Chapter -2
Bonded Labour: Historical Perspective
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BONDED LABOUR: HISTORICAL PERSPECTIVE

When world came into existence, Men were not familiar with cultivation. In early stages men were vagrant. They used to wander from one place to another in search of food. But when men came to know about better ways of living they improved their living standard, their settlements were also improved. Early man mostly used to live on the bank of rivers or near water. Thereafter they learnt the art of cultivation, as one of the basic requirements of livelihood however it was mostly the shifting cultivation from one place to another. Till then they were not familiar with sense of ownership. As soon as they came to realize the importance of agriculture and began settled life, they also realized simultaneously the importance of possession and sense of ownership developed among them.

In the beginning the sense of community ownership existed which gave way to family ownership of the property. The sense of community ownership continued till medieval period. Shortly after the establishment of Muslim and then Mughal rule in India, it was changed over to family ownership. After the establishment of British rule in most of the parts in India and particularly after the introduction of the fixed revenue system the agriculture land acquired more importance. Consequently, sense of personal ownership of lands increased.

After the introduction of the concept of ownership exploitation started, property relationship was such that those who owned property, dominated those who did not own it. In the process later one was made a slave by the first one. Present bonded labour system is same slave system which existed in India in ancient time. In Smritis there is mention about different kind of slavery that practiced in ancient India. It was a system of domination of a few socially and economically powerful persons over the large number of illiterate, down-trodden and socially and economically poor people. Thus it was not only the culmination of the debtor-creditor relation into slave and master relation, but it was an outcome of the unequal socio-economic system prevailing in India since time immemorial. Caste discrimination also supported in perpetuating this social canker.
1. Ancient Period:

Forced labour is a generic term which applies to virtually all contemporary forms of slavery. Slavery was one of the most aggravated forms of human bondages that practiced in India in ancient times. Existence of slavery can be traced from the Harappan civilization. Where slave labour prevalent both in the towns and the countryside.

In the Smrithis there is mention about different types of slavery practiced in ancient times in India. According to Manu, slaves are of seven types, one who is made a captive of war, who serves for his daily food, who is born in one’s house as a slave, who is brought in a sale, who is given by another, who is inherited from ancestors and one who is enslaved in order to clear a debt. The creditor or the master was entitled to take manual work from the debtor who was so enslaved. A slave for a debt gets released on payment of the debt. According to Brihaspathi, manual labour was one of the modes of paying interest of the debt. The debt amount will remain as unpaid even though the debtor did some manual work. So there was no scope for a slave to recover from the slavery if he once becomes a slave.

In India after the arrival of Aryans the people of India at large were classified into four categories or varnas, i.e., Brahmin, Kshatriya, Vaishya and Sudra, Later, Panchama, the fifth category was included, partly dividing the Sudras, they were called Harijans. And now they are officially called the scheduled castes and scheduled Tribes. Sudra as a whole constituted major segment in the society all the menial jobs were done by them and “slaves” mostly belonged to this category.

Manusmriti affirms that the sudras are created by God for serving the Brahmin as Dasa and they could be sold or bought. And even if his master frees him from slavery the sudras had to remain servile and to perform duties. Service was known as national duty of sudras.

Those of local and aboriginal inhabitants who were defeated by the Aryans were given the Sudra varna. They were deprived of the right to the education, property and occupation’s choice. They had to depend on others for their survival their total dependence on other reduced their status to that of slaves. Rigorous laws
were made that were detrimental to the interest of sudras. Brahman (Priest) and Kshatriyas (warriors) enjoyed or exalted position in society and monopoly on religious education and political power. Vaishyas (trader and merchants) were allowed same privileges and the chance to acquire wealth and land.

Literary and epigraphic evidences suggest that by the first century A.D. "visti" the labourers employed by the State, became forced labourers. The third and fourth century A.D. saw further expansion of the practice. The grant of Gupta's period from the Central India shows that the peasants had to render labour service called 'visti' to their Kind. The ruling chiefs extracted labour or service in the Gupta period in the Central and western India. In addition to peasants, forced labour was also imposed upon the artisans. The early law book required the artisans to work for a day in a month for the Kind in lieu of taxes. During the Harsha's rule, forced labour was utilized in carrying load for the Army, hunting and procuring guides for the Kind's march. The period of sixth – seventh century A.D. is regarded as a period of transition from antiquity to the middle ages. Eighth and Ninth centuries inscriptions from all parts of India refer to practice of forced labour.

