



NOTES FOR USE: This format can be used to file a Legal Intervention Report (LIR) for the release of suspected bonded labourers. The LIR must be tailored to the facts of each case, but this format includes the various legal provisions and factual support that should be included in any LIR. The sections that have been left blank or in brackets indicate the insertion of facts specific to the bonded labour intervention at issue.

LEGAL INTERVENTION REPORT

Sector _____

Village: _____, Sub Division _____

District: _____, P.O _____, P.S. _____

Date: _____

Basic Facts and Terms

Picture of establishment	<p>THE LABOURERS</p> <ul style="list-style-type: none"> As per the confidential information, approximately ____ families belonging to the “_____” community comprised of ____ victims in total (____ working adults and children and ____ dependent children) are suffering under illegal forms of [Kamiya/Harwai/Jana] bonded labor, as defined in the Bonded Labor System (Abolition) Act of 1976, within revenue jurisdiction of Village- _____.
Picture of one of the labourers’ family members	<p>THE FACILITY</p> <ul style="list-style-type: none"> The establishments are multiple units of [agricultural land, brick kilns, etc.] situated at Village- _____. These [agricultural lands, brick kilns, etc.] are being illegally and unlawfully operated by the landlords, who belong to non-Scheduled Caste categories and use threats and strong-arm tactics to exploit the innocent labourers.
	<p>THE ACCUSED</p> <ul style="list-style-type: none"> The above referred [agricultural units, brick kiln, etc.] belong to OR The current employers and main accused persons are: <i>LIST NAMES HERE</i>
	<p>CRIMINAL OFFENSES</p> <ul style="list-style-type: none"> Bonded Labour Act violations Indian Penal Code violations

	<ul style="list-style-type: none"> • The SC/ST (Prevention of Atrocities) Act violations • The Minimum Wages Act violations • The Juvenile Justice Act violations • The Child Labour Act violations
	<p>THE LAWS — Vide “Appendix A” Below</p> <ul style="list-style-type: none"> ▪ The Bonded Labour System (Abolition) Act, 1976 ▪ The Indian Penal Code, 1860 ▪ The SC/ST (Prevention of Atrocities) Act, 1989 ▪ The Minimum Wages Act, 1948 ▪ The Juvenile Justice (Care and Protection of Children) Act, 2015 ▪ The Child & Adolescent Labour (Prohibition and Regulation) Act, 1986

“Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”

- Article 23 of the Constitution of India¹

“[Bonded labourers] are non-beings, exiles of civilization, living a life worse than that of animals, for the animals are at least free to roam about as they like...This system, under which one person can be bonded to provide labour for another for years and years until an alleged debt is supposed to be wiped out, which never seems to happen during the lifetime of the bonded victim, is totally incompatible with the new egalitarian socio-economic order which we have promised to build...”

- Former Supreme Court Justice P.N. Bhagwati²

Petition

The undersigned Petitioner, on behalf of people forced into bonded labour at agricultural units situated at Village- _____, states the following information:

1. Criminal bonded labour occurs at the above mentioned village in (name of district, State).
2. The names of the laborers and the owners of the agricultural units are mentioned in the attached list which is **ANNEXURE –**, which may kindly be read as part and parcel of the instant petition.
3. The Accused has/have:
 - a. Unlawfully and illegally forced the members of approximately ____ families (a total of ____ victims) belonging to the “_____” community, which is a notified Scheduled Caste category, to work for them under the customary forced bonded labor system known as [“Kamiya/Harwai/Jana”];
 - b. **Failed to pay** the labourers **statutory minimum wages**, which is in violation of the Bonded Labour System (Abolition) Act, 1976 as well as the Minimum Wages Act, 1948;
 - c. **Restricted** the labourers’ **freedom of movement throughout India**, in violation of the Bonded Labour System (Abolition) Act, 1976 and the Indian Penal Code; and

¹Indian Constitution, Article 23

²*Bandhua Mukti Morcha v. Union of India*, 1984 AIR (SC) 802, 1984 (3) SCC 161 (Supreme Court 1983).

d. **Restricted** the labourers' **freedom of** employment, in violation of the Bonded Labour System (Abolition) Act, 1976.

