CHAPTER I

INTRODUCTION

A. CONCEPT OF BONDED LABOUR

The bonded labour is a social system. This system constitutes the lowest class of the agricultural and other labourers who even after 46 years of independence are still being exploited in one form or the other. The most striking features of this system are obligation, force and curtailment of liberty. The bondage through obligation may include debt bondage attachment to land, attachment to house site or customary obligation. In the case of debt obligation, a labour usually takes a loan or advance from an employer, and in consequence thereof he mortgages his labour with that particular employer until the loan is repaid. In many situations the loan may involve interest as well. His wages are so fixed that he can hardly make both ends meet and is not in a position to pay back the loan. This way the situation of debt bondage ties a labour to a particular master and he is not in a position to come out of the domain of his employer.

The other type of bondage through obligation is attachment to land. The labourer is given a piece of land to cultivate and is required to share the produce with the
master. In fact the value of the share of the produce from the land is much below the minimum wage though the labourer renders service to the employer for the whole year at his back and call. Since the income from this source is not sufficient to meet the daily requirements of the labourer, he has to contract loans from the employer for consumption, customary social ceremonies like marriage, death, etc. As he has no capacity to pay back the loan thus contracted, he is forced to work for the same employer until the loan is fully paid back.

The other type of obligation for which the labourer is bonded to the master is by way of getting homestead plot in master's land. In lieu of that the labourer is required to work for his master whenever he needs it. The wages given to him for the work are just nominal. When the work of the employer is over no other work is available in that particular locality. This way the labourer remains without work for that part of the year when the employer does not need him.

The customary obligation also force the people of low castes and tribes to perform certain customary services to the upper caste such as carrying the dead animals, burning the dead, beating the drum during birth and funeral, etc. Such type of obligations acquire more
oppressive character where debt bondage is perpetuated on inter-generation basis. The son has to work for the employer because of the loan taken by his father. Some time such loans are linked to the marriage of the bonded labourer or the sons and daughter of the bonded labourer. These are such obligations where the labourer has to remain bonded to the employer for his whole life. Finally, bondage may also include situations where the powerful landlords and money lenders forcibly grab the property of the tribals, scheduled castes and other lower castes. A situation gets created when these deprived peoples are left with no alternative except mortgaging their labour. Since these persons can never free themselves from the vicious circle of poverty, they have to continue in bondage.¹ This system which was largely confined to the agricultural sector is now seen among workers in stone quarries, brick kilns, construction sites, forestry, carpet weaving, fishing, bidi making, match box etc. The entire conceptual framework of the system of bondage shows that it has its

roots in the socio-economic structure in the rural areas characterised by feudal and semi-feudal conditions, hierarchical caste system, extreme poverty and ignorance coupled with social customs.

B. DEFINITION OF BONDED LABOUR

The term 'bonded labour' is not capable of any precise definition. The Royal Commission on Labour in India (1931) has defined bonded labour as follows: "the labourer borrows money from the land lord under a contract to work until the debt is repaid. The debt tends to increase rather than diminish and the man, and sometimes his family, is bound for life."

The Commissioner for Scheduled Castes and Scheduled Tribes in his Report (1971-72 and 1972-73) has defined the

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2. According to the Statesman Dictionary, Labour under bondage has been defined as "a legal deed by which a person engages himself and his representative to fulfil specific condition or pay money". Quoted in, S.N. Tripathi, Bonded Labour in India, (1989) at 9.

Bonded Labour System as "the practice under which a man pledges his own person or a member of his family against a loan. The pledger or his nominee is released only on its discharge. Until then the man himself or the member of his family is required to work for his creditor against his daily meals or low wages. Since he gets very little money, he has to depend upon someone in the family to procure the sum required for his release and this, of course, is rarely available. The relationship lasts for months and sometimes years, occasionally and entire lifetime and not infrequently follows the male heir." 4

The Bonded Labour System (Abolition) Act, 1976 has defined bonded labourer to mean "a labourer who incurs, or has, or is presumed to have incurred a bonded debt." 5


Under this legislation, bonded labour system means the system of forced labour under which a debtor has entered into an agreement with the creditor to the effect that he would:

- render by himself or through any member of his family for 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

- forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period; or

- forfeit the right to move freely throughout the territory of India; or

- 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.

