

Fact-Finding Report on the rescue of trafficked bonded labourers

from

Modi Bhatta, Akla Village, Aklav Tehsil, Anand District, Gujarat

1. The National Campaign Committee for Eradication of Bonded Labour (NCCEBL) received information about a 39 bonded labourer has been forcefully working at Modi Bhatta Akla Village, Anklav Tehsil, Anand District, Gujarat which is under your jurisdiction. These labourers belong to the state of Uttar Pradesh.



2. The rescue team that went from Delhi was constituted as follows:

1. Mr. Arun Kasi, Advocate, Human Rights Law Network (HRLN), Delhi.
2. Ms. Aishwarya Adhikari, Co-ordinator, Bread For The World.
3. Mr. Pratik Rupala, Advocate, Human Rights Law Network (HRLN), Gujarat.

3. Support Organisations-

1. Human Rights Law Network, Delhi.
2. Action Aid Association, India.
3. National Campaign Committee for Eradication of Bonded Labour.

4. The objective of the Fact-Finding: Rescue of 39 trafficked bonded labourers from Modi Bhatta, Anklav Tehsil, Anand District, Gujarat owned by Mr. Akram Ali and Mr. Rajesh Ghai.

5. Rescue operation: On **14-01-2020**, we have sent an e-mail to the district magistrate of Anand district for the rescue of these bonded labourers.

On **20-01-2020**, during 66 bonded labourers were rescued from Modi Bhatta Brick Kiln, Anand, Gujarat by the joint efforts of District Administration, Anand, Gujarat and NCCEBL, HRLN and Actionaid Association.



A rescue team that was constituted by the administration was as follows:

1. Superintendent of Police, Anand.
2. Sub- Divisional Magistrate, Borsad.
3. Government Labour Officer (Farm), District Service Sadan, Anand.
4. Mamlatdar and Executive Magistrate, Anklav.
5. District Child Protection Officer, Anand.

During the rescue operation it was found out that they bonded labourers were trafficked from Uttar Pradesh. These bonded labourers were working at the above mentioned location for the past 4 months for 12 hours per day in the night from 10:00pm to 10:00am. They were never paid any wages and were forced to do beggar which directly violates Article 23 of the



Constitution of India. It was found out that

these labourers were not provided with basic amenities like food, water, medication etc. One of the labourers name Nasir stated that they were not provided with food for the past 5 days and were mercilessly beaten and threaten by the principal employer. They had restriction on movement and employment. Whenever they prayed for their earned wages they were beaten by the principal employer. The labourers stated



that they were also not allowed to go to hospital even if they are not well or suffering from injury.

These workers were provided night shelters and were repatriated two days later to their native place which is in district Kasganj, Uttar Pradesh.

6. Blatant and gross violation of laws:

There has been a gross violation of Article 23 of the Constitution of India.

Article 23: Prohibition of traffic in human beings and forced labour

(1) Traffic in human beings and **begar** and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

The **Bonded Labour System (Abolition) Act, 1976 in Section 4 states: Abolition of bonded labour system.**—(1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour. (2) After the commencement of this Act, no person shall—(a) make any advance under, or in pursuance of, the bonded labour system, or (b) compel any person to render any bonded labour or other form of forced labour. COMMENTS The bonded labour system has been abolished from 25th October, 1975 and every bonded labourer has been set free and has been discharged from any obligation to render any bonded labour from this date. No person is allowed to make an advance under, or in pursuance of the bonded labour system. No one can compel any person to render any bonded labour or other form of forced labour.

There has been a violation of the Indian Penal Code 1860. Section 370- Trafficking of Person- Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—
using threats, or
using force, or any other form of coercion, or
by abduction, or

by practising fraud, or deception, or

by abuse of power, or

by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanations

1. The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

2. The consent of the victim is immaterial in determination of the offence of trafficking.

Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.

When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.

Section 371. Habitual dealing in slaves—Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Section 374. Unlawful compulsory labour— whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

The concerned district administration is empowered as per the section of **Bonded Labour System (Abolition) Act, 1976**.

