

A perspective plan to eliminate forced labour in India

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Working Paper

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Foreword

In June 1998 the International Labour Conference adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up that obligates member States to respect, promote and realize freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation.¹ The *InFocus Programme on Promoting the Declaration* is responsible for the reporting processes and technical cooperation activities associated with the Declaration; and it carries out awareness-raising, advocacy and knowledge functions – of which this Working Paper is an example. Working Papers are meant to stimulate discussion of the questions covered by the Declaration. They express the views of the author, which are not necessarily those of the ILO.

Dr. L. Mishra, formerly a high-level official of the Government of India, dealt for a long time with questions of bonded forced labour, including through work he carried out for the country's Supreme Court, which involved interviews with large numbers of bonded labourers working in brick kilns and quarries.² Shortly after he joined the ILO's Regional Office in Bangkok as Senior Advisor on Fundamental Principles and Rights at Work, I asked him to consider elaborating a long-term plan to spur the elimination of bonded forced labour in India. The following Working Paper summarizes his basic proposals for what could and should be done over a period of ten years or so. His proposals being in the public domain, the Declaration Programme wishes them to be considered in many forums and specified with a view to implementation, if necessary with the help of external donor support, as well as to serve as inspiration for other countries faced with significant pockets of bonded labour.

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¹ For the text of the Declaration, please visit our website at <http://www.ilo.org/public/english/standards/decl/declaration/text/index.htm>

² A summary of his concern with workers tied down by debts has appeared in L. Mishra, *Burden of bondage* (New Delhi, Manak Publications, 1997).

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Abbreviations

AIDS	–	Acquired immune deficiency syndrome
AIMO	–	All India Manufacturers' Organization
AP	–	Andhra Pradesh
AIOE	–	All India Organization of Employers
AITUC	–	All India Trade Union Congress
ASSOCHAM	–	Association of Chambers of Manufacturers
BLLF	–	Bonded Labour Liberation Front
BMS	–	Bharatiya Mazdoor Sangh
CD	–	Community development
CEO	–	Chief executive officer
CII	–	Confederation of Indian Industry
CTA	–	Chief technical adviser
CITU	–	Centre of Indian Trade Unions
CTUOs	–	Central Trade Union Organizations
CM	–	Chief minister
DM	–	District magistrate
DG	–	Director-General
DWCRA	–	Development of women and children in rural areas
DPEP	–	District Primary Education Programme
EFI	–	Employers' Federation of India
FICCI	–	Federation of Indian Chambers of Industry and Commerce
FASSI	–	Federation of Small Scale Industries of India
GDP	–	Gross domestic product
GB	–	Governing Body
GP	–	Gram Panchayat
GJ	–	Gujrat
GPF	–	Gandhi Peace Foundation
HIV	–	Human immune deficiency virus
HMS	–	Hind Mazdoor Sabha
ICDS	–	Integrated Child Development Service
ILO	–	International Labour Organization
ILC	–	International Labour Conference
INTUC	–	Indian National Trade Union Congress
IAS	–	Indian Administrative Service
IIPA	–	Indian Institute of Public Administration
IPEC	–	International Programme for Elimination of Child Labour
IPC	–	Indian Penal Code
IRDP	–	Integrated Rural Development Programme
ITI	–	Industrial Training Institute
ITDA	–	Integrated Tribal Development Agency
ITPA	–	Immoral Trafficking (Prevention) Act
JMFC	–	Judicial Magistrate, First Class

LBSNAA	–	Lal Bahadur Shastri National Academy of Administration
MCI	–	Microcredit Institution
MOL	–	Ministry of Labour
MHA	–	Ministry of Home Affairs
MP	–	Madhya Pradesh
MP	–	Member of Parliament
MYRADA	–	Mysor Resettlement Development Agency
NGOs	–	Non-governmental organization
NABARD	–	National Bank for Agriculture and Rural Development
NACO	–	National AIDs Control Organization
NHRC	–	National Human Rights Commission
NFE	–	Non-formal education
NLI	–	National Labour Institute
NPE	–	National Policy of Education
NNP	–	Net national product
NSSO	–	National Sample Survey Organization
OBC	–	Other backward caste
PD	–	Project Director
PEA	–	Programme Evaluation Organization
PM	–	Prime Minister
POA	–	Programme of Action
PRIIs	–	Panchayatiraj Institutions
RJ	–	Rajasthan
RMK	–	Rastriya Mahila Kosh
SCOPE	–	Standing Conference on Public Enterprises
SC	–	Scheduled caste
SC	–	Supreme Court
SDM	–	Subdivisional Magistrate
SIDBI	–	Small Industries Development Bank of India
SHG	–	Self-help group
SNVF	–	Stree Niketan Vanitha Foundation
SP	–	Superintendent of police
ST	–	Scheduled tribe
TDMS	–	Tejpur District Mahila Samithi
TGBK	–	Tajmahal Gram Bikash Kendra
TRYSEM	–	Training of rural youth for self–employment
TN	–	Tamilnadu
UP	–	Uttar Pradesh
UT	–	Union territory
UN	–	United Nations
u/s	–	under section

1. Profile of India and its people

India has one of the oldest civilizations in the world with a kaleidoscopic variety and rich cultural heritage. It has achieved multifaceted socio-economic progress during the last 54 years after its independence on 15 August 1947. It is now the tenth industrialized country in the world; it is also the sixth nation to have gone into outer space to conquer nature for the benefit of humanity. With over 200 million tons of food grains production to its credit, it has become self-sufficient in food. With a geographical area of 3,287,263 m², it is the seventh largest country in the world. India's population according to the enumeration for the 2001 decennial census was of the order of 1,027 million.

India has 28 states and seven union territories. Three new states which have been carved out and notified with effect from 1 November 2000, and which have a long history of debt bondage, are the Uttarakhand, the Chattisgarh and the Jharkhand, with capitals at Dehradun, Raipur and Ranchi respectively.

The average rate of literacy according to the 1991 census was 52 per cent (64 for men and 39 for women). According to the latest findings of the 2001 census, the literacy rate has gone up substantially (75 per cent for men and 55 per cent for women). This improvement notwithstanding, there are wide regional and state variations: between urban and rural areas, between males and females, between members of SC, ST and OBCs.

The Constitution lays down certain Directive Principles of State Policy, which though not justiciable, are fundamental to the governance of the country. It is the duty of the State to apply these principles in making laws since they establish that the State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which social, economic and political justice shall inform all institutions of national life. The State shall direct its policy in such a manner as to secure the rights of all men and women to an adequate means of livelihood, equal pay for equal work and, within the limits of its economic capacity and development, to make effective provision for securing the right to work, to education and to public assistance in the event of unemployment, old age, sickness and disablement or other cases of undeserved want.

Planning in India derives its objectives and social premises from the Directive Principles of State Policy enshrined in the Constitution. The First Five-Year Plan was launched in 1951. Eight Five-Year Plans have completed their life cycle. The life of the Ninth Five-Year Plan (1997-2002) will come to an end on 31 March 2002.

In the 50 years since India became a republic, the national income has increased by 6.6 per cent and the per capita income has increased 2.9 times.

Agriculture and allied activities make the single largest contribution to the GDP accounting for almost 27 per cent of the total. The sector provides employment to around 65 per cent of the total workforce and contributes 21 per cent of the total export.

The industrial policy initiatives undertaken by the Government since July 1991 (when the New Economic Policy characterized by liberalization, privatization and globalization was launched) are designed to accelerate the process of making Indian industry globally competitive. The thrust of this initiative has been to increase the pace of domestic and external competition through extensive application of market mechanisms and forging of dynamic relationships with foreign investors and suppliers of technology.

The National Policy of Education (NPE), 1986, and its Programme of Action (POA), as reviewed and amended in 1992, envisage that free and compulsory education of satisfactory quality should be provided to all children up to the age of 14 years before the

dawn of the twenty-first century. Universal access, universal retention, universal participation and universal achievement of the minimum levels of learning constitute the core target for the Ninth Five-Year Plan.

Pursuant to the enactment of the 78th Constitutional Amendment Act, 1992, almost all states/UTs have made necessary amendments in their Acts enabling legislation for setting up strong, viable and responsible local self-governing bodies at different levels.

Article 243(G) of the 73rd Constitutional Amendment Act endows the PRIs with the requisite financial and administrative powers to enable them to function as effective institutions of local self-government. It also envisages for the PRIs the responsibility for the preparation and implementation of plans for economic development and social justice in relation to 29 subjects (primary education, primary health care, etc.) as listed in the 11th Schedule of the Constitution.

Over the last two decades, a planned, structured and concerted campaign has been launched for the eradication of both rural and urban poverty. All self-employment and allied programmes have now been brought under the umbrella of one single self-employment programme for the rural poor. This is a holistic programme of micro-enterprises covering all aspects of self-employment, i.e. organization of rural poor into self-help groups, their capacity-building through skill training, planning of activity clusters, infrastructure build-up, credit and monitoring. A significant aspect of the new programme is that every family assisted under it will be brought above the poverty line in three years. Thirty per cent of the rural poor in each CD block will be covered in the next five years.

In addition to the constitutional safeguards and special protection provided by the National Commission for SC and ST, a series of measures with relevance to the elimination of debt bondage have been launched in order to ensure protection of the urban and rural poor, who are the most vulnerable to social discrimination and economic exploitation. These measures are intended to ensure access to free, compulsory and universal primary education to the children of members of SC and ST, vocational skill training, easy access to credit through banks and other non-traditional channels, and involvement of voluntary agencies/NGOs in preventing atrocities against members of the weaker sections of society.

A separate statutory body for protecting and safeguarding the interests and rights of women known as the National Commission for Women has been in existence for almost ten years along with a National Credit Fund for women to meet the credit needs of poor women.

Women and child development has constituted a priority programme for successive Governments. The programme for integrated child development services launched in 1975 constitutes, in terms of coverage, the single largest programme undertaken by any country in the entire world.

The Government has listed 70 occupations and processes in which children are prohibited to work with a view to eliminating child labour in hazardous work. It is also in the process of launching a massive countrywide campaign for the universal elimination of child labour. It has further ratified the Convention on the Rights of Children (CRC) and ILO Conventions No. 29 and No. 105 on forced labour, as well as six out of 20 Conventions on the elimination of child labour.

The Apex Court (Supreme Court of India) has adopted a proactive approach throughout towards elimination of bonded labour and child labour. The NHRC has been in existence for a decade and is responsible for promoting, protecting and preserving human

rights for all sections of society, including those of the working class. The Apex Court has entrusted the responsibility of overseeing the implementation of provisions of the Bonded Labour System (Abolition) Act, 1976, to the NHRC for quite some time.

