



Abolition of bonded labour in Pakistan



Human Rights Commission of Pakistan



Abolition of bonded (system) labour in Pakistan



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Introduction

Pakistan's efforts to eradicate bonded and forced labour have entered a decisive phase. The State has firmly committed itself to abolition of such practices. A comprehensive law to secure the release of bonded *haris* / labourers is in place. An action plan has been drawn up to take care of the freed *haris* / labourers' long-term needs as well as their immediate requirements. For their rehabilitation a fund has been launched and possibilities of its replenishment indicated. The success of the campaign to achieve the abolition of bonded labour now very largely depends on the Vigilance Committees required to be set up in all districts of the country. These committees have a broad mandate; they can get the *haris* / labourers freed of their bondage and also ensure their rehabilitation. The replacement of the District Magistrate with an elected representative of the people, the District Nazim, to head them has enhanced their capacity to attend to their task with greater zeal as also their receptivity to public initiatives. But if the members of Vigilance Committees are to discharge their responsibilities with the determination and sense of urgency the task demands they must familiarise themselves with the nature and forms of bonded labour, the rationale for its abolition, and the mechanisms and methods available to them. It is in an attempt to help them in this area that this pamphlet has been produced.

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A vicious system

Bonded labour is one of the worst forms of exploitation. It implies employment of indigent workers at nominal wages, or without any fixed wages, and using their dependence on employers for sustenance to deny them and their families not only a fair wage but also freedom of movement and choice of other means of earning their living. It is a vicious system that extracts a heavy price from all parties concerned. It dehumanises the worker, devalues the life of each member of his family, especially of the children, brings the employers under the mischief of laws, and undermines the economy.

The origins of bonded and forced labour are now fairly well-known.

Bonded labour was first noticed in Pakistan in the brick-kiln industry and the matter acquired prominence in public discourse in the nineteen sixties. It was found that agricultural workers who had been pushed off the land and other workers squeezed out of the shrinking rural economy, and unable to find suitable employment, were recruited by brick-kiln owners at grossly low wages. Whole families of poor workers began working at brick-kilns and living around them. The wages being inadequate to meet their needs of living they were obliged to borrow from their employers as no other sources of credit were available

Further, brick-making was a seasonal enterprise, and these workers had no work for several months every year. They were not considered entitled to any wages for this period. The meagre return on their labour offered no possibility of savings that could help them tide over the days of idleness. They had no choice but to accept the employers' offer of payment of wages in advance. Such advance payments were also sought to meet emergencies, such as sickness, child-birth, and marriage. In no time the amount of advance payments of wages, called *peshgi*, exceeded the workers' repayment capacity. In many cases the *peshgi* amount was fraudulently inflated by the employers who alone kept the records and which the workers, most of them illiterate, could not comprehend. The employers used the *peshgi* liability to force the workers to stay where they were, accept the pittance allowed them, suffer all kinds of indignity and sink deeper and deeper into debt. They became debt-slaves and bonded labourers.

After a prolonged struggle by these labourers and their

defenders in civil society throughout the seventies and the eighties, the *peshgi* system was declared illegal by the Supreme Court in a 1988 landmark judgment. All *peshgis* were extinguished and the workers freed of their liabilities. Making of advance payments in future was prohibited and the court ruled that no-one could be denied freedom of movement on account of any debt liability, real or manipulated. Since then the High Courts have released thousands of workers and their family members who complained of being held in bondage. Such cases are regularly coming up before the courts to this day. However, relief is limited to those who can gain access to courts. Those who cannot, remain bonded.

Meanwhile, bonded labour system on a large-scale was discovered in agriculture and some of its worst forms were found in Sindh. It was noticed that lack of water forced poor cultivators and farm labour, both called *haris*, to move into canal-irrigated areas in search of work. The landowners engaged them to work on their lands on extremely low wages and trapped whole families in the *peshgi* system. These bonded labourers and members of their families were not allowed to move outside the limits prescribed by the landlords. The means adopted to restrict their movement included the putting of men in chains or confining them and their families to enclosures which were locked and guarded by sentries. Such places began to be denounced as private jails. At some places a system of purchase and sale of bonded *haris* also was reported. A landlord short of hands would go to another landlord who had labour to spare and negotiate their acquisition by paying the amount of loan said to be outstanding against them. A *hari* would thus become bonded to a new landlord to the extent of the liability assessed by his erstwhile master.

The drive against bonded labour

The struggle against bonded labour in Pakistan was initially inspired by concepts of human rights and international instruments. Pakistan went through a phase of intense political awakening during the late sixties and early seventies and fundamental rights figured high in the rhetoric of all political parties and pro-change activists. Bonded labour also received considerable public attention. A process of examining the State's obligations under the international human rights instruments and assessing the need for domestic legislation began.

Slavery Conventions

The international community's efforts to eliminate bonded as well as forced or compulsory labour formed part of its drive against slavery. A convention against slavery was drawn up by the League

of Nations in 1926 and it was adopted by the United Nations in 1953. Besides accepting an obligation to suppress slave trade and completely abolish slavery in all its forms, states-parties to the Slavery Convention undertook to take "all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery." Pakistan acceded to this Convention on September 30, 1957.

Greater attention was paid to bonded labour in the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which was adopted in 1956. This convention covers slavery-like practices in greater detail and is applicable to bonded labour. This convention was signed by Pakistan on September 7, 1956 and ratified on March 20, 1958.

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The ratification of these conventions means that Pakistan acknowledged the need for the abolition of serfdom and forced labour nearly five decades ago. It was required to take all possible measures to realise this objective, including legislation to provide for punishment for infractions of relevant laws and regulations. By becoming party to these conventions Pakistan also accepted the obligation to periodically report compliance with their provisions. These reports affect the image of a country both positively and negatively. States that duly honour their obligations under international conventions are treated as progressive and civilised while those that fail to fulfil their commitments are considered backward, irresponsible and unjust. They suffer embarrassment and worse whenever the issue of slavery or slavery-like practices is discussed by international organisations. They can be accused of conniving at a gross violation of their people's human rights.

ILO Conventions

The International Labour Organisation (ILO) also has been trying for over 70 years to eliminate forced or compulsory labour.

The Forced Labour Convention, No 29, adopted in 1930 obliges each member of ILO to suppress the use of forced or compulsory labour in all its forms.

