The development of the idea of welfare state, the crystallisation of the concept of social justice and the Constitution of International Labour Organisation and Philadelphia Declaration, Charter of United Nations and Universal Declaration of Human Rights had a substantial impact on the Indian Constitution makers. Although in response to the nationalist movement, increasing labour unrest and international developments the British initiated certain social welfare measures in India in the late nineteenth and early twentieth centuries. But the welfare state in real sense was established only after 1947, with independence there came momentous developments in the area of labour welfare legislation. It was realised that for the smooth functioning of the democracy, the state must stand for the benefit of all people and not for the benefit of a few and that the paramount value of the society is the free and responsible individual. Thus, the Constitution framers opted for the welfare state. They believed that Independence would mean nothing to the masses if they were not free from the grips of poverty and ignorance. Pandit Nehru commented, "Political democracy by itself is not enough except that it may be used to obtain a gradually increasing measure of economic democracy, equality and spread of good things to life of others and removal of gross inequalities."

The idea of welfare state is embedded into the idea of just social and economic order. Just social and economic order can be achieved through the removal of economic imbalances and social barriers of caste, creed and class, which hamper the natural growth of the individual. Thus, our Constitution seeks the development of the national life through the agency of political, economic and social justice. These ideals are not merely to be cherished. But Parts III and IV of the Constitution attempt to weave them into the daily life of the average citizen. Taking guidance from these basic concepts, and assessing the magnitude and appalling character of social inadequacy, insecurity, poverty, disparity in income and exploitation of the poor and weaker sections of the society, the Government of India embarked on the nation-building activity with its commitment to socio-economic justice. Since Independence a number of welfare plans and programmes have been formulated and implemented. The legislative, executive and judicial powers have been joined to adhere to this social philosophy and to secure social justice for the people. A number of these plans and programmes are related to bonded labour.

1.00. Bondage in India: Policy Formulation

After Independence India became a democratic welfare state. Thus it opted the policies leading to the utmost welfare of the people.
1.10. Constitution of India

The key source of all policies is the Constitution of India, the precursor of the new Indian Renaissance. The Constitution does not merely aim at certain social reforms or social reconstitution, but it promises a new social order or norm with justice, freedom and equality of opportunity for every individual so that he may be in a position to maximise his efforts and resources to attain the highest of which he is capable. To find out the intentions of the framers of the Constitution, a reference to the Constituent Assembly Debates and even earlier developments becomes inevitable.

In 1929, the All India Congress Committee resolved that the great poverty and misery of the Indian people was due to the economic structure of the society. In 1931, the Karachi Congress adopted welfare oriented resolutions on fundamental rights and economic programmes. It was unequivocally declared that in order to end exploitation of the masses political freedom must include economic freedom of the starving millions, and that the opportunities must be equal for all citizens irrespective of caste, community, sex or other considerations. In 1945, Manifesto of Congress also stressed the need to remove the curse of poverty and raise the standard of the masses. These aspirations of the Indian leaders were reflected clearly in the Constituent Assembly Debates. Pandit Nehru stressed, "At present the
greatest and the most important question in India is how to solve the problem of the poor and starving. Wherever, we turn, we are confronted with this problem. If this problem will not be solved soon, "all our paper constitution will become useless and purposeless". He emphasised: "The first task of this Assembly is to free India through a new Constitution, to feed the starving people, to clothe the naked masses and to give every Indian the fullest opportunity to develop himself to his capacity.".

These aspirations of the framers of the Constitution found place in Objective Resolution, which was moved by Pt. Jawahar Lal Nehru in the very session in which the Constituent Assembly was set up. It states,

The Constituent Assembly declares its firm and solemn resolve... to draw up for her future governance a Constitution...

(5) Wherein shall be guaranteed and secured to all the people of India justice, social, economic and political, equality of opportunity and before the law... and

(6) Wherein adequate safeguards shall be provided for the minorities, backward and tribal areas, and depressed and other classes."

This concept of socio-economic justice indicated a three-fold trend, as is evident from the various views expressed by the members of the Constituent Assembly on its

3. Ibid.
meaning and content. Firstly, the concept means the rejection of present social structure and social status quo. Secondly, it contemplates a smooth and rapid, 'transition from state of serfdom to one of freedom', and thirdly it envisages remaking of material conditions.

1.11. Preamble

This concept of socio-economic justice is echoed in the Preamble to our Constitution, where People of India resolve to secure social justice to its citizens based on liberty of thought, expression and belief, and to assure equality of status and opportunity. The Constitution intends to do away with all the man-made inequalities that thwart the progress towards the achievement of the lofty ideals enunciated in the Preamble. The Preamble emphasises the objective of fraternity, in order to ensure both the dignity of the individual and the unity of the nation. In a country like India with many disruptive social forces such as communal, sectional, denominational, local, regional and cultural, the unity of the nation can be preserved only through a spirit of brotherhood that permeates among all its citizens irrespective of their differences. The Constitution makers were eager to proclaim a war against the disruptive forces, as the practice of human discrimination could have no place in the new political and social concept that was emerging with the advent of Independence.

ideals of 'one man one vote one value', 'equality before law', 'the equal protection of law', 'freedom of profession' and 'right to move freely throughout the country' - would have no meaning if one man was subjugated by another man and one's life was at the mercy of another. Socio-economic justice in essence means removal of socio-economic imbalances and ensuring of distributive justice through the instrumentality of law. This objective has now been made abundantly explicit by inserting the term 'Socialist' in the Preamble to the Constitution of India.

1.12. **Fundamental Rights**

The broad ideas of the Preamble have been given shape and content in the Fundamental Rights, Directive Principles of the State Policy and the Special Provisions for Scheduled Castes and Scheduled Tribes and Backward Classes. These provisions serve as a 'beacon light to India on her march towards the temple of socio-economic justice'.

Mr. Justice Gajendragadkar observed that, 'The Indian Constitution has given a place of pride to the attainment of the ideal of social and economic justice and that is the basis of the new guiding principles of social welfare and common good. Indeed the modern labour legislation in India bears a striking impact of the basic law of the country.'

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the freedom of the individual and to allay the apprehensions of the minority communities, the Fundamental Rights have been given a place of pride in the Constitution. The Fundamental Right to Equality\textsuperscript{10} includes equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of public employment. The prohibition against enactment of discriminatory laws, rules and regulations protects the industry as well as the labour from unreasonable discrimination. Women have been protected from exploitation by the prohibition of discrimination on the grounds of sex.\textsuperscript{11} But the Constitution is not blind to realities and special provisions have been made for the welfare of women and children. The employment of children below the age of 14 in any factory or in any other hazardous work has been prohibited.\textsuperscript{12}

Equality of opportunity in matters of employment or appointment is guaranteed in public services as well as in local bodies or public sector undertakings or corporations owned or controlled by the state. Of course job reservations can be made and are being actually made in favour of the backward classes or classes of citizens which are not adequately represented. These provisions aim at removing two of the major inequalities well built into the traditional Indian society, namely the unequal status of the women and

\begin{itemize}
\item \textsuperscript{10} Articles 14-18 of the Constitution of India.
\item \textsuperscript{11} Articles 15 and 16(2).
\item \textsuperscript{12} Article 24.
\item \textsuperscript{13} Article 24.
\end{itemize}
lower status of those born in certain castes and communities. In the broader sense, these provisions contribute towards the freedom and dignity of the weaker sections. The Constitution guarantees freedom to assemble peacefully, freedom of speech and expression.¹⁴ These traditional individual liberties, which are the characteristic of liberal democracy have been won in the West through a hard and bitter struggle for centuries. But in India the labour got these rights through bloodless revolution. The freedom of association and union places a premium on the modern principles of collective bargaining. The right to practise any profession, occupation, trade or business emancipates the individual from the hereditary caste restrictions of occupations and jajmani system. It also allows the private sector to play its role in the production of material goods adding to the national wealth with the active support and co-operation of the labour.