During the Chola period in south India, forced labour 'vetti' was in practice. Devadasis were commonly found in most of the temples in Chola times. Practice of forced labour survived with all its venom during the 11th and the 12th centuries A.D. The free peasantry and domestic slaves existed side by side in the whole of the feudal period and it was quite widespread.

2. Pre-Independence:

From the day India became a target of Muslim invaders its people began to be enslaved, to be sold in foreign lands or employed in various capacities on menial and not so menial jobs within the country. Wherever the Muslims went, mostly as conquerors but also as traders, there developed a system of slavery peculiar to the clime, terrain and populace of the place.

Slave were abducted or captured by marauders (subuktigin, Balban), they were sold by jealous or needy relatives and they were purchase by slave-traders to be sold for profit. These methods were known to Muslim rulers in India. All these
and many other methods were employed by them and their nobles in mankind
slaves in India.

Turks were not the first Muslims to invade India. Prior to the coming of
Turks the Arab General Mohammad Bin Qasim invaded Sindh in the early years of
the eighth century. In conformity with the Muslim tradition, the Arabs captured
and enslaved Indians in large numbers. Indeed from the days of Mohammed Bin
Qasim in the eight century to those of Ahmad Shah Abdali in the eighteenth the
enslavement, distribution, and sale of Hindu prisoners was systematically practiced
by Muslim invaders and rulers of India.

The early Turkish invaders and rulers of India were slaves or scions of
slaves. Mahmud of Ghazni was the son of a purchased slave, subuktigin. Subuktigin
in his turn had been bought by one Alptigin who himself was a
purchased slave. Alptigin was the first Turkish slave – warrior–ruler who carried
his arms into India. His career and resource fullness are symbolic of the Turkish
slaves as a whole. The Turks practiced it on a large scale before they entered India
as invaders.

Muslim regime in medieval times drafted slaves in every sphere of activity. Slaves
were needed in thousands for any large enterprise which, in modern
technological age would be accomplished by a few machines or even gadgets. There
was no dearth of slaves either. Muslim victories in India had provided Kinds
and nobles with innumerable slaves. From Government affairs to domestic errands
slaves were employed in every work. Such as constructing impressive building, in
the army, in karkhanas, textiles and robes, slave as maker of weapons, in palace and
Court and soon.

Qutab-ud-din Aibak was a slave and one of the generals of Mohammad
Ghori. After Ghori’s death, he became the ruler of the Indian possession. He
founded the slave dynasty\. Feroz Tughlak indulged in production for himself
with the help of the slaves. He ordered his commanders and officers to capture
slaves whenever they were at war and to pick out the best for the service of the
Court. Forty thousand slaves were guards in royal palace.

During Mughal period slavery practiced on a wide scale there is an
evidence to the effect that Emperor Akbar sought to abolish slavery in the 16th
century but he could not able to abolish it completely. Because it neither covered
the whole of India nor was it effectively implemented. No other ruler appeared to
have followed in the foot step of Akbar in this regard in medieval India. In 1812.
Rani Laxmi Bai of Travancore issued a proclamation abolishing slavery in her State.

Agrestic slavery also practiced in medieval India, when the East India
Company assumed power in the 18th century it was prevalent on large scale. Before
advent of (English Power) the Portuguese had carried on a slave trade in Bengal.
They had carried on a slave trade in active collaboration with Maghs, whose
Kinddom Arakan bordered Bengal and Burma and they considered it a source of
income. In Arakan there was always a demand for slaves. But in the Bombay
presidency the condition of the ploughmen or hali was a little better. It had been
very common in Eastern Bengal under the Mughals and the institution enlarged in
the Bengal presidency in the days of the company.

