

**REPORT OF THE EXPERT GROUP ON BONDED LABOUR SET UP BY
THE NATIONAL HUMAN RIGHTS COMMISSION - MAY 2001.**

1. The Supreme Court, in its order dated 11.11.1997, passed in writ petition (Civil) No.3922 of 1985 requested the NHRC to get involved in the monitoring of the implementation of the Bonded Labour System (Abolition) Act 1976 and the directions of the Supreme Court issued in their order dated 13.5.94 in the writ petitions (Civil) 3922/85 with WP (Criminal) 153/82. The records of the writ petitions (civil) 3922/85 - People's Union for Civil Liberties vs. State of Tamil Nadu and others - along with those of WP (Crl.) 153/82, - Jyoti Prakash vs. State of M.P., - WP(C) 166/95-Aman Hingorani Vs. Union of India and WP (C) 380/96- Dr Ambedkar Manavadhikar Evam Lok Kalyan Sansthan vs. Union of India - were also transferred to the NHRC. The Supreme Court order dated 11.11.1997 clearly stated that the desired involvement of the NHRC in matters relating to bonded labour would follow the manner indicated in the order passed by the Supreme Court on 11.11.1997 itself in writ petitions (criminal) No.1900 of 1981 requesting the NHRC to be involved in the supervision of the working of the Agra Protective Home to "ensure that the Home functions in the manner as is expected for achieving the object for which it has been set up" and that "the concerned authorities would promptly comply with the directions given by the NHRC".

2. The Statement of Objects and Reasons of the Bonded Labour System (Abolition) Act 1976 traces the origin of the Law to article 23(1) of the Constitution which prohibits "Begar" and other similar forms of forced labour which are still prevailing in different parts of the country and constitute an "infringement of basic human rights and destruction of the dignity of human labour". The NHRC views the responsibility assigned to it from the angle of this constitutional guarantee incorporated in the Bonded Labour System Abolition Act, 1976 the scope of whose definitional aspects has been clarified by the Apex Court in its judgements given in the land mark cases the Asiad Workers Case (1982) and the Bandhua Mukti Morcha Case (1984).

3. The NHRC took up the monitoring of implementation of the Bonded Labour System (Abolition) Act 1976 in early 1998. It focussed its attention on the thirteen States (Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, MP, Maharashtra, Orissa, Rajasthan, Tamil Nadu and UP) identified as bonded labour prone areas by the Union Labour Ministry on the basis of several study reports particularly those made by the Gandhi Peace Foundation (1978-80) and the National Sample Survey organisation (1977-78). Shri K R Venugopal, IAS (Retd) Special Rapporteur of the Commission made an extensive study of the bonded labour situation in Andhra Pradesh, Tamil Nadu and Karnataka in April 1998 and submitted a status report giving a detailed account of the follow-up on the directions of the Supreme Court given in November 1996 for carrying out a survey of the bonded labour in their respective areas and arrange to rehabilitate the released bonded labourers. He has been sending periodical reports to the Commission giving the status of the situation and performance appraisal of the Governments of the these three States, namely, Andhra Pradesh, Tamil Nadu and Karnataka in clearing the pending cases of rehabilitation as well as fresh identifications and follow-up. Shri Chaman Lal, IPS (Retd), Special Rapporteur who is associated with the monitoring of the Child Labour situation in the carpet belt of UP (Districts Varanasi, Bhadoi, Mirzapur, Jaunpur, Sonbhadra and Allahabad) has also been submitting reports to the Commission on Child bondage in these areas. The Commission has also been considering individual as well as collective petitions pertaining to the practice of bonded labour in the brick kilns and stone quarries of Western MP, Delhi, Haryana and Rajasthan. The Commission has been keeping the Supreme Court informed about the steps taken by it to discharge the responsibility entrusted to it.

4. The Commission is keen to expand the area of monitoring and evolve a suitable mechanism to constantly review the bonded labour situation and implementation of the provisions of the Bonded Labour Act in all the States identified as afflicted by this pernicious practice. For this purpose, it has felt the need for an assessment of the bonded labour situation in the country, the extent and effectiveness of the Bonded Labour laws, and the performance and impact of the Centrally Sponsored Scheme (CSS) drawn up for the rehabilitation of the released bonded labourers in various States/UTs. It wants to take up the issue of bonded labour as a special subject, strengthen the existing arrangements of monitoring and

improve the modalities of its interaction with the Ministry of Labour, Government of India and the various State Governments.

5. The Commission in its order No.2/1/97-PRP&P October 22.9.2000 constituted the following Group for preparing a report on the present status, improvement of the existing schemes and recommendations to effectively implement the laws for the abolition of the bonded labour system:

- i. Shri S R Sankaran, IAS (Retd.) Former Secretary, Rural Development, GOI.
- ii. Shri K R Venugopal, IAS (Retd.), Special Rapporteur, NHRC.
- iii. Shri K B Saxena, IAS, Principal Adviser, Planning Commission.
- iv. Shri Vivek Pandit, Smarthan, Mumbai, Social Activist.
- v. Swami Agnivesh, President, Bandhua Mukti Morcha, New Delhi.
- vi. Shri Harsh Mandar, IAS, Country Director, Action Aid.
- vii. Shri Chaman Lal, IAS (Retd.), Special Rapporteur, NHRC.

6. The terms of reference of the Group were spelt out as follows:

- i. Identification of bonded labour-prone Districts and industries and occupations employing bonded labourers.
- ii. Review the existing laws relating to bonded labour in India and their enforcement.
- iii. Examine the structure of the enforcement system of Bonded Labour Laws and suggest improvements.
- iv. Training on legal aspects and enforcement of the Bonded Labour Act for different target groups such as (i) the officers of Revenue, Labour and Police Department (ii) Advocates and lawyers who handle bonded labour cases and (iii) Public prosecutors, etc.
- v. Seminars and workshops at District and State Levels for bringing together the Government officials and NGOs for a better understanding of their role and responsibilities in a collaborative effort.
- vi. Study the various Poverty Alleviation Programmes in operation with a view to ensuring their effective implementation in the rehabilitation of bonded labourers.

- vii. Analyze and disseminate information relating to judgements/orders of various High Courts and the Supreme Court relating to bonded labour laws.

7. The Group elected Shri S R Sankaran, IAS (Retd.) as its Chairman in view of his pioneering work and vast experience in the field of bonded labour. It has held four meetings at the NHRC, New Delhi on 8th December 2000 and 16th January, 28th February and 24th April 2001. It discussed in detail the various reports that had been submitted by Shri K R Venugopal to the NHRC and the background information provided by him in respect of Andhra Pradesh, Tamil Nadu and Karnataka. Shri Chaman Lal appraised the Group of the periodical reviews made by him in the carpet belt of UP and some rough assessment of the situation in Punjab and Haryana. The Group had the benefit of hearing Shri Vivek Pandit about the extent and quality of implementation of the Act in Maharashtra. Swami Agnivesh has helped the Group immensely in understanding the general situation relating to bonded labour all over the country. S/Shri K B Saxena and Harsh Mander and all the Members of the Group made valuable suggestions during the discussions in the meetings, including by way submission of their considered views in writing. The Group received invaluable guidance from its Chairman Shri S R Sankaran.

