



UN Sub-Commission on the Promotion and Protection of Human Rights

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Discrimination on the Basis of Work and Descent

THE ENSLAVEMENT OF DALIT AND INDIGENOUS COMMUNITIES IN INDIA, NEPAL AND PAKISTAN THROUGH DEBT BONDAGE

Summary: This paper describes the gross and continuing violation of the rights of millions of people in India, Pakistan and Nepal¹, who are trapped in debt bondage and forced to work to repay loans. Their designation as persons belonging outside the Hindu caste system is a major determining factor of their enslavement. Evidence from all three countries shows that the vast majority (80%-98%) of bonded labourers are from communities designated as “untouchable”, to whom certain occupations are assigned, or from indigenous communities. In the same way that caste status is inherited, so debts are passed on to the succeeding generations. It is recommended that the United Nations take steps to inform the Governments of India, Pakistan and Nepal that this form of racism and discrimination is no longer tolerable.

Debt bondage and the law

Debt bondage is prohibited under the United Nations Supplementary Convention on Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956). It is also forbidden under the International Labour Organisation’s Convention 29 (1930) on Forced Labour.

- A) **India.** Article 23 of the Indian Constitution forbids the use of forced labour, and bonded labour is specifically outlawed under both the 1976 Bonded Labour System (Abolition) Act and the 1989 Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Administrative mechanisms for the identification, release and rehabilitation of bonded labourers exist

¹ At the time of writing it is not known how many, if any persons from Dalit and Indigenous communities are in debt bondage in Sri Lanka and Bangladesh. Uncorroborated reports have suggested that people from “hill tribes” in Bangladesh are working to pay off debts.

throughout the country in the form of “Vigilance Committees”. In reality, the absence of a political will to take a firm position on debt bondage at national and state levels means that these Committees exist largely on paper. India has ratified the ILO Convention 29 on Forced Labour.

- B) **Pakistan.** Debt bondage is prohibited by the Bonded Labour System (Abolition) Act, 1992 and the Bonded Labour System (Abolition) Rules, 1995. Here too, Vigilance Committees are said to exist for the purpose of overseeing the release and rehabilitation of bonded labourers. Pakistan has also ratified ILO Convention 29.
- C) **Nepal.** Article 20 of the 1991 Constitution of the Kingdom of Nepal prohibits forced labour as does the country’s civil code – the *Muluku Ain*. In July 2000 the Government announced that it would introduce a specific law against bonded labour, and draft legislation was drawn up in November 2000. No date has been set for presentation of the legislation to Parliament (February 2001). In 1999 Nepal indicated its intention to ratify the ILO Convention 29.

While the introduction of domestic legislation is a prerequisite for tackling bonded labour, it has not been sufficient in itself to ensure that it is effectively eliminated. There are a number of reasons for this. Firstly, those who keep and control bonded labourers – landlords, factory owners, hotel and restaurant owners, quarry owners, etc. - are able to bribe officials to ensure that cases are not investigated, or do not reach the courts. Secondly, intimidation, threats and actual violence are used to prevent bonded labourers or non-governmental organizations seeking their release through the law. Thirdly, because they are from Dalit (untouchable) and lowest caste groups, bonded labourers are subjected to discrimination and gross violation of many of their human rights.

Bonded labourers are one step away from destitution. Working for their master is their only means of ensuring some food for themselves and their families every day, and of securing shelter, often in the form of a mud and straw hut. Access to a pool of dependent and permanently available labour suits the landlords and employers of bonded labourers; although they begrudge the loans, the reality is that the labour obtained in this way is exceptionally cheap, docile and dependent.

Bonded Labour in South Asia: the statistics debate

While it is widely accepted that debt bondage exists in India, Nepal and Pakistan, there continues to be considerable controversy regarding the number of people actually held in bondage. It should be noted here that most official statistics cover male bonded labourers only. However, it is commonly found – in agriculture, brick kilns and quarries, that other family members are also working to pay off loans from landlords and employers, but are not included in statistics.

In India, estimates vary between Human Rights Watch’s estimate in 1999 of 40 million bonded labourers, and figures provided to the International Labour Organisation in June 1998 in response to questions raised by the ILO’s Committee of Experts in June 1998 (copy attached). In responding to the Committee’s repeated

request for a comprehensive survey, a representative of the Government of India stated that 251,000 bonded labourers had been identified , of whom approximately

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231,000 had been rehabilitated.