During the great famine of 1770, the bondage of agrestic slave originated in
Bengal. When large number of people died of starvation and many people sold
themselves in order to save their lives, after the recovery of the population from the
disaster, the peasantry driven steadily nearer the subsistence level was the most
exposed to the effect of natural calamities - a failure of the rains, the death of their
cattle from disease and so on when they suffered such losses they were forced to
take loan on high rate from the Zamidar or the money lender. Zamindars who were
influential people were ready to oppress the illiterate peasant. As a result, a great
portion of the agricultural labour force fell into debt and became slaves.

Agrestic slavery also existed in Bihar where middle class people and big
landlords used to own agrestic slaves. In Deccan, the agrestic slaves were
permanently attached to the soil, their masters owned them along with the land to
which they were attached and their master could not sell them separately from the
land of which they were deemed as a part and parcel. They used to buy and sell,
lease, mortgage and even transfer usually along with the land and not separately.

Agrestic slaves like domestic slaves used to buy and dispose off like
chattels in Bengal presidency, their deeds of sale were executed, some of which
were registered in the Court, their master used to feed, cloth, and house them like
domestic slaves. But whereas the domestic slaves used to live in the master house, the agrestic slaves used to live in separate huts, either by the house or near the field which they cultivated. Slave used to form marketable articles. They were regularly imported into Bengal and were also exported from Bengal to foreign countries and to settlements such as Sumatra, Ceylon, St. Helana, Pondichary, Burma and even Australia, the Portuguese, Dutch, French, and Swiss, the Danes and the Arabs were all engaged in this organised traffic.

The sale and purchase of the slaves was permitted everywhere in British India and was justified as an incident belonging to that species of property. Indeed the East India company itself engineered traffic in slaves as a highly profitable concern in all the three early settlements of Calcutta, Bombay and Madras. in the early years of the company's rule, its policy was to avoid any dangerous interference in the social and religious life of its subjects. This policy was not only suited to the peculiar nature of British rule in India, but it was quite in harmony with the British political tradition and practice. Changes took place under the garb of restoration, new institutions were created in order to preserve the old ones, old laws were given new meanings. Thus, having conquered Bengal by diplomacy and arms, the English considered it necessary to obtain the sanction of the Mughal Emperor whose authority was mere nominal than real to administer the country on his behalf. By securing the Diwani of Bengal in 1765, Clive sought to cloth the newly established English power with a legal garb, familiar to Indian tradition and practice. The new English Government sought to maintain the old laws and institutions, and established customs and usages so long as they did not affect the British interests. The company legalized, perpetuated and administered the traditional Muslim and Hindu laws of slavery in India. Slavery was accorded legal recognition by the company for the purpose of administrative expediency.

Warren Hasting who was the Governor of Bengal in 1772, made enslavement a lawful punishment for dacoity, but simultaneously he was also aware about the evil and sowed a seed for its eradication. The views of creditable Hindus and Muslims were taken regarding the subject of slavery; both condemned the authorized usage of selling slaves as that was repugnant to their religious
precepts both of Koran and Shastra that was oppressive to the people and injurious to the general welfare and well being of the people.

All that Hastings did however was to issue a regulation in 1774 forbidding the stealing of children and their sale as slave without the execution of a deed. Soon after the promulgation of the regulation, the provincial council at Dacca asked whether the children of slaves were to be given its protections. As it was an established custom throughout the Dacca District to keep in bondage all the offspring and descendants of persons who have once become slaves. The council went on to point out that since a property in slaves had been created and formally acknowledged by the legislation of the country, their emancipation could not be effected without inflicting financial loss upon their proprietors and a destruction of established proprietary rights. Hastings answered “we are of the opinion that the right can not and ought not to be extended further”. At the time regulation was enforced, but the Hastings hope of slavery eradication was not fulfilled.

In the beginning of March 1785, the complaint in respect of slave trade intensified. The Collector of Dacca, M Day drew the attention of the Committee of Revenue to the traffic in children at Dacca and proposed that the order should be issued to search all the boats coming to the port of Calcutta and its neighborhood to detect those culprits and bring them to justice because they were acting against order of Govt. the committee ordered M. Day to take steps for the apprehension and the prosecution of the persons guilty of violation of the order of the Government, on 14th March 1785. Governor-General Macpherson ordered the committee that utmost diligence should be used in future to prevent the trade of children being carried on. But neither the executive action of the Collector, nor the instructions of the Governor General served to prevent the slave trade.

