UNDATED
PROBABLY 1992

CHILD SERVITUDE IN INDIA

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Paradoxically, the South Asian Region, a reflection of the East known for its resplendent culture and civilization bears the scourge of having 80 million child labourers in servitude out of which 20 million are in chronic bondage. India presents a graver situation with staggering figure of 120-140 million working children. Of these, 55 million are languishing in servitude, out of which 10 million are in chronic bondage. It is distressing that the child bonded system has been thriving in blatant violation of the prohibitive laws of the lands.

The issue of the child servitude on this region was for the first time exposed at the Ist South Asian Seminar on Child Servitude organised by us in 1989 in New Delhi. Its deliberations inter-alia had an interesting and touching element of child labourers in servitude tendering their sagas of sufferings in 20 different testimonies.

Since 1990, Mr. Ehsan Ullah Khan, Chairperson, Bonded Labour Liberation Front, Pakistan and I have been representing this issue at UN Human Rights Sub-commission.

A second landmark was that SACCS held a seminar on Carpet Children in servitude in South Asian region in July 1992 at Delhi, where the plight and exploitation of 1 million children in India (3 lakhs), Pakistan (5 lakhs), and Nepal (2 lakhs) in Carpet Industry were highlighted. Here too, the then released bonded children from the Mirzapur & Bhadohi belt gave spine chilling accounts of atrocities inflicted on them by their employers to the audiance and the press persons.

Child Bonded Labour in India

It is a sad comment on the sensibilities of our society that the question of child servitude or child bonded labour has attracted very little attention so far. The issue is yet to be recognised as a specific problem and dealt as the most heinous crime against childhood. The existence of child labour with increasing unemployment is a matter of national shame, but if it is compounded with an element of slavery i.e. bondage, it becomes a scourge on the face of human dignity.

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As a matter of fact, in India the phenomenon of 'child bonded labour' was exposed in 1984, only after a sordid plight of 32 bonded children was brought into notice and limelight by my organisation through a writ petition No.12125/84 in the Supreme Court of India. These ill-fated children (aged 6-14) were kidnapped from village chhichori in Palamau district of Bihar and were subjected in bondage to a loom owner of Belwaria village in Mirzapur district of U.P. They were beaten up with bamboo sticks, hung upside down on a jack fruit tree and branded like animals with red hot iron rods, when they missed their parents at having fallen ill.

In the words of the then Chief Justice of India "Bonded Labour are non-beings, exiles of civilisation, living a life worst than that of animals, for the animals at least are free to roam about as they like or they can plunder or grab food whenever they are hungry but these are outcastes of the society held in bondage, robbed of their freedom and they are consigned to an existence where they have to either live in hovels or under the open sky and be satisfied with whatever little unwholesome food they can manage to get, inadequate though it be to fill their hungry stomachs. Not having any choice, they are driven by poverty and hunger into a life of bondage, a dark bottomless pit from which in a cruel exploitative society, they can not hope to be rescued" (In a judgement on writ petition No.1623/83).

Apart from the Article 4 of the Universal Declaration of Human Rights which declares "No one shall be held in slavery or servitude in all their forms". Article 23 of the Indian Constitution that ensures "trafficking in human beings and 'begar' and other similar form of forced labour is prohibited" and a specific law 'Bonded Labour System Abolition Act, 1976", which not only bans the system completely, but also declares it a cognisable offence under Cr.P.C. punishable with three years imprisonment to the bonded labour keeper, the practice is going on uninhibitingly.

In global perspective, the ILO (International Labour Conference 1983) classified child work in five categories i.e. (i) Domestic Work, such as clearing, cooling, washing, (ii) Non-domestic - non-monetary work, such as fuel and water collection in rural and running errands, guarding goods, marketing etc. in Urban sector, (iii) Bonded Labour, where child workers are kept in bondage because of their family's or individual's debt, (iv) Wage employment, where children work as part-time or piece rate or daily wage basis in domestic, agricultural or industrial activity; and (v) Marginal Work. The work may be irregular or of short-term nature such as newspaper rolling, shoe-shining, rag picking etc.

The component of debt bondage, force or compulsion is almost common in all the categories in Indian situation. Moreover, semi-feudal, master-servant relationship in which the servant is more or less obliged to serve the master is still existing in a large part of our country. When it is supplemented with the vicious circle of

indebtedness, power politics, caste structure it creates the most exploitative form of child servitude. Even in urban areas the agrarian mental make-up and relationship prevails in workers and employers engaged in un-organised sectors like stone mines, construction, fisheries, brick-kilns, small scale industries, etc. This leads to a search of cheap labour market, i.e. employment of children, repression of workers, non-enforcement of social legislation, bondage and trafficking of child labourers. Secondly, a nexus between power brokers, neo-rich and professional criminals is becoming stronger and a new class of criminal anti-social elements is rapidly emerging as 'middle men' or 'contractor'. They are minting money just for repressing and cheating workers. In most of the cities and towns these elements are real controllers of children working as news-paper hawkers, rag pickers, drug-carriers, shoeshiners and beggars. Thus the child workers become their easiest target. This repression ultimately results in child servitude.