The Convention defines 'forced or compulsory labour' as "all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily." However, five categories of work or service are excluded from this definition. These categories are:

- Work of a purely military character exacted under compulsory military service laws;
- Certain civic obligations, such as digging a community well;
- Prison labour performed as a consequence of a conviction in a

court of law, provided that the prisoner is not placed at the disposal of private persons or entities;

- Work exacted in cases of emergency, that is to say, in circumstances endangering the existence or well-being of the population; such as raising embankments to check flooding;
- Minor communal services, performed in the direct interest of the community and after consultation with the said community, such as construction of schools and health clinics or dredging of water courses.

The Convention requires that the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and that the penalties imposed by law must be really adequate and strictly enforced.

Another convention, titled Convention on Abolition of Forced Labour (No 105), adopted in 1957, specifically prohibits recourse to forced or compulsory labour in five defined cases:

- As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- As a method of mobilizing and using labour for purposes of economic development;
- As a means of labour discipline;
- As a punishment for having participated in strikes; and
- As a means of racial, social, national or religious discrimination.

By ratifying both of these ILO Conventions--Convention 92 in 1951 and Convention 105 in 1960 -- Pakistan took a pledge to eradicate bonded labour.

Constitutional guarantees

The subjects of slavery and forced labour have been dealt with in the Fundamental Rights chapter of the Constitution. Article 11 declares that "slavery is non-existent and forbidden and no law can be made to permit or facilitate its introduction in Pakistan in any form." All forms of forced labour are prohibited. The only exceptions are forced labour as part of punishment ordered by a court of law or works required by a law for public purpose but this too is subject to the condition that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Bonded labour is also covered by Article 3 of the Constitution, which says: "The State shall ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability to each according to his work." Since bonded labour admittedly amounts to exploitation and a

nor does he receive according to his work, its eradication has been placed higher than a legal requirement or a moral compulsion. It is the State's constitutional obligation.

Further, bonded labour is barred under Article 14 of the Constitution (which prohibits violation of the dignity of man and torture, against which almost all bonded *haris*/labourers have complained), Article 15 (freedom of movement and residence, both denied to bonded labourers), and Article 37 (e) (the State's obligation to make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for material benefits for women in employment).

However, constitutional guarantees against bonded labour could not materialise without enacting laws and establishing an effective enforcement machinery. The first step in this direction was the adoption of the Bonded Labour System (Abolition) Act. 1992

Bonded Labour Abolition Act *passed*

• The Bonded Labour System (Abolition) Act was adopted by parliament in 1992 and came into force on March 17 of that year. On that day the bonded labour system stood abolished throughout Pakistan, every bonded labourer stood freed and discharged from any obligation to render bonded labour. (Sec 4(1) of the Act)

- On the same day:
- Every person was prohibited from making any advance under the bonded labour system or compelling anyone to render bonded labour or other form of forced labour. [Sec 4(2)]
- All customs, traditions, practices and all contracts, agreements or other instruments, whenever executed, under which any person, or any member of his family, was required to work as a bonded labourer, became void and inoperative. (Sec 5)
- Every obligation of a bonded labourer to repay any bonded debt outstanding against him stood extinguished. [Sec 6(1)]
- No suit or other proceeding could be taken up by any court or tribunal or any other authority for the recovery of bonded debt [Sec 6(2)] and every decree or order passed before the commencement of the Act and not fully satisfied by then was deemed to have been fully satisfied. [Sec 6(3)]
- A number of measures came into force which were designed to restore to the bonded labourer any property taken from him by force or by sale or mortgage or attachment. [Sec 6(4) to 6(7)]
- Any person who compelled anyone to render bonded labour or extracted bonded labour under the bonded labour system, under any guise or pretext, became liable to imprisonment for two to five years or with a fine of Rs. 50,000 or both. Failure to restore bonded

labourer's property within 90 days became punishable with imprisonment and / or fine. Every offence under the Act was made cognizable, that is, the police could take notice.

- All powers and duties required for the implementation of the law could be conferred on District Governments by a provincial government. The elected representatives and officials were required to promote the welfare of the freed bonded labourers by securing their economic interests so that they did not have to contract bonded debt again.
- The district governments and other designated officials were required to inquire whether anyone was being made to work as a bonded labourer in the area under their jurisdiction, and if any evidence of bonded labour system was found they had a duty to take such action as was necessary to implement the Act.

Vigilance Committees

The Act also makes it mandatory for the provincial governments to set up Vigilance Committees, consisting of elected authorities and representatives of the district administration, Bar associations, Press, social services and labour departments.

The functions of Vigilance Committees are

- To advise the district administration on effective implementation of the law and to ensure its implementation in a proper manner;
- To help in the rehabilitation of the freed bonded labourers;
- To monitor the working of the law; and
- To extend the bonded labourers the assistance they may need to realise the objectives of the law.

Three aspects of the Bonded Labour System (Abolition) Act merit emphasis.

First, the practices it bans such as extraction of bonded labour, use of *peshgi* or loan under any other label to keep workers in bondage, employment of a debtor's family members as bonded labour, and seizure of bonded labourers' property reveals awareness of the various forms of the bonded labour system prevalent at the time of enactment. These provisions of the law confirm the existence of a pernicious system of exploitation and denial of human rights that nobody can now dispute.

Secondly, this Act overrides all other laws.

Thirdly, this law has a unique status inasmuch as it not only provides for punishment of offenders, it also has a strong element of affirmative action. It makes the district administration responsible for preventing poor workers from sliding back into debt-bondage. Further, it seeks to involve civil society actors in the work of rehabilitation of freed workers.

No law can realise its purpose unless forums and procedures required to enforce it have been provided for in the rules of its implementation. Accordingly, the Bonded Labour System (Abolition) Rules were notified in 1995. These Rules laid down the responsibilities of the various implementing agencies, including the terms of reference for Vigilance Committees. A most important provision related to the establishment of a fund for the rehabilitation and welfare of the freed bonded labourers and delineation of its purposes.

The tenancy law

Where bonded labourers cultivated lands belonging to landlords and performed the functions of tenants the relationship between the two parties could have been regulated under the Sindh Tenancy Act of 1950. However, this was not easy.

The Act originally envisaged two classes of tenants permanent tenants and tenants-at-will. The permanent tenants' names were registered in revenue record, they had considerable security of tenure and their ejection was subject to certain conditions and orders of competent tribunals. Such guarantees were not available to tenants-at-will except that they could be ejected only at the end of a cropping season. A tenant-at-will could become a permanent tenant by enjoying tenancy rights over a prescribed period.

The Act prescribed the division of the produce (the Batai system) between the landowner and the tenant and their respective shares of inputs (seed, water, fertilizer, farm implements, etc).