PART – I: PRESENT STATUS

8. The status of the work relating to the abolition of the bonded labour system in the various States that has emerged from the deliberations of the Group shows the following important features:
- i. There has been no country-wide survey to enable an authentic assessment of the magnitude of the problem. Besides a national survey to be undertaken by the Ministry of Labour or NSSO there is a strong case for State specific surveys in view of the regional peculiarities of the problems.
 - ii. Though the Ministry of Labour has identified only 13 States with 172 Districts as bonded labour-prone, examination of the problem in the light of the 'Bandhua Mukti Morcha' and 'ASIAD', judgements of the Supreme Court

would leave no one in doubt about the prevalence of bonded labour in almost all the States/UTs.

- iii. High incidence of bonded labour in the agriculture sector is an established fact in the States of Andhra Pradesh, Bihar, Haryana, Karnataka, Maharashtra, Orissa, Punjab, Tamil Nadu and MP. Indebtedness of the rural populace is found to be a major causal factor with the SCs/STs suffering extreme vulnerability. In the non-agricultural sector, the practice of bonded labour is rampant in brick kilns, stone quarries, beedi manufacturing, carpet weaving and construction projects and of bonded child labour in the sericulture processing industry.
- iv. Migrant Bonded Labour involving States such as Bihar, Jharkhand, Chathisgarh, Tamil Nadu, MP, Orissa, Rajasthan, Punjab and Haryana presents an aggravated form of deprivation and exploitation. Failure of the State/UT Governments to enforce the provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (IMWA), the Contract Labour (Regulation and Abolition) act 1970 (CLA) and the Minimum Wages Act 1948 (MWA) is the most important causal factor of bondage of migrant workers. The issue deserves an in-depth analysis as a subject of special study.
- v. In varying degrees, the approach of the State Governments is to refuse to acknowledge the problem of the existence of the bonded labour system in their respective States. In States like Karnataka and Himachal Pradesh there was an outright denial of the existence of the bonded labour system at all while in States like Andhra Pradesh the initial strategy is to acknowledge its existence but to ignore it as if it did not matter. In Tamil Nadu all the right things were done such as the appointment of a Minister and a Special Officer specifically for this work but the quality of the work depended entirely on the commitment of individual officers and, therefore, the progress was not as rapid as it should have been.
- vi. A number of States are found to be deluding themselves into believing that with the coming into force of the Bonded Labour Act in 1976, all the bonded

labourers had been freed and the Bonded Labour System totally abolished in their area. It is sometimes difficult to know whether this denial is a deliberately put on act of naivete or a stratagem to mislead others. In all probability it is the latter.

- vii. The kinds of results achieved in the States shows that only when the highest political executive namely the Chief Minister was told in no uncertain terms that the State could face embarrassment in its relations with the NHRC and the Honourable Supreme Court that any worthwhile progress resulted. With crude politics and its compulsions taking hold of governance in the Country, the Civil Service has become less and less autonomous surrendering its own initiatives and even duties and responsibilities cast upon it under the law so much so that unless the Chief Minister of a State clearly indicates what his political priorities are, no justice gets done to the poor in general and the poorest of the poor in particular like the bonded labourers. The Andhra Pradesh experience illustrates this most graphically. It is, therefore, absolutely essential that mechanisms have to be devised to squarely hold the political leadership in the States responsible for the implementation of the Bonded Labour System (Abolition) Act 1976, and other laws that have a bearing on it such as those relating to minimum wages, equal wages, migrant labour, contract labour etc. This is the single most important reform we need for it is time, after 50 years of democratic governance, every body realizes that those who are voted to power by the people shall be held accountable to their actions and not merely the face less civil servants who in any event have to carry out the orders of the political masters.
- viii. Even though the Central and the State Governments have been heard to publicize their commitment to the eradication of the poverty as their main goal of governance, they have not shown commitment to this goal, particularly in the context of the poorest of the poor, represented by the bonded labourers. It is important, therefore, to establish this first principle that in poverty eradication efforts the first priority should be for the poor in bondage, including children.
- ix. The field level functionaries and even their supervisors in the Departments responsible for bonded labour work are found generally lacking in clarity about

the definitional aspects of the work despite the clarifications issued by the Supreme Court. Efforts to identify fresh cases of bondage and monitor the conditions of released labourers and detect cases of relapse have been lacking in almost all the States / UTs though in the States of Tamil Nadu and in the recent weeks in the States of Andhra Pradesh and Karnataka, there has been some progress. For such fresh identifications as have been made in the other States during this period, some of the credit should go to the voluntary organizations and social activists who have been bringing such cases to the notice of the NHRC by way of petitions before the NHRC.

- x. Even the small number of fresh identifications done thanks to the efforts of the zeal and enthusiasm of some public spirited activists and NGOs, are not always followed up by the District authorities. The authorities are found lacking in response to the complaints of bonded labour brought to their notice. Instead of acting promptly on such complaints and effecting the identification and release of the bonded labourers, they are even found helping the keepers of bonded labourers in arranging the dispersal and disappearance of bonded labour after hurriedly settling their accounts.
- xi. Identification of a bonded labour is to be followed by his immediate release. However, in most of the cases there occurs a long time lag between the identification and the release with adverse effect on the prosecution of the offenders. Release is found to be incomplete and a mere paper formality in many cases as it is confined to the physical freedom of the victim without ensuring his freedom from debt and further exploitation. It has been noticed in several cases that even after the bonded labourer has been identified and got released, he has not been issued the release certificate. It is worth noting that neither the Act nor the Rules made thereunder provide for release of the bonded labour and there is no specific provision for issuing of a release certificate by the DM. This legal lacuna needs to be removed with the incorporation of a provision for release in the Act.
- xii. The Vigilance Committees provided for under the Act have not been found efficient and effective in discharging their responsibilities. In fact most the State Governments have not yet constituted Vigilance Committees for all the

Districts and Sub-Divisions though the situation has greatly improved in the recent year in the States of Tamil Nadu, Andhra Pradesh and Karnataka. Even in a State like Haryana, notorious for the prevalence of bonded labour in agriculture as well as the non-agriculture sectors, District Level Vigilance Committees were not in position in two Districts as recently as March 2001. Even where these Committees have been constituted, they have turned dormant because they are hardly holding any meetings. In some cases, the term of duration of the non-official members has elapsed and no fresh nominations have been made. Social activists and NGOs working for the cause of bonded labour are not receiving adequate representation on these Committees. The State / UT Governments do not appear to be monitoring the functioning of the Vigilance Committees excepting in Tamil Nadu. The Vigilance Committees are meant, in an administrative sense, to provide continuity in the drive against the practice of bonded labour in view of frequent transfer of the DMs. This objective is not met because of the reasons mentioned here. Their involvement in identification, release and rehabilitation of the bonded labourers is thus found to be totally missing almost everywhere with virtually no fresh identifications having been made any where in the country as a result of the efforts of these Committees.