The Act also defines each term which constitutes the characteristic features of bonded labour system in our country. Various forms of forced labour under this system are also enumerated in the Act. The Act is explicit on the
point that bonded labour is paid less than the 'prescribed wages', and hence his wages are just 'nominal' and far below the normal wages in the locality.\(^5a\)

The Report of the Commissioner for Scheduled Castes and Scheduled Tribes, 1975-76 and 1976-77 has also attempted to redefine the bonded labour system to mean that, "If persons belonging to any particular caste or community are forced or partly forced to work for a creditor under an agreement either without wages or for nominal wages which are lesser than the prescribed minimum wages. They would come under the definition of bonded labour system."\(^6\) This is suggestive of the fact that the system of bonded labour has not been confined to any particular caste and community but is the direct result of poverty and helplessness. The other aspect which the report highlights is that the bonded labour is practically deprived of all his freedom until the debt is fully repaid.

\(^5a\) For an extended definition of the term 'Bonded Labour', see Bandhua Mukti Morcha vs. Union of India, A.I.R. 1984 SC 802 at 826-27.

The National Sample Survey Organisation (June, 1977) has defined bonded labour as "working with an employer under obligation but work not specifically compensated by any wage/salary." The survey also highlights the main features of the Bonded Labour System:

i) On account of the debt incurred by the labourer himself or his ancestor, the labourers enters into the contract and ensures his labour with the landlord-cum-moneylender, until the debt is repaid.

ii) The period of bondage may vary from person to person, and it may be seasonal or for one entire agricultural year or for several years.

iii) The bonded labour is not free to go out anywhere he likes either for work or for personal pleasure. He lacks freedom as long as the particular debt is not repaid.

iv) The bonded labourer does not get his due compensation for his labour when compared with other free labourers and their rates of wages.

A close scrutiny of the above definitions of bonded labour would show that the system of bonded labour which has continued to exist in this country has the following common features:

a) A bonded labour is one who mortgages his labour for money or kind or both.

b) The wages are paid in advance, partially or entirely.

c) A bonded labourer has to work with his creditor until the debt is paid back or the stipulated period is over.

d) Bonded labour does not necessarily belong to a particular caste or community but it depends upon poverty and helplessness of the labourer.

e) The agreement between the creditor and the debtor (bonded) usually relates to the period of work, nature of work, amount to be paid and mode of payment. Contract may be oral also.

f) During the subsistence of the contract, a bonded labourer is paid nominal wages which are lower than the prescribed wages. He is also provided daily meals and sometime a residence also.
A bonded labour is not entitled for holidays. If he absent himself, he has to give a substitute or compensate the days of absence by doing extra work.

In the light of these features, one can simply say that a bonded labourer has virtually no bargaining power. He has no right to refuse to work under the terms set by his master. He can neither quit nor take up work for another master. Through economic compulsions or customary obligations, the bonded labourer is tide to his master's needs. It will not be an exaggeration to say that in a country like India the most outstanding feature of bonded labour system is the cruel choice between the bread and freedom. In the face of starvation and death, the labourers have chosen bread which practically meant mortgaging their personal freedom. This appears to be one of the main reason for the continuance of this pernicious system.