4. The labourers belong to the "_____" community, which is a notified scheduled caste in Part-VI, Serial No.12, "The Gazette of India", June 6th, 1956 [The Government of India (Scheduled Castes) Order, 1936] and also is a protected group under Section 3(1)(h) of **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016**. A copy of the Gazette notification regarding SC/ST category is attached hereto as **ANNEXURE—**. It may kindly be read as part and parcel of the instant petition.

Therefore, the Accused have committed violations of The Bonded Labour System (Abolition) Act, 1976 ("**BLA**"), the Indian Penal Code ("**IPC**"), The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016 ("**SC/ST Act**"), the Minimum Wages Act, 1948 ("**MWA**"), the Juvenile Justice (Care and Protection of Children) Act, 2015 ("**JJ Act**"), the Child & Adolescent Labour (Prohibition and Regulation) Act, 1986 ("**CLA**") and the Constitution of India.

I. EVIDENCE OF ILLEGAL BONDED LABOUR

A bonded labour system, as defined in Section 2(g) of the BLA, is a system of forced or partly forced labour under which a labourer enters into an agreement with an employer to effectively forfeit freedoms or rights because of a debt, customary or social obligation, or other consideration. In defining a bonded labour system, the BLA lists four freedoms or rights which a labourer may be deemed to have forfeited in consideration of a bonded debt:³

- 1) The freedom of employment;
- 2) The freedom of movement throughout India;
- 3) The right to receive minimum wages;
- 4) The freedom to sell goods and services in the marketplace.

Only one of the above forfeitures must be established to prove that bonded labour exists. In this case, however, three of the four freedoms have been forfeited by the labourers at the agricultural unit.

A. FORFEITURES OF FREEDOM

1. Forfeiture of Freedom of Movement

The facts indicate that the labourers have forfeited their freedom of movement throughout India in consideration of [the customary advance of land received by the labourers' families from their respective employer and/or loans from their respective employers]. This constitutes an illegal bonded labour system under the BLA. The movement of the labourers are restricted, and the labourers are not permitted to leave the said [facility name] at will. The labourers stated that only one member of a family is permitted to go to the market to buy monthly rations (while always accompanied by agents of the owners) and that the other family members are required to stay at the facility to ensure that the person who left returns to the establishment. Most of the labourers further stated that when they attempted to go out without the owner/agents' permission, their entire families were beaten. Hence they have no freedom to go out at will and are kept in perpetual bondage, since it is impossible for them to repay their advance with the meager payment they receive.

³Bonded Labour System (Abolition) Act ("BLA"), Section 2(g)(1-4).

2. Forfeiture of Freedom of Employment

The labourers have also forfeited their freedom of employment in exchange for the illegal bonded debt, as they are not allowed to leave the [facility name] to work for other employers. Whenever a labourer asks for permission to work elsewhere or refuses to work, the respective employer threatens to evict him from the land where he is living and to destroy his entire household. There have been many incidents of an employer forcibly taking the labourers to work, verbally abusing them, and threatening to beat them if they do not turn up for work, even if they are sick and unable to work. The employers thus maintain an environment of fear to exercise complete control over the movements of the labourers, resulting in their restricted freedom of employment in violation of the BLA. This also constitutes a violation of Section 74 of the IPC, which criminalizes the act of compelling a person to labor against his will.

3. Forfeiture of Right to Receive Minimum Wages

In [name of State], vide [list minimum wage schedule], the minimum wage (w.e.f. DATE) for an agricultural worker (except harvesting) is at least Rs. _____ per day or Rs. _____ per month. A copy of the said notification is attached herewith as ANNEXURE –.