- xiii. Prosecution should go hand in hand with the identification and release of the bonded labourer. However, the States Governments as well as the statutory authorities are found lacking in concern for prosecution with the result that prosecution of the keepers of bonded labour has been very rare. Wherever cases have been registered, investigation is found to be tardy the trial slow and conviction rate almost nil. The situation has undergone no significant improvement since the GPF and NLI study (1977-80) which had revealed that only 1.35% of the reported cases were registered, 32% of the culprits were arrested and only 0.08% actually given prison sentences. It is also observed that the provision of the summary trial available under section 21 (2) has rarely been used. The enforcement authorities are found to be ignoring the fact that the engagement of bonded labour is a violation not only of the BLA but also a host of other related enactments such as the IMWA, CLA, MWA etc.

xiv. Owing to the efforts made by the NHRC through its Special Rapporteur system the latest reports show that the first results have started coming in. 1,069 cases of bonded labourers have been identified in the State of Karnataka and another 1,212 cases of suspected bonded labour are being investigated into. In Tamil Nadu since the survey of 1996-97, 10,850 have been identified. A total expenditure of Rs.9.21 crores has been incurred towards relief and rehabilitation measures so far. District Vigilance Committees have been constituted/ reconstituted in 28 of the 29 Districts and Sub Divisional Vigilance Committees have been constituted/ reconstituted in all the sub divisions except 15. Taluk Vigilance Committees though not provided for in the Act have also been constituted in as many as 107 taluks, as per the guidelines given by the NHRC to strengthen monitoring. In Andhra Pradesh so far 3122 new cases of bonded labourers have been identified mostly during the course of the second fortnight of March 2001. District Vigilance Committees have been constituted in all the 23 Districts and Sub Divisional Vigilance Committees have been constituted in all the 79 sub divisions.

PART-II: POSITION OF THE EXISTING SCHEMES

9. The Centrally Sponsored Scheme for rehabilitation of the released bonded labour does not seem to have produced the intended results. A huge time lag between release and rehabilitation is a common feature of the operation of this scheme in almost all the States/UTs. Delay and slackness in rehabilitation is found to be the most potent cause of relapse of the released worker into bondage. In some cases in UP, Karnataka, Tamil Nadu and Andhra Pradesh the released bonded labourers have been forced to return to their erstwhile exploiters because of their inability to bear the hardship of deprivation after their release. In some cases they have been compelled to accept more cruel terms of employment imposed by the vindictive ex-masters who wanted to teach them a lesson for escaping from their clutches.

10. The CSS depends on the release of the matching share (50%) by the State/UT Governments which is either not done or done late and done inadequately. Delay in submission of the utilization certificates (UCs) by the District Magistrates (DM) to State/UT Governments and by the later to the Central Government is also a

common cause of slow progress in the release of finances under the CSS which affects rehabilitation adversely.

11. The much talked about integration of the CSS with the anti-poverty programmes and other developmental and welfare schemes in existence in the States and the Centre does not seem to have been achieved to any significant extent in any state with the result that the CSS has virtually become a uni-dimensional scheme of cash disbursement plagued by the defects referred to in the previous paragraphs.

12. The land-based rehabilitation measures are found to have brought meager returns for want of sufficient infrastructure and inputs. In many cases the land allotted to the released labourers was found unfit for agriculture. The non-land based schemes are found to be suffering from lack of credit facilities for consumption needs and productive operations and want of forward and backward linkages and absence of monitoring.

13. Efforts on the part of the State Governments have been found wanting in ensuring release and effective rehabilitation of the migrant bonded labour. The exception, to some extent, has been Tamil Nadu. It is observed that the States where these workers are identified often do not cooperate with the parent States by way of helping the release of the bonded labourers. At best they wash their hands off by issuing release certificates and dispatching the released bonded labourers to their parent States where they receive no sympathy and attention. In some cases the DMs of the parent Districts have refused to entertain the release certificate and take up rehabilitation. In a number of cases handled by the Commission, DMs also received documents from the identifying Districts with vital omissions and discrepancies making it genuinely difficult for them to arrange rehabilitation grants for the victims.

14. The Group feels that there is a strong need for laying down a clear-cut policy and elaborate guidelines regarding the rehabilitation of migrant bonded labourers.

15. The bonded labour rehabilitation efforts in the context of the poverty eradication strategies have to be implemented in a convergent mode. Despite lip service to this principle, very little gets done in this manner at the field level in the States. Convergence should be at 3 parallel levels – amongst the departments of the

Governments relevant to socio-economic development and welfare, amongst the NGOs working in the sphere of socio-economic development and between the Government and the NGOs in a collaborative mode. This convergence should be both in regard to mobilisation of financial resources available from all sources such as all the departments of the Government and NGOs and human resources of both Government and voluntary organisations. Credit – both consumption and productive – is vital and central to the eradication of the bonded labour system. At a time in our country's history when both the Central and State Government are turning a cold shoulder to the poor the banking system has become evermore hostile to the needs of the poor. We need a legal and judicial framework to rectify this dangerous development. The right of the poor to work and to adequate credit has to be statutorily guaranteed. It is essential that this kind of a comprehensive strategy of poverty eradication is institutionalized. In the process of rehabilitation of the released bonded labourers, as in the case of all efforts aimed at poverty eradication, organising the poor into groups would also be a vital strategy. Bringing them together as a group gives them a sense of strength and, therefore, an ability to protect themselves as also to enhance maximization of the results of the beneficial measures provided to them. Organizing them into cooperatives will be a very helpful strategy in this context so that the social and economic benefits of a cooperative structure can be accessed by them. Consumption and productive credit being a key requirement in poverty eradication, and especially in the lives of the released bonded labourers, co-operatisation would be a significant strategy in the rehabilitation of released bonded labour.

16. The importance of the role of the NGOs can hardly be over emphasised. At best, however, the Governments are ambiguous in their approach to the voluntary sector. They have no real desire to empower the NGOs and in fact in States like Andhra Pradesh they are being co-opted rather than empowered. In Karnataka there is down right hostility to the NGOs. The Group strongly feels that the role of the NGOs needs to be statutorily recognised. The most significant duty and responsibility of the NGOs would be in the area of social action which calls for not only their identifying the bonded labourers but more importantly in creative and educational campaign amongst the poor in general and those bonded in particular against practices like borrowing and spending excessively on unnecessary habits and

customs and in favour of temperance in the consumption of alcohol. Encouragement of thrift as part of this campaign would ensure the disappearance of bondage in the near future.

17. These observations of the Group's findings to the extent they can be rectified through law should find a mention appropriately in the statute relating to bonded labour and the rest by way of corrective actions to be initiated through the NHRC itself so that a lawful, verifiable and accountable responsibility is cast on the Governments and also on the civil society, the discharge of which should be a subject of judicial review as well as a review by the NHRC. Accordingly, the Group makes certain recommendations in the following pages- those relating to the Law on the subject and others by way of an Action Plan for the NHRC.

18. Before setting down these recommendations, the Group wishes to place on record its conclusion that the most fundamental and the single most important imperative for successfully dealing with the question of bonded labour is an honest desire on the part of the political leaders of the country. This, the Group believes, is singularly lacking. The absence of focus on issues relating to the abolition of the bonded labour system is really the absence of political will or a lack of desire on the part of the political leadership in various States. This lack of political will disguises itself in the minds of the bureaucracy as problems of definition in the bonded labour law. The absence of political will and political commitment to the abolition of the bonded labour system has led to the bureaucracy blandly denying the very existence of the bonded labour system in certain States like Karnataka, Punjab and Himachal Pradesh. Certain other States tactically acknowledge the existence of the bonded labour system but make it appear that it is so negligible that it calls for no particular effort to deal with the problem with any sense of urgency. This leads to the non-implementation of some of the most essential provisions in the Act such as the identification, release and rehabilitation and the constitution and convening of the District and Sub-Divisional Vigilance Committees. Though the Act has empowered the Executive Magistracy to try the offences and impose punishment, the Executive Magistracy rarely acts in terms of the powers conferred on them, thanks mainly to their belief that it pleases their political masters if they did not act against employers of bonded labour. **The first and foremost recommendation of this Group,**

therefore, is that the Supreme Court and the NHRC should devise means to hold the Chief Ministers of the States squarely and personally responsible for the implementation of the Bonded Labour Act and in carrying forward the mandate of the Honourable Supreme court in this regard. One way of doing it is to compel the Chief Ministers rather than the Chief Secretaries to file affidavits of compliance on the implementation of the Supreme Court's mandate issued to the States in this regard.