Section 12 states that *“Duty of District Magistrate and officers authorized by him.- It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.”* DM or SDM has not recorded the statements of all 44 bonded labourers but only of two workers. Also, the SDM has not issued the release order. The organisation representatives informed to SDM about the thumbprints of workers being taken on a blank paper and then writing a wrong statement, but no action was taken against Mr. Gulab Singh, Naib Tehsildar, Mr. Rupesh, Labour Inspector and Mr. Virender Hudda, Sub-Inspector, Food & supply by SDM, Hathin.

Standard Operating Procedures (SOP): There was also gross violation of the SOP. In the SOP, Government of India for identification, rescue and rehabilitation dated 17th August 2017, according to section 2, subclause 2.4, the DM or the SDM in coordination with the police shall separate and protect the labourer from the offender and his associates. But this was not done as the offenders were present during the enquiry.

As per clause 3 sub-clause 3.3, it states that in order to release certificate, the DM or SDM shall conduct an inquiry in a free and fair environment, in respect of each labourer separately or with his family in the absence of the offender and in the presence of a member of a civil society organisation or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked the labourer should include questions regarding advance or other obligations, wage payments, freedom to travel, seek alternative employment and self or purchase goods at market value, and questions regarding other offences against schedule castes or tribes, offences against children, etc. it shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedures for criminal trials do not apply to such an inquiry. But no such action has been done till now.

Also, the Release Order and Interim Relief was not provided within 24 hours by the administration of Hathin, Palwal, Haryana and there was no F.I.R. done against the traffickers and the principal employer of the bonded labourers.

There is also a violation of **section 3(1) (VI) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989** which states that “*Whoever, not being a member of a Scheduled Caste or a Scheduled tribe (vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do ‘begar’ or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government....shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.*” All the rescued workers belonging from Schedule Caste and they were made to do forced labour.

NHRC guidelines: There was blatant defiance of NHRC guidelines as well. There was no proper documentation of the trafficked bonded labourers done. They were not repatriated to their native places. Also, Supreme Court judgements and the acts put in force by the legislation must be followed, but it was not done.

7. Given below are the **links of the news articles** that cover the rescue of these bonded labourers and some pictures of the same.

1. <https://in.news.yahoo.com/gujarat-65-bonded-labourers-rescued-072809799.html>
2. <https://indianexpress.com/article/india/gujarat-65-bonded-labourers-rescued-from-brick-kiln-in-anand-district-6227499/>

8. Need for further process:

- To get the release order & release certificates to the rescued bonded labourers.
- To get the interim relief amount to the rescued bonded labourers.
- To get the due wages to the rescued bonded labourers.
- To file an F.I.R. against the principal employer and the trafficker.

9. List of bonded labourers as follows:

**List of Bonded labourer
at
Modi Bhatta, Village Akla, District Anand, Gujarat**

S.No.	Name	Age	Address
Family No. 1			
1.	Mr. Basheer Ahmad s/o Mr. Rasoom Ali	65yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
2.	Mrs. Chanda Begum w/o Basheer Ahmad	50 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
3.	Ms. Alfiza d/o Basheer Ahmad	6 months	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
4.	Mr. Aamir s/o Basheer Ahmad	18 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
5.	Mstr. Sabana d/o Basheer Ahmad	16 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
6.	Ms. Nisha d/o Basheer Ahmad	15 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
7.	Ms. Rehana d/o Basheer Ahmad	12 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
8.	Mr. Nasheer s/o Basheer Ahmad	27 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh

9.	Mrs. Heena Begum w/o Nasheer	21 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
10.	Mrs. Shageelia Begum	45 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
11.	Mr. Shahruk Khan	11 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
12.	Mr. Salman	8 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 2			
13.	Mrs. Rahisha Begum w/o Mr. Sani Ahmed.	65 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
14.	Mr. Sharaseet s/o Mr. Sari Ahmed.	40 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
15.	Mrs. Shahina d/o Mr.Mukesh	17 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
16.	Mr. SaanMohd. s/o Mr. Mukesh	14 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
17.	Mstr. Sohail s/o Mr.Mukesh	11 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
18.	Mstr. Shahejaan s/o Sari Ahmed	9 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
19.	Mstr. Danish s/o Sari Ahmed	8 yrs	Village: Ramnagar Tehsil:Sahabar