2. Historical background

The problem of debt bondage in India is linked to the phenomenon of poverty, which is closely linked to the absence of land and assets. There is a strong commonality between the community of rural poor and victims of debt bondage, in as much as an overwhelming percentage of these belong to the category of landless agricultural labourers, a majority of whom also belong to the community of SC and ST.

The *Zamindari* system, introduced by the erstwhile colonial rulers with all the ills of rack-renting, absentee landlordism and oppressive treatment to millions of tenants, was abolished after remaining on the ground for 200 years. However, the scars are still visible in the shape of at least 50 million landless agricultural labourers. The skewed distribution of land and other assets is accentuated by excessive seasonality of employment in agriculture and the absence of stable and durable avenues of non-agricultural employment, leading to seasonal migration. It is further accentuated by the denial of remunerative wages for the tillers of the soil who have to take recourse to loan/debt/advance in distress situations, leading to indebtedness and bondage.

The pernicious system of debt bondage evolved at different points of history in different parts of the country. Different laws were also enacted at the provincial level more to regulate than to abolish the system, culminating in the Bonded Labour System Abolition Act passed by both Houses of Parliament on 9 February 1976.

In Andhra Pradesh the system was the direct outcome of several categories of landlessness involving various economically exploited sections of society. The system known by different names such as *Vetti* (debt slavery) *bhagola*, *chakri/jeetam*, etc., originated from the uneven social structure characterized by feudal and semi-feudal conditions found in the Telengana region.

The erstwhile Government of Nizam (up to 1949) had taken steps to eradicate the pernicious bonded labour system known as *bhagola* in the old Hyderabad state and had passed the Hyderabad Bhagola Agreement Act, 1943.

The Act, however, suffered in terms of implementation due to pervasive ignorance, illiteracy and social backwardness of *bhagolas*. It is tragic but nevertheless true that bondage was not perceived as a loss of personal freedom but regarded as a necessary and inevitable consequence of one's rank and status in the society.

In Bihar, where the system is known as *kanua* and *sevakias* in Palamau, *kamiauti* in Santhal Parganas, *harwahi* in Bhagalpur, *kandh* in Deoghar, *bhaoti* in Godda and *krishari* in Dumka, the origin of debt bondage can be traced to the caste hierarchy and feudal structure in the village community. The system was characterized by the debtor working for the creditor for long hours, low wages, oppressive treatment and the obligations of the father being passed on to the son.

The Bihar and Orissa Kamiauti Act of 1920 declared that all such *kamiauti* agreements were void, with some riders, but did not prove effective in doing away with these social ills. Even today the landless agricultural labourers belonging to lower castes in Bihar continue to be exploited by the higher castes due to loans advanced to them at usurious rates of interest.

In Karnatak, the system is known as *jeetha*, which is a corrupt form of *Jeevitha*, meaning lifetime. In other words, the persons rendering service under this system are bonded for life. The bonded labour system is in the form of attached labour and is widely prevalent among the members of the SC community on a hereditary and obligatory basis.

The existence of the system has been confirmed by the reports of the Commissioner for SC and ST between the 1960s and 1970s. The state government promulgated an ordinance on 20 October 1975, five days before the President of India promulgated a similar ordinance. By May 1976, in Karnatak 22,821 bonded labourers were freed and rehabilitated.

In Madhya Pradesh, the system is known as *kamia* or *saorija* in Chattisgah, *harwah* in Betul, *brondia*, *kamdar* and *mahidar* in Nimar Tract, *mahindari hali* in Morena, *barasia* and *kabarani* in Balaghat, and *harwahi* in Vindhya region.

The hallmarks of the *kamiya* system or *harwah* system found in parts of Madhya Pradesh are:

- agreement between the tenure holder and the ploughman;
- the ploughman obtains an interest free advance;
- the ploughman renders services on nominal wages until the money obtained in advance is fully repaid;
- the ploughman loses the freedom to work for others.

The report of the Commissioner for SC and ST in the 1960s and 1970s had confirmed that the system is still prevalent in the districts of Ratlam, Jhabua and Maundisar.

The Government of Madhya Pradesh promulgated an ordinance on 25 September 1975 prohibiting the bonded labour system, which came into force 2 October 1975. By May 1976, in Madhya Pradesh 243 bonded labourers were freed and rehabilitated.

In Orissa, the system of bonded labour known as *gothi*, found in the districts of Koraput, Kalahandi and Ganjam, had the following characteristics:

- landless tribal groups seek credit without any collateral to meet expenses on marriage, funeral, procuring cattle and other implements or for paying off bad debts;
- there is an oral agreement between the creditor and the debtor for an unspecified period;
- a pronote is drawn up to cover the debt without any mention of the corresponding agreement.

The *bahabandh* (bonded slavery) and *bethi* and *begar* (forced labour) were abolished in 1921 and 1923, respectively, followed by the enactment of the Orissa Debt Bondage Abolition Regulation, 1948, which declared all *gothi* agreements void with some riders. Consequently, several thousand of *gothi* contracts were terminated. By no means, however, is *gothi* a thing of the past. This has been confirmed by the annual reports of the Commissioner, SC and ST, submitted to the Government for successive years.

Debt bondage in Rajasthan is known as the *sagri* system, one of the most hideous manifestations of usury with its attendant elements of oppression and exploitation. The origin of the system can be traced to the *bhil* tribes of Rajasthan seeking loan/debt/advance from crafty moneylenders for social ceremonies like marriage, remarriage and festivities associated with birth and death. There are two types of agreements entered into between the *sagri* (debtor) and the creditor, both being totally disadvantageous to the former. Even after mortgaging the services of all family members, the principal amount could never be repaid. The *sagri* had to take recourse to distress sales of land, animals, ornaments and agricultural produce and the bondage perpetuated itself, in some cases ranging between one and 20 years and in a few cases above 20 years. This system was abolished in 1961 by

the Rajasthan Sagri System Abolition Act, which was further amended in 1975. Despite provisions of the law, the system is still alive, though with a different name, the *hali* system. The *hali* system is a variant of the attached agricultural labour system.

In Uttar Pradesh, the system was known by different names such as *begar*, *bandhwa mazdoor*, *bandhak*, *bajgee*, *sevak*, *harwah* etc., and was prevalent in agriculture, stone quarries, brick kilns, matchbox and fireworks factories, bidi, brassware, glass bangle and carpet manufacturing industries. This system is found in the Patha region of Banda and Allahabad districts, hill districts (Dehradun, Tehri Garwal and Uttarkashi) and the carpet belt of Bhadoi, Varanasi, Mirzapur and Sonbhadra. In the first, several landless families belonging to *Kol* tribes render bonded labour services. In the second, the landless and totally illiterate semi-tribal members borrow money from the *Rajput* or *Brahmin* moneylenders and pledge their services until the loan is paid off. The problem of rural indebtedness and debt bondage is closely linked to the problem of immoral trafficking of women in the area.

Poor families of dry and drought prone Palamau and Gadwa districts of Bihar, migrate to adjoining Bhadoi, Varanasi and Mirzapur districts to work in carpet-weaving. Children of 6-14 years of age accompany the parents and work with them in the same occupation, often in bonded conditions. They are recruited by agents against the provisions of the Children (Pledging of Labour) Act, 1933. More children also work under similar conditions in glass and bangle-making units of Firozabad, brassware units of Moradabad, lock-making units of Aligarh, pottery units of Khurja and large number of brick kilns operating in the Indo-Gangetic plane.

In Tamilnadu, bonded labour has been identified in ten out of 29 districts. The majority of bonded labourers belong to the community of SC and ST. They are known by different names such as *izvas*, *cherumas*, *pulayas*, *panias* and *holigas*. The system has the following characteristics:

- a written agreement;
- the debtor receiving less than minimum wages;
- the debtor having the obligation to work for the master and no freedom to act for others even at higher wages.

Yet, another vestige of the pernicious system is found among the hill tribes of Kalarayan where the *Karalar* tribes are bonded to the *jagirdars* for life. They and their family members work in the houses and farms of the *jagirdars* without any wages and are compelled to sell the forest produce to traders and contractors nominated by the *jagirdars* at low prices.

While the above narration about prevalence of bonded labour system is confined to only eight states, it does not necessarily follow that the other 20 states and union territories are completely free of the social scourge of bonded labour. All that it means is that: (a) the bonded labour system has not been specifically surveyed; (b) wherever surveyed, it has not surfaced; and (c) wherever there is evidence of the system, it relates to migrant populations who come and go from one part of the territory of India to another. These migrant workers who work under conditions similar to the bonded labour system have been found in fish-processing units of Gujrat, stone quarries of Haryana and brick kilns of Punjab. Whenever and wherever these workers have surfaced, and both the originating and destination states have been aware of and sensitive to the existence of the problem, they have been released and repatriated to their native states. This does not mean that all migrant labourers working under bonded conditions have been identified, released and repatriated for rehabilitation. According to the conclusions of a fact-finding committee

constituted by an NGO, there are large numbers of interstate migrant labourers working in agriculture and brick kilns in Punjab who are under debt and bonded to their employers/masters. They are unable to repay the debt and, therefore, continue to be bonded. The Government of Punjab is yet to formally acknowledge existence of debt bondage in that state. The Government of Arunachal Pradesh has acknowledged the existence of 3,542 bonded labourers (called *sullungs*) who are working under slave-like conditions, but has regretted its inability to attain their immediate release. This *sullung* system is deeply rooted in the customary practices of this tribal society. According to Sramajeevi Sangathan, an NGO in Thane, which has been actively involved in the identification, release and rehabilitation of bonded labourers in Maharashtra for over ten years, the practice of the landlord advancing loans to tribesmen for marriage and binding the tribal couple to serve him for life is widely prevalent in the Thane district. Under yet another system known as *palemod* the tribesmen take loans from the landlord before the onset of the monsoon with the understanding that these would be immediately paid after the harvest. Unfortunately, this is seldom the case due to the high rate of interest placed on the debt, resulting in the tribal family mortgaging its services to the landlord for life.

Tracing the origin of the bonded labour system or debt bondage provides a glance into history; it also provides a useful starting point to investigate and research in order to formulate and implement a proper plan for further intensive action for the identification, release and rehabilitation of bonded labourers. To that extent, knowledge and understanding of the historical background of the various forms of debt bondage becomes an essential ingredient of the perspective planning for the elimination of forced/bonded labour in India.

3. Constitutional and legal provisions with special reference to case laws

The Constitution of India guarantees to all its citizens justice, social and economic security, and political freedom of thought, expression, belief, faith and worship, equality of status and of opportunity, fraternity, dignity of the individual and unity of the nation.

