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Adivasis and the Indian State: Tribal groups particularly vulnerable to bonded labour, strict enforcement needed to prevent exploitation

People from Scheduled Tribes in rural areas are often lured with petty sums to work in labour-intensive units, and then treated like cattle.

Madhuri Xalxo | August 30, 2019 21:43:12 IST



People from Scheduled Tribes in rural areas are often lured with petty sums to work in labour-intensive units, and then treated like cattle.

Poverty and helplessness of labourers are usually

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Patra said that all the parties made suggestions at the meeting while keeping their political differences aside. The Opposition has, however, expressed distrust over the chief minister of Manipur

believed to be the direct cause of such exploitation of labour.

However, there are clear linkages between bonded labour and the vulnerability of communities such as Scheduled Castes and Scheduled Tribes

Editor's Note: In this eighteen-part series, we will attempt to address the tropes associated with the communities in question from an Adivasi perspective while also exploring the contemporary relationship of Adivasi citizens with the Indian government. This is part eight of the [series on Adivasi communities](#) in peninsular India.

This picture of Kasi taken last month during a bonded labour rescue operation in Tamil Nadu, jolted the nation's conscience.



Image credit: Jerusha Venkatarangam

Kasi was rescued along with 27 others, including 10 children, of eight families. All of them belong to the Irula community — a Particularly Vulnerable Tribal Group (PVTG). Irulas are the second-largest tribe in Tamil Nadu, and have a history of having faced violent displacement. As a result, the Irulas have depended on wage labour for survival, many of them being forced to work as bonded labour, like Kasi.

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The joint statement released by India and US reads, "In this context, both sides remain committed to a comprehensive UN reform agenda, including through expansion in permanent and non-permanent categories of membership of the UN Security Council."

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Nearly one-third of Malaysian domestic workers in forced labour conditions



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The septuagenarian, along with the rest, had been working at a wood-cutting unit at Kancheepuram district of Tamil Nadu for more than five years. The families had borrowed petty loans that ranged from Rs 9,000 to Rs 25,000. In the ensuing years, to repay the debt, the labourers had to forsake their liberty, were provided minimal food for survival, and their children were not allowed to go to school.

Section 2(g) of the Bonded Labour System (Abolition) Act, 1976, (BLSA), defines bonded labour as labour in lieu of a debt or social obligations when the labourer forfeits any one of the following rights: (1) minimum wage (2) fundamental right of movement, (3) right to employment, or (4) right to sell his/her product at market price. In such cases, the District Magistrate is mandated to take positive action of rescue, release and rehabilitation of the victim, and prosecution of the offender.

Kasi's case was brought before the concerned authority by a Released Bonded Labour Association (RBLA), a collective of released bonded labourers. This obligated the District Magistrate to take necessary action as per the BLSA. The Government officials reached the wood-cutting unit, and rescued Kasi along with others. However, after conducting an inquiry, the officials refuted the allegations of the RBLA and did not register any offence under BLSA against the employer. So, just hours after the rescued bonded labourers were dropped home by the officials, the employer came and threatened them with dire consequences if they did not return to the facility.

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This is not just a stand-alone story. In this region, labourers belonging to Scheduled Tribes live in continuous fear of violence from their employers. This is a story that resounds in the lives of all bonded labourers; of all people from Scheduled Castes and Scheduled Tribes dependent on wage labour.

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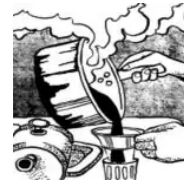
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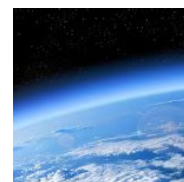
The International Labour

Organisation identified conditions such as excessive working hours, unpaid overtime, low wages, restricted movement, and being unable to quit among its indicators of forced labour.



Can the missing Titanic tourist sub be rescued? Is there hope for passengers?

While the US media reported that banging sounds have been heard in the area where the vessel disappeared on Tuesday, authorities say passengers will run out of oxygen early Thursday. Experts say options for rescue at the depth where the Titanic wreck rests remain extremely limited



Why has Earth's pole moved? What's the connection to India?