In 1789, Governor-General Lord Cornwallis, greatly disturbed by the activities of the Portuguese and other slave traders, himself wrote to the Court of directors on the subject of abolishing slavery. He too felt that the only way by which the trade could be effectively suppressed was to withdraw the legal sanction of slavery. In this he agreed with the Hastings diagnosis but he was less ready to take bold action inhibited perhaps by that regard for the stabilizing of property rights which informed his land revenue policy. Hastings observed: There are many
obstacles in the way of slavery abolition entirely in the company’s administration, as number of slaves are considerable and the practice was sanctioned both by Hindu and Muslim laws. But he was anxious to do away with slavery or render it less harsh.¹⁵

The immediate measures taken by Comwallis were directed only against the slave trade as such. On July 27, 1789 an ordinance was gazetted prohibiting the exportation of natives of British India as slaves. It can be seen that Cornwallis had aimed lower than Hastings but achieved more. He faced problems due to the social and economic condition of the country. Slavery was too much an integral part of the country’s social and economic system, deeply ingrained historically and practiced with the approval and participation of both the Hindu and Muslim religious leaders. For this reason the company in 1798 enacted that henceforth Hindu and Muslim slaves were to be governed in accordance with the principles of Hindu and Muslim laws respectively.¹⁶

By this regulation which served to secure in the slaves the protection afforded under these laws, nevertheless the proprietary rights of the master’s were recognized over their slaves. But it is clear that the measures of Hastings, criticism of Sir William Jones and the vigorous language and action of Cornwallis’s had made a notable psychological impact upon Bengal society. The Newspapers which had once been full of slave trade advertisements became devoid of such advertisements. Not a single journal or newspaper of Calcutta contained such advertisements.¹⁷

Despite the efforts made by Warren Hastings and Cornwallis as stated above the slavery could not be stamp out completely because its root was deeply imbedded in the social and economic life of people. Company’s highest judicial institution continued to recognize it as personal property of their masters.

In 1806, British rule in India banned this age old practice of agrestic slave system and passed Bengal Regulations Act of 1806 to restrict the slave system, but allowed forced labour by its Act VI of 1825. It is to be noted that section 1 and 2 of the Madras Compulsory Labour Act of 1858, particularly its section 6. even legalized forced labour system. This mention of ban on keeping agrestic slaves was a partial although the claim of the master over the slave for sale or purchase was
not executed in the Court of law, but his other claims were executed even in the Court of law. Thus this provision was limited only to the sale or purchase of a slave for the clearance of revenue.

The other important effort towards abolition of slavery was made by Slavery Abolition Act 1843. The Act was extended to the states ruled by the native Kinds. The slaves were legally freed but in practice their bondage continued as they had to depend upon their masters for the satisfaction of their basic requirements. The Act could not made dent into agristic slavery deeply fortified by social and economic customs practiced in the country.

The Indian Penal Code 1860, not only banned slavery and forced labour, but also made its punishable offence under its various sections, yet it continued. In the beginning of 20th century the State Government look notice of the evil and in order to curb the inhuman practice of bondage the Kamiauti Agreement Act of Bihar and Orissa of 1920 was passed, this was one of the early attempts to check the widespread evil in the region, though the Act was having provisions to rationalize money lending. Section 3 of the Act provided agreement enforceable for one year only and after the expiry of one year the obligation of the Kamiauti with respect to payment of the debt and performance of the labour had been duly performed. It reduced an agreement void:

1. If the agreement was not only duly stamped.
2. If the counterpart had not been delivered to the Kamiauti
3. If the period exceeded one year
4. If it did not provide for the extinguishment of the liability after one year, and
5. If it did not provide for fair and equitable remuneration. The Act also rendered an agreement void on the death of either executants or the Kamia and the liability under the agreement was unenforceable against the heir of the deceased.

The Criminal Tribes Act was passed in 1924 to suit the convenience of the privileged haves against cruelly oppressed have-nots. This Act made provision for extracting forced labour from low castemen under one pretext or the other in the interest of the high Caste men and property holders. This is how in the garb of
judiciary weaker sections were exploited and oppressed in India. The process continued with difference of degree depending on place, situation and time.

