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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 succeeding generations.

In this system there is the domination of a few socially and economically powerful people over the large number of socially and economically illiterate and poor people. Specially the agricultural migrants and tribal labourers.

The bonded labourer is not allowed to other employment or other means of livelihood during the period of bondage. Thus his freedom is forcibly curtailed in so far as he can not move freely in search of livelihood and not allowed to go out in the village in order to sell his labour in the job market. The wages are abysmally low that the labourer finds it difficult to feed himself. 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 human labour.

According to Justice Bhagawati bonded labour are non-beings, exiles of civilization living a life worse than that of animals, for the animals are at least free to roam about as they like and they can plunder or grab food whenever they are hungry, but these out-caste of society are held in bondage, robbed of their freedom and they are consigned to an existence where they have to live either in hovels or
under the open sky and be satisfied with whatever little unwholesome food they can manage to fill their hungry stomach.

The problem of bonded labour is closely linked to the broader socio-economic problems of 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 of wedding and other social functions, alcoholism, migration and trafficking.

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.

According to the Oxford Dictionary of English Language, “bonded” means thing restraining bodily freedom, bonded labour thus means. Bond together through agreement or deed entered into by the parties concerned. This meaning of bonded suggests that the bodies as well as his labour are controlled upon entering into an agreement.

As per Mitra's Legal and Commercial Dictionary, Force labour means labour or service that one is compelled to give with or without remuneration.

The other meaning assigned to bonded labour is that if person 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 less than the prescribed minimum wages, they would come under the ambit of bonded labour system.

The bonded labour system includes the system of forced labour under which a surety is obliged to render bonded labour to the creditor in the event of the failure of the debtor to repay the debt.
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As per ILO report on stopping forced labour (2001), the term bonded labour refers to a worker who rendered service under condition of bondage arising from economic consideration, notably indebtedness through a loan or an advance. Where debt is the root cause of bondage the implication is that the worker (or dependants or heirs) is tied to a particular creditor for a specified or unspecified period until the loan is repaid.

A new study by the International Labour Organization has said bonded labourers often lose their freedom to choose employment due to lack of transparency in wage system and continue to work for unlimited period. In its last report on ‘cost of coercion’ the International Labour Organization said bonded labour prevails in a range of sectors, including those which face extreme competitive pressure.

A report by Anti-Slavery International in 2008, revealed that dalits bonded labourers are employed to carry out the most physically straining and menial types of work in industries such as silk farms, rice mill, salt pans, fisheries, quarries and mines, tea and spice farming, brick kiln, textiles and domestic work.

Historically bonded labour system is not new. It has a long history of its existence. In India, caste played and 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 Panchama. the 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. But slavery was not limited to sudras only it extended at times to other communities such as Brahmins who were sent to mines as slaves labour.

Slavery was also prevalent on a wide scale during the Mughal period. There is evidence to the effect that Emperor Akbar sought to abolish slavery in the 16th century but he could not able to abolish it completely. 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.
Before independence various efforts were made to check this wide spread social canker at regional levels. British rule restricted 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, they thought, by which the decency and dignity of the citizens can be well secured. 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).

Prima facie, the bonded labourers are denied their basic needs and deprived of their human rights. The practice of employing bonded labour has been one of the worst forms of abuse of human rights.

The bonded labourers are as chattel under this pernicious system. They are deprived of their rights of dignity, equality, freedom from forced labour, association and economic security available to them under the National and International laws. They become a mere plaything in the hands of few socially privileged section of society.

The system of bonded labour is prohibited not only at the National level but it is also discarded at the International level, The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) Prohibits bonded labour at an International level. Article 8 of the International Covenant on Civil and Political Rights, Article 4 of the Universal Declaration of Human Rights, 1948 prohibits slavery and bonded labour and
International Labour Organization Convention 29 and 105 concerning forced labour prohibit debt bondage.

In our country the preamble of the constitution provides social justice and equality to all and does not permit the system of bonded labour to operate. If the system of bonded labour is allowed to operate it will be against the basic theme of the preamble, Articles 14, 15, 16, 19, 21 and 23 of the constitution. Articles 14, 15 and 16 provide rights to equality and equal treatment to all.