Guarantee of personal liberty and life as well as protection against arrest and detention otherwise than by the procedure established by the law,¹⁵ has provided protection to the labour from the ills of torture and killing in the mines by bad elements engaged as chowkidars or guards and has emboldened the union leaders to organise the trade union activity in the industry and ventilate the legitimate grievances of the labour. The guarantee of personal liberty

¹⁴. Article 19(b)(c).
¹⁵. Articles 21 and 22.
and life ensures the labourers not only animal existence but a life full of dignity and freedom. The provisions relating to 'forced or bonded labour or begar', 'child labour' and 'traffic in human beings' strengthen the hands of social workers and reformers who had earlier gone on war with these social evils, but without sufficient constitutional or legal support. These freedoms guaranteed by the Constitution have gone a long way towards the emancipation of the labour from bondage and exploitation. Austin is right when he says, "These fundamental rights, therefore, were to foster the social revolution by creating a society egalitarian to the extent that all citizens were to be equally free from coercion or restriction by the state or by the society privately. Liberty was no longer to be the privilege of the few." 17

1.13. The Directive Principles of State Policy

The framers of the Constitution were conscious that both the independence of the nation and the guarantee of human freedom would mean nothing to those who had no food to eat, not clothes to wear and no house to live in. To balance the individual freedom with social justice and to emphasise the implications of the welfare of the people, the Directive principles of State policy have been incorporated in the Constitution. Dr. Ambedkar believed, "The Directive Principles contain our vision of economic democracy, and

prescribe that the Government shall strive to bring about economic democracy." Thus, Article 38 provides that the state shall strive to promote the welfare of the people by securing and protecting - - - a social order in which justice - social, economic and political - shall inform all the institutions of the national life. Article 39 specifically requires the state to ensure to its people adequate means of livelihood and equitable distribution of wealth so that its concentration may not become detrimental to the common man. It also stresses the need for equal pay for equal work, development of the health and welfare of the labour, especially children. It emphasises that the youth should be free from exploitation to which they may succumb owing to economic compulsion or otherwise. This provision contains the main objectives of the building of a welfare society and equalitarian social order in India. The Article 41 contains directives in respect of social security. It directs the state to ensure to the people, within the limits of its economic capacity, the right to work, education and public assistance in cases of unemployment, old age, sickness, disablement and undeserved want. Article 42 seeks to secure 'just and humane conditions of work'. This provision forms the basis of a large body of labour law in India. Article 43 enjoins on the state to strive to secure to the worker a living wage, and conditions of work ensuring a decent standard of life and full enjoyment of leisure and cultural opportunities.

It also emphasises the promotion of cottage industries. In short Article 43 furnishes the principle to check unfair labour practices. Article 47 declares that the primary duty of the state is to raise the level of nutrition and standard of living of the people and improvement of the public health. Thus, the Directive Principles being conducive to the general interest of the public and to the healthy progress of the nation as a whole contain a strong statement of social revolution. These principles lay down the foundation for appropriate social structure in which labour will find its dignity due to it for its contribution to the progress of national economic prosperity and socio-economic well-being of the masses of India. The form and extent of legislation in India is an index of the concern of the state with the above principles.

1.14. Special Provisions for the Upliftment of Weaker Sections

The Constitution also contains special provisions for the upliftment and welfare of the weaker sections of the society. Article 46 lays upon the state the obligation to promote with special care the educational and economic interests of the weaker sections, particularly of the Scheduled Castes and Scheduled Tribes and to protect them from social injustice and all forms of exploitation. The implications of the concern of the state with the protection and promotion

19. Articles 330-42. Suitable provisions have also been made under the Fifth and Sixth Schedules of Constitution particularly with reference to the protection of tribal land, allotment of waste land and protection from exploitation by money-lenders.
of the interests of the weaker sections of the community are significant both for the establishment of the socialist pattern of society as well as a welfare state. So the Constitution of India is the people's Magna Carta, the nation's founding deed, the nidus of root relationships, economic, social and political. Statutory instruments and all forms of legal enactments and judicial pronouncements only activate, formalise, declare and enforce the powers, rights, duties and liabilities and all the rest of it flowing from the fountain head i.e. the paramount law itself. Indian law is thus nothing more and nothing less than the directive principles, designated relationships, fundamental rights and the like articulated or inherent in the Constitution itself.  

1.20. Five Year Plans

The chief instruments for translating the constitutional provisions relating to the welfare of the labour into practice are the Five Year Plans. The Resolution, through which National Planning Commission was established in 1950, provides the link between the Constitution and the plans. The Resolution sought inspiration from those provisions of the Constitution which emphasise the promotion of 'welfare', 'justice', and 'equitable distribution of wealth' and involve

the constitutional rights and directive principles. The documents of the successive Five Year Plans also reflect the welfare policy of Indian government. Under the Five Year Plans a number of formal programmes have been initiated for the welfare of the poor.

1.30. 20-Point Programme

However, a vigorous attempt to ameliorate the socio-economic conditions of the weaker and poor sections and to eradicate the bonded labour system was made under the 20-point programme launched by Mrs. Indira Gandhi in 1975. All the departments of the Government were asked to suggest points for this programme. The Labour Department came forward with four points, which included the abolition of bonded labour. The point four stated that, "bonded labour wherever it exists, will be declared illegal". The fourth point was fortified by the fifth and sixth points which declare a moratorium on the recovery of debts from the landless labourers and ensure minimum agricultural wages for the labourers. The 20-point programme was revised twice in 1982 and in 1986 in order to make the programme more effective and more realistic.

The experience with planning proved that the benefits of economic growth are by-passing the poorest of the poor. So,

22. Point Nos. 4, 6, 15 and 20.
it was realised in early sixties, that 'special steps' should be taken for the upliftment of the poor.\textsuperscript{23} This realisation was given concrete shape in the Sixth Five Year Plan. This plan indicated a by-pass route to reach the poor not for distress relief but for economic uplift through a variety of programmes. Since then a number of development and poverty-alleviation programmes have been adopted to assist the poor through an appropriate package of technologies, services and asset transfer programmes. Among the target groups of these programmes the freed bonded labourers have the first priority.

