ABSTRACT

Bonded labour system is a vast, pernicious and longstanding social evil. It is a generic term which applies to virtually all contemporary forms of slavery. It was prevalent in ancient times in the name of slavery. Slavery is still in existence in modern India with different names such as forced labour, bonded labour. 'begar', unlawful compulsory labour, serfdom, debt bondage, contract bondage and so on. Nomenclature may be different but the ways of exploitation are by and large the same.

Bonded labour is a form of labouring class which is always subjected to endless exploitation by ruthless masters. The phenomenon of bonded labour is a form of forced labour analogous to slavery, if slavery is uncivilized the civilized form of slavery is bonded labour, in which the debtor pledges his body or the body of a member of his family for a loan and he renders service to the loan provider till the loan is repaid, which normally never happens during the life time of bonded labourer. The end result is the continuous exploitation of the loan taker and his/her succeeding generations.

The relationship between a creditor and the debtor is a life long alliance. Such bondage cannot be interpreted as the result of any legitimate contract but it implies the infringement of the basic human rights and destruction of the dignity of labour as a human being.

The problem of bonded labour is closely linked to the broader socio-economic problems such as limited economic opportunities, landlessness, irregular and low wages, poor conditions of agricultural land, inherently faulty policies and land reforms, caste based discrimination, social exclusion, illiteracy, exploitative share cropping system, cultural and religious belief and historical legacy, crises and death in the family, natural calamity, accident, sudden loss of employment, cheating and loan design by money lender, non-sustainable expenses on wedding and other social functions, alcoholism, migration and trafficking etc.

Bonded labour system is deeply embedded in feudal and semi feudal social structure. It is also prevalent in agricultural and non-agricultural sectors. Such as carpet industry, match and fire work industry, silk weaving, flower growing,
construction project, silver work, bidi rolling, rice mill, footwear, bangles, brick kilns, domestic work, stone quarries, lock industries, tanneries, diamond cutting and polishing units, sericulture processing industry and so on.

Historically bonded labour system is not new. It has a long history of its existence. In India, caste played and is still playing an important role in this social structure of the society. In ancient times the people at large were divided into four categories i.e. Brahmin, Kshatriya, Vaishya and Sudra later fifth category was included partly dividing the sudras. Gandhiji called them Harijans. Now they are officially called as Scheduled Castes and Scheduled Tribes or Dalits. All menial jobs were done by them and ‘bonded slaves’ mostly belong to this category. Slavery was prevalent on a wide scale during the Mughal period. Bonded labour was also widely in practice when East India Company assumed power.

Before Independence various efforts were made to check this wide spread social canker at regional levels. Britisher had tried to restrict slave system by passing various legislations. But the legislations made little impact on the abolition of bonded labour system and could not serve the purpose. After the Independence, the great national leaders of India were very anxious to protect the human decency and dignity and to abolish all sorts of exploitation. Giving constitutional protection to the citizens from all sorts of exploitation was one of the ways. Thus they made the right against exploitation as a guaranteed Fundamental Right under Article 23.

In response to the Article 23 of the constitution of India various States and Union territories amended then previous laws and passed legislation of one or other kind. But none of it displayed any serious enthusiasm towards the effective implementation of such legislations. Till 1975 bonded labour system remained as part of the normal practice of our society. In 1975 the first unified legislative attempt against this social canker 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).

The system of bonded labour is prohibited not only at the National level but it is also discarded at the International level. Since the passage of the Bonded Labour System (Abolition) Act, 1976, the Government of India has undertaken many welcome initiatives in relation to
bonded labour. It has modified the centrally sponsored scheme to allow rehabilitation grants of Rs. 20,000 for each bonded labourer who is released. It is announced in the year of 2000, that the central Government would provide 100 percent financial assistance to State Governments to conduct surveys of bonded labourer. Government assistance will also be made available for awareness raising monitoring implementation of the Act 1976 and for conducting evaluation studies in relation to tackling the problems of bonded labour.