Disputes between the parties were to be decided by a one-man tribunal (a revenue official) and violations of the law could be punished with a small fine (Rs. 500) and, in case of default, with simple imprisonment for upto one month.

The Act prohibited landowners from forcing any of their tenants to render unpaid labour (*begar*)

The bonded *haris* could not seek the protection of the Tenancy Act because they were not treated as tenants. Some of the landlords contended that the Bonded Labour System Abolition Act did not apply to *haris*, and that the advance payments made to them were in the nature of *taqqavi* loans which were not affected by the Bonded Labour Abolition Act.

While this debate was going on at public forums and in courts, the Sindh government made two amendments in the Tenancy Act in 2002 with a view to prohibiting bonded labour under this law also.

The first amendment (September 2002) abolished the easily ejectable class of tenants-at-will and now the law envisages only one class of tenants -- permanent tenants. The period required to

qualify as a permanent tenant has been reduced.

Unpaid labour (*begar*) cannot be extracted from any member of a tenant's family.

Following the introduction of the Devolution Plan, the revenue officials have been redesignated: the duties of the Assistant Collectors are now performed by Executive District Officers (Revenue), of the Deputy Collectors by District Officers (Revenue) and of Mukhtiarkars by Deputy District Officers (Revenue).

The second amendment (October 2002) makes some general provisions regarding a tenant's debt to the landowner. The law as amended now says that a landlord will recover from a tenant's share of produce only a loan advanced under an attested agreement as prescribed in the Sindh Tenancy Rules and disputes will be settled by the tribunal.

The law also attacks the bonded labour system by prohibiting a landowner from forcing a tenant or any member of his family to provide free labour or labour against their will for the landlord's benefit, or denying a tenant or any member of his family freedom of movement beyond the limits fixed by him, or preventing a tenant or any member of his family from seeking work elsewhere, or transferring a tenant or any member of his family to another person / landlord against any consideration (in cash or otherwise).

National Policy and Action Plan

A great stride towards establishing mechanisms for the eradication of bonded labour was made in 2001 when a National Policy and a Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers were adopted.

The policy statement forthrightly declares that the Government is committed to the elimination of bonded and forced labour practices wherever and in whatever form they exist. The Government also pledges itself to adhering to all international instruments, covenants, conventions and protocols that protect fundamental human rights, whether they are ratified or not.

The action plan comprises both short-term and long-term measures. It includes a relief package for freed bonded *haris* / labourers living in make-shift settlements and who need immediate relief in the form of housing, food, sanitation, drinking water, health facilities and education for their children. It also envisages a country-wide survey to ascertain all essential facts regarding the prevalence and forms of bonded labour.

The most substantial part of the action plan deals with the realisation of the objectives of the Bonded Labour System (Abolition) Act. The measures outlined are:

Training of officials of Provincial Home Department, Police,

District Government, labour inspectors, etc. in bonded labour issues, legislative imperatives and international obligations and effective methods to eradicate bonded labour,

Regular monitoring of the implementation agencies through monitoring teams, complaint cells at the district level, coordinating cells in the Provincial Home Departments and the Ministry of Labour, periodical inter-ministerial and inter-provincial meetings, and involvement of social partners, NGOs, CBOs, trade unions and employers' organisations with monitoring and coordination.

Reconstitution and activation of Vigilance Committees, headed by District Nazims, clarification of their mandate to ensure accountability, and fine-tuning of their responsibilities.

Creation of a National Committee for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers to meet periodically and review implementation of the law and the action plan, to monitor the working of the District Vigilance Committees, and to address the concerns of national and international bodies on bonded / forced labour. The National Committee is headed by the Federal Labour Minister and includes all Home and Labour secretaries to Provincial Governments, and civil society representatives.

Registration of brick-kilns with provincial Labour Departments.

Awareness raising through media campaigns and mobilisation of public opinion at the grassroots level by Vigilance Committees.

Securing involvement of trade unions, employers' organisations, NGOs, CBOs and other civil society actors in the work of Vigilance Committees and rehabilitation programmes.

Creation of free legal aid cells / centres to extend counselling and advocacy services to bonded labourers.

Vocational training programmes for the freed bonded labourers.

Generation of self-employment opportunities for freed bonded labourers.

It is important to bear in mind that the scheme for the eradication of bonded labour, including the action plan, does not rely on State functionaries alone. The civil society organisations and individuals have an ample role to play. For instance, where the Action Plan calls for the involvement of trade unions, employers' organisations, NGOs, CBOs, et al, in the work of Vigilance Committees and rehabilitation programmes the latter have a duty and the freedom to play their role regardless of any formal invitation from the official side. Likewise, conscious elements of society are not supposed to leave the Vigilance Committees to their own devices in discovering the existence of bonded labour and drawing up plans to rehabilitate the freed bonded labourers. They can help

the Vigilance Committees in their task without being asked to do so.

The Rehabilitation Fund

The Action Plan has indicated the following sources for the financing of the bonded labour eradication programme:

- (i) The Fund for the Rehabilitation of Freed Bonded Labourers;
- (ii) Workers Welfare Fund; (iii) Pakistan Baitul Mal; (iv) ILO and donor agencies; (v) Workers' Children Education Cess; and (vi) Donations by philanthropists and employers' organisations.

While all these sources, and some others, can be tapped, the Fund for the Rehabilitation of Freed Bonded Labourers already exists. It was created with a Rs. 100 million grant from the Federal Government and it can be replenished. But it has not been used. The Vigilance Committees have possibilities of ensuring appropriate utilisation of this fund. They may ask for funds for a variety of purposes, such as providing legal assistance to bonded *haris* / labourers, and opening skill development centres for them.

The procedure is not complicated. A Vigilance Committee has first to make a realistic assessment of how much money it needs to carry out its task and prepare its own work plan showing who will do what, and how and when. On the basis of this plan a request for funds has to be made to the Provincial Home Department, which is responsible for carrying out the bonded labour eradication programme. The Home Department will secure the release of money from the Fund and disburse it to the Vigilance Committee. Of course, the committee is required to meet the requirements of proper accounting and auditing of all financial transactions. Thus, it is obvious that the proper utilisation of the Fund depends a great deal on the initiative of Vigilance Committees.

Some frequently asked questions

Although the Bonded Labour System (Abolition) Act and the Sindh Tenancy Act (as amended) leave no room for doubt or quibbling over the responsibilities of the various parties concerned with the abolition of bonded labour, a number of questions are still asked about the nature of this form of exploitation, responsibilities of the State and the role of various institutions. These questions, some of them given below, can be addressed in a rational manner.