It prohibits forced/bonded labour (article 23). There are several other provisions in the Constitution, which are in consonance with the spirit of article 23. These are: article 19 (right to freedom), article 21 (protection of life and personal liberty), article 24 (prohibition of employment of children in factories, mines and other forms of hazardous work), article 38 (the State to secure a social order for the promotion of the welfare of the people).

The Government of India ratified ILO Convention No. 29 on 30 November 1954, and enacted the Bonded Labour System (Abolition) Act passed by both Houses of Parliament in February 1976, with effect from 25 October 1975, the day on which the President of India promulgated an ordinance on the subject. The subject of elimination of forced/bonded labour figured as item No. 4 in a 20-point economic programme announced by the then PM to the nation on 1 July 1975, which read, “bonded labour system wherever it exists shall be declared illegal”. Enactment of a central law dealt a lethal blow to the century-old pernicious system found in different forms in different parts of the country and brought it under the umbrella of one legal framework with clarity, uniformity and precision.

For the purpose of this analysis, the law can be divided under the following heads:

- definitions;
- abolition of bonded labour system;
- extinguishing liability to repaying bonded debt;
- implementing authority;
- penal provisions.

Labour means service. A bonded labourer is one who renders service to another person on account of certain obligations emanating from loan/debt/advance obtained from that person. The system essentially represents the relationship between a creditor and a debtor. When such a relationship exists and the debtor in pursuance of the obligation arising out of loan/debt/advance mortgages his services or the services of any of his family members to the creditor for a specified or for an unspecified period with any of the following consequences, he/she comes within the definition of the bonded labour system.

The consequences that arise from a loan which is advanced are:

- service without wages or without minimum wage;
- denial of the freedom of employment or other means of livelihood;
- denial of the right to move freely as a citizen in any part of the territory of India;
- denial of the right to appropriate or sell at market value any property or product of labour or of the labour of family members or dependents.

In April 1985, an explanation was added by way of an amendment to the Act. According to this explanation, a person who is initially a contract or migrant worker might subsequently acquire the status of a bonded labourer if he/she fulfils any of the four elements of the bonded labour system mentioned above.

Justice Sri P.N. Bhagawati of the Supreme Court of India, in a judgment dated 16 December 1983, arising out of a writ petition No. 2135 of February 1982 and filed by Bandhua Mukti Morcha, gave a broad, liberal and expansive interpretation of the definition of the bonded labour system, which can be summed up in the following words:

- it is not necessary to prove beyond doubt the element of loan/debt/advance in a creditor/debtor relationship;
- if the debtor is rendering certain services to the creditor free of cost, it is to be presumed that he/she is doing it out of some economic consideration;
- he/she, therefore, is a bonded labourer entitled to the benefits of law.

There are four essential provisions regarding the abolition of the bonded labour system:

- on the commencement of the Act, the bonded labour system stands abolished and every bonded labourer stands freed and discharged from any obligation;
- after the commencement of the Act, no person shall make any advance under or in pursuance of the bonded labour system;
- no person shall compel any person to render any bonded labour (service);
- any custom or tradition or any contract by virtue of which any person is required to do any work shall be illegal.

The Act does away with every obligation of a bonded labourer to repay any bonded debt; it also dispenses with the future liability of repaying a bonded debt. The law provides that: (a) no suit or other proceedings shall be instituted in any Civil Court for the recovery of any bonded debt; (b) every attachment made before the commencement of the Act for the recovery of any bonded debt shall stand vacated; and (c) movable property shall be restored to the bonded labourer.

The district and subdivisional magistrates have been entrusted with certain duties and responsibilities towards the implementation of statutory provisions. Under section 13 of the Act, vigilance committees are required to be constituted at the district and subdivisional level for the implementation of provisions of the law. They are composite bodies with representatives from different cross sections of society and have a lifetime of two years.

Registers containing the names and addresses of all freed bonded labourers, their vacation, occupation, income and details of benefits received are required to be maintained under the Bonded Labour System (Abolition) Rules.

The Act provides for imprisonment of up to three years and fines of up to Rs.2000, to whoever compels any person to render any bonded labour and whoever advances any bonded debt. An offence under the Act may be tried summarily and every offence under the Act shall be cognizable and bailable.

4. Present status of implementation

Within two years of enactment of this law, a survey was jointly conducted by the Gandhi Peace Foundation and the National Labour Institute, the findings of which were published in May 1981. The survey came to an estimate of 2.6 million bonded labourers in 11 major states of India.

A centrally sponsored scheme was introduced in May 1978 for rehabilitation of freed bonded labourers. The programme of rehabilitation was itself a focal point of the 20-point programme of successive governments for over 20 years.

Despite all of these progressive measures, the urgency and seriousness of concern with which the issue of elimination of forced/bonded labour deserves to be viewed seems to have progressively declined over the years. The reasons for this are:

- vigilance committees for many districts and subdivisions have not been constituted and reconstituted wherever due, and are largely non-functional wherever constituted. This has attracted adverse notice of the Apex Court and that of the NHRC;
- the Act and Rules do not give guidelines on the methodology for conducting surveys for the identification of the bonded labour system;
- over the years a very formal, stereotyped and routinized approach has been adopted in identifying the bonded labour system;
- an equally formal, rigid and highly legalistic approach has been followed while trying the cases under the Act as also at the time of releasing bonded labourers;
- there is always a long interregnum between the date of identification and date of release on the one hand, and the date of release and date of rehabilitation on the other. This results in a relapse of many freed bonded labourers into bondage;
- as of 31 March 2000, 280,411 bonded labourers have been identified and released; 251,569 bonded labourers have been rehabilitated; and 28,842 are still to be rehabilitated. In view of the long waiting period and on account of non-maintenance of registers as required under the Rules, it is not known how many labourers out of the 28,842 are actually available on the ground for rehabilitation;
- there is a mindset that, with the enactment of the law, the bonded labour system has been abolished lock, stock and barrel and that there is no possibility of recurrence of the system. Labouring under this mindset, many state governments assume, without even setting up vigilance committees, that there are no bonded labourers in their states. They have not taken any initiative to conduct fresh surveys for identification of the bonded labour system and have not made any budget provision for rehabilitation of released bonded labourers.

Such mindsets have contributed to defeat the very objective of the law as well as the national policy and programme.

The mindsets notwithstanding, the Apex Court and the NHRC have played a very firm and decisive role in: (a) issuing positive directions to the state governments for strict compliance; (b) entrusting the NHRC with the responsibility for overseeing the implementation of the directions of the Apex Court; (c) appointing socio-legal investigating commissioners which have played a key role in unearthing the problem and in submitting their reports to the Court; and (d) the chairperson of NHRC has written to the

chief ministers of defaulting states impressing on them the urgency and seriousness of concern with which the problem deserves to be viewed.

5. Why a perspective plan?

A perspective plan is essentially a vision that at a particular point of time in history focuses on the magnitude of a problem in a particular area, sector or activity. It analyses objectively and dispassionately the causes and factors that have contributed to the problem, the adequacy and effectiveness of interventions, the results achieved and the gap between the expected outcome and actual outcome. It outlines a proper strategy and disaggregates the target to be handled at a particular level keeping in view the availability of resources – human, material and financial.

It is absolutely necessary and desirable that the strategy envisioned in the perspective plan lists the order of priorities clearly and categorically.

In the context of formulation of a perspective plan for the elimination of forced/bonded labour, such an order of priorities can be competently listed in a logical and time sequence, as follows:

- the task of rehabilitation of X number of freed bonded labourers who are awaiting rehabilitation for a long period of time;
- disposal of all pending cases at the level of executive magistrates (vested with judicial powers) by taking recourse to summary trial and issue of release certificate in favour of those who have been found to have been bonded;
- complete documentation of all bonded labourers identified and released, as well as of those who have been fully rehabilitated (name, age, sex, details of occupation, remuneration/income);
- a massive programme of orientation and training for the sensitization of functionaries at all levels, including chairpersons and members of vigilance committees at the district and subdivisional level.
- devising ways and means for the identification and enumeration of bonded labourers through surveys and any other means such as collection, compilation and analysis of the findings of the survey and through building up of a computerized database for further follow up action;
- proceeding against the bonded labour keepers in separate proceedings and in accordance with the procedure established by law while proceeding simultaneously to rehabilitate all freed bonded labourers.

In view of their urgency and importance, some of these activities may be independently pursued while some may be combined and taken up simultaneously. Bonded labour, however, is not a one-time problem, it is open-ended. It can occur and recur at any point of time in a number of occupations such as agriculture, brick kilns, stone quarries, etc. All possible efforts will, therefore, have to be undertaken to prevent the occurrence or recurrence of the problem in a particular industry, occupation, trade etc. These would involve a series of further activities to be taken up in the foreseeable future such as:

- access to microcredit;
- access to avenues of full, freely chosen and productive employment (decent work);
- access to education and skill training;

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- implementation of land reforms;
 - review of laws relating to credit;
 - revamping/strengthening the public distribution system;
 - strengthening and activating the machinery for airing and redressing the grievances of the aggrieved;
 - strengthening and activating vigilance committees;
 - strengthening and activating labour law enforcement machinery (laws relating to contract labour, migrant labour, child labour, etc.).

The strategy as envisaged here would necessarily involve intensive monitoring of the pace and progress of implementation (of the plan) and evaluation of the content, process and impact of implementation with a view to ascertaining the gaps between expected and actual outcome, and applying timely corrections until the expected outcome is fully achieved.

6. Components of the perspective plan

6.1. Priority No. I: Rehabilitation of released bonded labourers

Past experience has shown that freedom from bondage is meaningful only when the uncertainty and insecurity associated with that freedom have been removed through productive and income-generating schemes. If this is not achieved, the freed bonded labourer will always prefer to go back to his old master and the bonds associated therewith.

There are three distinct phases of rehabilitation:

- (i) immediate physical and economic rehabilitation (necessitating payment of subsistence allowances);
- (ii) provision of some avenues of employment (through manual labour), payment of need-based minimum wages and supply of productive assets to help start a new life;
- (iii) a number of social and economic programmes, including formation of workers' organizations (indigenous self-help groups/thrift and credit groups, associations, cooperatives, trade unions etc.).

In order to be meaningful rehabilitation programmes have to be multidimensional and should cover a wide range of items such as:

- allotment of homestead and agricultural land;
- land development (through provision of irrigation, integrated watershed planning, development and management);
- provision of low cost dwelling units;
- provision of all inputs and back up services under:
 - agriculture (including horticulture);
 - animal husbandry;
 - dairy;
 - poultry;
 - piggery;
 - fodder cultivation;
- facilitating easy access to credit for meeting ceremonial, consumption and development needs;
- training for acquiring new skills and refining, sharpening and updating existing skills;
- health and medical care (including immunization of pregnant mothers and children in the 0-3 age group);
- supply of essential commodities at controlled prices in an uninterrupted manner;

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- providing basic education to children of bonded labourers;
 - protection of civil rights.