The implementation of the Act, 1976 is the responsibility of State Governments but there are some States which inspite of the evidence placed before them continue to deny or underreport the existence of bonded labour. At many occasion the State Governments are found to be failure to take appropriate measures to identify, release and rehabilitate the bonded labourers. These State Governments now have become obstacle in eradicating bonded labour system.

The philosophy of its total abolition remained merely on papers than in practice. The enactment miserably failed to remove the shameful scar from the Indian social scene due to lack of proper identification of the bonded labour, ignorance of their rights and entitlement and obstruction by vested interests. The vested interests have all resources (education, wealth, legal advice and political power) at their command. The intended beneficiaries of legislation are poor, illiterate and ignorant.

The failure of State Governments and of the administrative mechanism sets up to abolish bonded labour system has left a vacuum which has been filed by NGOs and individuals concerned about the plight of bonded labourers. Their work has included the collection of research date, filing first information reports for release of bonded labourers, awareness raising among bonded labourer, and helping them to obtain rehabilitation grants from Government. In the absence of effective Central and State Governments action, it has fallen to the judiciary to initiate progress in the direction of the abolition of bonded labour system. The Supreme Court in the process of judicial interpretation has been playing a pivotal role not only by protecting the interest of bonded labourers but also by evolving the new concept of public interest litigation. Hence most of the decisions rendered by the Apex Court are a consequence of public interest litigation.
The Supreme Court through various Judgments such as Peoples Union for Democratic Rights (1982) and Bandhua Mukti Morcha (1983) etc. has given a very broad, liberal and expansive interpretation of the definition of the bonded labour system without altering it rather retaining the essential spirit of it. According to the interpretation given by the Supreme Court, it is not necessary to prove beyond doubt the element of loan / debts / advance in the creditor-debtor relationships, rather such an element can always be implied for presumption, i.e. whenever it is shown that a labourer is made to provide forced labour, the court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labour.

**The Statement of Problem:**

Problem of bonded labour reveals the problems of economic and social justice. It is the social and economic factor which produces class conflict, and obviously class conflict lead to the dominance of few economically and politically powerful sections. A large section of our society is driven into the situation of bondage by extensive poverty and resourselessness. These unfortunate people have sunk to a level where merely to keep alive they have to abandon all sense of individual dignity and pride. Many thinkers have advocated the redistribution of wealth from rich to the poor and of power from the rulers to the exploited.

**Significance of the Topic of Research:**

The topic of the research is having significance because the ordinance i.e. Bonded Labour System (Abolition) ordinance, 1975 was passed by president of India in 1975, abolishing the bonded labour and it was made a punishable offence. Which ultimately took the shape of Act called the Bonded Labour System (Abolition) Act, 1976 (Act No. 19 of 1976). In spite of the efforts made, bonded labour has not yet been eradicated in practice and now new forms are emerging.

**Selection of the Topic:**

During legal study, through various articles and newspaper reports researcher came to know about the conditions of bonded labourers that they have to work like chattel in this barbaric system from generation to generation. World is moving with fast technology but there are still millions of people who are living life worst than animals that thing urged researcher to do study on this topic in order
to know what things compel them to lead such life. After that the researcher consulted her supervisor regarding this topic. He also showed his willingness to do work on the same topic. This topic for study is chosen as the researcher is of the view that the issue of bonded labour needs immediate attention.

Object of the Study:

The object of the present study is to know the plight of bonded labourers who are living in the bondage and whose conditions are miserable and even worst than the animals. A special attention has been paid to those who have been free but even have not been rehabilitated and their living conditions more or less are the same and attempt is also made to find out the answers of the following questions:

Whether the bonded labourers who are working from generations to generations should be held bonded to repay the debt?

What problems are they facing in identification, release and rehabilitation?

Whether National and International laws designed to protect them are implemented properly or not?

How does the Supreme Court protect, liberate and defend them from the exploitation at the hands of employers?