1. Q. What exactly is meant by bonded labour and the bonded labour system?

A. The Bonded Labour System (Abolition) Act offers a complete answer. First, it is necessary to understand the meaning of bonded-debt. It is defined as advance (*peshgi*) payment, in cash or in kind, against wages to be earned in future. This debt binds the debtor to

the creditor and the former becomes a bonded labourer. The relationship between the debtor and the creditor gives rise to the bonded labour system when a number of people are brought under its purview and when it gains acceptance as custom or tradition. The following example can explain what is meant by bonded labour:

A poor *hari* / labourer or any member of his family obtains an advance (*peshgi*), whether or not such advance (*peshgi*) is recorded in any document, and is liable to pay any interest on such advance (*peshgi*), or is subject to any custom that sanctions his bondage, or he or any member of his family receives any economic consideration from the creditor. And in return he undertakes to render, by himself or through any member of his family or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or accepts the condition that he will not seek any other employment or adopt other means of livelihood for a specified period or for an unspecified period, or that he will not move freely from place to place, or that he will have no right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him. Such a person will be a bonded labourer.

The same will be the case of a person who stands as a surety for a debt and enters, or has or is presumed to have, entered, into an agreement with the creditor to the effect that, in the event of the failure of the debtor to repay the debt, he would render bonded labour on behalf of the debtor.

2. Q. How are references to slavery or serfdom relevant to a discussion on *haris*?

A. The term slavery was originally used for persons who were subordinate in all matters of life to the will and whim of another person who was supposed to own them. They could be bought and sold and had fewer rights and privileges than free persons. Later on slave trade was added to the definition of slavery. Still later the realization that there were practices and institutions similar to slavery led to the inclusion of pointed references to them in the Slavery Convention and the UN Supplementary Convention. The former Convention asked for prevention of "compulsory or forced labour from developing into conditions analogous to slavery." The latter Convention clearly called for abolition of serfdom. Bonded *haris* fall in the category of serfs as the Supplementary Convention defines serfdom as "the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for agricultural or other purposes, who is not free to dispose of his person, his family or his assets, and who is bound to accept a condition of work which is essentially similar to that of slavery."

status." It is impossible to exclude bonded *haris* from this definition of serfs. Further, the fact that the Constitution of Pakistan clubs slavery and forced labour in a single article is self-explanatory.

3. Q. Labour-employer relationship is master-servant relationship. Why should it attract anybody's attention?

A. The concept of employer being some kind of owner of the servant died long ago, with the recognition of labour's rights to fixed hours of work, holidays, payment of fair (or minimum) wages, etc. Now the terms and conditions of employment of all workers must be regulated by law. Once bonded labour has been abolished every worker has to be treated as a free worker entitled to due legal protection.

4. Q. A bonded labourer or a bonded *hari* enters into an agreement with his employer /landlord of his free choice. Why should he protest when this agreement is enforced?

A. A labourer or *hari* may approach an employer or a landlord of his free will but there his freedom of choice ends. He does not have the freedom to negotiate the terms of the so-called agreement, especially in terms of wages, hours of work, fringe benefits, sickness or accident benefits, freedom of residence or movement. Further, the labourer / *hari* offers to sell only his labour but the bonded labour system extracts forced labour from all members of his family who also lose their freedoms along with him. All of them become victims of an illegal compact.

5. Q. The members of the family of a bonded labourer / *hari* help him make a decent living. What is wrong with that?

A. The assumption that a bonded labourer / *hari* is helped by his family members to make a decent living is fallacious. A family's total earnings usually do not equal a single worker's normal wage. Hence the whole family sinks deeper and deeper into debt. Their complete dependence on the employer / landlord for basic needs makes them extraordinarily vulnerable and the scope of exploitation goes beyond denial of reasonable wages.

6. Q. What other forms of exploitation are we talking about?

A. The forms violation of the rights and dignities of a bonded labourer / *hari* and members of his family takes are too numerous to be recounted here. Women are humiliated and violated to an extent that sometimes they resign to rape and bearing illegitimate children. Small children are sexually abused. Drug addiction is encouraged as it erodes the workers' sense of personal dignity and increases their dependence on the employer / landlord.

7. Q. Why do bonded labourers / *haris* suffer such exploitation and indignities?

A. An old bonded *hari* who escaped on his own after suffering bondage for decades was asked as to why didn't the idea of escape occur to him earlier? His answer was: "I did not know that I could be free." The bonded labourers / *haris* are confined to a narrow world whose inhabitants are limited to employers/landlords, their factotums, and fellow bonded people, and they believe whatever is done to them is sanctified by tradition. The psychology of the slave convinces them of their being inferior to the employers / landlords and their *munshis* and that they have to be content with whatever life offers them.

8. Q. But surely bonded labourers / *haris* must have contacts with conscious elements of society who could tell them of their degradation?

A. Apart from the quarantine-like conditions in which bonded labourers / *haris* are kept, because they are obliged to live at or near the places of work and do not have homes of their own, they are often victims of distinctions based on belief and caste. A large number of bonded labourers / *haris* belong to non-Muslim groups and a good proportion is derived from scheduled castes and indigenous people. The latter do not interact even among themselves. The tendency to confine themselves to their closed groups cuts them off from ideas of justice, fairplay and even self-respect.

9. Q. On farms that are not cultivated by landowners the system of share-cropping has worked for centuries. The landlord is content with his share of the *batai*, and the *hari* should be content with his share. How does the question of exploitation of the bonded *hari* arise?

A. This question is based on a misconception of the share-cropping system. Under it a landlord and his tenant are not equal in all respects. A landlord's share depends on the extent of his holding and the number of his tenants. The aggregate of his shares from the produce gathered by all his tenants may become sufficient for him while a tenant has to live within his share of the produce from the part of land cultivated by him, and that is often insufficient to meet his needs. The bonded *hari's* case is entirely different. He does not receive his share of the produce because he is not treated as a tenant and is usually not in a position to function as one—he may not have farm implements of his own or resources for other inputs. As such the landlord is free to treat the inputs he makes on the tenant's behalf as a loan to him and since this amount may exceed the tenant's share of produce the end result is that the debt outstanding

against him continues to mount.

10. Q. *Haris* are tenants who are not bonded. Why call them bonded *haris*?

A. A tenant is protected by the Tenancy Act in the sense that he has a defined tract of land to cultivate, he has specific responsibilities in the matter of inputs and that he is entitled to a share of the produce (*batai*) that is fixed by law. A bonded-*hari* does not enjoy this set of obligations and rights. Even when he is described as a tenant he is in reality a labourer without the rights and privileges granted by law. And he is tied to his debt.

