, wherever due basic orientation and training should be imparted to the members of the Committees for their familiarization with the following:-

- Provisions of the Constitution (Article 23, 24, 38 and 39);
- Provisions of Law i.e. Bonded Labour System (Abolition) Act, 1976, Child Labour (Prohibition and Regulation) Act, 1986, Children (Pledging of Labour) Act, 1933, Prevention of Immoral Trafficking Act, 1956, Untouchability Offences Act, 1955, SC and ST (Prevention of Atrocities) Act, 1993, Contract Labour (Regulation and Abolition) Act, 1970 and Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 etc.;
- Judgements of Supreme Court on elimination of bonded labour system and child labour;
- Procedure for identification, release and rehabilitation of bonded labourers.

V The State Level Committee should, in particular, monitor the performance of Vigilance Committees, frequency of their meetings, duration of meetings, topics discussed, whether the Committees have gone out for field investigations/surveys, what kind of questions addressed, what type of information elicited, how they have been analysed and what type of conclusions have been reached. This is not happening at present.

VI The manner in which the complaint relating to interstate migrant workmen at Ramgarh (Ramgarh is now an independent district but on the relevant date of enquiry it was an integral part of Hazaribagh) has

been handled leaves much to be desired. The following are the deficiencies in this enquiry:-

- it has not been enquired if there was an element of loan/debt/advance in this case;
 - it has not been enquired as to who recruited these persons and under what terms and conditions of service and employment;
 - it has not been enquired as to what were the working hours, whether there was any spread over, whether there was any weekly off, whether OT was being paid for work in excess of scheduled working hours;
 - it has not been enquired if notified minimum wage (Rs. 87/- for 8 hours of work) were being paid to the workers or not;
 - it has not been enquired if wages were being paid in cash or kind;
 - it has not been enquired if wages are being paid separately to women, men and children;
 - it has not been enquired if claims u/s 20 of Minimum Wages Act have been filed for non payment or short payment of minimum wage, whether the same has been adjudicated by the competent authority and whether the disbursement has taken place.
- Merely releasing these persons from work and repatriating them to their native place without bothering the least about their rehabilitation amounts to paying only a lip service to the provisions of Bonded Labour System (Abolition) Act.
- VII A fresh Statewide survey should be undertaken to identify number of people working under bonded conditions and number of working children in all the 24 districts. This should be both a household as well

as establishment wise survey. It may be useful to adopt the following step by step approach for conducting any survey:-

- form survey teams for each village and each establishment;
- every survey team should comprise 2 members, one to address the questionnaire and elicit response, the other to record responses;
- the members of survey team should be non government officials having the basic urge, inclination and commitment to do this type of work and not government officials; this point has been brought out by Justice Shri P.N. Bhagwati, ex-Chief Justice of Supreme Court in Neerja Chaudhary Vs. State of M.P. W.P. No. 1263 of 1982 (date of the order 8.5.2004); they could be from amongst teachers, students, women and youth volunteers of an NGO who are familiar with the area and who would be willing to do the survey with a lot of pride and distinction;
- a simple questionnaire should be framed which would contain—
 - number of family members;
 - how many earning members;
 - how many children in 6-14 age group;
 - how many children going to school;
 - if out of school, what are they doing;
 - income of earning members;
 - are they getting minimum wages; if not why not;
 - if there is any element of loan/debt/advance;
 - rate of interest;

- period of repayment;
 - documentary evidence of loan/debt/advance with whom it has been kept; has a copy been given to the debtor;
 - are services being rendered for a specified or for an unspecified period, with or without wages.
- It may be appropriate and useful to brief the members of the survey team at the Taluk/block/GP headquarters depending on the size of the survey team about legal, definitional and conceptual clarity on bonded labour system keeping the provisions of the Act and the subsequent interpretation of these provisions given by the Supreme Court.
 - After the survey is completed the informations elicited on the basis of questions addressed to the clientele/target group should be collected, compiled, analysed and conclusion reached about the status of persons surveyed.
 - Prevalence of bonded labour system is closely linked to geography, topography and demography of the region. If the geography is harsh, if there are no stable and durable avenues of employment, if minimum wages are not paid and if the public distribution system is non functional, there will be 2 alternatives for the householders. They are:-
 - approach the landlord/moneylender for loan/debt/ advance at usurious rates of interest
 - or
 - migrate to a destination point where there will be some earning and that will help biological survival.
 - It has been reported (15.9.2004) in a letter from Collector, Chatra addressed to Labour Secretary-cum-Commissioner that a survey was

conducted with the help of Saksharata Samiti, Chatra (which is a governmental NGO) but not even one bonded labourer was found.

- It is difficult to accept such a finding or accept it with a pinch of salt on account of the following reasons:-
 - Chatra has a very difficult geography and topography;
 - human settlements are scattered and fragmented with a very low density of population;
 - the rate of literacy is very low i.e. 43.24;
 - the district is extremely backward in terms of industrialization;
 - there are no other stable and durable avenues of employment;
- In such a situation it is but natural that either people who are mostly landless would approach the village landlord/money lender for loan/debt/advance or would migrate to other destination points;
- As a matter of fact, it was confirmed in course of my meeting with the Addl. Collector (Collector way away to Delhi) SP and other district level officials that the incidence of migration from Chatra is quite high;
- In a situation of distress migration where landless people receive advances, are recruited by recruiting agents and migrate to a destination point they in all probability will get into a situation of debt bondage at that point primarily on account of the following reasons:-
 - they are ununionized and unorganized;
 - they have no bargaining power either individual or collective;
 - being illiterate and without any documentary evidence they will not be able to easily recollect how much advance was taken by them as principal, what was the rate of interest, what is the period of

repayment, whether a portion of the wages is being adjusted with interest or not etc.;

- since they are unable to repay the advance (principal invariably remains intact, its only the interest which may be getting adjusted with wages) they won't have the freedom to leave the place of work or even leave the employer. In other words, their economic helplessness and lack of capacity to bargain would make them bonded.
- As a matter of fact, only 4 children have been released from bondage under a similar situation although the release certificate was issued by SDM, Delhi.
- It is well known that movement from one part of the territory of India to another being a matter of fundamental human right guaranteed under Article 19 of the Constitution we can do precious little to completely stop such migration but we can prevent or minimize its incidence by intensification of public works (like NREG) or creation of better avenues of employment. In spite of all these measures to preempt migration, migration takes place, the following measures may be necessary:-
 - identify pockets of migration within Jharkhand;
 - form inter departmental teams comprising of 2 to 3 officers of Revenue, Labour and Finance Departments to visit migrant workers who are working at a destination point;
 - release and repatriate them if it is confirmed beyond doubt that they are working under bonded conditions;
 - rehabilitate bonded labourers after ascertaining their aptitude, preference and interests;
 - create conditions at the originating point so that children are not forced to accompany the parents but are looked after at the originating point as the responsibility of the State.

- After identification of the originating and destination points of migration, Labour Secretary-cum-Labour-Commissioner may constantly be in touch with his counterpart at the destination point, forward complaints, if any, for a discrete enquiry in a time bound manner, depute teams of officers for field visits and for redressal of the grievances of the aggrieved and for eventual repatriation of the victims if there is no improvement in the situation.
- There is need for orientation and reorientation of the functionaries of the department as also of the Executive Magistrates vested with the powers of the Judicial Magistrate 1st or 2nd Class to make them more aware and more sensitive so that when a law or regulation is capable of diverse interpretation it should be interpreted in a manner which is more beneficial to the person for whom the law has been intended.