19. The Group applied itself to a study of the law on bonded labour as it exists at present in terms of the Bonded Labour System (Abolition) Act, 1976 and the case law as expressed in the land mark judgements of the Honourable Supreme Court in *Bandhua Mukti Morcha v. the Union of India* (1984) 3 SCC 161 and *Neeraja Choudhary v. the State of Madhya Pradesh* (1984) 3 SCC 243 and the *Asiad Case* found that the spirit behind the law has been adequately set down in the Act as well as the judgements of the Supreme Court. Though the definition of “bonded labour” and the “bonded labour system” are quite clear, essentially because of a lack of focus on the part of the State Governments and Executive Magistrates the implementation of the Act has suffered because of definitional problems. Consequently the work relating to the identification of bonded labour and therefore the subsequent steps like release and rehabilitation of bonded labour as also the prosecution of offenders have suffered. The Group, however, examined the provisions relating to the definition of “bonded labourer” and “bonded labour system” in the Act in relation to the wording of Article 23 of the Constitution. The Group felt that the intention of the Article is the prohibition of **any form of and all kinds of forced labour and not only forced labour based on debt**. This position needed to be articulated unambiguously in the Act. A bonded debt alone need not be the basis of bondage. Therefore, the Group felt that it is essential to clarify this position at the outset. The Group also recognised that the absence of a provision relating to release is a serious short coming in the Act which needed to be rectified.

20. The Group unanimously makes the following recommendations for favour of consideration by the NHRC and its onward transmission to the Honourable Supreme Court of India:

PART-III: RECOMMENDATIONS

A) Recommendations relating to Law.

1. Section-2 (f) should be amended to read “bonded labourer means a labourer who is forced to render labour or service under the bonded labour system”. Section-2 (g) may be amended to read, “bonded labour system means the system of forced or partly forced labour or service under which a debtor or any person - ” etc.,
2. Section-6 should be amended so as to include the extinguishment of every liability and every obligation under the bonded labour system including the liability to repay debt. This amendment should find place wherever reference to bonded debt occurs in Sections 6, 7 and 9. In Section 6 (6) and (7) the words “or such other person” should be added after the word “creditor”.
3. In Section-7 the words “bonded debt” may be dropped in favour of “obligation under the bonded labour system including bonded debt.”
4. Section-8 may be amended to expand protection from eviction “from homestead etc.,” to “any kind of land”.
5. The Act provides in Section 9 that no creditor shall accept any payment against extinguished bonded debt and provides for punishment for contravention. While this is necessary, what is of equal and some times of greater importance is the protection that the erstwhile bonded labour should get from the Government on release from bondage. Hence, the Act should specifically make a provision casting a responsibility on the Government to provide physical protection to the released bonded labourers from harassment in regard to repayment of bonded debt and other harmful incidental acts likely to result from the bonded labourers being provided freedom.
6. Section 11 of the Act makes mention of the duty of the District Magistrate and other officers to ensure credit and try to provide for the welfare of freed bonded labourers and secure and protect their economic interest so as to ensure they do not contract further bonded debt. Since the entire range of poverty eradication efforts based on the poor people’s right to food, work, shelter, health, education and information with provision for easy access to consumption as well as

productive credit are fundamental to the rehabilitation of the freed bonded labourers, the Act should specifically make a mention of convergent based poverty eradication efforts built around these rights with credit, gender sensitivity and children's rights as the touch stones. These efforts must find expression by way of State policy of the Government of India and the States towards freed bonded labour with the implementation of such policy being the direct responsibility of the District Magistrate.

7. While Sections 11 and 12 of the Act speak of the duties mentioned at (6) above and of the duty of the District Magistrate to eradicate the bonded labour system within his jurisdiction, no liability is cast upon the District Magistrate for non performance of those duties. The references that exist in the Act in Section 19 and 20 do not seem to apply to neglect of duties by the public servants. Therefore, a provision should be introduced specifically in the Act providing for punishment of District Magistrates and other public servants authorized by him, who wantonly and wilfully neglect the identification or release or rehabilitation of bonded labourers with their jurisdiction. The precedent for this exists in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989- Act 33 of 1989 and The Protection of Civil Rights Act, 1955- Act 22 of 1955. This punishment should take the form of a conviction leading to the imposition of a fine.
8. In Section 13 dealing with the Constitution of Vigilance Committees at the District and Sub-Divisional levels, it is provided that the Chairman of these Committees could respectively be either the District Magistrate and the Sub-Divisional Magistrate "or a person nominated by him". This Section should be amended so as to drop the words "or a person nominated by him" so that only the District Magistrate or the Sub-Divisional Magistrate can be the Chairperson of these Committees. Section 13 (2) (d) and 3 (d) provide for representation to "official or non official agencies" on the Committees. Such an alternative weighs against the need for non-official representation. It should, therefore, be amended to read "official **and** non-official agencies".
9. Section 14 lays down the functions of Vigilance Committees. A function that should be added to this section would be the creation of awareness among

officials of the Government and employers of the provisions of the Act especially their duties and liabilities as also the protective and other benefits of the Act amongst the bonded labourers, released bonded labourers and the rural and urban poor in general.

10. Section 16, 17 and 18 lay down the punishment for enforcement of bonded labour, for advancement of bonded debt and for extracting bonded labour under the bonded labour system. In each of these sections the punishment is imprisonment for a term “which may extend to three years and also with a fine which may extend to two thousand rupees”. This “may extend” concept by itself is not severe enough to deal with the obnoxious nature of these offences. Hence these sections should be amended to provide for a minimum punishment that serves as deterrent. A punishment of “imprisonment for a term which is not less than 6 months but which may extend to five years and a fine of Rs.20,000” should replace the existing provisions in these sections. This would be in line with the concept adopted in the S.C. and S.T. (Prevention of Atrocities) Act, 1989. Also the concept of enhanced penalty on subsequent conviction as provided for in the Protection of Civil Rights Act, 1955 should find place in the Act.
11. A provision should be made in the Act for the collection of an amount of Rs.20,000 from the employer of the bonded labourer so as to create a fund for the rehabilitation of the released bonded labourer. The section should clearly state that this would be an additionality to what should be provided by the Central and State Governments from their budgets for the rehabilitation of the released bonded labourers.
12. In Section 18, a further amendment should be included in regard to the payment to be made to the bonded labourer from the fine recovered by providing for 4 times the current minimum wage for each day applicable to the area in question as notified by the State Government.
13. Under Section 21, the Executive Magistrates may be directly authorized to try the offences without a need for notifications to be issued by the State

Government conferring powers on them. Also, the trial should be made mandatorily summary.