C. CONSTITUTIONAL PHILOSOPHY OF BONDED LABOUR

The system of bonded labour has been prevalent in various parts of the country even during the pre-independence era. This system was based on exploitation by a powerful section of community of the poor and deprived people who have continued to be held in bondage for years together. With the dawn of independence, the system could
not be allowed to continue to plight the national life any longer and hence the founding father of our constitution took a serious note of this evil social practice and incorporated special provisions in the constitution of India for eradication of this practice. The chapter on Fundamental Rights and Directive Principle of State Policy gave to these downtrodden people a new hope for a better tomorrow. Article 14 guarantees equality before law and equal protection of laws to all the persons residing within the territory of India. Article 21 secures right to life and human dignity. Similarly, Article 23 prohibits, "Traffic in human being and begar and other similar forms of forced labour". Thus the system of bonded labour stood prohibited by Article 23 of the Constitution. Article 24 which is another important provision prohibits the employment of children below 14 years of age. The provisions contained in Article 39 (e) and (f), 41 and 42 which are enshrined in the chapter of Directive Principle of State Policy mandate at the State to protect the health and strength of workers, men and women, and the tender age of children against exploitation. It also compels the state to provide just and human conditions of work including educational facilities to all the people. These are the minimum requirements which should exist in a society governed by the rule of law so that a person is
able to live with human dignity and nothing is done to deprive him of the enjoyment of these basic essentials. This is the basic philosophy of the Constitution of India which promises to secure every citizen justice, social, economic and political in all spheres of life. The question which may be asked in this context is, have we been able to translate this vision of justice into practice? On the political plane, one may say that every citizen who attains a requisite age has a right to vote and can stand for election to any post. But on the social and economic front there is wide disparity between the haves and have-nots. Almost 50 per cent of our total population is still not able to enjoy the basic requirements of life. A majority of them are the people who have to struggle even for two time meals. Sometime, this leads them to a point of starvation or even death. It is here that the real exploitation starts and these poor are left with no alternative but to mortgage their labour and freedom with the socially and economically powerful landlords/ moneylenders who may assure them two time's meals. This type of situation entails into a perpetual bondage.

In the Post-Independent era the Union and State Governments took some half hearted measures to provide social and economic justice to these deprived sections of
the population by launching various welfare schemes for their benefit. However, the problem of bonded labour could not receive any special attention till the enactment of the law in 1976.

The various studies conducted by the Gandhi Peace Foundation, New Delhi, National Sample Survey Organisation as well as by the various State Governments have reported a large number of bonded labourer in various parts of the country. This implied that there has been complete lack of concern on the part of the State for human values enshrined in Part III and IV of the Constitution. The Bonded Labour System (Abolition) Act, 1976 has abolished the practice of bonded labour in all its forms. The existence of bonded labour even after the enactment of this legislation shows that there has been partial implementation of law. The Supreme Court of India, through public interest petitions have also exposed the callous attitude of the State administration in handling the cases

8. The G.P.F. Study recorded the existence of 26.17 lakh bonded labourer, the NSSO study recorded over 3.45 lakh and the state government recognised the incidence of 2.55 lakh. See infra at
of bonded labour including their rehabilitation. The Court in *Neerja Chaudhary* invoked the post *Menka* concept of Article 21 to secure effective rehabilitation of the freed bonded labourers and held that any failure on the part of the state to rehabilitate freed bonded labourers is violation of their right to live with human dignity implicit in Article 21 of the Constitution. Similarly, in *Bandhua Mukti Morcha*, the Court read the Directive Principle into Article 21 of the Constitution to make the right to live with human dignity meaningful to the working class of the country. These rulings of the Court show that the practice of bonded labour is still with us and the state has not shown full interest in implementing the provisions of Anti-Bonded Labour Legislation. It is submitted that mere passing of laws is futile unless their objective is realised. In other words, the law must not only speak justice but must also deliver justice. We should not be


content with the law in books but we must have the law in action. This appears to be the only way to translate the constitutional philosophy of the total abolition of bonded labour system as enshrined in Article 23. The state must make all efforts to eradicate this pernicious social practice from the India soil.

D. SCOPE AND OBJECTIVES OF THE STUDY

Despite more than 4 decades of independence our country still retains the system of bonded labour. Though the Union Government enacted a comprehensive legislation to curb the practice of bonded labour but the study conducted on this subject by the Gandhi Peace Foundation and the National Labour Institute confirmed a high incidence of bonded labour in various parts of the country. Though the investigation pattern varied, the subsequent surveys conducted by the NSSO and the various state governments have also reconfirmed the prevalence of bonded labour in various parts of the country. It must be acknowledged that the bonded labour system is totally incompatible with the new egalitarian socio-economic order. It is an utter violation of the basic human right of an individual in a democratic set up. Though there are some macro studies based on sample surveys conducted in some parts of the country but no such study has ever been conducted covering
the state of Himachal Pradesh. In fact, the government sponsored survey have denied the existence of bonded labour in the state. Therefore, no one felt concerned to explore the possibility of the existence of bonded labour in the state. It was only in 1985 that some reportings appeared in a section of the press alleging the existence of bonded labour in Sirmour District of the State. Subsequently, a public interest petition was filed in the State High Court at Shimla and the Court was pleased to appoint a team of commissioners for ascertaining the true factual position. In their Report submitted to the High Court, the Commissioner testified the existence of the bonded labour in the above district of the State. The petition was finally disposed off with extensive directions for the release and rehabilitation of the identified bonded labourers.