2.00. \textit{Constitutional and Legislative Framework}

The roots of the legislation on the abolition of bonded labour lie in the concept of welfare state. The concept of \textit{laisser faire} gave birth to labour exploitation and victimisation by the resourceful employers. However, with the advent of the concept of welfare state, the whole situation has undergone a tremendous change. With the democratic set-up of welfare state, industrial democracy emerged which ultimately resulted in participative management. The work of the international organisations has not been without influence on this trend especially in the developing countries, through their practical activities of international technical co-operation and dissemination of

the ideals embodied in their constitutions and the various international declarations, charters and other texts adopted over years."24 The British Act of 1833, Slavery Convention of 1926, ILO Conventions on Forced Labour of 1930 and 1957, UN Supplementary Convention on Slavery 1957, and Universal Declaration have been main international instruments motivating the abolition of bonded labour in India.

2.10. Constituent Assembly Debates on Bonded Labour

There was detailed discussion about forced labour and similar practices in Constituent Assembly. A majority of the members of the Constituent Assembly declared the system of begar as an anti-thesis of democracy and favoured its abolition immediately. Shri Raj Bahadur (United States of Matsya) observed:

"Begar like slavery has a dark and dismal history behind it...Summing up I may add that Article 1325 of the Draft Constitution of India constitutes the Charter of Freedom for the common man and this Article26 is a sort of complement of that Charter of Freedom. This frees the poor, down-trodden and dumb people of Indian states...from the curse of begar."

Shri S. Nagappa also expressed similar views and observed: "I am glad that the Drafting Committee has inserted this clause to abolish bonded labour."28

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25. Corresponding to Article 19 of the Constitution.
26. Corresponding to Article 23 of the Constitution.
28. Ibid., pp. 810-11.
moved an amendment to the effect that dedication of human beings in the name of religion as devadasis or their subjection to other forms of enslavement and degradation should also be brought within the scope of Article 23.\(^{29}\) Kazi Syed Kismuddin moved an amendment to the effect that 'begar could be permitted as a punishment for crime'.\(^{30}\) Sardar Bhupinder Singh Mann, wanted to make provision for compensation for compulsory public services imposed by the state.\(^{31}\) After discussions about these amendments Article 23 was ultimately drafted in the present form.\(^{32}\)

2.20. Abolition of Bonded Labour under Constitution of India

Some provisions of the Constitution express ex-verbis speak about the problem of bonded labour, whereas some deal with it implicitly. Article 19, provides a citizen with the freedom of choice of employment and movement throughout India. Thus this Article implicitly prohibits the practice of bonded labour, which compels the bondman to work for a particular master depriving him of the choice of alternative employment and forces him to adopt a particular course of action. This practice also violates the 'right to life and personal liberty' stipulated in Article 21 of the Constitution, through non-payment of just wages and illegal labour contract. Article 23 of the Constitution explicitly prohibits bonded labour.

29. Ibid., pp. 804-5.
30. Ibid., p. 804.
31. Ibid., p. 806.
Article 23 of the Constitution embodies two declarations. First that the traffic in human beings, begar and other similar forms of forced labour are prohibited. Second, that any contravention of the prohibition shall be an offence punishable in accordance with law. Under Article 35 of the Constitution, laws punishing the act prohibited by this Article shall only be made by the Parliament, though existing laws on the subject until altered or repealed by Parliament, were saved. The prohibition against 'traffic in human beings', 'begar' and 'other similar forms of forced labour', embodied in Article 23, is clear. It is a general prohibition, total in its effect and all pervasive in its range. In fact, the Constitution makers intended to give teeth to their resolve to wipe out and obliterate the evil practice of bonded labour. Therefore, they included this prohibition in the Part III on the Constitution instead of the Part IV of the Constitution. They intended that the abolition of such practice should become enforceable and effective as soon as the Constitution comes into force. The Article 23 is enforceable not only against the state but also against any other person indulging in such practices. Article 23, is much wider in scope than Article 4 of the Universal Declaration of Human Rights. The words 'traffic in human being' are of much larger amplitude than 'slave trade'. On the other hand the prohibition relating to begar and other similar forms of forced labour is not limited to the slavery
in the strict sense only, but it covers the modified form of slavery also. To understand fully the true scope and meaning of the Article 23, it is necessary to clarify the meaning and scope of the term 'begar' and the situations in which it may arise.

The term 'begar' is an Indian term and has varying local connotations, as regards the kind of labour exacted by force. Article 23 does not define begar. Indeed it is very difficult to formulate a precise definition of the word 'begar' but there can be no doubt that it is a form of forced labour under which a person is compelled to work without receiving any remuneration. Molesworth describes 'begar' as "labour or service exacted by the Government or the person in power without giving remuneration for it."

Wilson's Glossary of Judicial and Revenue Terms gives the following meaning of the word 'begar': a forced labour is... to carry burdens for individual or the public....'Begar' may therefore be loosely described as labour or service which a person is forced to give without receiving any remuneration for it. This meaning of the term 'begar' was accepted by Bombay High Court in S.Vamdev v. S.F. Mittal. Begar means labour one is forced to give without remuneration. Even if a person is paid, the labour supplied by a person would be covered by the Article 23 if it is forced labour i.e. labour supplied not willingly but as a result of force or compulsion. Article 23 intends to abolish every form of

34. Peoples Union For Democratic Rights v. Union of India, (cont)
forced labour. Begar is only one form of forced labour. Thus, the words ‘other similar forms of forced labour’ are to be interpreted ejusdem-generis. It is the fundamental right of every individual not to be compelled to work without wages. Exploitation i.e. improper utilisation of the services of other persons for one’s own ends is opposed to the dignity of the individual. Even a Panchayat cannot force a person to perform labour. Whenever any service or labour is taken by the state from any person who is affected by scarcity or drought, the state cannot pay him less wage than minimum wage on the ground that it is given to him to help to meet the famine situation.

Article 23 prohibits service which a person is forced to provide. ‘Force’ which would make such labour or service ‘forced labour’ may arise in several ways. It may be physical force which may compel a person to provide labour or service to another or it may be force exerted through a legal provision such as a provision for imprisonment or fine in case the employee fails to provide labour or service or it may even be compulsion arising from hunger and poverty, want and destitution. Any factor which deprives a person of the choice of alternatives and compels him to adopt one particular

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course of action may properly be regarded as 'force' and if labour or service is compelled as a result of such 'force' it would be forced labour. The *Arid* case is a milestone in the judicial history heralding the advent of poverty-oriented jurisprudence for social justice through courts. Supreme Court by its dynamism for the first time in the judicial history of India interpreted labour laws in the light of human rights, to secure socio-economic justice to the unprivileged classes.

The 'traffic in human beings' means to deal in men and women like goods, such as sell or let or otherwise dispose of them. By 1953, no less than seventeen enactments were passed by the states for supressing immoral traffic. Under Article 35 of the Constitution Parliament has enacted, *The Supression of Immoral Traffic in Women and Girls Act 1958*. However, there is no doubt that the expression 'traffic in human beings' covers slavery, though it has not been expressly mentioned in the Act.*

Article 23(2) enables the state to impose compulsory service on individuals for public purposes, in exceptional circumstances. However, while imposing such service the state shall not make any discrimination on grounds of religion, race, caste or class. Conscription for the defence of the country or for social service are instances of compulsory

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42. *Arid* Case, op. cit.
service for public purposes. The words "public purpose" here have a wider sense. They include all that can promote the welfare of the state as envisaged in the Directive Principles of the State Policy.