14. Under Section 22, every offence under the Act should be cognizable and non-bailable. Further, no anticipatory bail should be available for offences under this Act.
15. An appeal under this Act should lie only to High Court.
16. A new provision should be made in the Act for externment of non-tribals who commit an offence under the Act in any area included in Scheduled Areas or “tribal areas” as referred to in Article 244 of the Constitution. A precedent for this kind of measure exists in the S.C. and S.T. (Prevention of Atrocities) Act, 1989.
17. A Section providing for the responsibility and the duty that Non-Government Organisations and social activists in regard to the various provisions of the Act leading to the abolition of the bonded labour system should be incorporated in the Act. Also, a reference to the duty and responsibility of the Government to provide due assistance to them should find place in the Act. It should be clear from the provision that the Government and the District Magistrates and other officers are bound to take note of every case of suspected bonded labour brought to their notice and set in motion the procedures as per the Act to investigate the correctness or otherwise of all such cases reported to them. In other words, even social organisations and individuals who are not nominated to Vigilance Committees would retain the right to identify bonded labour and recommend ways of rescue, release, rehabilitation and prosecution, and the District Magistrate would be bound to investigate and act under the provisions of the Act in the same way as though this was done by the members of the Vigilance Committee.
18. Section 14 of the Act provides for several functions to be discharged by the District and Sub-Divisional Vigilance Committees but not for the actual identification and steps connected with the release of bonded labourers. This should be provided for in Section 14. It should also be laid down in the Rules

relating to the Vigilance Committees that they should meet once every three months with out fail, the responsibility in this regard attaching to the District Magistrate and the Sub-Divisional Magistrate.

19. A provision should be incorporated in the Act making it mandatory for the District Magistrates to proceed with the relief and rehabilitation work by drawing funds from the District Treasury under Treasury Rule 27 (TR 27).
20. A Section providing for training of the Executive Magistrates, all officers functioning at the District Level, Non-Government Organizations in sensitizing, and implementing the various provisions of the Act and in generating awareness of the case law on the subject as also the relevance of certain laws such as those relating to contract labour, migrant labour, minimum wages, equal wages, the S.C. and S.T. (Prevention of the Atrocities) Act, 1989, the Protection of Civil Rights Act, 1955 etc., should find place in the Act.

B) Other Recommendations relating to release, relief and rehabilitation:

1. A clear responsibility should be placed on the Sarpanch and the Members of the Gram Panchayat, Intermediate Panchayat and Zilla Panchayat in the implementation of the Bonded Labour System (Abolition) Act, 1976. It shall be obligatory on the part of a Gram Panchayat to report in such form and at such intervals as may be prescribed to the Deputy Commissioner or to any other authority specified by the Government in this behalf, any case of enforcement of bonded labour system in the Panchayat area, failing which it shall be construed as a default in the performance of duties imposed on it for the purpose of action to supercede or suspend the Gram Panchayat.
2. A provision should also be made in the columns of the ACR applicable to all public servants indicating an assessment of the officer's attitude, performance and achievement in regard to the abolition of the bonded labour system in his jurisdiction.
3. It is absolutely essential that there should exist no time gap between identification and release on the one hand and release and the start of the rehabilitation measures on the other. Identification, release and rehabilitation should

be a continuum. Between identification and release, there should not be a gap of more than a few days, a week being the maximum. The relief amount should be paid to the released bonded labour on the day of his release. In order to ensure this and for the rehabilitation measures to start forthwith, funds calculated at the rate of Rs.20,000/- per bonded labour should be physically available at the District level instead of at present. It should be enjoined on the District Magistrates that they keep submitting the Utilisation Certifications to the State and Central authorities for the amounts drawn and spent under the Centrally Sponsored Bonded Labour System Abolition Scheme.

4. In addition to the District Level and Sub-Divisional level Vigilance Committees, each State Government should constitute a State Level Standing Committee presided over by the Chief Secretary and have as its members all Secretaries connected with rural development social welfare, social development, women and child development, poverty eradication, agriculture, industry, labour, education, labour, home, planning etc. the criterion for the composition of the Committee being the roles the various actors in the Government Departments have in the comprehensive and successful implementation of the provisions of the Bonded Labour System (Abolition) Act 1976 and other related Acts. This Standing Committee should also include a few NGOs working in the areas of bonded labour and child labour.

5. It has been noticed at the field level that there is a dire need for training in the work relating to the implementation of the provisions of the Act and in the understanding of the relationships that exist between the Bonded Labour System (Abolition) Act 1976 and other related laws that the Inter-State Migrant Workmen (Resolution of Employment and Conditions of Service) Act 1979, the Minimum Wages Act 1948, the Child Labour (P&R) Act 1986, the Contract Labour (Resolution and Abolition) Act 1970, the Immoral Traffic (Prevention) Act 1956, the SCs and STs (POH) Act 1989 etc. This training where awareness of the provisions of these laws and the case law relating to them requires to be imparted is a felt need both for the officials of the Government and NGOs. The training needs include reorientation of attitudes and gaining of expertise in identification methodologies, release procedures, prosecution, techniques, poverty strategies,

building of partnerships and techniques of organization. The Central and state Governments should provide for these training arrangements including the infrastructure required. It is important that the NHRC actively promotes the concept of development of the training facilities in the States both through Governmental and non-Governmental effort. Every member of the District and Sub-Divisional Vigilance Committees must necessarily undergo training as discussed in this paragraph.

C. AN ACTION PLAN FOR THE NHRC

1. The implementation of the BLA encompasses three essential functions, namely, identification, release and rehabilitation of bonded labour. The task of monitoring entrusted to the NHRC by the Supreme Court requires the Commission's involvement in all these functions. Monitoring of the process of identification based on periodical surveys by the State administrations with the assistance of the NGOs would be the starting point of the exercise. However, before the Commission gets involved in this task, it has to see that the various State/UT Governments have completed the following mandatory measures under the BLA:

- i) Specifying the authorities for implementing the provisions of the Act (Section –10).
- ii) Constitution of Vigilance Committees in each district and each sub-Division (Section 13).
- iii) Authorising the Executive Magistrates to exercise the powers of a Judicial Magistrate of the First Class or of a Second Class for the trial of offences under the BLA (Section 21).
- iv) Identifying the sensitive Districts and Industries where bonded labour system is being practised in one form or the other viewing the whole matter in the light of the clarifications issued by the Supreme Court regarding the definitional aspects of the Act.

However, to begin with, the Commission can concentrate its efforts on the 172 Districts in the 13 States already identified by the Union Labour Ministry. The Government of India, Ministry of Labour is funding the survey work in each of the 172 sensitive districts in these 13 States. A special grant of Rs.2 lakh for

such survey to be conducted once in three years has been released for each district for the year 2000-01 and 2001-02. The NHRC should collect the details of the scheme and monitor the progress of these surveys devising a suitable system of reporting by the States/UTs.

2. The task of identification is complex and delicate. It calls for political honesty and therefore the will on the part of the political leadership and sensitivity, courage and commitment on the part of the civil service particularly the District Magistrate to carry forward this work. The Act provides for an institutional mechanism for identification of Bonded Labour with the help of the Vigilance Committees. These Vigilance Committees can play a very significant role in identification of the bonded labourer in their respective areas. The Commission has, therefore, to ensure that these Committees are constituted properly in accordance with the provisions of Section 13 of the Act so as to include non-official members and agencies selected on the basis of their experience, credibility and record of public service relevant to the problem of bonded labour. The Commission must evolve an institutional arrangement to oversee the working of these Committees in terms of their meetings regularly and holding purposeful and result-oriented deliberations. Such an arrangement would emphasize the principle, inter alia, that proper identification of bonded labour in any area/industry would require a thorough understanding and the inter-related nature of the provisions of a number of Labour Laws such as Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (IMWA), the Minimum Wage Act 1948, the Child Labour (Prohibition and Regulation) Act 1986, the Contract Labour (Regulation and Abolition) Act 1970, the Immoral Traffic (Prevention) Act 1956, the SCs & STs (Prevention of Atrocities) Act 1989 etc. and the Bonded Labour Act.