In this case, each victim works for 12 hours per day, which entitles them to be paid [Rs. ____] per day (excluding overtime), per person. But the labourers are not paid their statutory minimum wages; rather, each male labourer is paid only Rs. ____ and each female labourer is paid only Rs. ____ for the entire day of work, which is 10-12 hours and up to 15 hours during harvest time. The labourers are paid only one-fifth of their statutory minimum wages, so they are deemed to have forfeited their right to receive minimum wages, which is evidence of a bonded labour system. The situation is even worse during harvest time, when the labourers are not paid any wages at all but instead given 1 kg for every 16 kg of paddy/wheat/maize or other ready crops after processing has occurred. The labourers also perform household and domestic tasks for the employers/landlords and are often paid only in kind with rice for such work. Payment is not regular and sometimes a part of the payment is delayed for a week, which exacerbates the labourers' already dire situation. Finally, the employers do not maintain any documents pertaining to accounts, muster rolls, wage registers, vouchers, overtime, etc. in order to substantiate that the amounts being paid to the labourers comply with the Minimum Wages Act.

Children are also forced to work for the landlords/employers but are not paid any wages. This is a violation of Sec. 79 of The Juvenile Justice (Care and Protection of Children) Act, 2015, which criminalizes the act of keeping a child in bondage for the purpose of employment or withholding his earnings. By forcing the children of the bonded labourers to perform agricultural and household tasks for pay in the form of a handful of puffed rice or no pay at all, the landlords/employers are violating the statute. In addition, forcing the children to work violates Section 3 of The Child & Adolescent Labour (Prohibition and Regulation) Act, 1986, which prohibits the employment of any child under the age of 14. There is ample evidence that many of the children working without pay for the landlords/employers were under the age of 14 and that many adolescents (children between 14-18) were working in excess of the permitted number of hours per day. Thus, in addition to the BLA violations, there were violations of statutes intended to protect children from the rigors of employment.

Note: The labourers in this case are uneducated and may not always understand numbers/figures.

II. COMPELLING ISSUES

- A. The labourers are restricted in their movement and employment as a result of the [advance of land/loans] that had been given to their forefathers. In addition, the labourers are not paid their

full statutory minimum wages. This is prima facie evidence of a bonded labour system under the BLA.

- B. The landlords/employers use threats and abusive tactics to force the labourers to work for 12-15 hours per day. If a labourer does not show up for work due to an illness, the landlords/employers send someone to forcefully take the labourer to work. The landlords/employers threaten to demolish the labourers' houses and evict them from the land that had been given to them in order to exercise complete control over the movements of the labourers. These landlords/employers are very powerful members of society who use force to circumvent the laws and create an inhumane working environment.
- C. What little money is paid is not even provided on a daily basis, but rather the labourers get half of the payment once a week or suffer other delays in the payment of wages. No registers, muster rolls, or accounts are maintained by the landlords/employers so the labourers have no means of verifying whether their debt has been repaid or other amounts are owed to them.
- D. The labourers have been working three generations for the landlords/employers.
- E. The labourers belong to a SC category [namely "_____"] and are vulnerable due to their poverty and financial needs, and the 2 to 5 decimals of land on which they are living are claimed to be the advance trapping them in the bonded labour system.

III. DUTIES OF THE DISTRICT ADMINISTRATION

- A. The Bonded Labour System (Abolition) Act, 1976 empowers and requires the District Administration to intervene immediately on behalf of these labourers.
- B. The law prescribes the District Administration with the following duties:
 - 1. To RELEASE the labourers immediately;
 - 2. To proceed with PROSECUTION of the Accused; and
 - 3. To provide meaningful REHABILITATION of the labourers in this matter.

Therefore, given the severity of these bonded labour circumstances, especially considering the lives of [number] individuals trapped in an inter-generational prohibited bonded labour system and the strong authority bestowed upon your great offices, it is humbly requested that the **District Magistrate of _____ may kindly be directed to conduct immediate inquiry for the identification, rescue, release and rehabilitation of the victims and initiate appropriate prosecution/legal actions against the perpetrators involved into the crime as per law.** It is further humbly requested to involve the petitioner/complainant and its partner organization at the time of spot inquiry, release, etc. as per the guidelines by the Hon'ble Supreme Court in the "Neeraja Chaudhary's" case. It is further humbly submitted that complainant's copy of the order may kindly be provided to the petitioner/complainant or his representative through email communications.