Whether bonded labourers are aware of their rights available to them at National and International levels?

Whether there are regular meetings of vigilance committees constituted at District and Sub-Divisional levels. What kind of supervision is being exercised over their activities?

For this purpose the researchers has made hypothesis that world is moving with fast technology, but there is a class of human beings, who are living in bondage and whose conditions are miserable. Such a class is still surviving in the exile of civilization. They do not have bare necessities of life. These weak and disabled creatures are not in a position to breathe fresh air, get a bondage free morsel of food for their family and live like free men in the society enjoying human rights. They have been struggling for centuries to get rid of social, economic and physical bond who like other creatures are born free but still in bondage in one form or the other. Their life, liberty and pursuit of happiness are at the stake under this system of bonded labour.
Bonded labour system is not a new phenomenon. It has a long history of its existence. Under this pernicious system bonded labourer work from generation to generation in order to repay debt taken by their remote ancestor. The bonded labour system is a dynamic problem it can occur and re-occur at any point of time in an industry / occupation and process. The practice of the bonded labour is not only ugly and shameful feature but the existence and continuance of bonded labour system is also a crime and an affront to basic human dignity.

Responsibility of implementation of the Act, 1976 rests with State Governments but there are some States which inspite of the evidence place before them continue to deny or underreport the existence of this system. These State Governments have become obstacle in eradication of bonded labour system.

The vigilance committees have a vital role to play in the matter of identification and rehabilitation of the freed bonded labourers under the Bonded Labour System Act 1976. The problem is that the vigilance committees are not performing the role which has been assigned to them under the Act of 1976 in the terms of identifying and releasing bonded labour. The vigilance committees which have been formerly established for the said purpose generally remain ineffective, defunct bodies and even in some States they are not constituted.

System of bonded labour is not only a gross violation of National laws but it also the violation of various International covenant and conventions.

The Supreme Court of India in the process of judicial interpretation has been playing a pivotal role in protecting the interest of bonded labourers. It is defender, protector and liberator of them.

Various Non-Government Organizations have engaged themselves to liberate bonded labour from the clutches of masters. They have not left any stone unturn in their task.

In spite of the various efforts made by concern authorities or bodies, bonded labour has not yet been eradicated in practice and new forms are emerging.

Research Methodology:

In this work researcher has opted the 'doctrinal research methodology' for knowing the plight of bonded labourers, the constitutional and legal framework for bonded labour and judicial response.
Scheme of presentation:

Theme of research study has been placed in the following chapters:

Introduction contains the brief note of bonded labour system in India, statement of problem, object of study, hypothesis formulated for the purpose, methodology adopted to conduct this study and scheme of presentation.

Chapter first highlights the concept and definition of bonded labour and forms of bonded labour.

Chapter second deals with historical perspective of bonded labour right from the ancient period up to the modern age, highlighting the various shades and colour when this had assumed during different era of civilization.

Chapter third highlights human rights of bonded labourers, right to association, freedom from forced labour, right to equality, right to economic security and right to dignity.

Chapter four contains various constitutional provisions to ensure the security for the bonded labourers and forced labourers and it also shows how much our constitutional framers were aware of the problems of bonded labour.

Chapter five deals with legislative framework i.e. Bonded Labour System (Abolition) Act, 1976, its objects and purposes, statutory definition of bonded labour, salient features of the Act.

Chapter six highlights the role of Government in identification, liberalization and rehabilitation of bonded labour and enforcement of law.

Chapter seventh explains the role of NGO’s and role of National Human Rights Commission.

In chapter eight the judicial response has been discussed.

Chapter nine contains conclusion and suggestions for the better living conditions of bonded labourers.

Conclusion:

An in-depth study of the pernicious system of bonded labour as undertaken by researcher reveals that the existence and continuance of bonded labour system is a crime and outrage against humanity.