The Indian Government's official figures grossly underestimate the scale of the problem. The 1978-79 survey, which was carried out jointly by the Gandhi Peace Foundation and the National Labour Institute, estimated that there were 2,617,000 bonded labourers in the ten states surveyed. It should be stressed that this survey only looked at bonded labour used in the agricultural sector. The more recent report submitted to the Supreme Court by the Commission on Bonded Labour in Tamil Nadu (31 October 1995) estimated that there were approximately 1,250,000 million bonded labourers in Tamil Nadu alone. Given the prevalence of bonded labour in other Indian states – Haryana, Punjab, Uttar Pradesh, Bihar, Maharashtra, Rajasthan, Madhya Pradesh, Andhra Pradesh, etc. it seems more likely that the correct figure is more likely to be in the region of 20 million.

In Pakistan, the official number of bonded labourers is said by the Government to be between 5,000 and 7,000 persons. This also seems to be a completely unrealistic figure. The most recent survey of bonded labourers – carried out for the International Labour Organisation by the Pakistan Institute of Labour Education and Research in October 2000 - indicates that up to 6.8 million persons were living in conditions of bondage as share croppers in Sindh Province – i.e. were forced to give unpaid labour to their landlords. A more conservative estimate - counting only those who said they were indebted to their landlord - would be 1.8 million persons. The majority of these are “untouchable” Hindus. The same study estimates that across the 4,000 brick kilns in Pakistan, up to 700,000 persons are in debt bondage, over half of them women and children. These figures do not include workers in carpet weaving factories, where it is known that there is a high incidence of debt bondage and child labour.

The Government of Nepal acknowledges that the problem of bonded agricultural labourers from the indigenous Tharu community needs to be urgently addressed. In total, based on three studies carried out by different organisations in 1992, 1994 and 1995 it can be estimated that there were (until July 2000) between 70,000 and 110,000 persons from the Tharu indigenous community in debt bondage in five districts (Kanchanpur, Kailali, Bardiya, Banke and Dang) under the system known as “*Kamaiya*”. The recent Government order outlawing debt bondage has caused tens of thousands of bonded “*Kamaiya*” families to be either pushed out by landlords or to leave of their own free will. In spite of the existence of available land, and pledges of substantial funds from the International Labour Organisation (among others) concrete assistance for rehabilitation has not been provided to communities of freed bonded labourers. At the time of writing they are living precariously in plastic and cardboard camps. Approximately 3,000 *Kamaiya* families remain in bondage – unable, or unwilling to leave their landlords.

The figure of 70-110,000 persons in debt bondage as “*Kamaiya*” does not include debt bondage in other parts of Nepal, where agricultural labourers – known as “*Haliya*” are bonded to landlords from whom they have taken loans. A survey of 600

Haliya extended family households carried out in Baitadi District (Far Western Region) in 1999 found that the majority were providing unpaid labour to landlords as

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interest on loans which they had received. Their only payment for this work was a daily meal. All but one of the 600 households were Dalit. A survey in Saptari District (Eastern Region) undertaken in January 2001 found that, there too, Dalit agricultural labourers were working to pay interest on loans taken from landlords.

Caste Discrimination

One of the most striking features of debt bondage in South Asia is that it is largely confined to people who are designated as being outside the Hindu caste system – Dalits and indigenous communities. In India, and Nepal, the majority of the population is Hindu and maintains a political, economic and social order which is based on caste discrimination. In both India and Nepal, Dalits and indigenous (tribal) communities are systematically discriminated against in terms of education, employment, and social relations.

By tradition, and according to ancient Hindu doctrine, Dalit people are assigned specific tasks they must undertake for the community, such as sweeping, cleaning, tanning, ploughing, removal of animal and human waste, snake catching, etc. Higher castes must not allow themselves to become polluted by undertaking these tasks, and Dalits are expected to do this work without any payment. In rural societies, a refusal will lead to ostracisation and violence. This so-called “free” labour is known as *begar* in Hindi, Sindhi (Pakistan) and Nepali. Within rural agricultural communities, *begar* is extracted by landlords in India, Nepal and Pakistan from women, children and old people, who must clean and feed animals, and clean the landlords’ houses. Failure to do this work would lead to eviction. The origin of debt bondage lies in this requirement to give service without payment. However, human beings cannot survive without food and shelter, and cash is required for medical care, and social obligations at times of death and marriage. Landlords and employers who require a more permanent workforce provide loans as a means of forcing workers to stay with them permanently. Usually, debts are passed on from father to son, husband to wife, thereby causing enslavement to the same employer for generations.