With a view to augmenting the scale of per capita expenditure (Rs.20,000 INR) to take care of so many provisions, resources will have to be pooled from a variety of sources and integrated imaginatively and skilfully to achieve the objective of holistic and integrated rehabilitation.

Individual beneficiary-oriented approach to rehabilitation has a number of limitations that arise from the peculiar caste-based social background of the beneficiary, his or her poverty and backwardness and the culture of silence and dependence associated with the milieu in which he/she has lived. In contrast to this, rehabilitation as a group or community effort has many distinct advantages. By bringing people with a different socio-cultural background and rehabilitating them at one common point, one would be promoting social integration. Social integration and social solidarity would pave the way for stronger social protection. Group rehabilitation at a common point would facilitate convergence of a number of functionaries of development departments, government and NGOs; it would make the task of integrated development easier. It would facilitate easier access to credit for development. In a group approach to development, the economies of scale of the operations would be ensured.

A group approach to development/rehabilitation should be adopted as far as possible and practicable as it enables the delivery system to ensure the provision of adequate infrastructure facilities, to integrate a number of activities as well as optimizing the return on the investment made for the benefit of freed bonded labourers.

6.2. Priority No. II: Disposal of all pending cases at the level of executive magistrates

The state government u/s 21 of the Act is authorized to confer upon specified executive magistrates the powers of judicial magistrates of first class for trial of offences under the Act. It was, however, observed that hitherto a formal, rigid and legalistic approach has been followed while releasing bonded labourers. Every case of release is taken up by a formal process of trial by the executive magistrate appointed by the state government. A conventional process of trial by recording of evidence under the Indian Evidence Act, 1872, is a long drawn process. It can only add to the further predicament of the bonded labourers since they can never stand up to the tyranny of the law and rigidity of the legal process. The only way out of this impasse would be the adoption of a summary trial procedure immediately on receipt of a report from the vigilance committee(s)' concerned investigating agency(s) in order for identification and release to be simultaneous. This is the only practical solution to the problem of securing faster release.

The administrative department in every state/UT concerned may, in consultation with the Law Department and Registrar High Court, issue a set of guidelines for summary trial and summary disposal of all cases instituted under the Act. Such guidelines should be framed and communicated to all trying magistrates, keeping the interest of defending the bonded labourers uppermost in mind and in conformity with the spirit of the judgment of the Supreme Court of India dated 16 December 1983 (arising out of the writ petition No. 2135 of 1982).

Issue of guidelines should be supplemented by a programme of orientation and training of executive magistrates appointed by the state government to try all cases under the Act. There are 593 districts in India and for each district at least one magistrate should

have been appointed for trial of offences under the Act. All these magistrates who have been vested with judicial powers should be given orientation and training.

Simulated trials involving the bonded labour keeper and bonded labourers should be organized as part of such orientation and training in order to enable the trying magistrates to internalize, with all the seriousness of concern, the importance of summary trial as a very useful and effective tool of delivering instant justice to a person (a bonded labourer) who is not used to stand up in a witness box and depose evidence right in the presence of his oppressor. Since a number of finer points of law are involved, such orientation and holding of simulated trials as a part of such training should be conducted by retired judges of High Court/District and Sessions Court/members of superior judicial service to be identified on the basis of their empathy and sensitivity to the cause of liberation of bonded labourers.

6.3. Priority No. III: Complete documentation of identified bonded labourers

Such documentation is a primary statutory requirement (Rule 7 of Bonded Labour System (Abolition) Rules, 1976). The primary purpose behind such documentation is to keep a close and constant vigil on the status of freed bonded labourers who are waiting to undergo the process of rehabilitation or who are already undergoing such a process. The need for such documentation is all the more relevant and urgent in case of migrant workers, some of whom may have been working under conditions akin to debt bondage. It is not enough to identify them as bonded labourers and release them from debt bondage. It is necessary to repatriate them to their native place for rehabilitation, if they so wish and to keep a vigilant eye on the process of their rehabilitation. Documentation serves the following useful purposes:

- it helps to formulate worthwhile schemes of rehabilitation which are area specific, need based, cost effective, time bound and result oriented;
- it helps to keep a tab on the content, quality and impact of rehabilitation programmes and to formulate and apply correctives to remove deficiencies in the implementation process;
- it ensures better accountability and helps to fix responsibility in the event of flawed implementation of rehabilitation programme;
- it particularly helps to protect and safeguard the rights and interests of interstate migrant workers who have been found to be working under conditions of bondage.

Functionaries of development administration should visit and interact with the freed bonded labourers who are undergoing the difficult process of rehabilitation, ascertain their felt needs, preferences and interests and the extent to which the process of rehabilitation is beneficial to them. Every such visit should end up by establishing an emotive bond with the freed bonded labourers and their family members in a manner which assures and reassures the former that: (a) he/she is a free individual entity entitled to inalienable human rights and to lead a decent and dignified human existence; and (b) debt need not regulate his/her destiny.

6.4. Priority No. IV: Documentation of successful stories

The law on abolition of bonded labour system was enacted in 1975-76. The centrally sponsored scheme for rehabilitation of freed bonded labourers was introduced in May 1978. The scheme has undergone a lot of qualitative changes and by now a sum of Rs.500 million has been allocated by the GOI under the scheme in favour of 12 states. Senior officials of the Ministry have visited the states for on-the-spot studies on the status of bonded labourers after release and rehabilitation. The Programme Evaluation Organization of the Planning Commission as well as the Centre for Rural Development of the Indian Institute of Public Administration, Delhi, have carried out in-depth evaluation studies in respect of selected districts to assess the content, quality and impact of rehabilitation programme in those districts. The Lal Bahadur Shastri National Academy of Administration (LBSNAA) has also conducted a number of seminars, symposia and workshops on the subject of identification, release and rehabilitation of bonded labourers with a view to sensitizing the probationers of the Indian Administrative Service. It has also pressed them to action to visit establishments (brick kilns, stone quarries, plantations, etc.) to identify the incidence of the bonded labour system. It has brought out five volumes of study reports on the prevalence of bonded labour systems.

All these study reports, reports of field visits, evaluation studies, etc., contain a number of success stories of individual officer's initiatives, initiatives of government, initiatives of NGOs and the response of freed bonded labour beneficiaries. There are socio-legal investigating commissioners appointed by the Supreme Court who have thrown adequate light on various aspects of debt bondage and how effectively the problem is being tackled at the field level. Some of them may have been documented while many are yet to be documented. It would be useful if all these reports could be collected, screened, success stories compiled and thereafter published as official documents. Such documentation would serve a variety of useful purposes such as:

- it would carry conviction that elimination of forced/bonded labour is not utopian but possible, feasible and achievable;
- it would demonstrate that rational and scientific methodologies are available for identification of bonded labour systems;
- it would act as a force to inspire and motivate many others to follow the examples already set;
- it would dispel a lot of doubts and unfounded mindsets about forced/bonded labour and reinforce the need for its total elimination;
- such documentation can also be used for training.

6.5. Priority No. V: Sensitization and orientation

Training is an important input for human resource development. It imparts knowledge, information and skills. It removes cynicism and scepticism. It is a tool for learning by sharing as well as a tool for carrying conviction. It sensitizes the insensitive.

Training has a content and a process. In the context of elimination of forced/bonded labour, the content of training would be:

- the problem of forced/bonded labour in India is the outcome of poverty, landlessness, lack of assets and various other forms of social injustices and deprivation;

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- such a problem can occur and recur at any point of time. It is open-ended;
 - such a problem is not confined to agriculture. It can be found in any occupation;
 - it is not confined to any particular sex or age group;
 - what is of utmost importance in conducting investigation into the existence/non-existence of a bonded labour system, is the humane and sensitive understanding of the situation on the ground;
 - one needs to perceive, internalize and adopt completely non-conventional and unorthodox ways of securing release of bonded labourers through summary trial;
 - identification, release and rehabilitation should be simultaneous operations;
 - a different strategy would be needed for rehabilitation of persons of different age groups as also of those placed in different situations;
 - the task of elimination of forced labour should be viewed primarily as a human rights and developmental issue;
 - there is need for tremendous political will, commitment and determination at all levels to grapple with and overcome the problem;
 - it should be viewed as an issue of societal, national and international concern and not just the concern of any particular ministry or department or agency;
 - there is a clear possibility of pooling resources from a variety of sources (including external funding) and integrating the same imaginatively and skilfully, with a view to achieving the objective of holistic and integrated rehabilitation.

The process of orientation and training comprises:

- determination of functionaries at each level to be trained;
- determination of the number of trainers to impart training at each level;
- identification of state/district-level training institutions where the trainers can be trained;
- design of curriculum, course content and materials to be used for each training to be decided through a workshop;
- fixing time, venue and duration of training;
- determining on the basis of need, the residential/non-residential nature of training and providing logistic support for both;
- working out the estimates of cost of each training and making a budget provision;
- actual imparting of orientation/training in a discussion mode;
- institutionalizing arrangements for evaluation of the actual outcome and impact vis-à-vis the expected outcome of each training.

As regards methodology of training:

- the methodology should be as participative and communicative;
- skits, role-play and simulation exercises on the theme of training should be freely used;
- such role-play and simulation exercises should enable the trainees to internalize the very difficult situation in which the bonded labourers have been placed;
- training should drive home the central message that it is not the existence of bonded labour system that is a disgrace on the administration, but the failure of the administration to recognize this system that makes it a disgrace;
- provisions of law and judgments of the Supreme Court need to be translated into regional language(s) and disseminated for use in training;
- making extensive and repeated use of case studies on the definition and status of bonded labourers in real life situation.

6.6. Priority No. VI: Identification of unfree bonded labourers

There are two aspects in the identification process. One is the machinery and the other is the methodology to be followed. The Bonded Labour System (Abolition) Act speaks of vigilance committees as the machinery responsible for identification but it has not laid down any precise methodology for such identification. Past experience in regard to identification of bonded labour system has not been successful on account of the following:

- adoption of a formal, stereotyped and routine approach by lower level functionaries for which they draw blank in terms of getting a proper response;
- pervasive ignorance, low level of awareness and aspirations as well as the socio-economic backwardness of the bonded labourers.

Despite these limitations, household surveys or establishment surveys can yield useful results provided:

- such surveys are used as tools for listening, empathizing and learning;
- the survey is conducted with a humane and sensitive understanding of the situation in which the persons to be surveyed work and live.