In 1926, following the First World War, peasants for the first time entered the political arena as a group. This, along with other factors, persuaded the British Government to appoint a Royal Commission in Agriculture. However, the Commission also could not touch the problem on account of limited frame of reference. Inspite of peasants' revolt and emergence of All India Kisan Sabha, these Semi naked peasants failed to attract the attention of the Britisher.

The first International Convention (No. 29) on the forced labour was held in Geneva (June 10-28) in 1930. For the purpose of this convention the term “forced or compulsory labour” shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. This is akin to the bonded labour in India. The legislative Assembly and the council of states adopted a resolution recommending to the Government of India to take action on all the provisions contained in the Draft Convention, as soon as might be practicable. In response to session of International Labour Convention at Geneva in 1930, for the abolition of forced labour, both houses of legislature adopted resolution banning the forced labour in India. Some of the State Governments also passed laws to stamp out the pernicious practice of forced labour. Some of these laws are as follows:

(i) Assam Money Lenders Act of 1934.
(ii) Madras Debtors Protection Act 1934.
(iii) Punjab Relief of Indebtedness Act of 1934.
(v) Bihar Money Lenders Act 1938 (Bihar Act 111 of 1938).
(vi) Bihar Money Lenders Act 1939 (Bihar Act VIII of 1938).
(vii) Debt Bondage Abolition Regulation Act of Orissa of 1940.
(viii) Madras Debt Bondage Abolition Regulation 1940.
Bombay Money Lenders Act of 1946. But these legislation made little impact on the abolition of bonded labour system and could not serve the purpose for which they had been passed.

3. Post-Independence:

The existence of forced labour among the agricultural communities and thereafter the existence of such labour was also visible in our industries, where the harsh exploitation of workers, their subjection to sub-human standard of work was very common.

After Independence Zamindari was abolished in the country and the rent collected by intermediaries were transformed into owner by showing themselves as self-cultivating farmers. This transformation of Zamindari resulted in eviction of several thousands of traditional tenants. The origin of bonded labour system therefore can be traced to our land problem. Which is the axis of Indian economy: the poor peasants and cultivators had to work according to the dictates of the landlords who had grabbed the bulk of the land in the villages. Without having any means of livelihood, they had to work free or on paltry wages and to attend to other jobs of landlord in return for a strip of land. Sometimes their family members were also made to work for the landlords.\(^{18}\)

Existence of forced labour was also witnessed in the coalmines, where a sizeable portion of the labour force came from the aboriginal tribes. The most common form of recruitment of such unskilled labour was through the contractors. This situation existed in Bengal, Bihar, Uttar Pradesh and Madhya Pradesh. With regard to their bargaining power, they were in fact weaker than the other sections of the working class. Another notable example of forced labour in mines was Gorakhpuri labour. Such labourers were recruited mostly from eastern Uttar Pradesh through the Coalfield Recruiting Organization, at Gorkhapur and sent to various coalmines who indent them.\(^{19}\)

Abolition of Forced Labour Convention (1930) was discussed in Provincial Labour Minister’s Conference held in 1947 and agreed in principle to abolish this social canker. Orissa Compulsory Labour Act, 1948, particularly its section 2(a), 8, 9 and 11 abolished forced labour in the State. Although many States passed laws banning the forced labour, yet they were not effective. Moreover, there was no
uniformity in the laws as they were varied from State to State. *As per report of Indira Gandhi, bonded labour, social welfare (Suicides in India)*, the reasons of the failure of these Acts were that the landlords who were holding huge lands were from high caste and had caste support. They could also influence the executive while the bonded labourers in whose favour laws were made were poor and belong to the underprivileged low castes having no sympathies of the executive. So survey of the Bonded labourers was needed.\(^\text{20}\)