			District: Kasganj State: Uttar Pradesh
20.	Ms. Joya d/o Sari Ahmed	4 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
21.	Ms. Noorjaa d/o Sari Ahmed	5 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 3			
22.	Mr. Habib s/o Mr. Safi Ahmed	30 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
23.	Mrs. Haseena w/o Mr.Habib	25 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
24.	Mstr. Yousuf s/o Mr. Habib	2 years	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No.4			
25.	Mr. Islam Ali s/o Mr. Hassan Ali	65 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
26.	Mrs. Menegaar w/o Islam	55 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
27.	Mr. Akram s/o Islam	32 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
28.	Mrs. Nasreen w/o Akram	25 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
29.	Mstr. Sameer s/o Akram	10 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj

			State: Uttar Pradesh
30.	Ms. Farah d/o Akram	8 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
31.	Mr. Hira s/o Islam	20 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
32.	Mr. Jawahar	18 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
33.	Ms. Tarana d/o Islam	16 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
34.	Ms. Ramzana d/o Islam	14 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
35.	Mstr. Farhan s/o Akram	6 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
36.	Mstr. Aksha s/o Akram	4 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 5			
37.	Mr. MehendiHasans/o Mr. Badshah	40 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
38.	Mrs. Muktari w/o Mehendi Hasan	38 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
39.	Mr. Ali Hasan s/o Mehendi Hasan	18 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
40.	Mstr. Nabi Aalam s/o Mehendi	7 yrs	Village: Ramnagar

	Hasan		Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
41.	Ms. Muskan d/o Mehendi Hasan	13 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
42.	Ms. Nisha d/o Mehendi Hasan	12 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 6			
43.	Mr. Ram Otar s/o Mr. Ramchandra	55 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
44.	Mrs. Parvati w/o Ram Otar	50 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
45.	Mr. Upender s/o Ram Otar	19 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
46.	Ms. Mamta d/o Ram Otar	11 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
47.	Mr. Jogandar s/o Ram Otar	21 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
48.	Ms. Savitri w/o Jogandar	18 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
49.	Mr. Outam s/o Ram Otar	18 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
50.	Mstr. Kishan s/o Jogandar	2 months	Village: Ramnagar Tehsil:Sahabar District: Kasganj

			State: Uttar Pradesh
Family No. 7			
51.	Mrs. Parveen Begum w/o Late Nazim Ali.	35 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
52.	Ms. Soni d/o Mrs. Parveen Begum	12 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
53.	Ms. Kohinoor d/o Mrs. Parveen Begum	6 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 8			
54.	Mr. Haneef s/o Mr. Shafi Ahmed Sayid	25 yrs	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 9			
55.	Mr. Munne s/o Ali Sheikh	55	Village: Ramnagar Tehsil:Sahabar District: Kasganj State: Uttar Pradesh
Family No. 10			
56.	Mr. Sunil Kumar s/o Nawab Singh	32yrs	Village: Nagla Kund, Post Padam, P.S. Eka, Tehsil-Jasrana District- Firozabad State: Uttar Pradesh
57.	Ms. Niraj Dev w/o Sunil	28yrs	Village: Nagla Kund, Post Padam, P.S. Eka, Tehsil-Jasrana District- Firozabad State: Uttar Pradesh
58.	Mstr. Sunny s/o Sunil	7yrs	Village: Nagla Kund, Post Padam, P.S. Eka, Tehsil-Jasrana District- Firozabad State: Uttar Pradesh
59.	Ms. Lakshmi d/o Sunil	5yrs	Village: Nagla Kund, Post Padam, P.S. Eka, Tehsil-Jasrana

			District- Firozabad State: Uttar Pradesh
60.	Mstr. Harsh s/o Sunil	3yrs	Village: Nagla Kund, Post Padam, P.S. Eka, Tehsil- Jasrana District- Firozabad State: Uttar Pradesh
Family No. 11			
61.	Mr. Gautam Singh s/o Ram Prasad	34yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh
62.	Mrs. Anjali w/o Mr. Gautam Singh	32yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh
63.	Mr. Rohit s/o Mr. Gautam Singh	11yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh
64.	Mstr. Mohit s/o Mr. Gautam Singh	9yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh
65.	Ms. Roshni d/o Mr. Gautam Singh	5yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh
66.	Mstr. Panath s/o Mr. Gautam Singh	3yrs	Ahmadi Nagar Tehsil- Patiyali District: Kashganj State: Uttar Pradesh