A few stages in the process of conducting a household/establishment survey:

- formation of survey teams comprising coordinators, advisers and members of district/taluka/mandal/block/panchayat level;
- design of a simple questionnaire for survey;
- orientation and sensitization of team members on the methodology of the survey through a workshop;
- collecting data through questioning of households and establishments;

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- compilation, analysis of data and drawing of conclusions.

Conducting a survey in respect of over 200 million households and over 10 million establishments (industrial, commercial, mining, plantation, etc.) would be a formidable proposition. The best course of action would therefore be to combine the first with the decennial census operation (2011) while in regard to the second, the strategy and methodology may be worked out by the Ministry of Labour in consultation with the NSSO.

Simultaneously, and by an order of immediate priority, pockets in different parts of India which are dry, drought prone and poverty stricken and which are prone to cycles of drought/famine, migration, indebtedness and bondage could be identified and surveys undertaken on a selective basis by the vigilance committees of those districts in collaboration with a team of good, reliable and committed NGOs and student volunteers (from schools, colleges and universities).

There are special problems of migrant bonded labourers and a special strategy for them will have to be adopted. The contours of that strategy are:

- identify the pockets of migration;
- bring together the officials of labour-sending and labour-receiving states for a dialogue;
- constitute joint study teams comprising of officers from both states to visit the worksites to listen to the grievances of migrant workers;
- release of such workers on the strength of the findings of the joint study team as they are found to be working under conditions akin to bondage;
- ascertain the preference of these workers as to where they would like to rehabilitate themselves.

The services of the reporters of the National Human Rights Commission as well as that of the socio-legal investigating commissioners of the Supreme Court could be made use of in unearthing the ills of the bonded labour system.

The data pertaining to identification, release and rehabilitation of bonded labourers should be computerized so that such data can be retrieved as and when necessary. This would involve orientation and training of chairpersons and members of vigilance committees in computerization.

6.7. Priority No. VII: Preventing the occurrence/recurrence of debt bondage

Landless agricultural labourers, sharecroppers, persons below poverty line level, who are landless and assetless, migrant workers, etc., turn to moneylenders and other middlemen for loan/debt/advance partly for survival and partly for ceremonial and other miscellaneous needs. In the process they get indebted and bonded to their creditors due to their inability to repay the loan, which gets compounded due to usurious rates of interest. The question that naturally arises is: Can such contingencies be dealt with? Can occurrence and recurrence of debt bondage be prevented? The answer is yes. Debt bondage is 100 per cent preventable and can be prevented. In the following paragraphs an attempt has been made to find an answer to this difficult problem on a long-term basis.

Access to microcredit

Microcredit is the provision of a broad range of financial services such as deposits, loans, payment services, money transfers and insurance to poor and low income households and their micro-enterprises (retail services).

The rationale for the provision of microcredit arises on account of the following:

- the majority of rural poor in India, numbering more than 200 million, are outside the realm of formal financial institutions due to:
 - perceived high risks;
 - high costs involved in a small transaction;
 - inability of the poor to provide the physical collateral insisted upon by credit institutions;
- the formal credit delivery system has not been able to keep pace with actual demand for small credit;
- the formal credit delivery system is not fully knowledgeable of the social objectives for providing credit to the rural poor;
- the poor on many occasions need emergency credit for consumption, medical and ceremonial purposes which the formal credit delivery system cannot deliver.

The modalities for institutionalizing microcredit are well established. These are relevant for both categories of poor, i.e. those who work under normal conditions of freedom and those who are unfree. These are:

- target the poorest of the poor with women amongst adult members of a poor household as the priority target group;
- conduct baseline survey amongst the targeted population;
- demarcate a specific number of households for formation of self-help groups/thrift and credit groups;
- promote and encourage building up of a group savings fund from the savings of the members of a group;
- build up a climate of trust, goodwill and solidarity among them;
- facilitate interest free loans from the fund for food, clothing, medical and other subsistence needs of the members of the group(s);
- enable the group members to determine the repayment schedule based on the capacity of each member to repay;
- facilitate loans for income generating activities (poultry, piggery, fisheries, horticulture, sericulture, arts/crafts, etc.) to break the vicious cycle of “low income, low savings and low investment”;
- organize meetings at convenient locations to spread the message of microcredit and to carry conviction to clients on the principle of “reliability, affordability and sustainability” of services;

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- institutionalize training of the members of the shgs as a tool of human resource development as well as a tool for unleashing the creative and productive capacity of the poor.

Microcredit as a tool for eradication of poverty and for elimination of debt bondage has tremendous potential in India on account of the following:

- the Government of India has adopted a proactive policy towards microcredit for the last 20 years;
- the Rastriya Mahila Kosh has been set up to exclusively cater to the demands of various NGOs providing microcredit services to self-help groups of women. A number of rural banks and cooperatives provide credit to the rural poor under the priority sector lending policy. The National Bank for Agriculture and Rural Development (NABARD) set up to enhance the outreach of microcredit to the rural poor undertakes a number of inter related activities under three major heads such as credit dispensation, regulatory, promotional and developmental activities. The Small Industries Development Bank of India (SIDBI) supports NGOs and SHGs for on-lending to individual micro entrepreneurs and for developing sustainable SHGs.

In providing easy access of the poor to microcredit, the State can take the primary though not the sole initiative. The State can undoubtedly enlist the involvement and support of good, reliable and committed NGOs who are largely non-political or apolitical and whose only ideology is development and empowerment of the poor through a philosophy of self-reliance.

Implementation of land reforms

Any programme of land reforms should be viewed as a tool of removing inequality in possession of land, inequality in access to means of production (water, fertilizer, pesticide, credit) and inequality in reaping the usufructs from land at a fair and remunerative price (through the policy of procurement of government). In the context of elimination of debt bondage such reform would have the following components:

- legislation should be enacted banning purchase of land belonging to members of SC/ST by persons who do not belong to SC/ST;
- such legislation exists in many states for members of ST; it needs to be strictly enforced;
- all states/UTs should enact and enforce such legislation for members of SC;
- the proposed legislation should cover, in addition to lands allotted by government, lands otherwise owned by a member of the SC/ST community;
- for the purpose of allotment of house sites and agricultural land, three categories of land can be considered, i.e. ceiling surplus land, government land (including forest land) or private land. A few parameters of land reforms policy to be kept in view are indicated below:
 - ceiling laws should be properly implemented and carried to its logical conclusion;
 - any relaxation in ceiling laws should be sparingly considered;

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- all land owned by the central or the state governments or any other public authority and which is not required for any public purpose should be made available for distribution amongst the landless labourers with priority for members of SC and ST;
 - a district survey should be undertaken to identify the extent of landlessness, extent of land taken over from members of SC/ST by manipulation/fraud and cost of private land that may have to be purchased;
 - a systematically planned drive should be launched by every state government to restore land to the SC/ST;
 - efforts should be made to remove gaps between the date of allotment, date of handing over the document in support of ownership and the date of physical possession;
 - every unit of land allotted and given possession should be developed to its full productive capacity;
 - wherever ground water resources are available, irrigation through wells should be provided;
 - where rainfall is less and ground water has been depleted, other ways of improving water table to provide access to irrigation through integrated watershed planning, management and development should be explored.

Access to avenues of full, freely and productive employment

The approach paper to the Eighth Five-Year Plan (May 1990) candidly admitted that even after four decades of planning, the task of ensuring full employment and even a moderate standard of living for everyone remained unfulfilled and evident as shown by the following facts:

- the employment growth rate is much lower than rate of growth of GDP;
- it is much lower and slower than the labour force growth rate;
- productive employment for both men and women is not available throughout the year;
- the access to employment is inequitable for men and women as well as in between urban and rural areas;
- employment in the sweated sector is largely non-remunerative and is of poor quality;
- real wages have persistently remained low and even declined.

Some of the above conclusions have been confirmed by the findings of the 55th round of the NSSO Survey (July 1999-June 2000) on Employment and Unemployment in India.

The current employment situation in rural areas which has considerable bearing on the pernicious system of debt bondage is characterized by the following:

- lack of stable and durable employment caused by the excessive seasonality of employment;

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- the number of landless agricultural labourers is on the increase;
 - limited availability of land in terms of absorbing such growing number of agricultural labourers;
 - a number of agricultural labourers is simultaneously getting displaced from land;
 - such displacement is invariably accompanied by poor quality of employment that is also insecure and exploitative.

The National Commission on Rural Labour constituted by the Ministry of Labour (1987-91) set up study groups on the issue of employment and unemployment in rural areas. Amongst their many conclusions and recommendations, the ones that have maximum bearing on preventing occurrence and recurrence of debt bondage are:

- within the farm sector, focus should shift away from generating employment in crop production to:
 - strengthening the productive base through, for example, better soil and water conservation and management;
 - promoting ancillary activities such as animal husbandry, forestry, fisheries and agro-processing;
- in view of the growing marginalization of the peasantry and fragmentation of agricultural holdings, the emphasis should be to move away progressively from the farm to the non-farm sector in rural areas.

This recommendation has implications on the one hand for directing efforts towards skill formation and providing social and economic infrastructure (provision of credit and marketing support). Skill formation and upgrading programmes need requisite infrastructure for training, technology transfer, raw material, credit supply and marketing.

A balanced mix of avenues of employment opportunities in the farm as well as in the non-farm sectors such as undertaking massive public works programmes, freeing public works from the clutches of middlemen and entrusting them to village committees, linking employment and earnings with public distribution system, appear to provide some plausible answer to the problem.

Enforcement of the law on minimum wage and strengthening the public distribution system

Minimum wage is the rock bottom subsistence wage below which no industry or employer should pay. The Apex Court of India, in a judgment in the *Asiad Worker's case* in April 1982, held that the denial of minimum wage amounts to the existence of forced labour. The Apex Court, in the subsequent judgment (*Reptacos Brett Co. Case*), laid down elaborate norms and criteria that should be kept in mind by the Government when fixing minimum wages. These have reinforced the importance of the earlier observation. As a matter of fact, the Apex Court has held in another judgment that an establishment that cannot pay minimum wage has no right to exist.

In concrete operational terms, the following action would need to be initiated to fix, review, revise and enforce minimum wages so that wage employment is remunerative and there is no economic deprivation:

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- new employment should be added to the number of scheduled employments under the MW Act so that a maximum number of economic activities are brought within the purview of law;
 - the procedure for fixing, reviewing and revising minimum wages should be made simpler and take less time to be put into effect so that the wages so fixed and revised are in tune with the ground-level realities;
 - in view of the rapid changes taking place in the labour market, minimum wages should be reviewed once every two years (as against five years which is the case now);
 - a major portion of the wage should be paid in cash and not in kind since computation of cash value of wages paid in kind is fraught with severe limitations;
 - all cases of unauthorized deductions and those of payment of middlemen's commission should be severely dealt with by the law enforcing machinery.