After the Independence, the founding Fathers of Indian constitution realized the gravity of the situation. They were very anxious to protect the human dignity and decency of poor, underprivileged, down-trodden and weaker sections of society, to free them from curse of *begar* and to abolish all sorts of exploitation. They thought, giving constitutional protection to the citizens from all sorts of exploitation was one of the ways, by which the dignity and decency of the citizens can be secured. Keeping this thing in mind they enacted various Articles and safeguards for the SCs and STs, particularly the Article 23 in the Indian constitution which guarantees a right against exploitation to the citizens of India. Exploitation, which means the improper or undue utilization of services of other persons for one’s own ends, is opposed to the dignity of the individual, to which the preamble of our constitution refers. Article 23 (1) of the constitution provides:

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

The word *begar* has not been defined in the Constitution the term *begar* is an Indian term and has a varying local connotation, as regard the kind of labour exacted by force. It is the system under which person are pressed to carry burdens for individuals or public or to perform other forms of menial service under compulsion. The words, other similar forms of forced labour in Article 23 (1) are to be interpreted *‘ejusdem generic’*. The kind of ‘forced labour’ contemplated by the Article has to be something in the nature of either traffic in human beings or ‘*begar*’.\(^\text{21}\) There fore the word “other similar form of forced labour” should not be interpreted as a labour or service which a person is forced to give without any remuneration for it, but it should include whether there is less force or more. This
force may be of different kinds, e.g. social, psychological, economic force due to hunger and poverty. Under Article 23(2) the state can impose compulsory service for public purposes and in imposing such service the State shall not make any discrimination on grounds only of religion, race, sex, caste or class or any of them. In this way Article 23 constitute a charter of freedom for the common man. The laws of all States and Union territories were to be suitably amended in response to the constitution of India, if they were contrary to the provisions of the Article 23 of the constitution of India. Accordingly many States amended their previous laws or passed new laws in response to the Article 23 of the constitution of India.

Some of these laws are as under:

(1) Orissa Debt Bondage (Abolition) Regulation Act of 1948.
(3) The Punjab Regulation of Money Lenders Relief Act of 1954.
(6) Lacadives, Minicoy and Amindivi Islands Revenue and Tenancy Regulations Act of 1965, particularly its section 85(5).
(8) Scheduled Caste Protection Act of 1972 of M.P.
(10) Scheduled Caste, Scheduled Tribes and Denotified Tribes Debt Relief Ordinance of Uttar Pradesh of 1974.
(13) The Kamataka Debt Relief Ordinance of 1975.
(16) U.P. Landless Peasants Labour Debt Relief Act, 1975.
(18) The West Bengal Relief of Rural Indebtedness Act of 1975.
Although these various Acts were passed over the years by various State legislature banning the shocking practice of bonded labour, debt bondage or agrestic slave system in India. They were not effective due to lack of uniformity and the universality. These Acts did not solve the problem because their execution was left to the bureaucracy who had no sympathies for the bonded labours. These Acts remained on paper. Therefore, bonded labour remained as part of normal practice of our society even after Independence of India till 1975. It then required a uniform law to deal with this system. As a result immediate step was taken to curb this social evil. The late Prime Minister Indira Gandhi announced a new economic policy like 20 point economic programme on July 1, 1975, for the amelioration of the socio-economic conditions of the weaker sections of the society. In the programme, it has been proclaimed “bonded labour, wherever it exists will be declared illegal”. On the basis of this proclamation, the Bonded Labour System (Abolition) Ordinance 1975 was promulgated on October 24, 1975, by the said ordinance, bonded labour system was abolished and the bonded labourers were freed and discharged from any obligations to render any bonded labour and their debts were extinguished.

The Bonded Labour System (Abolition) Ordinance 1975 was later converted into Bonded Labour System (Abolition) Act, 1976. Bill was passed by both Houses of parliament and received the assent of the president on February 9, 1976 extending its execution to the whole of India with a hope to fulfill the constitutional goal, to root out this evil once for all and to ensure freedom to its citizens guaranteed under the constitution. The Act was further amended in November 1985 to bring the ‘Contract and Inter-State migrant workers’ under the purview of the Act and the subject of bonded labour has been mentioned in the concurrent list given in the 7th schedule of the constitution of India. It was the first unified legislative attempt against this social evil that came in the form of an ordinance.