APPENDIX A

SUMMARY OF OFFENCES TO BE INCLUDED IN THE FIRST INFORMATION REPORT

The Bonded Labour System (Abolition) Act, 1976

Section 16: Compelling Person to Work in a Bonded Labour System

Section 17: Punishment for Advancement of bonded debt

Section 18: Enforcing a Bonded Labour System

Indian Penal Code

Section 341/344: Wrongful Restraint/Confinement

Section 370: Recruiting, receiving, etc. for forced labour or slavery, etc.

Section 374: Unlawful Compulsory Labour

The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1976

Section 3(1)(h): Compels or entices a member of a SC or ST to do 'begar' or other similar forms of forced or bonded labor

The Minimum Wages Act, 1948

Section 22: Penalties for lower or no wages

The Juvenile Justice (Care & Protection of Children) Act, 2015

Section 75: Cruelty, etc. to a child

Section 79: Exploitation of child

The Child & Adolescent Labour (Prohibition & Regulation) Act, 1986

Section 3: Prohibition of children into certain establishments, etc.

Section 14: Penalties

APPENDIX B

Guidelines for effective bonded labour inquiry under the Bonded Labour System (Abolition) Act, 1976

I. Inquiry Essentials in Brief

A. Receiving the complaint and involvement of social action group

The Bonded Labour System (Abolition) Act, 1976 (“the Act”) confers special powers and responsibilities upon the District Administration to carry out the provisions in the Act.⁴ The Hon’ble Supreme Court has directed that whenever any representatives of a Social Action Group directs the District Magistrate or the Deputy Magistrate to the existence of bonded labour, the District Magistrate shall take such representative with him for the release of such bonded labourer(s) and shall provide a copy of the report immediately to such representative.⁵ The memorandum issued by the Ministry of Labour and Employment, Government of India, dated 17.08.2017 titled “Standard Operating Procedure (SOP) for Identification and Rescue of Bonded Labourer and Prosecution of Offender” stated that the rescue team constituted shall be comprised of a complainant/members of a civil society organisation or social workers for rescued labourer support, including counselling and other roles.⁶

B. Immediate Inquiry/Raid

It is imperative that an inquiry be conducted immediately after a Complaint is submitted, as even the slightest delay may lead to related problems, such as intimidation tactics, threats and coercion on the part of the employer.⁷ The Union Labour Ministry’s SOP dated 17.08.2017 states that the DM/SDM/Police shall rescue the victim as soon as possible within 24 hours from the time of the receipt of complaint.

C. Perpetrators Not Needed at Inquiry

It is not necessary to interview the perpetrators at the inquiry. It is also imperative that the labourers be inquired apart from the perpetrators to minimize their feelings of fear and intimidation and ensure a fair inquiry.⁸

D. Release Certificates

Release Certificates should be issued to the labourers immediately upon release certifying that the bonded labourers has been released from bondage.⁹ The above mentioned SOP notified by the Union Labour Ministry states that the DM or the SDM shall issue the release certificates to each rescued labourer, including children, immediately within 24 hours.

E. Initial Rehabilitation Payment of Subsistence Allowance

Every victim who receives a Release Certificate should immediately be given Rs. 20,000/- as immediate financial assistance for rehabilitation needs. The modification to the Central Sector Scheme for Rehabilitation of Bonded Labour – 2016, dated 17.01.2017, states that the immediate financial assistance should be provided to the victim immediately upon release¹⁰. The Standard Operating Procedure for the Identification and Rescue of Bonded Labour and Prosecution of Offender issued by the Union Ministry for Labour and Employment states that the DM/SDM should direct the payment of immediate financial assistance upon rescue and release of the victims.

⁴ BLA, Section 10.

⁵ “*Neeraja Chaudhary v/s. State of M.P.*”, AIR 1984 SC 1099.

⁶ Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender, Ministry of Labour and Employment, Govt. of India, 17.08.2017

⁷ *Davidar, P.W.C., I.A.S.*, HAND BOOK FOR THE RELEASE AND REHABILITATION OF BONDED LABOURERS, Section 3.8.