Access to skill training for both skill formation and skill upgrading

Skill training is an integral part of the total process of human resources development. The process is directed towards imparting new skills which are need-based while sharpening and refining existing skills to make them market relevant. Such skills are multiple such as:

- life skills;
- communication skills;
- participation skills;
- survival skills;
- vocational skills;
- entrepreneurial, managerial and supervisory skills.

The following measures need to be adopted and implemented to achieve the desired objective of skill training as an effective tool of rehabilitation of freed bonded labourers:

- the existing skill training programmes such as TRYSEM and DWCRA should be fully harnessed for the benefit of freed bonded labourers;
- the existing norms and criteria for application of these skill training programmes for the benefit of the freed bonded labourers should be relaxed, keeping in mind their past years of servitude, illiteracy and socio-economic backwardness;
- a detailed exercise should be undertaken by each sectoral department/agency to identify the potential and opportunities in each area before schemes are formulated in cottage and village industries, handicrafts, small trade and business and establish a linkage with the training programmes in various ministries/departments;
- infrastructural and institutional arrangements for marketing, supply of raw materials and credit, etc., should be included into the programme so that the freed bonded labourer may have the necessary physical and financial wherewithal to start

producing soon after training and be able to sell the finished products at remunerative prices.

6.8. Priority No. VIII: Legislative aspects

Review and enforcement of the law relating to credit

Moneylending through the traditional channels is one of the most abhorrent practices in India today. The transaction is conducted under unequal exchange terms, is veiled in secrecy and without any transparency. This is true both before a person gets into the status of debt bondage and, ironically, even truer after a person has been released from debt bondage, since in the absence of any other alternative institutional mechanism, he/she has to turn to the same moneylender of the village. To ensure that the freed bonded labourers remain free forever and do not slide back into debt bondage, the vice-like grip of the moneylenders has to be completely broken. This can be done partly through stringent enforcement of the provisions of the law relating to moneylenders on the one hand, and by largely mobilizing and organizing the freed bonded labourers into cooperatives on the other. Gaps and omissions in the existing law need to be corrected to make moneylending a credible and transparent transaction. Simultaneously, the freed bonded labourers need to be mobilized and organized into cooperatives to liberate them fully from the clutches of moneylenders.

Enforcement of the law on elimination of child labour

All working children may not be bonded children, particularly those in a situation where the law permits the children to work. There may, however, be situations where children may be working in bonded or slave-like conditions. It is urgent and imperative that the State intervenes in such a situation to release all these children from work and to rehabilitate them so that the petals of childhood do not wither away before blossoming to the flowers of youth. This is the situation in which over 100 million children are placed in India. They are out of school, are victims of educational deprivation and many of them are working for long hours for a wage which is often a pittance in industries, occupations and processes which are clearly hazardous to their physical and psychological well-being and life. Ironically enough, the law in India largely tolerates the employment of children. It is a strange combination of prohibition and regulation that works mostly to the disadvantage of the children. While the law has prohibited employment of children in 70 occupations and processes over a period of 15 years since the law came into effect, it has permitted children to work in thousands of occupations and processes which are not considered to be hazardous. As of now, millions of children continue to work regardless of whether their employment in a particular occupation or process has been prohibited or not. Regardless of whether working children are bonded or not, there is an explicit danger that highly undesirable consequences follow such work. Children who are exposed to a very harsh work environment at a tender, formative and impressionable stage of their development lose their childhood (and all the excitement and joy associated therewith). As they cross the threshold of childhood and enter adulthood they would have lost much of the vital impetus that makes adulthood productive and meaningful.

A multi-pronged strategy needs to be adopted to deal with this problem. The following are the broad outlines of that strategy:

- launching a countrywide campaign with the help of printed, electronic and folk cultural media and that of NGOs for sensitizing parents, employers and all sections of the civil society, helping also to change preconceived cultural ways of thinking;

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- the central message of these campaign should be: (a) access to free, compulsory and universal primary and elementary education is a fundamental right of all children in the 6-14 age group; (b) the members of the civil society (including parents and employers) have no moral right or authority to deny children these rights; (c) child labour and educational deprivation are coterminous; and (d) no one has the moral right or authority to push children into the world of work against their wishes, thereby pushing them to the brink of near destruction of their lives;
 - imparting vocational skill training to the adults and making them learn an appropriate technology which would help to prepare them to replace children in specific industries particularly hazardous to the health and well-being of such children;
 - attaching the highest priority to release all children from the captivity of bonded labour keepers by stringent enforcement of the provisions of the Bonded Labour System (Abolition) Act;
 - opening special schools with the help of NGOs for rehabilitation of such children through education, nutrition and skill training;
 - linking free, compulsory and universal basic education of all children in the 6-14 age group to the elimination of child labour and making it an integral part of a long-term perspective plan, which would have a number of basic components in terms of location, architecture, school timing, selection, orientation and training of teachers, integrating work and study, integrating elimination of child labour in the curriculum, course content and textual materials for the school children, and achievement of the minimum levels of learning, etc.

Strengthening and activating the labour law enforcement machinery

There is a co-relation between the Contract Labour (Regulation and Abolition) Act, 1970, Interstate Migrant (Regulation of Employment and Conditions of Service) Act, 1979, Child Labour (Prohibition and Regulation) Act, 1986, and Bonded Labour System (Abolition) Act, 1976, even though these laws were enacted at different points of time and with different objectives. There may be situations when a contract worker or interstate migrant worker is called upon to render labour or service of the nature mentioned in sub-clause (i) of section 2 of the Bonded Labour System (Abolition) Act. Such workers would clearly come within the purview of the bonded labour system within the meaning of S.2(g) of that Act. It is precisely with this end in mind that an explanation was added to the Bonded Labour System (Abolition) Act in 1985 (Act 73 of 1985).

Similarly, a working child becomes a bonded child if it is established beyond doubt that a child is working in an establishment under conditions that come within sub-clause (i) of clause (g) of section 2.

There are several parts of India (and notably in Andhra Pradesh and Tamilnadu) where the parents take loan/debt/advance from moneylenders/contractors and pledge the services of their children to them. The children work under harsh and exploitative conditions until such time the loan is fully repaid. These children would undoubtedly come within the purview of S.2(g) of the Bonded Labour System (Abolition) Act and should be called bonded children.

Likewise, if children accompanying migrant parents (who are recruited by recruiting agents on payment of loan/debt/advance) are pushed to work against their wishes at the destination point they would come fully within the purview of S.2(g) of the Bonded Labour System (Abolition) Act.

Officers of the labour law enforcement machinery acting as inspectors at the central and state level should inform, equip and conduct themselves in such manner as would prevent contract and interstate migrant workers and their children from getting into debt bondage. The machinery needs to be strengthened and sensitized through training. Since one person is required to act as an inspector under a number of labour laws, it may be necessary to draw officers from various ministries/department and notify and train them so that the existing machinery is eased of its overburdened inspectorial role.

6.9. Priority No. IX: Strengthening and activating vigilance committees

Quite apart from the composition laid down u/s 13 of the Bonded Labour System (Abolition) Act, it would be appropriate to induct a few right-thinking and progressive-minded individuals and co-opt them as members of vigilance committees to make it broad-based and ensure its proper functioning.

Additionally a few other specific suggestions may be considered for strengthening and activating vigilance committees. These are:

- all vigilance committees should be reconstituted in the manner envisaged in law once every two years;
- the chairpersons of these committees at the district and subdivisional level should ensure that they meet at close and regular intervals;
- it would be appropriate if after the first meeting and after laying down certain guidelines the chairperson and members set out on field visits for identification of bonded labour systems;
- a selective and focused approach would yield desired results. Pockets that are prone to debt bondage may be identified first on the basis of locally available information;
- on the basis of field visits/surveys and the findings thereof the committees should be able to place concrete cases before the executive magistrate appointed u/s 21 of the Act;
- it may be appropriate if outside the ambit of law and purely as an administrative measure national and state level bodies are set up to oversee and review the functioning of vigilance committees and other related matters arising out of implementing provisions of the law.
- the body at the national level may be called “national authority on elimination of forced/bonded labour”. Similarly, the body at the state level may be called the “state authority on elimination of forced/bonded labour”;
- the national authority may be headed by the Union Labour Minister with representatives from the Planning Commission, Ministries of Rural and Urban Development, Home, Law, Information and Broadcasting, Health and Family Welfare, Education, Women and Child Development, Social Justice and Empowerment and Tribal Development as members;
- the state authority may be headed by the chief minister of the state. it may have representatives from Planning, Labour, Rural and Urban Development, Home, Law, Welfare of Scheduled Castes and Scheduled Tribes, Education, Health, Women and Child Development Departments as members;

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- representatives from central employers', trade union organizations and NGOs may be co-opted as members in both bodies;
 - in addition to overseeing the functioning and actual performance of vigilance committees, the central and state-level bodies would be responsible for formulation of policy and issue of directions for launching a countrywide advocacy/campaign for elimination of forced/bonded labour;
 - while overseeing the functioning of vigilance committees, the bodies at the national and state level may fix norms and criteria for selection of the best performing vigilance committee(s) at the district and subdivisional level for awards/rewards/incentives;

6.10. Priority No. X: Strengthening and activating the grievance machinery

Law is merely a framework, an enabling mechanism. While a law is enacted with the best of intentions, and duties and responsibilities of each actor are elaborately laid down in the framework of the law, in actual practice these are not performed at all or the performance is at best perfunctory. This is what gives rise to grievances of the aggrieved. To illustrate, the bonded labour keeper may not treat the statutory liability to repay the bonded debt extinguished. He may not vacate the attachment for recovery of bonded debt. He may not restore possession of any property belonging to a bonded labourer or a member of his family or any other dependent (which was forcibly taken over by the creditor).

It is necessary and desirable that there should be a mechanism as well as a procedure for airing and redressing all such grievances. The mechanism can be created and institutionalized at a number of levels:

- Ministry of Labour at the level of central Government;
- State Labour Department or such other department which handles the work of identification, release and rehabilitation of bonded labourers at the level of state government;
- district collector/magistrate at the district level;
- subdivisional/Taluk/Block/Mandal level.

The procedure to be followed at each level should be clearly laid down and should essentially cover the following:

- entertaining and registering the complaint;
- forwarding the complaint to the concerned quarter for investigation and submission of a report within a stipulated time limit;
- disposal of the complaint by issue of a proper order by the competent authority;
- communication of the order to the aggrieved;
- laying down a procedure for filing an appeal against the said order in case the complainant is aggrieved by the order;

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- laying down a procedure for constant review of the number of complaints filed, number of complaints disposed of and number of complaints outstanding at the district, state and central Government levels.