In Sindh Province in Pakistan, the majority of agricultural labourers and share-croppers are originally from India – from Kohl and Bhil communities who migrated before partition. Most of these labourers and tenants have some form of debt relationship with their landlord, and are grossly exploited. In the worst cases – notably in Lower Sindh – bonded agricultural labourers work under guards in the fields, and are kept under lock and key at night time. Documentary evidence of murder, rape, kidnapping and physical assault has been provided to the authorities by the Special Task Force on Sindh, a branch office of the non-governmental Human Rights Commission of Pakistan.

Conversion to other religions has often been seen as a way of escaping from such discrimination and exploitation. However, the majority of bonded labourers in the brick kilns of Pakistan are converts to Christianity from the “sweeper” (Dalit) caste.

In Haryana and Punjab (India) bonded labourers within the Sikh community come from ex-Dalits.

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Government Responses

Anti-Slavery International has consistently raised the problem of bonded labourers in several fora – notably the UN Working Group on Contemporary Forms of Slavery, the UN Commission on Human Rights, and through member organizations of the International Labour Organisation. It has also regularly addressed its concerns directly to the relevant governments. Without fail, the responses a) convey the impression that legal and administrative arrangements are in hand to deal with the problem; b) suggest that the number of people in bondage is not a significant problem; and c) give details of programme initiatives which, it is said, will resolve the problem. The letter dated May 11, 2000 from the Government of Pakistan’s Secretary of Labour to the European Union Ambassador in Pakistan (copy attached), is a very typical example. “It may not, however, be possible to give some concrete information regarding the actual situation of bonded labour. In this regard no survey was carried in the past. A general view is that bonded labour in Pakistan is not wide spread. After the enactment of the law namely; the Bonded Labour System (Abolition) Act, 1992, stringent measures have been taken by the Government to ensure that the law is fully implemented. District-wise Vigilance Committees represented by NGOs and other relevant groups have been constituted to oversee the implementation of the law. The reports sent by the field formations in the government machinery hardly identify the existence of labour in bondage – so much talked about. It seems that apparently the magnitude is exaggerated because of vested interests.”

In spite of the above-mentioned evidence of tens of thousands of bonded labourers being kept illegally by landlords in Sindh Province, District Magistrates in Umerkot, Sanghar, and Mirphurkas refuse to take action, according to the law.

The International Labour Organisation has consistently called on the Government of India to take action on bonded labour, noting on 8th June 1998 that “...until today no comprehensive survey existed: the Government had announced a number of 256,000 bonded labourers freed; other estimates referred to 5 to 10 million bonded labourers. They said that the Human Rights Committee of the United Nations had also observed a lack of effective measures to eradicate this problem. The Government has made reference to the [individual Indian] States’ responsibility to identify the magnitude of bonded labour and to release bonded labourers and also referred to meetings between central and state governments, but there had never been a final decision coming out of that. Moreover, state governments denied the existence of bonded labour, and the Government attended the outcome of [the] Supreme Court’s decision before taking a final decision on the need for an all-India survey to discover the extent of bonded labour.....”(copy attached).

The declaration by the Government of Nepal in July 2000 that debt bondage was prohibited, and that a law would be passed soon after by Parliament was very

welcome. It remains to be seen whether the administrative and legal mechanisms will be put in place to ensure that no one is able to keep workers in bondage with impunity.

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The evidence from India and Pakistan suggests that impunity is the norm. It is the contention of Anti-Slavery International that the authorities fail to act because the victims are treated as people who are “polluted”, “low caste” or outside the caste system, by reason of their birth and occupation. This failure to act constitutes a serious form of discrimination.

Recommendations

- That the UN Sub-Commission on the Promotion and Protection of Human Rights inform the Governments of India, Pakistan and Nepal that debt bondage is an intolerable form of slavery and must be eradicated
- That the attention of the Governments of India, Pakistan and Nepal be drawn to the evidence for discrimination on the grounds of caste-based occupation and descent in the case of bonded labourers, at the forthcoming World Conference Against Racism
- That the Governments of India, Pakistan and Nepal be informed that serious and urgent measures must be taken, to end this form of discrimination. Among which should be: comprehensive national surveys of the existence of debt bondage; evidence of prosecution of those who keep bonded labourers; evidence of the release and rehabilitation of bonded labourers.

References

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3. Anti-Slavery International. *Submission to the UN Human Rights Commission*, 1997.
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5. International Labour Organisation. *86th Session. Report of the Committee on the Application of Standards*, 8 June 1998.