The child bonded labour system could be further classified in two parts:

1. Inherent bondage,

2. Children subjected to bondage.

The most unfortunate part of this system which requires immediate attention and action is, that the children belonging to bonded labourers are born slaves. Millions of such enslaved children have no recognition either as "child labourers" or as "bonded labourers". It is in-built in the system that they have to work for their father's/mother's master without any wages. If unfortunately a bonded labour dies, the responsibility to pay off the debt automatically shifts to his children. Only then he is recognised as bonded labour. This indebtedness never ends in practice and one has to languish in servitude for generations together.

The children who are forced to work as bonded labourers for small amount of loan taken by their parents or themselves fall under second sub-category.

The main reason for the exploitation and subjugation of these children is the poverty, illiteracy, backwardness, rural indebtedness and unemployment of their parents. The deprived sections of the rural society are becoming much more poorer due to the result of wrong policies, priorities and development planning adopted by the Government which is infact for the betterment of the ten percent elite of the country. The children are the worst victims.

The social backwardness is also an important element in our heavily caste-ridden society. The Supreme Court Commissioner (in our Writ Petition No.12125/84) revealed that "96% of the total child workers in Mirzapur belt belong to scheduled caste, scheduled tribe or backward classes. Nearly 72% of these children were bonded for the small loans between Rs.200 to Rs.1000. 75% of those children found totally illiterate, the study further says "Because of their chronic poverty conditions the parents of these children are compelled to 'allow' them to work in the looms or they are lured away or kidnapped to join the vast child work force in the carpet weaving industry". The agrarian backwardness of the regions in which mostly the occupations are carried out and from which the tribals and semi-tribals hail, having no where-withal fall easy prey to the system of bonded labour. The multinational projects going in for dam construction and denuding the forests, for example, are also a mighty contributory factor. These conditions are almost similar in other industries. Hence these fall in the second category of bonded children.

Legal Criteria

According to Bonded Labour System Abolition Act 1976, the Bonded labourers are persons who are bound by loan/debt/advance/ surety of any social customary for a debtor bondage to individuals/group of persons/concerns to provide services voluntarily/with an element of force.

(1) At wages less than the statutory minimum wages of the Government,

(2) Foregoing the freedom of employment/occupation,

(3) Foregoing the right to free movement throughout the territory of India, or and

(4) Foregoing the legitimate right to enjoy the product of their labour and prosperity, for a specific/unspecific period irrespective of their being contract/migrant labour.

Hence the law is very clear but the bureaucrats always deny the incidence of bondage in child labour. They outrightly shift the case of child bonded labour to an ordinary case of child exploitation. This callous attitude of state governments compelled the Supreme Court of India to comment in a land mark judgement in 1983. "It is indeed a matter of regret that the state government should have insisted on a formal, rigid and legalistic approach in the matter of statute which is one of the most important measures for ensuring human dignity to these unfortunate specimens of humanity who are exiles of civilization and who are leading a life of abject misery and destitution. It would be cruel to insist that bonded labourer in order to derive the benefits of this social welfare

lesiglation, should have to go through a formal process of trial with the normal procedure for recording evidence. That would be a totally futile process because it is obvious that bonded labourer can never stand up to the rigidity and formalism of the legal process due to his poverty, illiteracy and social and economic backwardness and if such a procedure were required to be followed, the state government might as well obliterate this Act from the statute book."

The state authorities always insist that the factor of advance or loan must be provided by the child labourer. This is extremely difficult, so the Supreme Court further says, "Therefore, whenever it is shown that a labourer is made to provide forced labour, the court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act. The State Government cannot be permitted to repudiate its obligation to identify, release and rehabilitate the bonded labourers on the plea that though the concerned labourers may be providing forced labour, the State Government does not owe any obligation to them unless and until they show in an appropriate legal proceeding conducted according to the rules of system of justice, that they are bonded labourers.