The 'traffic in human beings', 'begar' and 'similar forms of forced labour' are punishable under Sections 370 and 371 of the Indian Penal Code also. These provisions of the Code are applicable not only to the slavery in the strict and proper sense but to any modified form of slavery where an absolute power is asserted over the liberty of another. Section 370 provides a maximum imprisonment of seven years alongwith fine, for the attempt to place persons in the position of slaves or to treat them in a way that is inconsistent with the idea of the person so treated being free as to his property, service or conduct in any respect. Section 371 deals with habitual dealers in slaves. The offence enumerated under Section 371 is a heinous crime and the sentence prescribed is imprisonment for life. Thus, Indian Penal Code, recognises that the inherent dignity of the individual is sacrosanct. It deals with acts depriving a person of his dignity by illegal means very rigorously.

2.30. Legislative Measures By The States

After Independence, the question of bonded labour was discussed in the Provincial Labour Ministers Conference held in November, 1947. It was felt that forced labour was prevalent in most parts of the country and a general inquiry
was necessary. In August 1948, Ministry of Labour appointed an officer on special duty to study central and provincial legislation and existing literature on forced labour in order to report on the adequacy of the existing legislation and to recommend further legislation and administrative remedies. He reported that forced labour authorised by law and by social custom of debt-bondage was prevalent. He made a proposal for the repeal or amendment of the offending provisions in various enactments allowing forced labour. He also recommended the insertion of suitable provisions regarding age limit, hours of work, weekly rest, compensation for accidents or sickness arising out of employment and subsistence allowance. The Criminal Tribes Act 1924, The Bengal Regulation of 1806 and 1825, The Madras Compulsory Labour Act, 1858, The Orissa Compulsory Labour Act, 1948, The Anglo Laws Regulation 1936, The Khondsals Law Regulation 1936, The Northern Indian Canal and Drainage Act 1873 were modified consequently. But no action was taken in respect of The Assam Forest Regulation 1891, The Senthal Pragnes Settlement Regulation 1872, Punjab Minor Canals Act 1905 and Good Conduct Prisoners Probational Release Act 1927.

In the meantime the Constitution of India was adopted as the fundamental and supreme law of the land. By Article 23 it prohibited the inhuman practice of bonded labour. The subject of bonded labour and labour welfare was included.

in the concurrent list in the Seventh Schedule of the Constitution. Thus the Ministry of Labour asserted that forced labour had been prohibited, so no further legislation was necessary. However, it directed the State Governments concerned to write-off the State Acts allowing the exaction of forced labour. The States were required to make the widest possible publicity in rural areas that the exaction of forced labour in contravention of Article 23 would be unlawful and punishable under Section 374 of Indian Penal Code. Consequently the States affected by bonded labour took a number of ameliorative steps and enacted laws to eradicate the feudal system of bonded labour.

Later, the Committee on Conventions, at its first meeting held in 1954 recommended the ratification of the ILO Convention (No. 29) on the strength of Article 23 of the Constitution of India. The ILO Convention (No. 105) was placed before the Committee on Conventions in 1961 and again reviewed by it in 1968. The Committee stated that there were difficulties in the ratification of the Convention (No. 105), as it prohibited the use of labour for the purposes of economic development or even in case of emergency. But the Committee stressed that it did not mean that forced labour was allowed in India. Article 23 of the Constitution specifically prohibited this evil practice.

The provisions of Article 23 have been given shape and content through legislative measures by most of the states. Apart from direct legislation on bonded labour the

46. Ibid., pp. 49-50.
State Governments have enacted many laws and regulations to regulate the evils of moneylending and usury, as these are the root causes of bonded labour system. To save the land of the poor from the clutches of the land-hungry money-lenders, laws and regulations have been passed to prohibit or restrict the transfer of land by or among the Scheduled Castes and Scheduled Tribes. The activities of the States in the direction of abolition of bonded labour got a big boost in 1975, when the Government of India banned the practice of bonded labour by Bonded Labour System (Abolition) Ordinance 1975. Several States adopted new and amended the previous enactments to curb the evils of bondage. However, the information on the incidence of bonded labour and the measures taken by the States to wipe out this evil is very scanty.

The Reports of the Commissioner for Scheduled Castes and Scheduled Tribes for 1975-76 and 1976-77, information supplied by the Ministry of Labour, Government of India, and some of the material published in the last few years suggested that the following ten States were most affected by bonded labour in agriculture; Andhra Pradesh, Bihar, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. The Gandhi Peace Foundation and National Labour Institute conducted a 'National Pilot Survey on the Incidence of Bonded Labour in all these ten States. On the basis of the available material the following state wise position is discernible.
2.31. Andhra Pradesh

In Andhra Pradesh the bondage system is prevalent under the names of Gothi, Bagela, Vetti, Charkiri or Jeetam. The bonded labourers are generally employed on an annual basis. They are paid both in cash and kind, but wages are much lower than those of casual labourers. To deal with the problem of bondage Madras Debtor's Protection Act, 1934 and Madras Debt Bondage Abolition Regulations 1940 were enacted for the scheduled areas of Andhra region. Whereas the erstwhile Hyderabad Government enacted Bagela Act 1936 to control the malady of bondage in its territories.

After Independence the Andhra Government supplemented these enactments by a number of laws. The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 declared the transfer of land by tribals without the sanction of the competent authority null and void. The other regulations with regard to moneylending included Andhra Pradesh Scheduled Areas Moneylender Regulation, 1960; Andhra Pradesh Debt Relief Regulation, 1960 and Agency Debt Bondage Abolition Regulation, 1964. In August, 1975, the Government of Andhra banned the practice of bonded labour by an Ordinance. It provided that the payments made under the bonded labour system, whether in cash or kind are not recoverable by suit or other proceedings in any court. All the responsibilities of the debtor or members of his family to render service were declared to have been extinguished. The Ordinance also provided punishment for

47. S.N. Tripathi, Bonded Labour in India, Discovery Publishing House, Delhi, 1989, p. 163.
the violation or abetment of the violation of its provisions.

2.32. Assam and Tripura

The North-Eastern States were not included in the sample survey conducted by the Gandhi Peace Foundation and National Labour Institute. However, these states have their own system of bonded labour. The Assam Moneylenders Act, 1934 and Assam Debt Conciliation Act, 1936 were in force at the time of independence to curb the malady of debt bondage. These Acts have been fortified by several enactments relating to moneylending, such as Lushai Hill District (Moneylending by Non-Tribals) Regulation, 1953; The Mikir Hill District (Moneylending by Non-Tribals) Regulation, 1953. The Assam Land and Revenue Regulation was amended in 1947 to provide protection to the backward classes from the advanced elements of the society. Tribal belts and blocks were framed. The members of the Scheduled Castes and Scheduled Tribes and other Backward Classes were settled in these blocks. The transfer of land was restricted. The Tripura Agricultural Works Debt Relief Ordinance was promulgated in 1975, to obliterate the evils of debt bondage among agricultural labourers, small and marginal farmers.

