

Bonded Labour (Prohibition)Act, 2058 (2002)

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Act Number 21 of the Year 2058 (2002)

An act made to provide for provisions relating to prohibition on bonded labour

Preamble: Whereas, it is expedient to make provisions in order to put a ban on bonded labour (*Kamaya shram*), to rehabilitate the freed bonded labourers and to uplift their livelihood from the perspectives of social justice.

Now, therefore be it enacted by the Parliament in the first years of reign of the His majesty the King Gayanendra Bir Bikram Shah dev.

Chapter - 1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called "Bonded Labour (prohibition) Act, 2058 (2002)."
(2) This Act shall come in force immediately.
2. **Definition** : Unless the subject or context otherwise requires; in this Act-
 - (a) "Bonded labour (*Kamaya shram*)" means the labour or service to be rendered for a creditor for the following reasons without wages or with nominal wages.
 - (1) To pay back the debt obtained by him/ her or family and to pay the interest thereof.
 - (2) To pay back the debt obtained by his/her ascendant and to pay back the interest thereof.

- (3) To pay back the bonded debt of bonded labourer by a person who has given a guarantee before the creditor on behalf of a bonded labourer.
- (b) 'Bonded labourer' means a person who is working as a bonded labourer in the name of *Bhaisawar, Gaiwar, Bardikar,, Chhekarwar, Haruwa, Charuwa, Hali, Gothlo kamalariya* or by any other similar name.
- (c) "Bonded debt" means the cash, commodity or kind obtained by the bonded labourer from a creditor and this expression also includes "*Sauki* or other debt.
- (d) "Creditor" means a person who provides debt to a bonded labourer.
- (e) "Family" means father, mother, husband, wife, son or unmarried daughter and this expression also includes coparcener of bonded labourer if the bonded labourer is the head the joint family.
- (f) "Freed bonded labourer" means a bonded labourer who has been set free pursuant to Section 3.
- (g) "Committee" means Freed Bonded Labourer Rehabilitation and Monitoring Committee constituted pursuant to Section 8.
- (h) "Welfare Officer" means the welfare officer as referred to in Section 10.
- (i) "Fund" means the Fund as referred to in Section 12.
- (j) "Agro-labour" means a person who carries out the work prescribed by the Government of Nepal by publishing a Notification in the Nepal gazette.
- (k) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter - 2

Provision relating to prohibition on bonded labour

3. **To be freed from bonded labourer:** Every person who is serving as bonded labourer at the time of the commencement of this Act shall, *ipso facto*, be freed from bonded labour after the commencement of this Act.
4. **Prohibition against employment to serve as a bonded labourer:** No one shall keep or employ any one as a bonded labourer after the commencement of this Act.

Chapter 3

Provision relating to bonded debt

5. **To be freed from bonded debt:** After the commencement of this Act, no bonded labourer shall be obliged to pay back the bonded debt obtained by him/her from any creditor.
6. **Deeds (instrument) or Agreement to be void:** Notwithstanding anything contained in the prevailing law, all the deeds (instrument) or written or gentleman agreement (verbal agreement) concluded between the creditor and the bonded labourer in respect of debt shall, *ipso facto*, be void after the commencement of this Act.
7. **Obligation to refund the property taken as a mortgage or guarantee:** The creditor shall refund the property taken by him/her as a mortgage or guarantee, if any, in the course of providing debt to the bonded labourer to the concerned person within a period of Three months after the commencement of this Act.

Chapter -4
Constitution, functions, duties
and powers of the Committee

8. **Constitution of the Committee:** (1) In order to work in respect of rehabilitation of freed bonded labourer, there shall be a Freed Bonded labourer Rehabilitation and Monitoring Committee in the districts as prescribed by the Government of Nepal.

(2) The composition of the Committee shall be as follows.

- (a) Chairperson of District Development Committee - Chairperson
- (b) Chief of District police office - Member
- (c) Chief of the District Education Office - Member
- (d) Officer of District administration office - Member
- (e) Chief of District Forest Office - Member
- (f) Chief of District land Reform Office - Member
- (g) Chief of Labour Office - Member
- (h) Chief of District Agriculture Development Office - Member
- (i) One person from among the chiefs of banking officer In district level - Member
- (j) One person from among union or association of peasants in district level - Member
- (k) Maximum three persons from among the Trade union or association - Member
- (l) One person from among the non-governmental organizations which has worked in respect of bonded labourer - Member

- (m) One person form freed bonded labourer -Member
- (n) Welfare officer - Member Secretary

(3) The chairperson shall nominate the member as referred to in Clauses (i), (j), (k), (l), (m) of Sub-section (2).

(4) Procedure relating to the meetings of the Committee shall be as determined by the Committee itself.

9. **Functions, duties and powers of the Committee:** Functions, duties and powers of the committee shall be as follows:

- (a) To cause to prepare the up-to-date record of the freed bonded labourers.
- (b) To make necessary arrangement for the rehabilitation of the freed bonded labourers.
- (c) To implement the programme approved by the Government of Nepal for the rehabilitation of the freed bonded labourers
- (d) To monitor as to whether anyone has employed as a bonded labourer or not.
- (e) To recommend the Government of Nepal, Bank or financial institution for providing required loan to the freed bonded labourers to carry out the business relating to income generation.
- (f) To keep co-ordination with various bodies or institutions in respect of the residence, education or employment oriented skill development training for the freed bonded labourers.
- (g) To perform necessary functions to protect the right and interest of the freed bonded labourers.
- (h) To perform other functions as prescribed.