3. The NHRC should spell out a suitable methodology to be followed in the identification process. The NHRC should evolve a protocol for identification of Bonded Labour and draw a broad check list to be adopted by the various districts with suitable local modifications.

4. The Commission should undertake studies of Inter-state migrant labourers such as those from Tamil Nadu to Haryana, Rajasthan and UP, from Orissa to

Rajasthan and MP, from Bihar to Punjab and Haryana, etc. The release of migrant bonded labourers and their rehabilitation needs to be considered a special task.

5. The crucial role of NGOs in training needs should be promoted by the NHRC both through advocacy and also through sensitive financial support to the NGOs.

6. Rehabilitation of the released bonded labourers being the most crucial component for the fulfillment of the mandate of the Supreme Court, release and start of rehabilitation work have to be simultaneous. The Commission has to evolve an effective system of monitoring to see that the released bonded labourers are effectively rehabilitated in their native State or the host State as per their wishes. The State Governments, through their Chief Ministers, Chief Secretaries and District Magistrates have to be sensitized and motivated to ensure successful convergence of strategies and to accord priority preference to the released bonded labourers in allocating resources available under the anti-poverty programmes and other development schemes. The Commission should take up the advocacy of an Employment Guarantee Scheme (EGS) backed by a credible credit delivery system as the central strategy in the successful rehabilitation of released bonded labourers, implemented and meticulously monitored over a period of 4 to 5 years in each case of released bonded labourer. Rehabilitation strategies should be group-based through the constitution of Self-help groups and cooperatives of the released bonded labourers. Monitoring by the Commission should take into consideration the following directions issued in regard to the released bonded labour by the Supreme Court in their Order dated 13.5.1994:

- i) Any existing debt or bonded liability of the released labourers is extinguished/discharged and they are provided alternative means of livelihood.
- ii) The physical and economic rehabilitation must go side by side. The released bonded labourers should be considered for allotment of agricultural land, employment as agricultural workers at the prescribed minimum wages, allotment of houses under the IAY and imparting of training for acquiring

new skills. Health care and education of their children should receive full attention.

- iii) Rural credit facilities such as those from Grameen Banks and Cooperatives should be extended to the released bonded labourers to ensure that they do not relapse into the bonded labour system because of lack of availability of funds.
- iv) Convergence of various Central and State sponsored schemes to achieve the best possible rehabilitation of the released bonded labourers. The Rehabilitation Grant (Rs.20, 000 per head) from the Government of India should be released promptly so that these could be pooled to create organizations like Cooperative Societies and Self-Help groups of the released bonded labourers.

7. The Group recommends that the NHRC should develop with the help of the feed back gathered from various States and advice of experts an Instruction Manual covering all aspects of identification, release and rehabilitation of bonded labourers for the guidance of the DMs.

8. The Commission should closely watch the progress of prosecution by directing all the State/UT Governments to furnish periodically in a standard format (to be prescribed by the Commission) all details pertaining to identification, release and rehabilitation of the bonded labourers and prosecution of offenders.

9. In its order dated 19.11. 1996 the Supreme Court had directed all the States/UTs to carry out survey of the Bonded Labour in their respective area by the end of December, 1996 and file affidavits by 13 January 1997. Records relating to the compliance of these directions were also transferred to the NHRC in November 1997. Shri S Muralidhar, Sr. Advocate, Supreme Court was deputed by the Commission to study these records and submit a status report to the Commission. He has, in his report dated 14.5.1998, given state-wise status of filing of the affidavits. Affidavits filed by only four States, namely, Kerala, Madhya Pradesh, Tamil Nadu and Uttar Pradesh were found to have been comprehensive enough to

enable the Commission to monitor follow-up action. 11 States and 8 UTs had not filed their affidavits till then. The affidavits filed by the remaining States were found to be lacking in many aspects. The Group Commission may call the concerned authorities of the major States such as Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Orissa, Tamil Nadu, Rajasthan and Uttar Pradesh for an in-depth review of the rehabilitation of the bonded labourers released as a result of the 1996 survey. The Commission should also address the Supreme Court and collect any further affidavits or other information submitted by the various States/UTs since November 1997.

10. The Group apprehends that a large number of District Magistrates and their gazetted Assistants are not fully aware of the various provisions of the BLA. They also lack the appropriate attitudinal orientation to discharge their obligations under the Act. The Group, therefore, considers that it is necessary for the NHRC to conduct jointly with the State Governments 2-day Workshops or Consultations for sensitizing and educating the District Magistrates, Superintendents of Police, representatives of the Banking system, NGOs and functionaries of the Panchayats at all the three levels about the constitutional and legal provisions as also rehabilitation strategies relating to the problem of bonded labour. To begin with such workshops should be arranged for the DMs of Punjab, Haryana and the Union Territory of Delhi. The format/content of the workshop should include (a) statutory provisions relating to bonded labour and case law including the judgements of the Supreme Court (b) the methodologies for identification of bonded labourers; (c) release, prosecution and rehabilitation and (d) measures for prevention of incidence of bonded labour. The Two Day Consultation organized by the NHRC in Karnataka in October 2000 would serve as a good model for this purpose. The Commission should arrange preparation of a training module covering the salient features of BLA and related labour laws, important judgements of the Supreme Court on the subject and some important petitions pertaining to bonded labour settled by the Commission.

11. The Commission should, with the help of its Special Rapporteur / Representatives and State/UT Government authorities, identify the NGOs working in the field of bonded labour and draw a programme of action to encourage their

efforts. They should be associated with the periodical discussions and interactions that the Commission would be holding with the State Government authorities. The Commission should also draw a panel of resource persons which should include individual social activists, workers from the NGO and the Voluntary sectors and retired and serving officers from the Central and State Governments.

12. The Ministry of Labour, Government of India has sanctioned a scheme for Awareness Generation in the 13 States identified as bonded labour-prone. The scheme involves designing scripts for plays, Nukad Nataks, street theatres, skits and other similar exercises to spread the message that existence of bonded labour system is a negation of human rights and an outrage against civilised existence. An annual grant of Rs.10 lakhs per State Government has been sanctioned for the years 2000/2001 and 2001-2002. The Commission should monitor this programme.

13. The NHRC should hold at least four regional conferences involving the officials of the Central as well as State Governments and reputed NGOs working in the field of bonded labour. The conferences will help in drawing area-wise Action Plans and constituting local monitoring groups comprising both the Government officials and the NGOs. Methodology for identification of bonded labourers, jointly by the Administration and the NGOs can be evolved through these consultations.

14. The Government of India has sanctioned evaluatory studies on bonded labour in the 13 States at district level to assess the impact of existing laws and the results of Poverty Eradication Programmes and financial assistance provided by various Government sources so far. These studies are to be conducted by reputed Research Organisations / Academic Institutions and NGOs working for the cause and welfare of unorganised labour. Each study is estimated to cost of Rs.1 lakh and five studies are to be conducted every year in each of the 13 States. This activity should be monitored by the NHRC.