The Bonded Labour System (Abolition) Act 1976 could be regarded as the most comprehensive, bold and progressive piece of social welfare legislation ever enacted by the Indian parliament. It aims to declare bonded labourers free from any obligation to render any free service and all such custom, traditions, contracts and
agreements as applied to them as void. The Act gave a wide and comprehensive
definition to bonded labour system\(^{22}\) bonded labourer\(^{23}\) and bonded debt\(^{24}\) the main
thrust of the Act is the abolition of bonded system. Section 4 and 5 of the Act
prohibits the practice of all forms of bonded labour systems and any such practice
in any form is made an offence punishable with imprisonment. Which may extend
to 3 years and with fine up to 2000 rupees\(^{25}\), In order to ameliorate the pitiable
plight of the then existed bonded labourers, the Act provided that every obligation
of a bonded labourer to repay any bonded debt immediately before the
commencement of the Act shall be deemed to have extinguished\(^{26}\) and the property
of the bonded labourer pledged to the creditor shall be resorted to the possession of
the bonded labourer.\(^{27}\) The creditor are prevented from accepting any payment
against the extinguished debt.\(^{28}\) Power had been conferred upon the District
Magistrates to enquires about the existence of bonded labour and take sufficient
action against the continuance of any such practice.\(^{29}\) The Act also provides for a
vigilance committee in each District and in such Sub-Division of the District with
the duty to advice the District Magistrate as to the efforts made and action taken to
ensure the proper implementation of the Act and to provide for the economic and
social rehabilitation of the released bonded labourers\(^{30}\).

In the long turn it can be said that bonded labour system is not a new
phenomenon. It has long history of its existence. This traditional practice has been
in existence in all society in one form or other since times immemorial.

In ancient time it was prevalent in the name of slavery and still continues
today in the name of bonded labour. Bonded labour is a peculiar form of labouring
class always subjected to exploitation by ruthless master. Bonded labour system
represents a relationship between a creditor and debtor. It is a system of usury
(Lending of money). It is one of the variegated form of abuse. Origin of bonded
labour can be traced from caste hierarchy and feudal structure. It was also
prevalent during medieval period.

Various attempt were made to check the wide spread canker of bonded
labour system from time to time, before 1975 all efforts were made on regional
levels. British rule in India banned this old age practice by passing Bengal
Regulation Act in 1806 but allowed force labour by its Act VI of 1825.
Indian Penal Code 1860 banned bonded labour system and made it punishable offence. In addition to that many State Governments passed laws banning bonded labour system like Kamia Agreement Act 1920 of Bihar, Money Lender Act 1938 of Bihar, Debt Bondage Abolition Regulation Act 1940 of Orissa and Madras, Bombay Money Lender Act 1946 and so on. But all the legislations made little impact on the abolition of this evil.

After Independence founding father realized gravity of problem and they incorporated Article 23 and other Articles in the constitution of India and made the right against exploitation as a guaranteed Fundamental Right which later became the hallmark of Indian constitutional jurisprudence.

To stamp out the pernicious practice of bonded labour, all states and union territories passed legislations of one or other kind in accordance with the spirit of Article 23 of the constitution but none of it displayed any serious enthusiasm towards the effective implementation of such legislations. Due to the lack of uniformity these Acts did not serve the purpose. Till 1975 bonded labour system remained as part of normal system of our society. The first unified legislative attempt against this social evil came in the form of an ordinance. Which ultimately took the shape of Act called the Bonded Labour System (Abolition) Act, 1976 [Act No. 19 of 1976] and Supreme Court of India also played and still playing vital role in protecting the victims of bonded labour.
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Notes & References
2. Ibid.
3. Manusmriti VIII, 413.
4. Id., at 414.
7. Ibid.
8. Supra note 5 at 180.
9. Id., at 186.
15. Id., at 10-11.
16. Ibid.
17. Ibid.
18. Supra note 13 at 13.
19. Ibid.
22. Section 2 (g) of Bonded Labour System (Abolition) Act, 1976.
23. Id., s 2 (f).
24. Id., s 2 (d).
25. Id., s 16.
26. Id., s 6 (1).
27. Id., s 7.
28. Id., s 8.
29. Id., s 10, 11 and 12.
30. Id., s 14.