According to a new study published in Geophysical

Research Letters, the Earth's pole has shifted around 80 centimetres over the past thirty years. This is because of groundwater being pumped – most of which has been redistributed in western North America and northwestern India

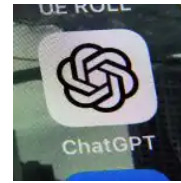
In a similar case, Sudha was rescued along with 19 others based on a complaint lodged by a Jodhpur-based non-governmental organisation, Jai Bhim Vikas Shikshan Sansthan, from a brick kiln in Bhilwara district of Rajasthan. The rescued workers all belong to the Bhil tribe.



Twenty workers from the Bhil tribe were rescued from Gayatri Bricks located in Hamirgadh village of Bhilwara district. Credit for images: Jai Bhim Vikas Shikshan Sansthan

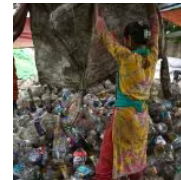
Sudha's family along with three other families from Uttar Pradesh, were lured to Rajasthan with an advance of approximately Rs 11,000 each per family. They had been promised Rs 530 for every 1,000 bricks laid down. But the families allege that despite laying down approximately one lakh bricks per adult person, they were only given Rs 1,500-2,000 for expenses. The families also faced continuous harassment. Moreover, families received no medical aid, and the children were not allowed to go to school.

Further, it is alleged that they were being locked inside their shacks at night by their employer to keep them from running away. So, to pay off the debts and leave, the families borrowed some more money from another brick kiln. However, when they wanted to leave, they were threatened and beaten up. It was then that Jai Bhim Vikas Shikshan Sansthan came to their aid and mobilised government support for their rescue. Subsequently, a first information report was lodged against the brick-kiln owner.



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Priyank Kanoongo said NCPCR is running a month-long pan India campaign to liberate children from the clutches of child labour. The Indian government has been taking various proactive measures to tackle this problem, he said



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'Gaddar Divas': The fresh tension between Sena (UBT) and Shinde-led faction explained

The Uddhav Thackeray-led UBT has called for 20 June – the day last year that Eknath Shinde raised a banner of revolt – to be marked as 'Gaddar Divas' with Sanjay Raut even tweeting a letter to the United Nations demanding the same. Shinde in turn has accused Uddhav of being a traitor for 'betraying

FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C.)
(प्रथम सूचना रिपोर्ट)
(धारा 154 दण्ड प्रक्रिया संहिता के तहत)

1. District (जिला): भीलवाड़ा P.S. (थाना): हमीरगढ़

2. FIR No. (प्र.सू.रि.सं.): 0005 Date and Time of FIR (एफआईआर की तिथि/समय): 16/01/2019

S.No. (क्र.सं.)	Acts (अधिनियम)
1	क्रिशोर न्याय (बच्चों की देखभाल और संरक्षण) अधिनियम 2015
2	बंधित श्रम पद्धति (उत्सादन) अधिनियम, 1976
3	बंधित श्रम पद्धति (उत्सादन) अधिनियम, 1976
4	अनुसूचित जाति एवं अनुसूचित जनजाति (नृशंसता निवारण) अधिनियम, 1989 (संशोधन 2015)
5	भा द सं 1860
6	भा द सं 1860

(a) Occurrence of offence (अपराध की घटना):

1. Day (दिनांक): Page 1 / 4 Date To (दिनांक तक): 15/01/2019
Time To: 17:30

FIR procured by Madhuri Xalxo

Scheduled Tribes, among others from similar economic backgrounds, from distress-prone regions of Uttar Pradesh, Bihar, Jharkhand, Odisha, Chhattisgarh, Maharashtra, Madhya Pradesh, Telangana, and Andhra Pradesh are often lured with petty sums to work in labour-intensive units, and then treated like cattle. There are an estimated 1.84 crore bonded labourers trapped at work under deplorable conditions across India in brick-kilns, carpet industries, fish farms, agriculture, rice mills, gem-making industries, construction work, hotels and dhabas, domestic work, mines and quarries, etc. The list is endless.