2.33. Bihar

The problem of debt bondage is acute in Bihar, specially in Champaran, Saran, Monghyr, and Palamu District. Here, the bonded labourers are called Kavis. Kavis are subjected to

48. Ibid., p.164.
inhuman exploitation by moneylenders and usurers. Before
Independence a number of regulations were enacted to provide
relief to the debtors and tenants of agricultural land. The
direct legislation on the bonded labour was "Bihar and
Orissa Kamturn Agreements Act 1920, which tried to regulate
the system of debt-bondage. Apart from this Act, Bihar
Tenancy Act, 1885 (applicable to whole of the state except
Chhotanagpur Division and District of Santal Parganas),
Chhotanagpur Tenancy Act, 1908, Santal Parganas Tenancy
(Supplementary Provisions) Act, 1949, The Ranchi District
Tana Bhagat Raiyats Agricultural Land Restoration Act 1947
and Bihar Moneylenders (Regulation of Transactions) Act, 1939
tried to restrict the problem of bondage in Bihar. However,
this act of regulations was not successful in uprooting the
curse of bondage. Studies conducted in 1973, 50 indicated
widespread prevalence of bonded labour in Bihar. Recognising
that rural indebtedness was the root of the problem, Bihar
Government enacted two bills in 1974 to regulate the practice
of debt-bondage. The Bihar Scheduled Castes, Scheduled Tribes,
Backward Classes and Denotified Tribes Debt Relief Act 1974
declared all the agreements for bonded labour void. It stressed
that all the liabilities under the debt shall be deemed to
have been discharged and no proceedings can be taken to the
court for the recovery of the loan. The Act was applicable
to all scheduled class debtors owning one acre of land. After
1975, by an amendment the act was extended to all households
in rural areas owning up to five acres of land. It prescribed

49. Ibid.
50. Twenty-first Report of the Commissioner for Scheduled
Castes and Scheduled Tribes, op. cit., p. 217.
severe punishment for the moneylenders exacting money from the debtors under coercion. The offences under the Act were made non-bailable. The Bihar Moneylenders Act 1974, fixed the maximum amount of interest against a loan. It provided that land mortgaged for debt shall be deemed to have been wholly redeemed on the expiry of seven years from the date of the execution of the bond. The Act also barred suits for recovery of loans advanced after the commencement of the Act by unregistered moneylenders.

2.34. Gujarat

The Reports of Government of Gujarat asserted that the problem of bonded labour was non-existent in the state. However, Jan Bremmen and National Sample Survey conducted by National Labour Institute confirmed the prevalence of the system of debt-bondage in Gujarat. The bonded labourers are called Malis or Halpatis in Gujarat. They have to render service to the creditor, in return for a loan, taken usually for the purpose of marriage. Several measures were adopted in Gujarat to regulate and abolish bonded-labour. The Bombay Moneylender Act 1946 provided for the appointment of inspectors of moneylenders for tribal areas. In 1947 Bombay Agricultural Debtor's Relief Act was enacted. A Committee was also appointed in 1947 to look into the problems of Halpati. Following its

51. Ibid.
53. Ibid.
recommendations, the Hali System was abolished in 1947. The Bombay Tenancy and Agricultural Lands Act 1948 was also enacted to regulate the system of moneylending. However, the problem of debt bondage could not be eradicated. In 1976, the Government enacted Gujarat Rural Debtor Relief Act to curb the practice of bonded labour. 54

2.35. Karnataka and Kerala

The bonded labour system is very old in Kerala. However, in recent years the labour and landlords relations have undergone radical change. The Kerala Agriculturist Debt Relief Act 1958, Kerala Moneylending Act 1958 and The Kerala Land Assignment Rules 1964 were intended to help the poor to come out of the chains of bondage. However, the practice of bonded labour is still prevalent in some areas of the state. The Kerala Agricultural Works Act, 1974 was also a step in this direction. The bonded labour known as Jeetha is prevalent in Karnataka. Under this practice the labourers are required to work on an annual basis in return for the sum advanced. The Mysore Moneylenders Act 1961, tried to regulate and condition the inhuman exploitation of the debtors by moneylenders. In 1975 Karnataka Government promulgated Karnataka Bonded Labour System Abolition Ordinance to put teeth into its policies on abolition of debt bondage. The Ordinance declared the practice of bonded labour unlawful and a penal offence. All obligations for service to the creditors and all dues from the debtors were deemed as discharged. The Kerala Government enacted the

Bonded Labour System (Abolition) Act 1975. The Act extinguished all the service obligations of the debtors to the creditors in return for the loans advanced. The authority to settle the disputes on outstanding debts was conferred on the Revenue Divisional Officer. The Act fixed the maximum limit of the interest. It made the practice of bonded labour a cognizable offence punishable with imprisonment and/or fine as may be necessary.

2.36. Madhya Pradesh

The system of bonded labour is prevalent in many parts of Madhya Pradesh, under the name of Lequa or Bandwa Majdoor. Generally, bonded labourers are employed for the whole year, in return for the cash or grain advanced at the time of need i.e. death, marriage or economic difficulties. The Revenue Code of 1959 provided comprehensive protection for the land of the aboriginals. Madhya Pradesh Scheduled Tribes Debt Relief (Amendment) Regulations of 1963 was enacted to protect the tribals from exploitation by the advanced elements of the society. In 1975 the Madhya Pradesh Abaidh Shram Pratishadha Adhyadesh was issued to prohibit bonded labour. The Ordinance discharged all the liabilities of the debtor, whether customary, traditional or contractual, for the creditor. It declared the practice of bonded labour punishable with three years of imprisonment or fine up to Rs 1,000 or both. The police officers were authorised to arrest without warrant any person violating the provisions of the Ordinance.

2.37. Maharashtra

Maharashtra Government continuously denied the existence of bonded labour in its jurisdiction. However, the Commissioner for Scheduled Castes and Scheduled Tribes had pointed out the prevalence of bonded labour in Maharashtra. National Sample Survey referred to the problem of bondage in Ahmednagar, Akola, Aurangabad, Nanded, Nashik, Nanded, Jalgaon, Thane and Ratnagiri districts. The most important form of bondage is known as 'laginadi'. In this case the creditor gives an advance to the debtor to meet his marriage expenses, on the condition that both the husband and wife will render personal service for a specific period or for life or till the debt is satisfied. Besides the bonded labourers are also engaged on an annual or agricultural season basis. This category includes marginal and small farmers, who take consumption loans for repayment in terms of labour. Bombay Moneylenders Act 1946, Bombay Agricultural Debt Regulation Act 1947 and Bombay Tenancy and Agricultural Land Act 1948 were in force to regulate the system of debt bondage. Although the State Government did not accept the existence of bondage in the state, but as the Commissioner for Scheduled Castes pointed out this malady in the state, the Government decided to appoint a committee to investigate the matter. Thus, in October 1976, Committee on Illicit Moneylending and Bonded Labour was appointed under the Chairmanship of V.S. Page. The Committee was asked to investigate

56. Saras Narla, Bonded Labour in India, op. cit., p. 84.
whether the system of bonded labour still existed in the state and if so, in what form, and to examine the circumstances leading to the system of bonded labour and to suggest ways and means to eradicate the system. The Committee submitted its report in 1977 and made recommendations to deal with the problem. Consequently the Government of Maharashtra initiated a Employment Guarantee Scheme to enable the landless labourers to rise in status vis-a-vis the landholders and to secure a share, on the footing of equality, in the benefits of development to which the labour contributes.