Though there are various types of forced labour prevalent in the State of Himachal Pradesh, debt bondage in agricultural sector seems to be the most widespread phenomenon. Hence, the present study surveys the problem of bonded labour mainly in the agrarian sector of district Shimla and Sirmour of Himachal Pradesh. The study also examines the problem of bonded labour in general and evaluates the impact of centrally sponsored schemes for the
The present study has been carried out to achieve the following objectives:

a) To look into the entire background underlying the historical and philosophical foundation of the system of bonded labour in India.

b) To examine the various types of bonded labour found in different parts of the country and to analyse the factors responsible for the continuance of this system.

c) To analyse critically the constitutional and legislative measures taken to eradicate this inhuman social practice.

d) To make a critical appraisal of the various development schemes initiated for rehabilitation of bonded labourers in the country.

e) To conduct a field survey to find out the existence of bonded labour in Himachal Pradesh.

To study and analyse the household pattern, family conditions, debt/wage structure and other related aspects of the identified bonded labourers in the State, and
f) Finally, to suggest ways and means for strengthening the present organisational set up for identification, release and rehabilitation of bonded labourers.

E. METHODOLOGY

The methodology of the present study has been designed in such a way so that the administrative as well as socio-legal aspects of the problem of bonded labour are examined in their proper perspective. The problem has been examined by an indepth study of all the laws dealing with the abolition of bonded labour. The major portion of the study has been completed through an investigation process and data collection from both primary and secondary sources.

Himachal Pradesh is a hilly region state. The geographical division of the State is also not uniform. In fact the State comprises of low, middle and high hill zones. The socio-economic conditions of the people also vary according to altitudes. The system of bonded labour has been found to exist mostly in hilly regions of the State where great economic disparities exist in the socio-economic set up of the people. Therefore, The present study has been confined to two districts of the State, viz.,
Shimla and Sirmour where this system has been found in existence in one form or the other since long. Keeping the possibility of higher incidence of bonded labour in the area, the researcher has selected two development blocks from each of the district for the purpose of carrying out field investigations. Further, from each development block, a number of villages have been selected randomly. In fact 38 villages have been surveyed in the four development blocks keeping in view the incidence of bonded labour. Out of the total number of villages brought under survey, the researcher has been able to identify 75 bonded labourers of different age groups. This has been possible by collecting relevant information from some responsible persons which enabled the researcher to identify the bonded labourer in the concerned village. The investigations have been carried out with the help of a structured interview schedule which covered information concerning various perspectives like family background, occupation, age, level of literacy, caste, and wage structure of the identified bonded labourers. The statistical information thus collected have been analysed and classified in various tables. Responses of the administration regarding the incidence of bonded labour in the respective district have been recorded and analysed.
F. COLLECTION OF DATA

Data collection has its own relevance and significance in any kind of research work. The present work which is an empirical study of the system of bonded labour in Himachal Pradesh has been carried out with the help of original data collected through field surveys of 38 villages in the 4 development blocks of District Shimla and Sirmour. After visiting these 38 villages selected randomly, the researchers have been able to identify 75 bonded labourers. Each bonded labourer irrespective of his/her age or caste has been interviewed with the help of a structured interview schedule. Because of the delicate nature of the problem of bonded labour as well as the involvement of the bonded labour in supplying information, every care has been taken to see that the landlords are not able to know anything about the meeting of the present researcher with the bonded labourers as it might put them in a serious situation.