15. The NHRC should set up a Special Cell at its office manned by a Desk Officer for dealing with Policy matters relating to the issue of bonded labour as a Human Rights issue (and not individual complaints). The Special Cell should work

under a Special Rapporteur who may also hold the charge of child labour. The Group recommends that the Investigation Wing of the Commission should earmark 1 SP, 2 Dy. SP and 5 Inspectors for taking up investigation of important bonded labour cases referred to the Commission, including those by its Special Rapporteurs.

16. The NHRC should constitute a Core Group on bonded labour that would help it in fulfilling the obligations arising from the directions of the Supreme Court. Besides some retired civil servants of genuine and relevant expertise and good reputation, some prominent activists having experience in the field of bonded labour could be included in this Group. The Group would advise and guide the Commission in matters such as preparing an Instruction Manual including in it a comprehensive check list for identification, release and rehabilitation of bonded labour, and framing training programmes and modules for sensitizing Government and civil society functionaries at various levels. Its advice can be sought by the Commission in devising a system of reports and returns to be obtained from the State/UT Government for reviewing the results of periodical surveys and follow-up action. The Core Group could meet quarterly or every six months to review the overall bonded labour situation in various States/UTs and the impact of the efforts of the Commission.

17. The NHRC should also intervene in the ILO Reporting System on the application of Labour Standards.

Signed by

S. R. Sankaran

Chairman

Swami Agnivesh.

K. R. Venugopal.

K. B. Saxena.

Harsh Mander.

Vivek Pandit.

Chaman Lal.

**COMMENTS OF K. R. VENUGOPAL, SPECIAL RAPPOREUR,
HYDERABAD ON THE VIEWS OF THE ADVOCATES AND THE STATES
CIRCULATED AT THE MEETING WITH THE ADVOCATES OF THE
SUPREME COURT CONVENED BY THE NHRC AT DELHI ON THE
REPORT OF THE EXPERT GROUP ON BONDED LABOUR OF MAY 2001.**

31st October 2002.

I have gone through the comments made by the learned Advocates of the Supreme Court and the States. They are highly educative. They have endorsed almost all the recommendations pertaining to the law.

In furnishing my comments on the views of the advocates I have separated the views of Shri S Muralidhar and dealt with them last in view of certain points raised by him other than those relating to the proposed amendments to the law.

I. Briefly summarized the following are the more important views of the learned Advocates:

1. Ms Ranjana Bobde.

There is a serious lack of awareness on the part of the people, especially the oppressed, of their own freedoms, laws and the concept of the rule of law – all of this induced by a general failure to enforce laws in our country. Added to this is the fact of bureaucrats and judicial officers being over-burdened with many functions. The solution therefore is to appoint a special authority with retired officials to head them so they may apply themselves exclusively to the implementation of the law. The approach should be to identify the exploiters rather than the bonded labourers, and punish them. The involvement of Gram Panchayats is welcomed. The offenders should be accountable to the vigilance committees and be made to deposit the wages, failure entailing attachment of their property. The offenders should be made responsible for the social development of the released workers.

Comments:

Whether we identify the bonded labourers or their masters, it means the same thing in terms of the provisions of the Act for we do both. Retired officials are even less amenable to accountability than serving officers. Experience so far in the implementation of the M C Mehta judgment in regard to collection of Rs.20,000/- from the employers points to the problems involved in this recommendation.

2. Ms. Meenakshi Arora.

The Good Samaritan Law principle involving citizens' duty to inform legal authorities of bonded labour will strengthen implementation.

Comments

This well-intentioned idea should form part of our awareness campaign efforts. The recent case of a 12 year old girl kept in chains in Kurnool in Andhra Pradesh

who walked for seven months to her employer's house every morning and evening without causing any outrage amongst the people shows the magnitude of the problem.

3. Shri R Venkataramani:

(a) District Magistrate should call upon every public and private employer, whether agricultural or industrial, to file periodical information as to the system of the labour working under them including compliance on payment of minimum wages. District Legal Aid Committees should verify all this information.

(b) Vigilance Committee Members should file applications and conduct proceedings on behalf of bonded labour.

To achieve the above, Sections 12 and 14 should be amended.

(c) A model rehabilitation scheme should be got framed integrating all rural development programmes.

Comments

(a) above is not practicable considering the volume of work involved.

(b) requires to be accepted.

(c) action as suggested is being vigorously advocated in the Southern Region.

4. Shri Ejaz Maqbool:

(a) Reference to "homestead" in the Act should be retained.

(b) Include District Judge and Chief Medical Officer in the Vigilance Committee.

Comments

(a) may be agreed to.

(b) will make the Vigilance Committed top heavy and will not be judicious either as far as inclusion of the district Judge is concerned. The role of the Medical Officers will certainly be relevant in the field but there is no need for them in the Committees.

5. Amicus Curiae – Shri A K Ganguly:

(a) Hold model workshops in a district involving the District Magistrates and other officers to sensitize them to the Act.

(b) Establish an ideal rehabilitation center to act as a model.

Comments

(a) should be done and has in fact been done through District level meetings of officers. Such workshops are in the offing in Karnataka.

(b) this will be counter productive since a model center, for visibility reasons, would attract resources not normally made available for rehabilitation purposes and therefore would not be amenable to replication. Thus it would

be counter productive. The right course is what we are already attempting and which we have recommended in our Report under Part-II advocating a genuine methodology of convergence at various levels of various departmental and non-governmental resources. A Model Rehabilitation Package is under formulation in Tamil Nadu.

II. Views of the States.

1. Madhya Pradesh, Rajasthan, Bihar and Haryana think that existing disciplinary rules are adequate to deal with defaulting District Magistrates.

COMMENTS

This is not true. The Expert Group recommendation may stand.

2. Madhya Pradesh and Haryana feel that the District Magistrates should have the authority to nominate officers to the Vigilance Committees to be Chairpersons of the District and Sub-Divisional Committees rather than themselves and the SDMs be chairpersons.

COMMENTS

We should not agree to this. The Expert Group recommendations may stand.

3. In regard to the recommendation that Chief Ministers of the State should be made personally accountable for the implementation of the Act and in carrying forward the mandate of the Supreme Court, Madhya Pradesh and Rajasthan are of the view that the entire Council of Ministers and not the Chief Ministers be made responsible on the principle of collective responsibility.

COMMENTS

This is a diversionary tactic aimed at diluting accountability. It is precisely the collective responsibility that renders the Chief Minister liable to be accountable to the Supreme Court. It is far-fetched to say that the entire Council of Ministers can file affidavits.

4. Madhya Pradesh wants that NGOs be not associated till they evolve a legal framework that would distinguish between genuine and other NGOs.

COMMENTS

This is again a diversionary tactic. No legal framework will ever determine this. In any case, the Expert Group recommendation is to associate bona fide NGOs only.

5. Rajasthan thinks that the existing provision in the annual confidential reports on the attitude of officers towards SCs and STs is adequate to determine their commitment to bonded labour and child labour work.

COMMENT

This is not true. We should have a special provision as recommended by the Expert Group.

6. Uttar Pradesh is opposed making the Gram Panchayat and the Sarpanch responsible for bonded labour work.

COMMENT

We should reiterate the Expert Group recommendations.

7. Gujarat and Chhattisgarh claim they have no bonded labour.

COMMENT

This is hardly credible. They should be directed to conduct surveys associating NGOs.

III. Shri S Muralidhar has raised some extremely important questions including how the NHRC has worked the mandate of the Supreme Court. He has also raised a question what mechanism does the NHRC envisage for the enforcement of the directions given by the Supreme Court.