2.38. Orissa

The system of bondage (Goti, Halya), prevails in different forms in different parts of Orissa, particularly in Balasore, Bolangir, Cuttak, Dhenkanal, Kalahandi, Keonjher, Mayurbhanj, Sambalpur, Baudh-Khondmahals and Ganjam districts. The bonded labourers are employed for agricultural or domestic purposes, until the repayment of the loan and the interest thereon. Since 1947, several measures have been taken to regulate and prohibit the debt bondage in Orissa. The Orissa Debt Bondage Abolition Act 1948 required that goti agreements should be in writing and a copy of it should be submitted to the sub-divisional officer. The Act also fixed the maximum limit of the rate of interest and the minimum

59. Deshpande, Employment Guarantee Scheme, op. cit., p. 130.
wages of the labourers. This Act was applicable to the partially scheduled areas, viz., Ganjam Agency tracts, the district of Koraput and the Nawapara sub-division in the Sambalpur district. Besides Orissa Moneylenders (Amendment) Regulation, 1949, Orissa Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 and Orissa Debt Bondage Rules of 1963 struck at the roots of the debt-bondage system. Under the Twenty-Point Economic Programme, Orissa Government gave its activities for the abolition of bonded labour a new perspective. An Ordinance was issued for the eradication of the bonded labour. The Sub-divisional officers of state were given the powers of the first class magistrates for the trial of the offences under the Ordinance. A state-level committee was set up to direct, coordinate and review the progress of the implementation of the law and works related to the rehabilitation of the released bonded labourers. Vigilance committees were constituted at the sub-divisional and district levels. Moreover, the District Magistrates were authorised to inquire into the existence of bonded labour system and the number of the bonded labourers released after the promulgation of the Ordinance.

2.39. **Rajasthan**

The system of bondage known as Sagri or Hali is prevalent in many parts of Rajasthan, especially among Scheduled Tribes and Scheduled Castes. The bonded labourers

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generally work for the creditor in return for the interest.  

The Rajasthan Scheduled Areas Act, 1951, Rajasthan Agricultural Relief Act 1951, Minimum Wages Act, 1951, Rajasthan Tenancy Act, 1955 and Rajasthan Relief of Agricultural Indebtedness Act 1957 contained provisions to regulate the sagri labour in the state. In 1961, the Rajasthan Sagri System Abolition Act was enacted to abolish the sagri labour in Rajasthan. The Act declared that no suit can be maintained for the recovery of the debt under sagri agreements and all the personal services or labour of the debtor stipulated under such agreements were declared discharged. The debts advanced before the commencement of the Act were to be settled in accordance with the provisions of the Rajasthan Relief of Agricultural Indebtedness Act 1957, which was amended in 1962. However, this Act failed to eradicate the debt bondage. The Reports of Commissioner for Scheduled Castes and Scheduled Tribes and researchers continued to stress the persistence of sagri system in Rajasthan. To make the Sagri Abolition Act, 1961 more effective, the Rajasthan Sagri Abolition (Amendment) Ordinance 1975 was promulgated, which made the offence of keeping bonded labour cognizable, non-bailable and summarily

63. Survey Conducted by Tribal Research Institute, Udaipur and a Paper prepared after a field study by National Academy of Administration, Mussoorie, 1974.
triable. However, with the advent of Presidential Ordinance 1975, the law has been struck off the statute book. Thus, the Sagri System Abolition Act, 1961 died a natural death without fulfilling its purposes. In 1976 Government of Rajasthan with a view to tackling the problem of indebtedness among weaker sections passed the Rajasthan Scheduled Debtors Liquidation of Indebtedness Act.

2.40. TamilNadu

The system of bondage known as Padiyal is prevalent among the agricultural labourers of TamilNadu especially in districts of Dharapuri, North and South Arcot, Chingleput, Madurai, Thanjavur, Tiruchirapalli and Tirunelveli. The bondage is also prevalent among the handloom weavers and labour in the coffee plantations in Nilgiri Hills. The Madras Debtors Protection Act 1934 was in force at the time of Independence. In 1976, the TamilNadu Government enacted TamilNadu Debt Relief Act to curb the evils of debt bondage in the state.

2.41. Uttar Pradesh

The practice of bonded labour is called Bagar or Nat in Uttar Pradesh and the bonded labourers are known as Bandha Mandal and Bandhak. The Districts of Ballia, Hamirpur, Nordoi, Kheri, Sitapur, Bijnor and Baroliy have

67. Ibid.
been identified as areas with a very high incidence of bonded labour. Apart from bonded labour in agriculture section, they can be found working in brick kilns, carpet weaving industries, brass-crafting industries and even in prostitution business, especially in the hilly regions of Uttar Pradesh. In 1974, U.P. Government issued the Scheduled Castes, Scheduled Tribes and Denotified Tribes Debt Relief Ordinance. This law declared null and void any custom, tradition or agreement requiring a scheduled debtor or any member of his family to work as a labourer or otherwise for the creditor. To eradicate and ban the practice of debt bondage Uttar Pradesh Prohibition of Bonded Labour Ordinance, 1975 was promulgated. This was replaced by Uttar Pradesh Prohibition of Bonded Labour Act in July 1975. This Act was supplemented by a Central Ordinance on bonded labour. For the effective implementation of the Central Ordinance of 1975, the State Government took a number of measures. The District Magistrates and Subdivisional Magistrates were given sufficient powers for the effective implementation of the law. The State Government sponsored surveys to locate the incidence of bonded labour. The Regional and Deputy Labour Commissioners were directed to evaluate and take care of the work done for the abolition of bonded labour at the district and divisional levels.

2.42. West Bengal

In some parts of West Bengal a custom prevails

where the loans taken in the form of cash or grain are repaid by the services or labour of the debtor, for much lower wages than the market rate. For regulating the employment of bonded labour in the state, The West Bengal Indebtedness Relief Act 1975 was passed. The Act extinguished all the monetary obligations of the small and marginal farmers, share-croppers, landless labourers and artisans incurred before or on July 1, 1975. The cases pending before the commencement of the Act were suspended for a period of two years and new suits for recovery of the loans by private moneylenders were banned.\textsuperscript{70}

Besides these legislative and administrative measures the Jagirs and Zamindari Abolition Acts, Tenancy Protection Acts, Agricultural Land Ceiling Acts passed by various State Governments have sought to protect the economic interests of the agricultural labour, share-croppers, tenants, small and marginal farmers to realise the aim of an equalitarian agrarian structure in the Indian society.