Poverty and helplessness of labourers are usually believed to be the direct cause of such exploitation of labour. However, a report of the UN Special Rapporteur on contemporary forms of slavery (2009), references ILO Research affirming “*a clear link in Asian countries between forced labour and long-standing patterns of discrimination. In India, the overwhelming majority of bonded labour victims in agriculture, brick-making, mining and other sectors are from Scheduled Castes and Scheduled Tribes.*” A report of the Planning Commission on “Bonded Labour Rehabilitation Scheme from Madhya Pradesh, Odisha, Rajasthan, Tamil Nadu and Uttar Pradesh” (2010) confirms that 83 percent of the rehabilitated bonded labourers belong to SC and ST communities. Very recently, in a sample survey done by the labour department of Telangana

(February 2019), it has been found that between 80–90 percent of child labourers in the state belong to SC/ST communities.

Dr BR Ambedkar had identified this link existing in India between caste and forced labour. The social tyranny wherein lower castes and tribes have been condemned to the inescapable fate of eternal servitude needed to be dealt with. Therefore, there is a conscious inclusion of Article 23 as a fundamental right against exploitation in the Constitution of India. Article 23(1) not only prohibits trafficking in human beings and “*begar*” and other similar forms of forced labour, but also renders any contravention to the said prohibition an offence punishable in accordance with law.

Regardless, a quarter century after the constitutional right against exploitation was enforced, the need of another law was felt to penetrate through the solidified traditional practices of upper castes. So, the Bonded Labour System (Abolition) Act, 1976, (BLSA) was enacted. BLSA is a special criminal law emphasising upon release and rehabilitation of rescued bonded labourers, with the prosecution of the offence being not-so-significant a pursuit. Therefore, although some defined practices are listed as cognisable offences under the BLSA, the offences are bailable. Under Section 21 of the Act, these offences may be summarily tried by an executive magistrate. However, in Madhya Pradesh, Maharashtra and Tamil Nadu, this provision was amended to mandate trial by a judicial magistrate alone.

So far, since the enactment of BLSA, approximately 3,13,687 bonded labourers have been identified and rehabilitated (as per the records of the labour ministry in December 2018). However, data on prosecution is not as easily available. Reports of labour departments from states like Uttar Pradesh and Tamil Nadu regarding Section 21 of the BLSA show high pendency rates and very few convictions. The National Crime Records Bureau (NCRB) has been mentioning data on BLSA offences since 2014. According to it, there were only 4 convictions each in 2015 and 2016. Over 77 percent cases ended in acquittal.

Over the past few decades, both the Centre and state governments have on many occasions expressed commitment to address the exploitation and oppression of ST communities. Funds for SCs and STs are earmarked every year for promoting socio-economic empowerment and inclusive development. Additionally, hundreds of crores are also being released by the Central government through Special Central Assistance under the SC/ST category for wide-ranging activities with specific focus on education, skill development, livelihood options, health infrastructure, availability of drinking water, provision of housing, electrification, road

connectivity, toilets, etc. in coordination with the concerned Union Ministries and State line Departments. Nevertheless, inequality and exploitation of ST people, particularly in the rural areas, whether in the form of trafficking for bonded labour or in other forms, both latent and manifest, continues unabated.

The problem is not with access to services for ST communities but the unilateral nature of the solution itself. The marginalisation of Scheduled Tribes cannot be checked by provisions of reservation and welfare measures alone. Everyday violence, that consistently frustrates every welfare measure drawn up to alleviate poverty and ensure development of ST communities, must be addressed.

Members of ST communities who are held in slavery, sexually assaulted, thrown off their lands, discriminated in schools, colleges and workplaces, or abused by the police and government mechanisms, need strong law enforcement systems that protect them from violence and exploitation. In the words of Gary Haugen, Founder and CEO of International Justice Mission, the poor need access to the unique services of the criminal justice system to enforce the laws that prohibit acts of predatory violence upon them – and as costly and risky as it may be, it is unrealistic and dangerous to imagine that the poor in the developing world can somehow get along without effective law enforcement.

Therefore, it is being argued that more than welfare measures, ST communities need a functioning law enforcement apparatus. They need authorities to stand up for them, and not against them. Experts on development assistance term effective and legitimate law enforcement as the precursor of development and poverty reduction. Therefore, allocation of Rs 530 crore for strengthening enforcement of Protection of Civil Rights Act, 1995, and the Prevention of Atrocities Act, 1989 (POA), alone is not enough. The law enforcement mechanism must be in a position to confront traditional power imbalances and coercive practices which still exist against marginalised tribes and communities in all spheres.

The author is an advocate working on anti-human trafficking issues.

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