11. Q. If a *hari* is treated as a bonded worker and not as a tenant, why does he not invoke the Tenancy Act to secure his rights as a tenant?

A. Till recently one had to be a permanent tenant or at least a tenant-at-will to invoke the protection of the Tenancy Act. A bonded-*hari's* name is not entered in revenue records. Many, perhaps most, bonded *haris* do not have identity cards, and cannot give their residential addresses. They have difficulty in establishing their legal identity. They do not have access to revenue officials or courts. Recourse to the Tenancy Act is a far cry for them.

12. Q. Tenants do take loans from landlords for meeting the costs due from them or for personal needs. What happens to them?

A. Such loans are covered by the Tenancy Act. Till recently the landlords used these loans to impose unfavourable conditions on tenants. The amendment of October 2002 stipulates that a landlord is entitled to recover from a tenant's share of produce only a loan advanced under an attested agreement under the Sindh Tenancy Rules. The landlord's private books will no longer be accepted. It also prohibits a tenant's being kept in bondage or denied freedom of movement on account of a loan liability. Thus, the Tenancy Act also prohibits debt-bondage.

13. Q. The references to bonded-*haris*' being denied a fair wage need to be clarified. How do we conclude that they are not paid what is due to them?

A. The bonded *haris* are as a rule paid less than the minimum wages fixed for unskilled labour whereas *haris* ought to be classified as skilled workers. They know the land, the seasons, and the cropping requirements. They are complete cultivators, the real producers of agricultural wealth. The law itself recognizes that many of them are paid nominal wages. Instances are on record to show that a *hari* family was paid as little as Rs. 20 a month.

argument that the bonded *haris* are denied a fair wage, apart from being subject to other constraints.

14. Q If the *hari* workers' wages are raised the cost of agricultural produce will go up and farming will become uneconomic.

A. No. The correlation between low wages and low productivity is well known. A landlord who pays his *hari* workers a decent wage will need fewer hands than the number of weak, emaciated bonded *haris* he now employs and productivity will rise. Payment of a decent wage to *haris* will in fact improve farm economies.

15. Q. If all the bonded *haris* are freed, who will cultivate the lands and won't the farm economy collapse?

A. Freeing bonded *haris* does not necessarily mean pulling them out of farming. The landlords have the choice of retaining them as free workers whose conditions of employment are regulated by proper documents deposited with the revenue authorities or of treating them as tenants. Nobody wants to deny landlords' right to hire labour. The question is entirely one of regulating the terms on which *haris* can be hired.

16. Q. It is said that bonded *haris* do not have the resources to qualify as tenants. Then how can they be made tenants by landlords?

A. It is unfair to turn a *hari's* disadvantage into his permanent bondage. The answer lies in creating indigent *haris'* access to institutional credit that can enable them to fulfil tenancy conditions and relieve them of the need to borrow from the landlord.

17. Q. How will such institutional credit (presumably from government or banks or cooperatives) be more beneficial to a *hari* than borrowings from landlords?

A. Institutionalised credit will be better documented than *peshgi* granted by landlords. There will a smaller possibility of inflating the debt through fraudulent book keeping. Besides, the credit agency will have no social position comparable to the landlord's and which he can abuse through his links with politicians and the police.

18. Q. What we are seeing is that *haris* that are freed from bondage rush to cities to work at petty non-agricultural jobs. How is this a welcome change?

A. It is a welcome change to the extent that such *haris* are freed of bondage and their earnings from odd jobs can be many times higher

than what they get as bonded labour. But this change is unwelcome inasmuch as the *haris'* skill is lost to agriculture and national economy. Besides, they are exposed to the dangers of the urban slum culture and become vulnerable in new ways.

19. Q. In that case, what is the way out?

A. The answer lies in reconciling the interests of landlords, *haris* and the national economy. The landlord should have his share of produce and the *hari* should have security of tenure and due respect for his tenancy rights. That will also be in the interest of the national economy. More affirmative action needs to be put into the tenancy law and the functions of the revenue authorities streamlined.

20. Q. How does the problem of bonded *haris* become a social evil and a matter of concern to society?

A. Debt-bondage is a violation of human rights. The enjoyment of human rights is vital for the realization of citizens' socio-economic potential. If a section of population is denied human rights the society as a whole is deprived of the benefit that would accrue from the potential of the deprived ones. Thus, bonded-labour system reduces the socio-economic gains to the community. Besides, the bonded labour system exploits women and denies them freedom and dignity that could be used for social good. The children of bonded-*hari* families are denied education and opportunities of personal development and a large human resource is lost or wasted. All of this makes bonded labour system a matter of concern to society as it extracts a high price not only from its victims but also from the entire people.

21. Q. What can an ordinary citizen do in this matter?

A. No citizen is an ordinary person if one is aware of one's rights and social responsibilities. It is the duty of every citizen to see that laws are duly implemented. In relation to bonded labour the affirmative provisions of the Bonded Labour System (Abolition) Act and the Sindh Tenancy Act as amended need to be publicized by all organized sections of society (such as media in particular). Citizens should take interest in ensuring that the district authorities and the Vigilance Committees keep a close watch on any practices that are prohibited by law. Every citizen has a right to point out any incidence of bonded labour wherever noticed. If there is anything still lacking in laws and procedures the remedies can materialize only after concerted pressure of an informed citizenry. Above all, each citizen must discharge his supreme duty to help the poor and the marginalized to regain their integrity, self-respect and right to

equality that may have been pushed out of their minds by centuries of exploitation, degradation and ignorance.

22. Q. How exactly can a bonded labourer / hari benefit from the existing laws?

A. A bonded labourer / hari can file a complaint with the District Officer (R) if he is not paid wages, or if restrictions are placed on his movement beyond certain limits, or if he is stopped from seeking alternative employment on the basis of his debt-liability, or if he is 'transferred' to the service of another employer / landlord. If he is subjected to violence he may report to the police. He can also complain to revenue authorities about restrictions such as mentioned above. He can move the court of the sessions judge to gain freedom. If these approaches are considered hazardous, he may contact a member of the Vigilance Committee of his area or inform a civil society organisation of his plight.