It is a negation of inalienable human rights. It is a negation of all the values and principles reflected in the ILO Constitution and Constitution of India, It is
anathema to civilized human conscience and cannot be tolerated in any manner, in
any form and in any part of the territory of a country. Our country has clear
constitutional and legal provisions relating to elimination of bonded labour system.
The Supreme Court of India has taken cognizance of the issue on more than one
occasion, has given a broad, liberal and expansive interpretation of the definition
and has issued a number of directions to the Central and State Governments on the
subject and has now entrusted the responsibility for overseeing the extent of
compliance with its directions to the National Human Rights Commission. The
latter is now directly monitoring the pace and progress of implementation of these
directions and will be reporting to the Apex Court.

These are some positive developments. Despite of that the magnitude of the
problem, however, remains very large. The problem of debt bondage which is a
hangover from ancient and medieval India got accentuated on account of the faulty
land tenurial policy introduced by the Colonial rulers and has now acquired myriad
forms in the wake of globalization of the economy. Even though a number of
positive steps have been taken, a lot more remains to be done by way of planned,
coordinated, concerted and convergent efforts. This cannot be the task of one
Ministry or Department or Agency; it has to be the concern of the whole nation.
Besides, in view of the onerous magnitude and complexity of the problem, State
Government and District Administrations cannot single handedly do justice to it.
They would do better by enlisting the involvement and support of voluntary
agencies and social action groups which are non-political or apolitical, which are
grass root level oriented, which have flexibility of structure and operations and
which have the clarity of perception and depth of social commitment to
complement and supplement the efforts of Government. It is only through such an
alliance between Government and NGOs on the one hand and introduction of
structural reforms in land, labour and capital, on the other that it would be possible
to strike at the roots of the problem. It is necessary and desirable that this problem
be approached through non-formal or unconventional strategies at all stages and
with recognition of the importance of human dignity, decency, security, equality
and freedom. Presence of a kind, compassionate, considerate and caring civil
Abstract

society with all sections being naturally imbued with a firm determination to put an end to the social scourge would make all the difference.

Suggestions:

As the problem is deeply ingrained in the system a comprehensive programme has to be formulated for the liberalization of millions of people serving as bonded labour. A few valuable suggestions have been incorporated by the researcher which are as follows:

1. The definition of bonded labourers and bonded labour system in sections 2(f) and 2(g) of the Bonded Labour System (Abolition) Act 1976 are ambiguous and incapable of including all the aspects of bondage, therefore it is suggested that amendments be made in these sections covering all types of forced labour / bonded labour.

2. Public awareness and education is must. As long as labourers are not made aware of their rights, there is no use of enacting legislations. As long as labourers are not aware of these laws, even one hundred laws would not suffice to liberate them. Therefore it is suggested that training workshops and camps must be organized periodically in the areas having bonded labourers to provide the knowledge about the main provisions of the Act.

3. Under the Act District Magistrates are duty bound to identify, release and rehabilitate bonded labourers. As Chairman of District Vigilance committees District Magistrates are very busy person and have multifarious duties to attend, therefore it is suggested that amendment be made to constitute a separate cell for the emancipation of bonded labourers and for the implementation of the said Act which include identification, release and rehabilitation and for the implementation of the Act i.e. Right to Education Act, 2010

4. The process of identification and release of bonded labourers is process of discovery and transformation of non-beings into human beings. What is needed for is determination, dynamism and sense of social commitment on the part of administration/executive to wipe out this inhuman practice.

5. There must be constant check and supervision over the activities of the officers charged with the task of security, liquidation of their debt.
identification, release and rehabilitation of bonded labourers. The officers should be properly trained and sensitized so that they may feel a sense of involvement with misery and sufferings of the poor and carry out their functions properly. National Commission on Bonded Labour and Child with Chairman and members acquainted with the provisions of social security legislation for check and supervision should be established. It should be accountable for its working to the nation through Parliament and Assemblies.