Punishment remains illusive

There are many causes that perpetuate the evil. The one of great significance is the apathy of the machinery and its connivance with the culprits and offenders. An illustration is provided here:

'It, however, needs mentioning that once in a bloom, a rare species of compassionate and conscientious officer may appear on the scene and may be a real help. As in a recent case in India 33 bonded labourers were indentified in November, 1988 and included 11 children. This is the first case in India of North stone quarries (Gurgaon-Haryana) where even the children were issued release certificates independently. A young I.A.S. Sub-Divisional Magistrate in this case showed deep concern over the out-moded inhuman system and released them all forthwith and sent the culprits to judicial custody. But even with the well-intentioned officers the freak of law provides difficulties. Under the summary trial, punishment can be awarded for 3 months, whereas under the BL Act it can be given up to 3 years. Then the process is lengthy and protracted. And for conducting proper summary trial coordination among various agencies like Sub-Divisional Magistrate, Police and District Attorney is indispensable. This does not show up in experience. This is a technical limitation that seriously hampers the speedy disposal of

the case in accordance with the spirit of law. What is worst, is even apart from the technical limitations, the malfeasance of the officers resulting in subverting of law, evading of punishment to the offenders.

We also made an attempt to make a rapid assessments of child bonded system obtaining in some industries including hazardous which are given as under:

Agriculture Sector

The traditional form of the slavery is more conspicuous in agricultural sector where about 80 lakh children are engaged, most of them are in bonded system. These children fall under the age of 7-14 years and their working hours are from dawn to dusk. Sometimes they have to work in the houses of their masters till late night. The bulk of the 88 percent belong to scheduled caste and scheduled tribe. As known these people are generally landless and/or holding a marginal piece of land. Owing to their poverty, illiteracy, and ignorance they are easily cheated and specifically through false documents.

Most of the child bonded labourers are trapped into bondage soon after the father is dead and it is maintained that the debt once borrowed by the disceased father has to be squared up by the offsprings. They are forced to work in agriculture operation, fodder gathering, tending cattle etc. With them are related harrowing tales of sufferings - hunger, sickness, beating, sexual abuse etc. They live under malnutritional condition and scantily dressed. Most of these children do not get wages in cash. They are provided coarse meal twice a day.

Carpet Industry

In Carpet Weaving Industry the number of child labourers goes up 300 thousand and out of this 66% are working at Mirzapur and Varanasi in the State of U.P. The face of heavenly Kashmir Valley is painted so badly by the grim plight of 80,000 child labourers. These ill-cared children are forced to serve for quite a long period say 12 hours to 16 hours per day. Children from backward tribal areas like Palamau in Bihar are brought to the mills of Mirzapur and Varanasi. Of the total child work force serving in Kashmir, 90% survive through chronic bondage. Cases of kidnapped children forced to toil spring up quite oftenly. Child Bonded labourers in Kashmir Valley are mostly from poor Muslim families. Generally these children are 'marked' through middlemen. The parents are given a loan of Rs.100-1000 in the initial stage and this amount leaps up to several thousands in coming days and illiterate children ultimately fall into sheer bondage.

Handloom Industry

According to the survey in the handloom industry of Kanchipuram about 20,000 children in the age group of 7-14 work for just 2 rupees a day. Working hours are not fixed generally, 10-15% children owe bondage debt and exist in chronic bondage.

Fire Works Industry

The case of Shivakasi Match and Fire Works is a composition of extremely hazardous work and the sheer bondage of nearly 20,000 children. Percent wise they make around 40% of 50,000 children serving their heartless masters. Amidst explosions and frequent casualities children (age group 4½ - 14 years) toil for 10 to 12 hours daily recruited directly or through middlemen. The hazardous work atmosphere takes tolls often and many succumb to explosion, ailing neck and back and loss of fingers. The burden of debt is there to torture them mentally every minute.

Glass & Bangles Industry

50,000 children in the age group of 5-14 are bound to toil so close to the furnace of 1300° temperature and to run at a fast speed on floor stream of glass pieces in the glass and bangles factory of Ferozabad what do they get in return: hardly 5 rupees a day. They become frequent victims to Asthma, Bronchitis, Eye defects, Lever ailments, Skin burns, Chronic anaemia, retarded growth and TB. 80% of these children owe chronic bondage.

Diamond Cutting & Polishing

The study made on the Diamond cutting and polishing factories of Surat and Jaipur heightens the contrast. 65,000 little jewels of India receive Rs.8/- after a restless toil of 8-10 hours a day. 80% of children in Surat and 20% in Jaipur are facing chronic stage of bondage. Viral and urinary infections in addition to TB, skin diseases and eye-defects is what they receive in return after surrendering childhood-freedom completely. The serfdom they are forced into remains hereditary usually. Middlemen are there to see that the servitude is inherited by the growing babe hundred percent. Indebtedness here too plays the key role.