23. Q. What can a Vigilance Committee do?

A. A District Vigilance Committee is perhaps the most important element in the bonded labour abolition mechanism. It is required to survey the area under its jurisdiction to find out if the bonded labour system is being practised. This finding must be followed with recourse to the relevant authorities (the Nazim, the DPO, the DDO(R), the court of sessions) to secure the release of bonded *haris* / labourers. Any member of a Vigilance Committee can report his discovery of bonded labour to the committee. A Vigilance Committee can establish legal aid units to help the bonded *haris* / labourers gain freedom. The Vigilance Committee's work does not end with the release of a *hari*/labourer from bondage. It is also responsible for the rehabilitation of freed bonded *haris* / labourers. If they can continue as *haris* on land under proper terms and conditions and are protected against bondage or other forms of exploitation, well and good. If not, the Vigilance Committees are charged with finding for the freed *haris* alternative employment and to realise this objective they could open skill development centres and devise self-employment schemes.

24. Q. What resources are available to a Vigilance Committee to carry out its task?

A. A Vigilance Committee that takes its responsibilities seriously will not be thwarted by lack of material resources. However, resources are available. A Vigilance Committee can develop its own plan to secure the release of bonded *haris* / labourers and also for their rehabilitation after being freed. For both activities it can make a

request for finances out of the Fund for the Rehabilitation of Freed Bonded Labourers. It can also appeal to local philanthropists and civil society organisations for help.

25. Q. What if a Vigilance Committee does not function?

A. It is the duty of each Provincial Government's Home Department to ensure that each district in its jurisdiction has a Vigilance Committee. Where no committee has been set up any civil society organisation or any citizen can urge the Provincial Government to fulfil its obligation. They can ask the District Nazim to ensure that a Vigilance Committee headed by him is duly established. Members of a Vigilance Committee can ensure regular meetings and implementation of plans of action.

ACT III OF 1992
**BONDED LABOUR SYSTEM
 (ABOLITION) ACT, 1992¹**

**An Act to provide for abolition of bonded labour
 system
 Gazetted on 17th March 1992**

Whereas clause (2) of Article 11 of the Constitution of the Islamic Republic of Pakistan prohibits all forms of forced labour; And whereas it is necessary to provide for abolition of bonded labour system with a view to preventing the economic and physical exploitation of the labour class in the country and for matters connected therewith or incidental thereto; It is hereby enacted as follows: --

1. Short title, extent and commencement.

- (1) This Act may be called the Bonded Labour System (Abolition) Act, 1992.
 (2) It extends to the whole of Pakistan.
 (3) It shall come into force at once.

2. Definitions.

In this Act, unless there is anything repugnant in the subject or context, -

- (a) "advance (*peshgi*): means an advance (*peshgi*), whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);
 (b) "bonded debt" means an advance (*peshgi*) obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system;
 (c) "bonded labour" means any labour or service rendered under the bonded labour system;
 (d) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt;
 (e) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that, --
 (i) in consideration of an advance (*peshgi*) obtained by him or by any of the members of his family [whether or not such advance (*peshgi*) is evidenced by any document] and in consideration of the interest, if any, due on such advance (*peshgi*), or
 (ii) in pursuance of any customary or social obligation, or
 (iii) for any economic consideration received by him, or by any of the members of his family;

he would

- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or
 (2) forfeit the freedom of employment or adopting other means of livelihood for a specified period or for an unspecified period, or
 (3) forfeit the right to move freely from place to place, or
 (4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,
 and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has or is presumed to have, entered, into an agreement with the creditor to the effect that, in the event of the failure of the debtor to repay the debt, he would render bonded labour on behalf of the debtor;
 (f) "family" means, --
 (i) in the case of a male bonded labourer, the wife or wives, and in the case of a female bonded labourer, the husband of the bonded labourer; and
 (ii) the parents, children, minor brothers, and unmarried, divorced or widowed sisters of the bonded labourer wholly dependent on him;
 (c) - "nominal wages", in relation to any labour, means a wage which is less than, --
 (a) the minimum wages fixed by the Government, in relation to the same or similar labour under any law for the time being in force; and
 (b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality; and
 (h) "prescribed" means prescribed by rules made under this Act.

3. Act to override other laws, etc.

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

4. Abolition of bonded labour system.

- (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour.
 (2) No person shall make any advance under, or in pursuance of, the bonded labour system or compel any person to render any bonded labour or other form of forced labour.

(5) Agreement, custom, etc., to be void

Any custom or tradition or practice or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of this Act, by virtue of which any person, or any member of his family, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

(6) Liability to repay bonded debt to stand extinguished.

(1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall stand extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any Civil Court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied..

(4) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family was forcibly taken by any creditor for the recovery of any bonded debt; such property shall be restored, within ninety days of such commencement, to the possession of the person from whom it was seized.

(5) Every attachment made before the commencement of this Act for the recovery of any bonded debt shall, on such commencement, stand vacated; and where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court, tribunal or other authority pending sale thereof, such movable property shall be restored, within ninety days of such commencement, to the possession of the bonded labourer:

Provided that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

(6) Subject to the proviso to subsection (5), any sale, transfer or assignment of any property of a bonded labourer made in any manner whatsoever before the commencement of this Act for recovery of bonded debt shall not be deemed to have created or transferred any right, or interest in or encumbrance upon any such property and such property shall be restored, within ninety days of such commencement, to the possession of the bonded labourer.

(7) If restoration of the possession of any property referred to in subsection (4) or subsection (5) or subsection (6) is not made within ninety days from the commencement of this Act, the aggrieved person

may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the said property within such time as may be specified in the order.

(8) An order made by any prescribed authority under subsection (7) shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(9) Where any suit or proceeding for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance (*peshgi*) made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

7. Property of bonded labour to be freed from mortgage etc.

(1) All property vested in a bonded labourer which was, immediately before the commencement of this Act, under any mortgage, charge, lien or other encumbrance in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrance; and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall, except where it was subject to any other charge, on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property referred to in subsection (1) to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

8. Creditor not to accept payment against extinguished debt. -

(1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of subsection (1), shall be punishable with imprisonment for a term which may extend to three

years, or with fine which shall not be less than fifteen thousand rupees, or with both.

(3) The court convicting any person under subsection (2) may, in addition to the penalties which may be imposed under that subsection, direct such person to deposit, in court, the amount accepted in contravention of the provisions of subsection (1), within such period as may be specified in the order, for being refunded to the bonded labourer.

9. Authorities who may be specified for implementing the provisions of this Act. The Provincial Government may confer such powers and impose such duties on a District Magistrate² as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate² may designate an officer subordinate to him to exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and specify the local limits within which such powers or duties shall be carried out by such officer.

10. Duty of District Magistrate² and other officers designated by him. (1) The District Magistrate² authorised by the Provincial Government under section 9, and the officer designated by the District Magistrate² under that section, shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

(2) It shall be the duty of every District Magistrate² and every officer designated by him under section 9 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 implement the provisions of this Act.