2.50. Legislative Measures by the Union Government

Most of the state enactments proved ineffective to check the malady, as these were generally peripheral in nature and were executed only half-heartedly. As a result, the system of debt bondage continued to flourish. Since 1951-52, the Reports of the Commissioner for Scheduled Castes and Scheduled Tribes had been indicating the existence of the

\textsuperscript{70} K.C. Alexander, \textit{op.cit.}, p.175.
system under the heading debt-bondage. These reports were placed before the Parliament, but no one took cognizance of it. India has been sending reports to the ILO under Convention (No. 29) that no practice of bonded forced labour existed in India. On the other hand, the ILO kept pointing out that the reports of Commissioner for Scheduled Castes and Scheduled Tribes testify to the prevalence of forced labour, in one form or another. However, no notice was taken. But the economic and political factors in the early seventies attracted the attention towards the questions of poverty and social institutions that perpetuated the conditions of poverty. The interest in bonded labour comes from similar sources.

2.51. Initial Thinking on Bonded Labour

In 1973, the members of the Lok Sabha and Rajya Sabha criticised the existence of bonded labour. In February, 1973, the Ministry of Education and Social Welfare wrote to all Chief Ministers and Governors seeking their views on bonded labour, and reactions and suggestions on the desirability of central legislation. However, nothing concrete occurred. In October 1974, in a seminar at the National Labour Institute on 'Cultural Action for Social Change' one of the papers made mention of the practice of bonded labour. The seminar was attended by Shri D. Bandyopadhyay, Joint Secretary Labour, Government of India and Shri Yugadhar,
Private Secretary to the Deputy Chairman, Planning Commis­sion. Both of these officials, had been taking keen interest in the problems of rural unrest and poverty, and contemplat­ing possible government intervention. They carried out some case studies. In March 1975, the Labour Ministry wrote to all state labour secretaries that India had ratified the ILO Convention (No.29) Mentioning the Article 23 of the Constitution, the Recommendations of the Dhabar Committee and questions raised in the Parliament, the Labour Minister indicated that strong public opinion had led to a number of state legislative measures on the subject. But the system continued, so the central legislation on the subject was necessary. He solicited suggestions from the states about the contents of the legislation. The Labour Ministry held the first meeting of the Sub-Committee on Agricultural Labour in April 1975, with the item of bonded labour on agenda. The agenda papers pointed out that the practice has been mentioned in the Commissioner’s Reports on Scheduled Castes and Scheduled Tribes. The Committee presided over by the Labour Minister and attended by officials and non-officials decided that central legislation on the subject was necessary. The same agenda papers were circulated for the second meeting of the Standing Committee on Agricultural Labour in May 1975. It was decided that central legislation was necessary to put an end to this practice. Some proposals were adopted on the question of indebtedness and removal of debt bondage. In June

1975, the proposals of the meeting of the representatives of the Ministry of Home Affairs, Planning Commission, and officials of the Labour Ministry were sent for the Labour Ministry's approval. In its report to the ILO on the measures taken on Convention (No. 29) [for July 1973 to June 1975] the Government of India admitted that the practice of bonded labour was still prevalent, due to weak sanctions, and ineffective administrative measures to implement the Article 23 of the Constitution. Aware of the impact of such system on the social order, the Government of India is contemplating to bring about a central legislation on the subject shortly.

During a broadcast on 1st July 1975, the Prime Minister spoke about some economic programmes which the Government proposed to follow. The Twenty Point Programme based on the Prime Minister's talk stated in point four that "bonded labour wherever it existed will be declared illegal". This programme gave a sense of urgency to the proposed central legislation under consideration. The emphasis was on the action and implementation. It created an attitude of time-bound commitments. Afterwards the draft of the Bill was prepared in consultation with the Ministry of Law. Then the Labour Ministry demanded cabinet approval for the promulgation of the proposed legislation as an Ordinance as the Parliament was not in session. On October 25, 1975, the 'point four' became an Ordinance, the Bonded Labour System (Abolition) Ordinance. This Ordinance raised the hopes of those concerned
about the sad plight of labourers, subjected to atrocities by landlords and moneylenders since time immemorial. On February 1976, the Ordinance became an Act of the Parliament.

2.53. The Bonded Labour System (Abolition) Act 1976

The practice of bonded labour is very largely rural and agriculture-based, though there are a number of urban activities also in which bonded labour prevails. Although, it took 29 years after Independence, for the enactment of union legislation to abolish the practice of bonded labour. But the Bonded Labour System (Abolition) Act has many features which make it the finest piece of legislation on the statute book. The statement of objects and reasons appended to the Act reads as under:

There still exists in different parts of the country a system of usury under which the debtor or his descendants or dependents have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exorbitant and such bondage cannot be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of basic human rights and destruction of the dignity of human labour.

Article 23(1) of the Constitution prohibits begar and other similar forms of forced labour and further provides that contravention of any such prohibition shall be an offence punishable in accordance with law. Article
35(a)(ii) of the Constitution not only confers power on the Parliament to provide for punishment for the contra­vention of the said provisions of Article 23(1), but expressly takes away the power of the state legislature to make any legislation with regard to the said matter. Accordingly, the Bonded Labour System (Abolition) Ordinance 1975, was promulgated by the President on the 24th October 1975. The Bill seeks to replace the said Ordinance and its provisions have overriding effect.

The object of the Bonded Labour System (Abolition) Act, 1976, is to abolish bonded labour, prevent economic and physical exploitation of the economically underprivileged and ensure the payment of fair, legal minimum wages to all forms of labour. The Act defines bonded labour in very clear terms. The parameters of forced labour are so clearly laid down that it becomes very easy to distinguish a person under any form of pressure to work in a position of humiliating subordination to his master from a person working of his own volition. The Act not only mentions certain forms of forced labour by name, but also states the circumstances under which a bond would be presumed.

Section 2 begins by defining three important items: advance, agreement and nominal wage. Advance has been defined as the credit extended in cash or kind by a creditor to a debtor. Agreement under the Act means any understanding.

72. Section 3.
73. Section 2(b), (g) and (i).
written or oral, between creditor and debtor linking the credit with any form of forced labour. Nominal wage has been described as a wage less than the statutory minimum or where there is no such minimum, then the wage less than a normal wage paid to other similar labour. The definition section stresses that if there is an advance, an agreement or payment of a nominal wage, the said advance automatically is deemed to be a bonded debt and the service performed in pursuance of such a debt is deemed to be bonded labour. All forms of traditional begar performed by certain communities especially the untouchables also have been covered by the definition of bonded labour. Any agreement, or custom which forces a person to perform labour without wages or with nominal wages or prohibits the seeking of other employment during the period of bond or restricts the freedom of movement, laterally-jobwise-or spaciously in terms of place of work or prohibits the bonded labourer from selling at market value his property or the product of labour automatically creates a bond and the labourer is deemed to be bonded. In fact, the sweep of the Act is extremely wide. Only a person working of his own volition, without any restrictions on leaving the job and against at least the prescribed minimum wage is a free worker.

The assertion of the claim to be free from bonded labour, confers a number of rights on the freed bonded labourers. Section 4 discharges every obligation of the
bonded labourer under the terms of the bond, Section 5 specifically declares void all agreements, customs etc., requiring a person in bond to render service to any other person. Section 6 discharges all the debts incurred by bonded labourers and abates all legal proceedings and releases automatically all the seized property of the bonded labourers. All the debtors in the civil prison automatically stand discharged. Section 7 frees the property of the bonded labourers from all forms of mortgage and other encumbrances. Section 8 guards the right of the bonded labourers to reside in the premises occupied by him at the time of release. Section 9 supplements Section 6 and stresses that the creditor cannot accept payment of bonded debt, even if voluntarily offered. These rights conferred by this Act bring even labour in the surplus market at par with the employer at least in terms of the minimum right to be free.