⁸ *Davidar, P.W.C., I.A.S.*, HAND BOOK FOR THE RELEASE AND REHABILITATION OF BONDED LABOURERS, Section 3.9 and 4.22; *Bandhua Mukti Morcha v. Union of India*, 1984 AIR (SC) 802, 1984(3) SCC 161, paragraph 28 (Supreme Court 1983): “The object and purpose of the inquiry... is not to fasten any liability on the (owners) but to secure the release and repatriation of those labourers who claim to be bonded labourers and who want to leave the employment and go somewhere else.”

⁹ “*Santhal Paragana Antyodaya v/s. State of Bihar & Others*”, 1987 Supp. (1) SCC 141.

¹⁰ F. No. S-11012/01/2015-BL, Government of India, MoLE, dated 17.01.2017.

F. **Filing of a First Information Report**

At the conclusion of the inquiry, if a First Information Report ("FIR") has not already been filed against the accused, the District Administration should direct the police to file an FIR against the accused for all of the offences set forth in Appendix A.¹¹ The above-mentioned office memorandum states that the DM/SDM should direct the filing of the FIR within 24 hours of the date of the rescue.¹²

II. **definition of Bonded Labour**

A. **Bonded Labour Elements in Detail**

The Act outlines a bonded labour system as an agreement which contains the following elements:

- The victim forfeits certain freedoms or rights
- In consideration of a debt or other obligation.¹³

1. **Forfeiture of Rights or Freedoms**

One of the below forfeitures must be established to prove that bonded labour exists:

- a. Forfeiture of the right to work elsewhere; or
- b. Forfeiture of the right to travel freely; or
- c. Forfeiture of the right to sell their goods and services in the market place; or
- d. Forfeiture of the right to receive minimum wages.¹⁴

2. **Debt or Obligation**

The accused generally employs the most common form of debt - an advance.¹⁵

- a. The advance can be oral or written.¹⁶
- b. Interest is not required.¹⁷
- c. The advance can be taken by the victim or by the victim's lineal ascendants or descendants.¹⁸

B. **Presumptions of Bonded Labour**

The Supreme Court of India has construed the Act liberally in favour of victim release. An illegal bonded labour system may be proved to exist if the below presumptions apply:

1. **Restricted Movement/Employment**

The Indian Supreme Court has held that proof of forced labour through the restriction of the freedom of movement or employment raises the presumption of an illegal bonded debt.¹⁹

2. **Failure to Pay Minimum Wages**

If the worker does not receive a wage equivalent to, or greater than, the established minimum wage, the worker is presumed to be a bonded labour victim.²⁰ That person should immediately be released upon inquiry.

¹¹Davidar, P.W.C., I.A.S., HAND BOOK FOR THE RELEASE AND REHABILITATION OF BONDED LABOURERS, Section 4.2 and 4.4.

¹²Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender, Ministry of Labour and Employment, Govt. of India, 17.08.2017

¹³BLA, Section 2(g).

¹⁴BLA, Section 2(g)(1-4).

¹⁵BLA, Section 2(g)(i).

¹⁶BLA, Section 2(b).

¹⁷BLA, Section 2(g)(i).

¹⁸BLA, Section 2(g)(i).

¹⁹Bandhua Mukti Morcha v. Union of India, 1984 AIR (SC) 802, 1984 (3) SCC 161 (Supreme Court 1983).

²⁰Neeraja Chaudhary v. Madhya Pradesh, II L.L.N. 219, 223 (1984).

III. Accountability and Prosecution

A. Four Offences

There are four enumerated offences within the Act for which a perpetrator can be held accountable:

1. Section 9: Accepting payments from labourers for bonded debts
2. Section 16: Compelling labourers to work in a bonded labour system
3. Section 17: Advancing money in a bonded labour system
4. Section 18: Enforcing the bonded labour system

B. Power to Try the Case

The Act provides that the Judicial Magistrate has concurrent powers of an Executive Magistrate for the trial of offences under the Act.²¹

²¹ BLA, Section 21.