Article 19 (1) (g) of the constitution confers a freedom of trade and profession on all citizens including the bonded labourer thus, their right under Article 19 (1) (g) will be violative if they are engaged as bonded labourers. Article 21 confers a right to livelihood and a right to live with human dignity. The concept of livelihood encompasses within itself fair wages and other amenities. The unjustified low wage is a direct violation of the right to livelihood under Article 21. Similarly, being in a state of bonded labour is a flagrant violation of the right to live with human dignity under Article 21 of the constitution.

The judiciary gave the widest amplitude to Article 21 the right to life and personal liberty. In addition some of the provisions of the constitution protecting workers and children against exploitation and moral and material abandonment’s have been provided with life and vigour by judicial process.

Article 23 provides a right against bonded labour and makes its practice punishable Article 24 read with Article 23 prohibits the employment of children as bonded labourer generally irrespective of the nature of employment. Further no child below 14 years can be employed in a hazardous employment irrespective of the fact whether he is a bonded labourer or not.

During the consideration of Article 17 of the Draft Constitution which corresponds to Article 23 of the Constitution, Raj Bahadur Observed.

"Begar like slavery has a dark and dismal history behind it. As a man coming from Indian States, I know what this begar, this extortion of forced labour, has meant to the down-trodden and dumb people of Indian States, if the whole story of this begar is written, it will be replete with human misery, human suffering, blood and tears".
The founding fathers of constitution wanted that Article 23 must provide freedom to the poor, down-trodden, disadvantaged, helpless deprived and weak people from the curse of begar.

Article 24 under constitution provides rights against exploitation. Article 45 emphasizes upon free and compulsory education for children up to the age of 14 years. But no serious effort was made by the Government for many years to translate the philosophy of Articles 23, 21, 24, 39, and 45 etc. into action.

As a result, the Government of India 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 which it 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 by the president of India on October 24, 1975, which came into force 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.

The main thrust of the Bonded Labour System (Abolition) Act 1976 is to prohibit the continuance of any bonded labour. The Act was passed with an avowed object of giving effect to Articles 21 and 23 of the constitution. A noteworthy feature of the Act is its awareness of the need for machinery relating to its implementation. This is in sharp contrast with other legislations, which by and large ignored the problem of implementation and failed to specify the institutional arrangement for enforcing the provisions and the officials responsible for enforcing the statute.

The Government of India has consistently maintained a pro-active approach to the issue of forced or bonded labour in the country. It recognizes this evil system as a gross infringement of the Fundamental Rights of the affected citizens and is implacably committed to its total eradication in the shortest possible time.

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 announced in 2000, that it would provide 100 percent financial assistance to State Governments to conduct surveys of bonded labourers. 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 bonded labour.

The implementation of the Act, 1976 is the responsibility of State Governments but there are some States which in spite 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 measure to identify, release and rehabilitate bonded labourers, these State Governments have now become obstacle in eradicating of 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 set up to abolish bonded labour has left a vacuum which has been filed by NGOs and individuals concerned about the plight of bonded labourers. Their work has included collection of research date, filing first information reports for release of bonded labourers, awareness raising among bonded labourers, 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. 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.
People's Union for Democratic Rights v. Union of India is a landmark decision of the Supreme Court which has made a significant contribution to labour laws. The Court has given a new dimension to several areas, such as minimum wage, employment of children, enforcement of labour laws and public interest litigation.

Another epoch making decision on bonded labour was Bandhua Mukti Morcha v. Union of India. In this case the Court issued specific directions to the Government of Haryana to ensure proper rehabilitation of the freed bonded labourers. During the proceedings the Court monitored its directions and appointed a number of commissions of inquiry. Regrettably, most of the directions remained unimplemented for many years. Again 1992, the Court recounted the history of the case and was shocked to find that there was no slightest improvement in the conditions of the workers of the stone quarries. The litigation however came to an end with the Court striking a note of caution to the Government to be responsive to judicial directions.

Neeraja Chaudhary v. State of M.P. vividly demonstrates the futility of directions by the Court and the apathy on the part of the State administration towards the rehabilitation of released bonded laboures.

P. Sivaswamy v. State of Andhra Pradesh is another instance, wherein the Apex Court condemned the attitude of the State Government's failure to implement the provisions of the Bonded Labour Act, 1976 and the failure to provide effective rehabilitation of identified bonded labour.