Lock Making

Aligarh, the Mecca of Muslim studentship, is famous for locks. And behind this lock business develops the grim plight of

10,000 growing-up children, 25% of them are severely bonded. 90% of them are from Muslim families. The bondage is a hereditary one. A toil for over 12 hours, wage remains well under Rs.3 a day, they receive asthma, TB and skin diseases as bonus.

Brick Kilns - Stone Quarries - Construction etc.

Number of children serving their masters in the Brick-Kilns, stone quarries and construction sites goes up to 3 million. 25%, 40% and 25% owe chronic bondage in the respective works. They in normal course are not recognised as individual labour unit for payments. There is constitutional ban on bonded labour but a contrasting actuality was so easy to be deciphered on the face of child bonded labourers brought from a stone quarry of Haryana to press conference in Delhi on the eve of 26th January, 1990.

Approach & Experience

In last 12 years we have been successful in getting about 40,000 bonded labourers released, of these 20,000 were child bonded labourers.

The child labour's issue has now assumed a new perspective - a regional one, which calls for joint efforts to combat it and eliminate it.

Our functional approach in case of child bonded labourers could be divided in three parts:

(a) Identification, Release and Rehabilitation of bonded labourers.

(b) Awareness building, organisation, mobilisation struggle of down trodden of the society to achieve their constitutional and legal rights.

(c) Consumers' awareness campaign.

The callous nexus between the feudal landlord or masters, local politicians and govt. officials has defeated the very purpose of Bonded Labour Abolition Act and legitimisation which ensures the complete ban on Bonded Labour and Child Labour below 14 years.

In the entire process of identification, release and rehabilitation what is most crucial is the gap that one encounters in the endeavour leading to the three respective steps. That is, if time taken by the social workers, say in the process of identification and getting it accredited by the District authorities, is considerable, much of the success achieved can be neutralised by it. For the delay gives offenders much valuable time to browbeat

the efforts of the activists. Similarly, the gap between Identification and effective Release, Release and Rehabilitation spoils the whole prospect of emancipating the down-trodden who have nothing to/ the clutches of barbarous men. Rehabilitation takes place under various schemes of the Government for different purposes. The Government and its machinery is least bothered about this scheme.

/ get out

Relating to Carpet Industry, where bonded child labour system is predominant, our struggle have added a new dimension of launching a Consumer Awareness Campaign in collaboration with our counterpart in Europe and USA and it has been picking well. In consequence, two land mark developments have occurred. First, a group of manufacturers, whose conscience was kindled by our campaign and inter-actions breached away from their tradtional association and formed its own Association titled "Carpet Manufacturers' Association (without child labourers)" with ethics of producing carpets free of child labour. This Association is going ahead in its new pursuit and takes all steps to ensure that children are not employed at the looms linked with its members. The second is that there is growing realisation among consumers of carpets in foreign countries on exploitation of children in this industry. The importers have also shown concern and are pressurising Indian exporters to produce carpets without child labour. Besides, the Associate organisations are building up lobby to pressurise their respective governments to pass legislation banning import of carpets made by children.

Conclusions and Recommendations

The child slavery is the most ugly scourge on the face of human civilisation. It is not an isolated problem. It has its global and local dimensions. This is the worst consequence of the present day set up and goings on of the world economy and politics-oriented role of super powers, multi-nationals, rapidly growing cultural imperialism which has become inevitable in policy-making in the southern world which ultimately destroys the poor masses of these countries. On the other hand, the 5% ruling elites of under-developed and developing countries are engaged in building up some islands of prosperity at the cost of 95% poor masses. The heavy influx of automation, computerisation, unbalanced modernisation vanished the indegenous socio-economic structures of our societies.

Hence the real and ultimate solution of the problem of child bondage lies in improvement of the toiling masses. As short-term remedies I put forward the following recommendations for the consideration of the Indian Govt. through this seminar :

(1) The Govt. should ratify the Child Rights Convention of United Nations.

(2) The total ban on employment of children in any industry be enforced at any cost.

(3) Income generating schemes should be initiated in those areas where the vast majority of child workers come from. The earning of the parents of such children should be increased ensuring atleast minimum wages for their work.

(4) The children born in bondage must be recognised as bonded and released as per law.

(5) National Commission on bonded labour should be formed. The Commission comprising one or two concerned retired judges of the Supreme Court, dedicated high govt. officials and representatives from NGOs already involved in the movement, should be given statutory powers to identify and release the bonded labourers to supervise the course of rehabilitation.

(6) Proper coverage must be given to the legal enactments and other Govt. welfare schemes on Radio/TV and other Govt. sponsored mass-media.

(7) A global net-working of all these concerned with the abolition of the pernicious system of child labour should endeavour to campaign for the boycott of goods produced by child labour.

(8) The labour department officials should be held accountable for any child found labouring for more than three months.