Chapter - 5

Welfare Officer and other provisions

10. **Welfare officer**: The Government of Nepal may designate any of its' officer to work as a Welfare Officer in order to perform the work, as may be required, in respect of the right and interest of the freed bonded labourers
11. **Functions, Duties and powers of the Welfare Officer**: The functions, duties and powers of the Welfare Officer shall be as follows:
- (a) To maintain the record of the freed bonded labourers,
 - (b) To perform the work as directed or assigned by the Committee in respect of the right and interest of the freed bonded labourer,
 - (c) To implement or cause to implement the decision made by the Committee.
 - (d) To perform other functions as prescribed.
12. **Fund**: (1) In order to perform the work, as may be required, in respect of the right and interest of the freed bonded labourer, there shall be a Fund and the following moneys shall be deposited on the Fund.
- (a) Money obtained from the Government of Nepal as a grant.
 - (b) Moneys obtained from foreign person, government or institution or organization through the Government of Nepal.
 - (c) Money obtained from other sources.
- (2) The money collected on the Fund shall be deposited in an account of a Bank
- (3) Welfare officer shall operate the Fund by adopting the method prescribed by the Government of Nepal and as per the direction of the Committee.

13. **Power to determine the rate of minimum wage:** (1) The Government of Nepal shall, by a Notification in the Nepal gazette, determine the rate of minimum wage for agro-labourer.
- (2) No agro-labourer shall be employed without paying wages or with lower wages than the minimum rate determined pursuant to Sub-section (1).
14. **To provide settlement and employment:** The Government of Nepal shall provide the facility of settlement, employment and income generation as prescribed to the freed bonded labourers.

Chapter -6

Complaint, penalty and appeal

15. **Complaint may be lodged:** (1) If some one commits any act violating the provisions of this Act, the victim him/herself or a member of his/her family, union, institution or an official of a local body may lodge a written complaint or forwards verbal notice before the Adjudicating Authority along with the evidences so collected in this regard
- (2) If a person forwards a verbal notice pursuant to Sub-section (1) the Adjudicating Authority shall cause to prepare such verbal notice as a written complaint and cause to put the signature of the complainant. (3 (Not withstanding anything contained in the prevailing law, the complainant referred to in Sub-section (1) shall not be obliged to appear on the date for the trial of the case .
16. **Penalty:** (1) If a person employs any one as a bonded labourer violating Section 4, the Adjudicating Authority shall impose a fine on him/her not less than Fifteen Thousand Rupees and not exceeding Twenty five thousand Rupees; and shall provide the two-fold amount of the minimum wage as determined pursuant to this Act for the each day of employment to the victim from such employer (offender).

(2) If a person fails to refund the property taken as a mortgage or guarantee pursuant to Section 7, the Adjudicating Authority shall impose a fine on him /her not less than Ten Thousand Rupees and not exceeding Fifteen Thousand Rupees and shall cause to refund the said property to the concerned person.

(3) If a person employs any one without paying wages or with lower wages than the minimum rate, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees; and shall provide the two-fold amount of the minimum wage as determined pursuant to this Act for the each day of employment to the victim from such employer (offender).

(4) If a person hinders or obstructs to anyone in the course of investigation of any act committed contrary to this Act, the Adjudicating Authority shall impose a fine on him/her not less than Three Thousand Rupees and not exceeding Ten Thousand Rupees.

(5) Save as provided in Sub-section (1), (2), (3) and (4), if a person commits an act in contravention of this Act and the Rules framed here under, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees.

(6) If a person knowingly/willingly or with an intention to make trouble to anyone lodges a fake complaint, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees.

(7) If a person, who has committed an act as referred to in Sub-section (1), (2), (3), (4), (5) and (6), holds an office of public profit or a person who has been already punished under this Act, again commits the same act, the Adjudicating Authority shall impose two-fold punishment of the punishment mentioned in the concerned Sub-section

17. **Adjudicating Authority**: The Chief District Officer of the concerned district shall have the powers to adjudicate the case under this Act.
18. **Appeal**: A person who is not satisfied with the decisions made by the Adjudicating Authority under this Act may file an appeal with Court of Appeal within Thirty Five days of the decision.

Chapter -7

Miscellaneous

19. **Procedure of case**: The Adjudicating Authority shall, while trying the case under this Act, follow the procedure as referred to in Special Court Act, 2059.
20. **Onus of Proof**: If a question arises as to whether a deed or agreement has been prepared for the purpose of providing debt, the onus of proof lies with the person who claims that the said deed or agreement has not been prepared for providing the debt.
21. **Duty to submit the report**: (1) Concerned Village Development Committee or Municipality shall inspect within its' jurisdiction as to whether a person has employed any one or not in contravention of this Act and submit a report with its' own opinion to the Committee for at least once in every six months.
(2) The Welfare Officer shall, every year, submit an annual report on the works performed by the Committee, to the Government of Nepal.
22. **The Government of Nepal may issue directives**: The Government of Nepal may, for the rehabilitation of the freed bonded labourers, issue directives to the Committee and Welfare Officer and it shall be the duty of the Committee and Welfare Officers to abide by such directives.
23. **Power to frame Rules**: To implement the objectives of this Act, the Government of Nepal may frame necessary Rules.