6. The door to door country wide intensive survey of areas which have been traditionally prone to this system of bondage debt, should be undertaken by vigilance committees with assistance of NGOs and the social action groups operating in that area so that the process of identification and release may go side by side. Such as burden may also lie on the Council for Advancement of People' Action for Rural Technology “CAPART”.

7. Poor should be familiar with the fact that the Courts have now a days been the Court of justice and the Courts of poor. The economic inequality now can be no hurdle at least in filing writ petition for the liberation of these down-trodden and to provide new ethos in the justicing system. Establishment of Mobile Courts in the affected areas may be effective step to overcome the evil. The members of the Courts be provided with ample power to award the guilty severe punishment without delay through summary trial. The members of the Mobile Courts may be person with specialization in labour laws so that minor offences may be tried at the spot.

8. The State Government must rehabilitate the released bonded labourers on permanent basis. Employment centre be established in every State to provide them permanent job with minimum wages and equal pay for equal work. The right to work is not a Fundamental Right but only a Directive Principle and not mandatory one. The right to work should be made mandatory for the bonded labourers. This right may protect the interest of the bonded labourers so that they may not be bewildered.
9. Demonstration and propaganda through Radio, Newspapers and T.V. may be given wide publicity to attract the attention of the society to abolish this social evil. Since the system of bondage, being a social evil requires its eradication at the earliest.

10. NGOs and Social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers.

11. Every officer who is placed in charge of identification, release and rehabilitation of bonded labourers should be made fully conscious of his/her responsibilities. He/she should be imbued with a sense of dedication, urgency and seriousness of concern which are necessary for successful accomplishment of the task. They should have positive and proactive attitude and approach towards abolition of bonded labour system and should exercise their powers judiciously, diligently and with empathy and sensitivity.

12. A release certificate to each of the bonded labourers so released should be issued forthwith by the concerned authorities. The certificate which should be in the local language only should be handed over to the persons so released simultaneously.

13. Rehabilitation must follow in the quick footsteps of identification and release; if this is not done than it will be remedy worst than malady because without rehabilitation released bonded labourers would be driven by poverty, helplessness and despair into serfdom once again. Thus before releasing the bonded labourer, productive and income generating schemes must be formulated in advance. These schemes should be chosen after duly consideration with the concerned labourers and NGOs involved in their emancipation and rehabilitation. The authorities should ensure that full amount intended for the freed labourers reaches them.

14. Vigilance committees have to go out and conduct field surveys by adopting a non-formal, unorthodox and non-threatening approach and are not required to occupy static positions. Periodic meetings of these committees should be conducted within the stipulated time frame. It should be the duty
of District Magistrate and Sub-Division Magistrate to ensure that the vigilance committee constituted under their chairmanship meet regularly. The vigilance committees should lay down certain guidelines for their proper functioning. There has to be a periodic review of the actual functioning of the vigilance committees constituted and such of those members who are non-functional should be eased out & replaced by new members and the members and the Chairman of the vigilance committees should make field visits for identification of bonded labour system. They should examine the cases involving a review of the present status of already-rehabilitated bonded labourers, fresh plan for rehabilitation of identified bonded labourers and close monitoring of the bonded labour-prone areas/industries etc. Cooperation and participation of NGOs and other social service organizations and members of trade union may also be explored in these vigilance committees so that the information received from such organisations may be useful in taking corrective action.

15. There is a provision for payment of immediate financial relief of Rs.1000/- to each identified and released bonded labourer. This financial assistance is extremely important because it relieves the bonded labourer of his immediate financial hardship. It may be ensured that this immediate financial relief is paid to each released bonded labourer and amount of Rs. 1000/- should be enhanced because the price of essential commodities are sky rocketing.

16. Enforcement of the law on minimum wages and strengthening of public distribution system can go a long way in minimizing the circumstances, which force the workers to get with that bondage.

17. An effective and speedy grievance redressal machinery should be established for proper disposal of cases pertaining to bonded labour.

18. A humanitarian training programme should be formulated for persons dealing with bonded labourers.