As regards the first point I have the following information to give:

The Special Rapporteur mechanism set up by the Commission to interface with the State Governments so as to carry forward the mandate of the Supreme Court started functioning in 1999 in the Southern States. Some of the points raised by Mr Muralidhar have been covered in the Report of the Expert Group. For example, the central point of the Report is the miserable absence of political will or political desire to comply with the mandate excepting in Tamil Nadu, has been well brought out in our Report. Nonetheless, against odds we have walked considerable distances in our work. For example, despite determined resistance from Karnataka, we have made them start the survey work and the latest progress shows that they have identified 8671 bonded labourers and released

1959 of them as seen from the Reports of their Deputy Commissioners though they are re-surveying the results of the district with largest number of bonded laborers identified. I need hardly dwell upon the shenanigans of Karnataka for who knows this better today than the Supreme Court and those who practise there? However, we in the NHRC have been having first hand experience of it for the past four years on an every day basis. Today's meeting may help us therefore to answer the second question which Mr Muralidhar has raised as to what can any of us do to enforce the directions of the Supreme Court.

Lest it be misunderstood that we have allowed any respite to Karnataka I may state that the Special Rapporteur mechanism has been able to get Vigilance Committees constituted in all the districts and sub-divisions; got a Workshop to sensitize and train All India Service Officers of the Government of Karnataka in October 2000; got a note on the action required to prosecute the perpetrators of the case of chained bonded labourers in the Karnataka Chief Minister's district of Mandya in a meeting of the Karnataka Cabinet itself; got an amendment to the Karnataka Panchayat Raj Act made making Gram Panchayats responsible for identification of bonded labour; made numerous visits to the field including for a huge rally of released bonded laborers near Mysore just a few months ago this year. Despite all this Karnataka plays hide and seek and the notorious chained bonded labour case of the Chief Minister's Mandya district failed in the Court because none other than the district Public Prosecutor himself tutored the victim-witnesses to turn hostile in the Court. Despite our repeated requests to the Karnataka Chief Secretary that Public Prosecutor has not been suspended. Now, the Honourable Chairperson himself has written to the Chief Minister pointing out all this and calling up on him to perform. He has promised to do so. We have to monitor his actions.

To answers the other questions of Mr Muralidhar:

1. We have got a manual brought out on identification and other issues in Tamil and English by Tamil Nadu and have circulated it to the other States in the South for replication. They have so far identified 37,354 bonded labourers, released 13,107 and rehabilitation of 12,008 is on, the expenditure so far being 12.38 crores.
2. We have got an Action Plan for the elimination of child labour, who are mostly bonded child labour, in Karnataka and got it circulated to the other States in the South for similar action.
3. We have got constituted a compact Committee with Chief Secretary as the Chairman in Tamil Nadu with select Secretaries dealing with subjects relevant to rehabilitation in addition to similar Committees at the district level and got the relevant order circulated to the other States in the South for replication.
4. We have held conferences of Collectors of districts having the largest incidence of bonded labour at Hyderabad and also at the district level on several occasions inviting to those meeting non-officials of the Vigilance Committees. Andhra Pradesh has identified 3848 bonded labourers and

released 3548 among them. Rehabilitation is on in 2167 cases. The total expenditure so far incurred is Rs.4.47 crores.

5. We have devised formats for monitoring the progress of identification, rehabilitation, prosecution and utilization of funds released by the Government of India and get reports from the States.

Based on all these unrelenting efforts we have achieved all these results which I have now enumerated. However, I can't help a feeling that the results achieved are not commensurate with the magnitude of the efforts made. Therefore, the question raised by Mr Muralidhar as to what happens if there is a failure by a State Government to comply "fully and speedily" (these are my words) with the directions of the Commission is relevant. Maybe, the advocates attending this meeting can give us some guidance.

K R VENUGOPAL
SPECIAL RAPPORTEUR
NHRC, HYDERABAD.

Measures taken to improve the conditions of Mentally ill patients in and around Erwadi, Ramanathapuram District.

On 6.8.2001 at about 5.30 a.m. fire broke out at one of the 16 shelters at Erwadi where mentally ill patients were detained. Out of 43 mentally ill patients who were in shelter, 25 persons died. Subsequently 3 more persons were died raising the toll to 28. 4 mentally ill patients from that shelter had absconded.

Steps taken following the fire accident:

1. Police have registered a case and are investigating.
2. Relatives of the deceased have been informed.
3. Bodies have been buried on 7.8.2001
4. On behalf of the Government of Tamil Nadu Rs.15,000/-has been granted to the relatives of the deceased.
5. Hon'ble Minister for Labour visited the Erwadi on behalf of Tamil Nadu.

Steps taken at Erwadi to improve the conditions of Mentally ill Patients

1. A psychiatrist has been posted to Erwadi Primary Health Centre.
2. Psychiatrist posted at Primary Health Centre visits all the places where mentally ill are detained.
3. Adequate supply of psychiatric medicines are stocked at Primary Health Centre
4. The Health Inspector makes periodic visits to the places where mentally ill are detained.

5. District Mental Health Programme which has been sanctioned for Ramanathapuram District will be implemented at the earliest.
6. A proposal has been submitted through National Human Rights Commission for Australian funding to conduct mental health training for religious persons and caretakers of the mentally ill persons detained in various religious places in Tamil Nadu.

Further steps taken:

On 10.8.2001 the Erwadi incident was discussed in detail in the meeting chaired by the Hon'ble Chief Minister of Tamil Nadu. In this meeting, the Government has decided to permit only licensed premises for such mentally ill persons. Government have appointed the Heads of Department of Psychiatry of all Government Medical Colleges as Inspecting Officers for inspection of Psychiatric Hospital/Nursing Homes. All unlicensed premises will be shut down in due course after issuing Notification to this effect. It has been decided that the patients who have shown substantial improvement will be sent to their families and unmanageable patients will be sent to Mental Health Care institutions run by the Government. Further a Monitoring Committee in each district will be formed under the chairmanship of the District Collector, Psychiatrist and district health authorities which will monitor all such institutions to ensure the guidelines to be formulated by the State Mental Health Authority. One of the decisions taken today is that a Psychiatrist will be posted to all the District Headquarters Hospitals so that

better mental health care can be made available in each district. NGOs will be given all encouragement to set up rehabilitation homes for mentally ill persons. It has also been decided that in respect of inmates who are found to be not mentally ill but abandoned by their families, old age pension under the category of destitute persons will be sanctioned to them by the District Collectors. Those who do not have homes to return to will be admitted in the old age homes or destitute homes run by the State Government and reputed Non-Governmental Organisations.

All District Collectors have been directed to make an immediate inspection of all such shelters for Mentally ill in their respective district and ensure that in future no such shelter is allowed to function without getting license as per Mental Health Act, 1987. They have also been directed to unchain the mentally ill wherever found to be. Government in Health Department is closely monitoring the situation with the District Collectors.

It was also decided that a commission of inquiry headed by a retired district judge would be constituted to go into the incidents of death due to fire in Erwadi.

Details of mentally ill patients released from the shelters in and around Erwadi as on date are given below:

Total no. of patients in all homes	.. 571
No. of persons taken back by relatives	.. 273

No. of patients admitted in Government
Hospital, Ramanathapuram .. 20

Total no. of persons available at
Erwadi homes .. 298

The matter is under progress. The Collector of Ramanathapuram is taking all steps necessary in consultation with District Health officials to rehabilitate the remaining persons.