Mukesh Advani v. State of M.P. is another case related to bonded labour. In this case the Supreme Court as a first step against exploitation of workmen directed the Central Government to issue notification specifying minimum wages payable in stone mines.

In Balram v. State of M.P. it was found that labourers who were released pursuant to Court's order were not properly rehabilitated. On these facts, the Supreme Court directed the Union of India to release adequate funds for the scheme framed under the Bonded Labour System (Abolition) Act, 1976 within four weeks.
1. The Statement of Problem:

Exploitation of one group of people by another is not a new phenomenon. It has always been in existence in all those societies where social and economic inequalities exists and in India social and economic inequalities exists since the ancient times. That's why the weaker sections of our society have continuously been exploited by the stalwarts and influential. Mostly the form of exploitation which has been in practice since very ancient time is bonded labour thus its origin is very old.

This evil also continued during Mughal period. However, there is evidence to the effect that Akbar tried to abolish it in 16th century but he could not succeed. Bonded labour was also widely in practice when East India Company assumed power.

If we see the post independence period then we find that bonded labour was in existence in agricultural communities and in industries where the exploitation of the workers was very common. At several places the children are also exploited by factory owners. So there are also in a sense, the form of bonded labour. Problem of bonded labour reveals the problems of economic and social justice. It is the social and economic factors which produce class conflict, and obviously class conflict lead to the dominance of a few economically and politically powerful sections that possess the political power. A large section of our society is driven into the situations of bondage by extensive poverty and resourcelessness. 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.

2. Significance of the Topic of Research:

In order to provide freedom to bonded labour the very first step is the identification. After identification they should be released and after released immediate relief must be given them, and in the end, they should be properly rehabilitated so that they may not again be compelled to dive into the pond from which they have been drown out. To eliminate this evil of the country the constitution of India however, has plainly restricted any kind of forced labour and
a Fundamental Right (Art. 23) has been provided by it. This right checks fully every type of forced labour, be it begar or traffic in human being or debt bondage or serfdom etc. and directs the State to take all necessary steps to eradicate this evil. The incorporation of this Article as a Fundamental Right exhibits the keen willingness of the constitution makers to eliminate this evil. Though in past some efforts at State levels have frequently been made to face this vice but concrete attempts in this direction at the national levels were made in middle of 70's. Abolition of bonded labour was included as one of the objectives of twenty point programme launched by the then Government during emergency. The topic of the research is having significance because an 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. It is why the topic of the research needs immediate attention.

3. Selection of the Topic

During legal study, through various articles and newspaper reports researcher came to now 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 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.

4. Object of the Study:

The object of 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 the same. An attempt is also made to find out the answers of the following questions.
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- Whether the bonded labourers who are working from generation to generation 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 researcher 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 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 eradicating 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 (Abolition) Act, 1976. The problem is that the vigilance committees are not performing the role which has been assigned to them under the Act, 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 (NGOs) 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.

5. Research methodology:

When the work has been done in any specific area for discovering some conclusion and new aspect, it is consider research. It is noteworthy in the commencement of research scientific method has to be used. Here the word scientific denotes systematic observation, classification and interpretation of data. Primary effort of scientific method is to find out the causal relationship and make the generalization.

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.

The researcher has drawn help from various books, gazettes, report of commissions and committees, Articles, newspapers, and judicial decisions. Use of internet is also made together in order to take important information relating to the
subject of study. The research is analytical and descriptive in nature mode of
citation is uniform through out the work. While citing a text book, the author's
name is cited first, followed by the name of the book, publisher. Place of
publication, year of publication and page number

6. 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 economics
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, 1976, centrally sponsored scheme for rehabilitation
of bonded labour, components of the scheme for rehabilitation of bonded
labour.

Chapter six highlights the role of Government in identification,
liberalization and rehabilitation of bonded labour, problems with the release and
rehabilitation process 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 for bonded labourers.
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Note & References:


5. Section 2 (a) and (g) of the Bonded Labour System (Abolition) Act, 1976.


9. *C.A.D.* 809 also the view of T-T Krishnamachari, id., at 810, 11.