11. Punishment for enforcement of bonded labour. Whoever, after the commencement of this Act compels any person to render any bonded labour shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which shall not be less than fifty thousand rupees, or with both.

12. Punishment for extracting bonded labour under the bonded labour system. Whoever enforces, after the commencement of this Act any custom, tradition, practice, contract, agreement or other instrument, by virtue of which any person or any member of his family is required to render any service under the bonded labour system, shall

be punishable with imprisonment for a term which shall not be less than two years nor more than five years or with fine which shall not be less than fifty thousand rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of not less than fifty rupees for each day for which bonded labour was extracted from him.

13. Punishment for omission or failure to restore possession of property to bonded labourer. Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of ninety days from the commencement of this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of ten rupees for each day during which possession of the property was not restored to him.

14. Abetment to be an offence. Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation. For the purpose of this section, "abetment" has the same meaning as is assigned to it in the Pakistan Penal Code (Act XLV of 1860).

15. Vigilance Committees. (1) Vigilance Committees shall be set up at the District level in the prescribed manner, consisting of the elected representatives of the area, representatives of the District Administration, Bar Associations, Press, recognized Social Services and Labour Departments of the Federal and Provincial Governments.

(2) The following shall be the functions of the Vigilance Committees, namely: --

(a) to advise the District Administration on matters relating to the effective implementation of the law and to ensure its implementation in a proper manner;

(b) to help in the rehabilitation of the freed bonded labourers;

(c) to keep an eye on the working of the law; and

(d) to provide the bonded labourers such assistance as may be necessary to achieve the objectives of the law.

16. Offences to be tried by the Magistrate.

(1) A Magistrate of the first class empowered in this behalf by the Provincial Government may try any offence under this Act.

(2) An offence under this Act may be tried summarily.

17. Cognizance of offences.

Every offence under this Act shall be cognizable and bailable.

18. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in subsection (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager or other officer of the company, such director, manager or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: -- For the purposes of this section, --

(a) "company" means any body corporate and includes a firm or other association or individuals; and

(b) "director", in relation to a firm means a partner in the firm.

19. Protection of action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.

20. Jurisdiction of courts barred.

Save as otherwise provided in this Act, no court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any court in respect of anything which is done or intended to be done under this Act.

21. Power to make rules.

The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Notes: 1. The text of the Act is given here as it was published in the Gazette of 17th March 1992.

2. Following the abolition of the office of District Magistrate, the expression District Magistrate, wherever occurring in the Act, has been replaced with District Coordination Officer (DCO).

BONDED LABOUR SYSTEM (ABOLITION) RULES, 1995¹

(Gazetted on 25 July, 1995)

S. R. O. 723 (1) / 95, dated 20-7-1995. In exercise of the powers conferred by section 21 of the Bonded Labour System (Abolition) Act, 1992 (III of 1992), the Federal Government is pleased to make the following rules, namely:-

1. Short title and commencement.

(1) These rules may be called the Bonded Labour System (Abolition) Rules, 1995.

(2) They shall come into force at once.

2. Definition.

(1) In these rules, unless there is anything repugnant in the subject or context.

(a) "Act" means the Bonded Labour System (Abolition) Act, 1992 (III of 1992);

(b) "Authority" means authority prescribed under rule 3;

(c) "Chairman" means the Chairman of a Vigilance Committee;

(d) "Fund" means Fund established under rule 9; and

(e) "Vigilance Committee" means Vigilance Committee set up under rule 6.

(2) All other expressions used but not defined in these rules shall have the meaning assigned to them under the Act.

3. Authority to deal with cases of restoration of possession of any property of bonded labourer or a member of his family.

(1) The Provincial Government shall, by notification in the official Gazette, establish one or more authorities to deal with cases of restoration of possession of any property under subsection (7) of section 6 of the Act and specify the territorial limits within which each one of them shall exercise jurisdiction under the Act.

(2) An authority established under sub-rule (1) shall consist of an officer of the Provincial Government with experience as a judge of a civil court.

(3) The bonded labourer or a member of his family himself or through a legal practitioner may file an application before the authority for restoration of possession of any property that has been taken by creditor or attached, sold, transferred or assigned within the meaning of section 6 of the Act.

(4) When an application under sub-rule (3) is filed, the authority shall hear the petitioner and the creditor or any other person acting on behalf

of the creditor, and pass order as it deems proper.

(5) As far as possible, the authority shall decide the application filed under sub-rule (3) within a period of thirty days from the date the application has been filed before it.

(6) The aggrieved person may file his application under sub-rule (3) with the authority within a period of seven years from the date of the commencement of these rules or from the date the cause of action arises.

4. Powers and duties of the District Magistrate² for implementing the provisions of the Act.

(1) The Provincial Government shall, by notification in the official Gazette, confer upon every District Magistrate² in the Province the following powers, namely:-

(a) to inspect any premises or work place in his jurisdiction where he has reason to believe that bonded labour system is being enforced and make such examination of that place or any record, register or other documents maintained therein and may require any explanation of any person or record or document and take such measures as he may consider necessary for the purposes of the Act;

(b) to call for such information from the creditor or any other person as he may deem necessary for the discharge of his functions;

(c) to enquire into any matter relating to the implementation or violation of the provisions of the Act; and

(d) to exercise such other powers as may be conferred upon him for carrying out the purposes of the Act.

(2) The Provincial Government may, by notification in the Official Gazette, confer on a District Magistrate² all or any of the following duties, namely:--

(a) to mobilize Government and non-Government organisations falling in his jurisdiction for the purpose that those should work together so as to bring to light the cases of bonded labourer so that measures should be taken under the law for their freedom and rehabilitation;

(b) to urge academic institutions and vocational training schools to prepare programmes for the education and training of workers freed from the bonded labour system;

(c) to persuade philanthropists and social welfare organizations to undertake activities to rehabilitate and promote the welfare of the freed bonded labourer by securing and protecting the economic interest of such freed bonded labourer to enable him not to contract any further bonded debt; and

(d) to perform such other duties as may be conferred upon him for carrying out the purposes of the Act.

5. Other officers to exercise powers and perform duties conferred upon a District Magistrate².

(1) The District Magistrate shall, by an order in writing, designate all

Magistrates, all Labour Officers, all Labour Inspectors and all Police Officers not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police, performing function within the territorial jurisdiction of a district under his control to exercise all or any of the powers and perform all or any of the duties, so conferred or imposed upon him under rule 4.