The information, thus collected has been reproduced in Tables A to H in Chapter VI of the present work. The important perspectives covered in the process of data collection include, duration of bondage of land owning and landless bonded labourers, marital status and age of bonded labourers, purpose and amount of loan taken by them, the
mode of payment of wages to bonded labourers, mode of cultivation of land possessed by the bonded labourers, type of work and the treatment given to the bonded labourer by the employer, educational level and caste structure of the bonded and the job satisfaction level of the bonded labourers. Some data relating to the problem perspectives of bonded labour in India has been collected by using secondary sources such as the surveys conducted by the Gandhi Peace Foundation, National Sample Survey Organisation and the various other study groups sponsored by the Government of India or State Governments. The information collected through this source has also been analysed for examining the problem of identification, release and rehabilitation of bonded labourers.

G. INTERPRETATION OF DATA

The data collected from primary as well as secondary sources has been interpreted so as to examine the problem perspectives of bonded labour in India as well as in Himachal Pradesh. The data collected from secondary sources has been tabulated and presented in Table A to K in Chapter IV of the present study. Table K sums up the entire information irrespective of the bonded labourers identified and rehabilitated in various parts of the country. The initial identification number of 48,636 of
1976 has gone almost double by 1977. In the year 1984-85 the figure shot up to 1,77,062 and in 1992 it reached to 2,50,289. Similarly, the figure of 41,152 rehabilitated labourers during 1976 has gone upto 2,23,141 in 1992. Also the percentage of rehabilitated labourers which was as low as 24.6 has gone upto 89 percent in 1992. It is only 11 percent of the released labourers who are yet to be rehabilitated. The empirical study conducted by the planning Evaluation Organisation of the Government of India and the Study Groups of National Academy of Administration has pointed out that since a majority of the bonded labourers belong to Scheduled Castes and Scheduled Tribes, efforts should be made to integrate the rehabilitation programme with the schemes relating to the development of scheduled castes and scheduled tribes. Poverty, ignorance, illiteracy and helplessness have been found as the main reasons for indebtedness and continuance of the incidence of bondage.

The main emphasis of the present study is on identification of bonded labour in Himachal Pradesh. As already submitted, the State of Himachal Pradesh comprises of 12 district. The present work is confined to study the problem of bonded labour in 2 districts of State, viz. Shimla and Sirmour. Since the State had officially denied the existence of bonded labour, it was really a very
difficult task for the present researcher to start with the identification work. Nevertheless, the researcher, after having established some friendly contacts with some responsible persons in two districts, selected 4 Development Blocks for conducting the present survey. This was done keeping in view the possibility of bonded labour in the identified 4 Development Blocks, namely Rohroo, Chirgaon, Paonta and Shillai. The field investigations were carried out during 1992 and 1993 and a total number of 38 villages were surveyed. 75 persons were interviewed and identified as bonded labourers. The interview scheduled, prepared for the purpose, covered information relating to different perspectives of bonded labourers as well as the working conditions of the bonded. Out of the 75 identified bonded labourers, 43 hail from district Shimla and remaining 32 from District Sirmour. The informations collected through the interviews have been analysed in Table A to H of Chapter VI. Regarding the land owning pattern among the bonded labourers, Table A reflects that 85 percent of of the bonded labourers are owners of land. The main reason for their entering into bondage appears to be the unproductive nature of land. Since their lands are situated in same village, they have no chance of moving out the village and hence to enslave themselves for their petty needs and continue in bondage. The information contained in
Table-B of the Chapter relates to the marital status and the age of bonded labourers. The analysis reveals that 81 per cent of the bonded labourers are married and have children. It was revealed that agricultural labourer more particularly those having no lands of their own face more problems if they are married. The family size of bonded labourers enhance their liabilities and push them into bondage.