The “camp approach” adopted by the Government of Rajasthan in the 1980s was an excellent example of a proper mechanism and procedure for ventilation and redress of complaints by an aggrieved person in a totally open and transparent manner. Such an approach should be revived and applied all over the country to create a climate which would instil hope, faith and confidence in the minds of all bonded labourers. There is need for continuous surveillance over the functioning of such mechanisms at appropriate levels.

6.11. Priority No. XI: Cross-border trafficking of women and children

Trafficking generally refers to the recruitment and potentially to the transportation of persons within or across borders by use of deception, force or coercion. Trafficking should not be confused with voluntary labour migration (there is evidence that some children migrate voluntarily into highly exploitative situations). Besides, while prostitution is the most prominent reason for trafficking, it is not the only one.

The international solidarity, commitment and resolution to firmly deal with the issue was evident from a recent statement by Mr. Kofi Annan, Secretary-General of the United Nations. While addressing the opening ceremony for signing a new Convention against transnational organized crime in December 2000, in Palermo, Italy, he stated that “The trafficking of persons for forced labour and sexual exploitation was one of the most egregious violations of human rights which the UN now confronts”. He further added, “We will not accept a world where we must raise our children in fear”.

Causes and factors contributing to commercial sexual exploitation of women and children

Trafficking in children is caused both by economic factors and by prevalent structural inequalities and other social factors such as dysfunctional home life, cultural values, etc. In the context of India, even though it is a labour-receiving country (mostly from Bangladesh and Nepal), much of the trafficking takes place within its borders. A study by the Central Social Welfare Board reported that most children brought to cities like Bombay, Calcutta and Delhi come from states like Karnatak, Maharashtra, West Bengal and Tamilnadu. The following factors could be attributed to this phenomenon:

- sanctions and practices by certain castes/tribes like the *Nats/Rajnats* who were traditional performers in UP and Rajasthan, *Bedias* of UP, Rajasthan and Madhya Pradesh, criminal communities like *Bhartu* and *Habura* of UP, *Dehrdar* or former singers and dancers in UP, *Gandharvas* or singers in UP, and *Kanjars*, a wandering community in UP, MP and Rajasthan, provide yet another route. The loss of traditional means of livelihood due to the spread of modern forms of entertainment forces many of these communities to allow exploitation of their girls/women for economic reasons;
- the practice of dedication of girls in the name of God as in the case of *Devadasi*, *Jogin*, *Basavi*, *Venkatsani*, etc., even though banned in the states of Karnatak, Maharashtra, Andhra Pradesh, Tamilnadu and Goa (where they were previously practiced), continue on a lower scale in a clandestine manner in some of these states;

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- women who are in conditions of economic distress due to lack of ostensible means of livelihood, widowhood, separation from husbands, abandonment by family, etc., are forced against their will to become victims of commercial sexual exploitation.

Magnitude of the problem

The clandestine nature of these operations makes it extremely difficult to collect accurate, authentic and up-to-date data about the magnitude of the problem. A survey sponsored by the Central Social Welfare Board (CSWB) in 1991, in six metropolitan cities of India, indicated that the population of women and child victims of commercial sexual exploitation is between 70,000 to 100,000. The survey revealed that about 30 per cent of them are below 18 years of age. Nearly 40 per cent of them were inducted when they were less than 18 years of age. Seventy per cent of them are illiterate, while 43 per cent of them expressed a desire to be rescued.

Legal framework

The Constitution of India prohibits under article 23 trafficking in human beings. The Immoral Traffic (Prevention) Act, 1956, supplemented by the Indian Penal Code (IPC), prohibits trafficking in human beings, including children and lays down severe penalties. They prescribe punishment for crimes related to prostitution by both boys and girls who have not reached the age of 16 years.

The Juvenile Justice Act, 1986, provides for the care, protection, treatment and rehabilitation of neglected or delinquent juveniles including girls. The responsibility for enforcement of both the legislation and the IPC falls directly on the shoulders of the state government. According to all available indications the impact of various interventions – both legislative and administrative – has been minimal and trafficking, both within the country as well as cross border continues unabated. Generally speaking, the apathetic attitude from all sections of society to the issue of commercial sexual exploitation, lack of coordination between key players, risks including threat to life faced by social workers, NGOs and law enforcement officials, weak punishment for trafficking offenders, cumbersome repatriation process, and the social stigma attached to the victims, are factors responsible for the present unsatisfactory situation.

What can be done?

As the damage involved in trafficking is colossal and often irreparable, any plan of action – present or future – that is contemplated, must address the problem in its totality with all urgency and seriousness of concern. The plan of action to combat trafficking can be broadly divided under the following heads:

- prevention;
- protection and removal of children from trafficking situations;
- healing, return and integration of child victims.

Prevention

Prevention activities may take two forms: (i) those designed to increase community-level awareness of the problem; and (ii) those designed to provide alternative income generating or educational opportunities to children at risk. The first one is as important as the second one and must take place simultaneously in an even manner. Some

of the concrete steps that can be initiated to prevent trafficking both cross border and within the country, are illustrated below:

- producing prevention audio-videos in local language/dialect (relevant for members of tribal communities) as has been done in Thailand;
- formation of groups/sex workers' organizations to prevent trafficking of children (examples can be found in Calcutta, Mumbai, Dhaka and Kathmandu);
- imparting skills to children through effective income generation and education programmes that can be used by children to improve the quality of their lives and reduce the risk of girls being lured into trafficking situations;
- setting up contact centres for migrant girls and women in search of employment and in danger of falling into traffickers' traps;
- creating a safe and secure environment for women and children through formation of watchdog committees, community surveillance groups and neighbourhood forums to counter crimes against women and children.

Protection and removal of children from trafficking situations

Indian missions in important source countries should network with the Ministry of Home Affairs to spot areas from where there have been reports of organized trafficking to India so that movement of women and children across the border could be monitored. Strict instructions should be issued to immigration officers, border police authorities and local police in transit for the purpose of keeping a vigil on the entry of young girls under suspicious circumstances into India from neighbouring countries. NGOs should be associated by government to set up help lines and help booths in identified bus and railway stations as also sea routes (ports) and international river transport points. Police, railway police, port and transport authorities should conduct surprise checking and inspection of persons taking young girls and women under suspicious circumstances for the purpose of trafficking. Brothels and other establishments where children are trafficked and exploited should be raided and children rescued. The Government should appoint and train a group of police officers to work solely on trafficking related-offences. Much of the success behind all governmental initiatives would lie in establishing a proper coordination between government and NGO sectors.

Healing, return and integration of victims

The central objective of the entire exercise would be to enable the women and child victims of commercial sexual exploitation to recover and to reintegrate themselves into the social mainstream to lead a life of dignity, decency and self-esteem. This is the most difficult and time-consuming task in the entire process of dealing with trafficking. This is on account of the traumatic situation that trafficked children undergo and which carries much shock and shame. Consequently, trafficked children who are rescued from the clutches of perpetrators of the crime cannot just be picked up and dispatched to their destination in a mechanical manner. The process of successful integration or rather the reintegration into the social mainstream must address the health, psychological and emotional needs in their totality in a manner in which children would be assured and reassured that all is not lost and that they can get back what they have lost. What is needed is a network of protective homes which can provide girls and women with residential care, education, vocational training, medical and psychological services.

Repatriation and reintegration of trafficked children would require close cooperation and coordination between labour-sending and labour-receiving countries and among various actors at the governmental and NGO levels. Appointment of social workers who can maintain close and constant contact with the children who have returned, to reduce stigmatization and to provide counselling and alternative employment opportunities along with health care and medical services, could be some of the possible measures for such reintegration.

Economic empowerment of the victims should go side by side with social rehabilitation. Women victims should be guided and assisted to form SHGs to take up among other activities, thrift and credit. They could be assisted in this endeavour by the Rastriya Mahila Kosh (National Women's Credit Fund), banks, cooperatives, etc., for income generating activities. Women development corporations (WDCs) and others should be encouraged to take up training-cum-employment projects in both traditional and modern trades. They should be assisted for purchase of assets, infrastructure, raw materials supply, technical inputs and marketing tied up under the existing schemes of central and state governments.

7. Role of central employers' organizations

The main role and functions of a central employers' organization is to protect and promote the interests of its members. Employers' organizations, however, constitute an integral part of civil society and their interests cannot be different from or independent of social or national concerns. Any hiatus between business and civil society is bound to be detrimental to both. The needs of civil society that may sound heterogeneous are:

- demand for public goods (education, nutrition, health, skill training, social security etc.);
- demand for basic decent norms and standards at the workplace (elimination of forced labour, elimination of child labour, freedom of association, collective bargaining, equality before law and equal protection of laws);
- demand for the expression of human potential (employable skills, job security, employment security, decent conditions of work, etc.).

The employers and their organizations, as members of civil society, have a definite role to play in furthering these demands and observing these norms and standards. This has become particularly pressing after emergence of the nine principles of the Global Compact announced by the Secretary-General of the United Nations, Kofi Annan, at the World Economic Forum in Davos, January 1999, and formally launched in July 2000. The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards and environment. Elimination of all forms of forced and compulsory labour falls within the ambit of core labour standards with which there can be no compromise. It is non-negotiable.

The Government of India needs to initiate a dialogue with all six central employers' organizations to set in motion the following:

- identification of geographical areas and industries in each area which (on the basis of existing survey reports) are endemic as regards the existence of forced labour;
- issue a clear and categorical statement to the employers of industries in those areas to the effect that existence and continuance of forced labour in their establishments are not in order and must be ended;
- launch a media and communication campaign to highlight the damaging impact of the abominable practice of forced labour on the industry, on the shareholders, on the consumers, etc., and advocating the practice to be discontinued lock, stock and barrel;
- adopting areas and undertaking responsibility for rehabilitation of persons who have been victims of forced/compulsory labour through a series of measures which may be appropriate to a specific occasion;
- build up a synergy between programmes for the elimination of child labour and programmes for the identification, release and rehabilitation of freed bonded labourers.

8. Role of central trade unions

Workers' and employers' organizations have to devise a joint strategy with a common understanding about the vice of forced labour. The highlights of this strategy are:

- the issue of eliminating forced/bonded labour should be a topic for discussion in meetings of works committees and other consultative and participative forums found in an enterprise;
- in addition to having a correct understanding of the definition and concept of forced labour, there must be full agreement on the need for timely identification and release of persons who are alleged to be victims of forced labour, as well as on the need for their repatriation (if they happen to be migrant workers) and rehabilitation at their native habitat;
- employers of the establishment and trade unions operating therein should issue joint statements from time to time, reaffirming their faith and commitment to uphold the dignity, decency and freedom of labour and their united resolution to create a work environment where each one could participate and contribute to the prosperity of the enterprise along with the observance of conditions of dignity, equality and freedom.