(2) An order issued under sub-rule (1) shall specify the territorial limits within which such powers or duties shall be exercised or carried by such officer.

6. Constitution and meetings of the Vigilance Committees.

(1) The Provincial Government shall, by notification in the official Gazette, constitute in each district of the Province a Vigilance Committee consisting of the following members, namely:

(A) Deputy Commissioner ³ of the District	Chairman
(b) A police officer not below the rank of Superintendent of Police as nominated by the Senior Superintendent of Police ⁴ of the District	Member
(c) District and Session Judge, retired or serving, to be nominated by the Provincial Government.	Member
(d) President District Bar Association	Member
(e) An elected member of the District Council, to be nominated by the Local Government and Rural Development Department of the Provincial Government.	Member
(f) A Member of the Provincial Assembly, to be nominated by the Provincial Government in consultation with the Local Government and Rural Development Department of the Province.	Member
(g) A representative of the Labour and Manpower Department of the province not below the rank of Assistant Director Labour Welfare, to be nominated by that Department.	Member
(h) A representative of the Labour, Manpower and Overseas Pakistanis Division of the Federal Government, to be nominated by that Division.	Member
(i) A representative of the Education Department not below the rank of an officer in BPS-17 or a staff member of an educational institution run or controlled by the Provincial Government, to be nominated by that Department.	Member

(j) A representative of the Agriculture Department not below the rank of an officer in Basic Pay Scale 17, to be nominated by that Department.	Member
(k) A representative of the Health Department preferably a qualified physician, to be nominated by that Department.	Member
(l) A representative of a recognized body of workers, to be nominated by the Provincial Labour and Manpower Department in consultation with that body.	Member
(m) A representative of a recognized body of employers, to be nominated by the Provincial Labour and Manpower Department in consultation with that body.	Member
(n) A representative of a registered or recognized NGO working for the protection of human rights, to be nominated by the District administration with approval of the concerned Deputy Commissioner ³	Member
(o) A journalist of a standing competence and having experience of working in the field of human rights, to be nominated by the Federal Information Department.	Member
(p) A representative of Social Welfare Department of the Province not below the rank of an officer in Basic Pay Scale 17, to be nominated by that Department.	Member
(q) Two representatives of recognized social services, one from All Pakistan Women Association and one from any other body established to render services to the society at large for its development, to be nominated by the Federal Government.	Member

(2) As soon as the Vigilance Committee is constituted, the Chairman shall call the preliminary meeting of the Committee and designate one of the official members as Secretary who shall be responsible to record minutes of every meeting and, subject to the approval of the Chairman, shall correspond with the concerned Government Departments or other agencies, maintain records of proceedings and correspondences and undertake all transactions that are necessary in carrying out the objectives of the Act and the rules.

(3) The Vigilance Committee shall meet in the first week of every month at a place and in the manner as directed by the Chairman.

(4) An emergency meeting of the Vigilance Committee may be convened at forty-eight hours notice in writing given to the Chairman, at least by seven members under their signatures.

7. Functions of the Vigilance Committee.

(1) Subject to the overall control of the Provincial Government, a Vigilance Committee shall be responsible to ensure that the objectives of the law are fully achieved and in particular shall perform the functions assigned to it under the Act.

(2) The Vigilance Committee may, at any time, call upon a department or an agency or a company or an employing establishment or firm or an individual employer or any other person to furnish it with such information and documents as may be relevant or useful in connection with performance of its functions under subsection (2) of section 15 of the Act.

(3) The Vigilance Committee shall establish a complaint cell in the office of the Deputy Commissioner³ which shall be managed by its Secretary.

(4) The Secretary or any member of the Vigilance Committee, on having the knowledge that at a work place bonded labour was employed, he shall forthwith report to the District Magistrate² for taking appropriate action under the Act.

8. Tenure of office of non-official members.

(1) A non-official member of the Vigilance Committee shall hold office for a period of two years from the date of his appointment as a member and shall be eligible for nomination.

(2) An outgoing member may continue in office until the appointment of his successor.

(3) No act or proceedings of the Vigilance Committee shall be invalid for reasons only of existence of a vacancy in, or defect in the constitution of, the Committee.

(4) A person appointed as member of the Vigilance Committee to fill casual vacancy shall hold office for the unexpired period of his predecessor,

(5) A member of the Vigilance Committee may, by writing in his own hand addressed to the concerned Chairman, resign his office.

(6) A member of the Vigilance Committee may be removed by the Provincial Government if he is convicted of an offence which in the opinion of the Provincial Government involves moral turpitude or if he has been absent from three consecutive meetings without leave of absence obtained from the Chairman.

9. Establishment of the Fund.

(1) There shall be established for the rehabilitation and welfare of the freed bonded labourers a Fund consisting of:-

(a) any initial or subsequent contribution made by the Federal Government or Provincial Government;

(b) such sums and voluntary contributions as may, from time to time, be paid by any national or international organization; and

(c) income from the investments made and properties and assets

acquired out of the Fund.

(2) The Fund shall be utilized to:-

(a) finance the projects connected with the establishment of training institutes for the training of persons freed from bonded labour system;

(b) provide legal and financial assistance to the bonded labourers or their family members for the sake of protection of their rights under the Act;

(c) finance the other measures for the rehabilitation and welfare of a freed bonded labourer as envisaged in subsection (1) of section 10 of the Act;

(d) meet expenditure in respect of cost of management and administration of the Fund; and

(e) make investment in securities approved for the purposes by the Provincial Government.

(3) The Provincial Government may allocate any sum out of the Fund to the Vigilance Committees to perform their functions under the Act and these Rules.

(4) The Vigilance Committee and those committees shall quarterly furnish to the Provincial Government a statement of its accounts.

(5) No sum shall be spent by the Vigilance Committee without approval, in writing, of the Chairman.

(6) Each Vigilance Committee shall get its accounts audited subject to the direction and control of the Provincial Government.

10. Travelling allowance and daily allowance of non-official members.

A non-official member of a Vigilance Committee shall be entitled to travel allowance and daily allowance at the rates determined by the Provincial Government from time to time, in keeping with the established practices and prevailing cost of living.

Notes: 1. The Rules are reproduced in the form in which they were gazetted.

2. Under the District Government system the revenue officers have been redesignated. The duties of Commissioner are performed by Executive District Officer (EDO), of the District Collector by District Officer (Revenue), and of the Assistant Collector class 1 by Deputy District Officer (Revenue).

3. For Deputy Commissioner read District Nazim.

4. For Senior Superintendent of the District read District Police Officer (DPO).