The information contained in Table-C of the Chapter shows the basic purpose for which the loan was taken by the bonded labourers. A close analysis of the table reveals that there are 25 bonded labourers who have not taken any loan and work on daily wages basis. However, the wages paid to them vary between Rs. 10-15 which are much below the wages prescribed under the law. Out of the remaining 50 bonded labourers 39 have taken loan for meeting consumption requirement of the family. 9 have taken the loan for marriage purpose while 2 tooks it for medical care of the family members. The loan pattern generally varied between Rs. 1,000-10,000. The main reason for the situation is the extreme form of poverty. Marriage also sometimes become immediate cause for the attachment to bonded service. The interesting aspect in this context has been that due to poverty the poor have not only mortgaged their labour with the landlord but even the property owned
by the bonded labourers stood mortgaged with the landlords for an additional advance of money in a number of cases. Regarding the mode of payment to bonded labourers, the information contained in Table-D suggest that a maximum number of 38 bonded labourers are partly paid in cash and kind. There was no bonded labourer who was being paid in cash exclusively in Paonta and Shillai Development Blocks. The maximum number of bonded labourers who are receiving their wages in cash fall in Chirgaon Development Block. Regarding the wage structure, it was revealed that the wages of a majority of bonded labourers which vary between Rs. 100-400 per month are adjusted against the loans plus the exhorbitant rate of interest charged thereon. This is nothing but a total exploitation of the bonded labourers. Table-E provides information regarding the mode of cultivation of the land possessed by the bonded labour households. It has been shown that out of the 61 land owning labourers 58 have been cultivating the land themselves while 6 of them have mortgaged their lands for securing loans. This feature is noticeable in Shillai Development Block of Sirmour District. The fact remains that the bonded labourers whether land owning or landless have to depend on the rich landlords for their day to day survival. Regarding the nature of work taken from the bonded labourers as well the attitude of master towards them, the information contained in Table-F of Chapter VI
shows that 17 percent of the bonded labourers are engaged in manual work while 82 percent perform jobs connected with agricultural operations. It has been noticed that bonded labourers who are either children or aged person are preferred for domestic service and cattle grazing etc. However, 92 percent of the bonded labourers were not satisfied with the behaviour of the master. Table-G depicts the situation regarding the literacy rate and caste structure of the bonded labourers. It is revealed that 68 percent of the bonded labourers are illiterate and a majority of them belong to scheduled caste. 12 have received education upto primary level, 10 upto to middle, 2 upto high school. Those falling in the high school level belong to caste Hindus. The basic reason for low level of education and illiteracy has been poverty and economic insecurity. In fact, the bonded families, due to poverty prefer an earning hand in the family rather than spending money on education. Their children become bonded labourers because such services are easily available for them. This shows that poverty is one of the dominant factor which compel both educated as well as the illiterate persons to pledge their labour for fulfilment of their daily needs.

During the course of field investigations, the data collected in respect of job satisfaction level of bonded labourers has been presented in Table-H. An analysis of
the information shows that 73 percent of the bonded labourers showed their complete dissatisfaction with the job. 24 percent replied in a mild tone giving the inference that they were not fully satisfied. There were just 2 bonded labourers who showed some amount of satisfaction with their job. In this categorisation presented in Table H, there are 3 children whose opinion can not be considered as decisive as they are not mature enough to express a definite opinion. It has also been observed that those expressing satisfaction full or partial are the one who considered bonded service as an additional source of income. However, there is a feeling among the bonded labourers that their wages are not in proportion to the services they render. Though, in recent times, the labour has become very costly but the masters' attitude has remained unchanged.

The researcher has also examined the administrative authorities entrusted with the task of implementing the provision, of law. It is painful to point out that the interviewed authorities which included Deputy Commissioners of Shimla and Sirmour as well as some Sub-Divisional Magistrates of the areas under study were not able to exhibit any knowledge about the organisational set up of the vigilance committees at the districts and sub-divisional levels though such committees had been
constituted for each district by the State Government in 1982. Thus, the State administration has not bothered much about the welfare of the poor bonded labourers. No sincere efforts have been made for identifying and protecting them. It seems that this situation will go on the same way unless some concerted efforts are made in the direction. It is submitted that the media and other non-governmental organisations can play a vital role in exposing this state of inhuman activity. The information collected by the present researcher have proved the existence of bonded labour in Himachal Pradesh. It is better that the State admits the existence of this pernicious practice and undertakes a comprehensive survey for identification, release and rehabilitation of the bonded labour. The present investigation are just a drop in the ocean and if the research is carried further with due financial support, more startling facts may be revealed.