Within the broad framework of such a joint strategy, central workers' organizations and their constituents can undertake the following specific activities to ensure that the phenomenon of forced labour does not occur and recur in any establishment:

- undertake awareness generation and sensitization programmes for constituent members to carry conviction to them that the existence and continuance of forced labour in any form is repugnant to civilized human conscience;
- integrate the issue of forced labour in all workers' education programmes which might be under implementation by the central workers' organizations at the relevant time;
- involve all sections of civil society and the local community for better detection and surveillance of the incidence of forced/bonded labour;
- incorporate the issue of elimination of forced/bonded labour into all collective bargaining agreements;
- undertake advocacy at both national and local government levels to highlight that forced and compulsory labour in any form is intolerable and must be done away with at any cost;
- undertake specific programmes for the identification, release and rehabilitation of forced/bonded labour.

As in the case of central employers' organizations, the Government in India should hold open discussions with all the eight CTUOs on the issue of elimination of forced/bonded labour with the following objectives:

- to involve trade unions in the process of collecting information on the existence of forced/bonded labour in specific regions/areas;
- to involve trade unions in the process of implementing programmes for rehabilitation of freed bonded labourers;

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- to involve trade unions in conducting programmes for the orientation and training of officers of law enforcement machinery as well as the chairpersons and members of vigilance committees at the district and subdivisional level;
 - to involve trade unions to act as ombudsmen for receiving complaints, for investigating complaints and for bringing correct facts to light on the basis of which timely action can be taken against the offenders.

9. The role of NGOs

NGOs should always be viewed as important partners and collaborators of government. Such a partnership should flow naturally and spontaneously from both sides. In the context of eliminating forced labour, the Government should invite NGOs for an open dialogue to plan a joint strategy instead of expecting NGOs to approach the Government for a partnership role. There are a number of good, reliable and committed NGOs which are largely non-political or apolitical and are based in remote, interior and inaccessible areas, and which have been working unremittingly to establish the much-needed outreach to the deprived and neglected cross sections of society (such as the bonded labourers), carrying hope, faith and conviction to them.

The role that such NGOs can play in eliminating forced/bonded labour can be outlined as follows:

- only such NGOs that have the correct understanding of the phenomenon of forced/bonded labour and which are willing to work in the direction of the elimination of such labour should be selected. The help of NGOs of repute and standing at the national and state level should be taken into account in the selection of such NGOs;
- such NGOs should be willing to adopt an area specific, time-bound, need-based, cost-effective and result-oriented approach;
- they can help the process of creating associations/groups of already identified and released bonded labourers and involve them in the task of identification;
- they can also mobilize SC and ST students and specially those from the landless agricultural labour families. Students of the above categories who also have a rural background should be first thoroughly trained and actively associated with the work of identifying bonded labourers as well as with that of organizing the work of relief and rehabilitation;
- the rural labour training camps being organized by the VV Giri National Labour Institute should be utilized for providing the right type of orientation to the student volunteers in handling the delicate task of identifying bonded labour systems;
- training of the student volunteers should primarily focus on the methodology of conducting a survey in areas where forced/compulsory/bonded labour is endemic on the basis of existing reports in a discrete and circumspect manner. All such surveys should be preceded by confidential inquiries in the neighbourhood through interaction with members of the local community in a non-intensive manner;
- while undertaking the survey with the help of student volunteers, the NGOs are likely to incur the wrath of vested interests. To counter this, the NGOs would need the support of the representatives of the people, i.e. MPs, MLAs, MLCs, members of local self-governing bodies, functionaries of all development departments, as well as that of officials of the law enforcement machinery. This would involve a great deal of planning and coordination;
- it should be clearly noted that the existing law has entrusted the responsibility for identifying bonded labour systems to vigilance committees at the district and subdivisional level. The involvement of NGOs and student volunteers with the task of identifying bonded labour systems should, therefore, be with the full knowledge and approval of vigilance committees and that of the DM and SDM which head them respectively;

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- it should be clearly noted that the existing machinery at the block, mandal, taluk, subdivision and district level, is totally inadequate to deal with the enormous task of identifying bonded labour systems. The officers of the machinery being saddled with their own responsibilities neither have the time nor the requisite attitude and approach so vitally needed to attend to an unconventional task such as identifying bonded labourers. What is of vital importance is that the official machinery in all humility should acknowledge the impossibility of the task and should gracefully involve the NGOs in the entire process of identification;

 - NGOs work and live with the people at the grass-root level. They have flexibility in organizational structure and operations. They have a team of committed and dedicated activists who are intimately involved with the working and living conditions of people at the ground level. This flexibility and presence of a hardcore team is the greatest strength of the NGOs. Apart from taking responsibility for identification of bonded labour through survey and rehabilitation of freed bonded labourers, the NGOs can be the most effective medium for transmitting the following central message:
 - the existence and continuance of forced labour is a crime and all outrage against humanity;
 - it is a negation of inalienable human rights;
 - it is a negation of all the values and principles reflected in the ILO's Constitution and Declaration of Philadelphia as well as in the Constitution of India;
 - it cannot be tolerated in any manner, in any form and in any part of the territory of a country.

This can be done through print, electronic and through folk-cultural media. It can also be done through songs, slogans, nukkad nataks (street theatres), skits, posters, role play and simulation exercises. The services of such NGOs should be enlisted for this purpose since they have amongst them first-rate creative thinkers, writers, playwrights, singers, dancers, painters and other artistes who can be the most effective conduits of transmission of messages relating to elimination of forced labour.

10. Conclusion

An objective and dispassionate analysis of the magnitude of the problem of forced/bonded labour in India vis-à-vis the constitutional and legal provisions and the countrywide efforts made to deal with the pernicious practice of debt bondage with a view to putting an end to it reveals the following.

India is a sovereign democratic republic with a free press, a parliament and an independent judiciary. It has clear constitutional and statutory provisions relating to elimination of forced/bonded labour. The Supreme Court of India has taken cognizance of the issue of forced/bonded labour on more than one occasion, has given a broad, liberal and expansive interpretation of the definition, has issued a number of directions to the central and state governments on the subject and has now entrusted the responsibility for overseeing the extent of compliance with its directions to the National Human Rights Commission. The latter is now directly monitoring the pace and progress of implementation of the directions of the Apex Court and will be reporting to the Apex Court from time to time. The state governments who are directly responsible for implementation of the provisions of the law as also the centrally sponsored scheme for rehabilitation of freed bonded labourers have filed independent affidavits before the Apex Court by way of reporting to the latter the present status of compliance with its directions.

These are positive developments and deserve to be commended. The magnitude of the problem, however, remains very large and even though a number of positive steps have been taken, a lot more remains to be done by way of planned, coordinated, concerted and convergent efforts. The issue of forced/bonded labour deserves to be attended to with a lot more urgency and seriousness of concern and in a time-bound manner.

The central objective of preparing a perspective plan was to highlight the following aspects of elimination of forced/bonded labour which are non-negotiable:

- the problem of forced/bonded labour in India is open-ended. it can occur and recur at any point of time. it does not cease to exist merely on account of enactment of a law nor on account of constitutional provisions;
- it is not confined to any particular sex or age group;
- it is the outcome of poverty, landlessness and lack of assets and various other forms of injustice and deprivation;
- no law is foolproof and everything cannot be stated in the framework of the law. To illustrate, the existing law is completely silent on the methodology to be followed for identification of bonded labour system. The law is silent on the modalities of socio-economic rehabilitation. In such a situation one has to think, reflect, critically analyse, apply one's imagination and come up with something which is not there in the body of the law and yet something which can be applied on the ground;
- in dealing with the problem one needs to adopt a non-formal, non-conventional and unorthodox approach which at the same time is intensely humane, patient, tolerant and catholic. Such an approach is likely to instil greater confidence in the mind of the people whom both the law and the programmes are meant to benefit;
- the basic approach to rehabilitation of freed bonded labourers is to treat them as free human beings with unsuspected possibilities. What is of utmost importance in such a process is the presence of all sections of a kind, compassionate and a caring civil society with equally kind and considerate individuals in charge of rehabilitation;

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- it is not possible for one single ministry, department or agency to take the entire responsibility for implementing all the components of rehabilitation to produce optimal results. One needs whole-hearted involvement of all ministries/departments/agencies to produce the desired results. One needs a convergent approach in which resources can be pooled from different departments and integrated in an imaginative manner to produce the desired results. One needs a multi-pronged and coordinated approach so that a number of operational areas (land allotment, land development, distribution of productive assets and their maintenance, marketing of milk, marketing of finished products in art/craft/skill-based programmes) can be properly coordinated by the nodal agency, all the loose ends tied up and timely corrective action taken to ensure the desired results in right time;
 - a group approach to rehabilitation is always preferable to individual beneficiary oriented approaches as it yields the following dividends:
 - social integration;
 - social safety and security;
 - accessibility/convergence of a number of agencies at a single point;
 - economies of scale;
 - significant improvement in quality.

A perspective plan essentially provides a direction which the policy formulators and programme implementers should follow. If there is a national policy, the plan may point out the gaps and omissions in the policy and suggest the correctives needed to bring the policy in tune with the ground level realities. If there is no national policy, the plan may help its formulation. Similarly, the plan may influence programmes on the ground where implementation may be flawed. The plan may accelerate the implementation process and may help to bring about qualitative improvement and change.

A perspective plan is not primarily a search for resources although resources – physical and financial – are extremely important and have to be tailored to the need. It is evident that no perspective plan can be put into operation without availability of adequate resources. Resources are needed to survey the identification and enumeration of bonded labourers. Resources are needed for the orientation and training of a large number of functionaries at various levels. Resources are needed for the rehabilitation of freed bonded labourers. Resources are needed for the monitoring, coordination and supervision and, lastly, for evaluation of the content, process and impact of the programme. If the domestic budget cannot guarantee financial resources of the desired size one has to look for external funding to supplement the domestic budget. The size of funds will, therefore, require to be precisely worked out. The decision whether or not to seek external support is, of course, entirely the prerogative of the national Government.

List of Declaration Working Papers

- No. 1 Bonded labour in Pakistan, by Aly Ercelawn and Muhammad Nauman, June 2001.
- No. 2 A perspective plan to eliminate forced labour in India, by L. Mishra, July 2001.