Heavy punishments (imprisonment upto three years in most of the cases and fine) have been prescribed for the enforcement of the bonded labour, advancement of bonded debt, extraction of bonded labour under the bonded labour system and omission or failure to restore the property to bonded labour. Abetment of these offences is also an offence. Offences committed by companies have also been covered by the Act. The Act, while recognising the slow speed of the ordinary judicial procedure and its bias towards the rich, ignores the statutory separation of the executive from the

74. Sections 16-20.
judiciary. A very special responsibility has been conferred on the District Magistrate and the Executive Magistrate to identify and free the bonded labour and to try all the offences under the Act. All the offences are cognisable and may be tried summarily by the Executive Magistrate. 75 Chapter IV, in fact legally imposes the duty to enforce the Act on the District Magistrate. It means if the bonded labour continues, disciplinary action can be initiated against the District Magistrate. Such responsibility is very rarely put on an officer by designation.

For the implementation of the Act, a well-knit extensive and co-ordinated administrative and organisational set up has been provided from the level of Central Government to the village level. The agencies responsible for the identification, release and rehabilitation consist of both statutory governmental and non-governmental bodies.

The apex body at the Central level to deal with the issue of bonded labour is the Office of Director-General (Labour Welfare), Ministry of Labour and Rehabilitation 76 (Department of Labour). This nodal agency monitors the planning, implementation and coordination of the identification, release and rehabilitation process of bonded labourers. For effective implementation of the programme this office also issues instructions to the State Governments. The central share of assistance under the Centraly Sponsored Scheme

75. Section 31.

76. A Bonded Labour Cell has been established in the Labour Ministry to deal with the problem of bonded labour. For details, Cf. Appendix A.
For the rehabilitation of Bonded Labour is also released by this Office.

The main responsibility to implement the Act is on the State Governments. It is the duty of the State Governments to nominate a nodal agency to deal with the problem of bonded labour. Only the States which have reported the existence of bonded labour have nominated departments to deal with the identification, release and rehabilitation of the bonded labourers. These departments monitor, and coordinate the working of the field agencies and send information to the central agency about the progress of the programme. These departments are also responsible for releasing the state's share of matching assistance under Centrally Sponsored Scheme For the Rehabilitation of Bonded Labour.

Under The Bonded Labour System (Abolition) Act, the district has been assumed as the basic unit. The schemes for the release and rehabilitation of bonded labourers are formed at the district level. To sanction and supervise the schemes formulated at the district level, the states have constituted Screening Committees at the State level. The Screening Committee is presided over by the Chief Secretary/the Development Commissioner/the Secretary of the administrative department dealing with bonded labour. It also consists of the representatives of Departments of Agriculture, Rural Development, Animal Husbandry and such other Departments as the State Government may choose. The District Magistrate concerned
or his nominee is also invited to attend the meetings of the Committee. To make the programme more effective states have asked to constitute the District Level Screening Committees. This Committee will comprise of District and Divisional level officers of the departments directly or indirectly related to the administration of the programme or bonded labour. The Committee may also include the representatives of the financial institutions in the area.

The implementing authority at the District level is the District Magistrate. He can also delegate such power to a subordinate officer. The state government also has the discretion to specify some other agency or implementing authority at the district as well as the sub-division level, instead of the District Magistrate. It is the duty of the authorised officer to inquire into and eradicate the system of bonded or forced labour within the limits of his jurisdiction. The District Magistrate has been bestowed with special responsibility under the Act, for he can effectively co-ordinate and integrate all the programmes at the district, sub-divisional and other lower levels. He is also the Chairman of the District Level Vigilance Committee constituted under the Act and Chairman of the District Rural Development Agency to execute schemes under Integrated Rural Development Programme. These anti-poverty programmes can play a key role in the effective rehabilitation of the freed bonded labourers.

77. Section 10.
To ensure constant public monitoring of the enforcement of the Act, the Act provides for the mandatory constitution of Vigilance Committees for every district and most of the sub-divisions under Section 13. The Vigilance Committee is a statutory body and can play a vital role. At the district level, a Vigilance Committee consists of the District Magistrate or his nominee as Chairman, three persons belonging to the Scheduled Castes or Scheduled Tribes nominated by the District Magistrate, two social workers nominated by the District Magistrate, not more than three persons representing the official or non-official agencies connected with the rural development nominated by the State Government and one person representing the financial and credit institutions nominated by the District Magistrate. At the sub-divisional level, a Vigilance Committee has the representatives of these interests under the chairmanship of the Sub-Divisional Magistrate or his nominee. The structure of the Vigilance Committee ensures the participation of all interested parties in keeping constant vigil and detecting the incidence of bonded labour and preventing the recurrence of the system. The Vigilance Committees have been assigned greater functions under Section 14. The Committee has to advise the implementing authority on the provisions of the Act and rules made thereunder. The Committee has to maintain registers containing the names and addresses, statistics relating to vocation, occupation and income and details of the benefits which the freed bonded labourers are receiving. These registers help to trace the whereabouts of
the migrant labourers and also help in the formulation of schemes for the rehabilitation of such freed bonded labourers. The Committee has to make arrangements for the social and economic rehabilitation of the freed bonded labourers. It has to coordinate the functions of the rural banks and co-operative societies to ensure flow of adequate credit to the freed bonded labourers. The Committee has to keep an eye on the number of offences of which cognizance has been taken under the Act and has to make a survey as to whether there is an offence of which cognizance ought to be taken under the Act. The Committee also has the responsibility to defend suits instituted against freed bonded labourers, their family members or dependents for the recovery of bonded debt. Sections 11 and 14 confer the right of welfare on the bonded labour, as these sections prescribe it as the duty of the District Magistrate and Vigilance Committee to ensure the release and rehabilitation of the bonded labourers.

Regulation apart, the Act provides for the positive rehabilitation of the freed bonded labourers. It has been realised that most bonded labourers work in extremely restrictive labour market, owing to low mobility, poor job opportunity and highly localised debtor-creditor relationships they are compelled to accept the bond. Thus, the merely legal release will not ameliorate the situation. Soon the pangs of hunger would drive the labourer back into the clutches of the creditor. Therefore, to ensure positive rehabilitation of the bonded labour the District Magistrate and the Vigilance Committee have been assigned special responsibility. To make
the process of rehabilitation more effective, it has become obligatory to issue a formal certificate of release from the bondage, so that a freed bonded labourer can be easily identified while formulating the schemes for his rehabilitation. The freed bonded labourer becomes entitled to a sum of Rs 6250/- for his rehabilitation under the 'Centrally Sponsored Scheme for the Rehabilitation of Bonded Labour'. Of this Rs 500/- is to be released immediately as initial subsistence allowance. The released bonded labourers are identified as a special target group for assistance under schemes such as Integrated Rural Development Programme and various other poverty alleviation programmes. The last chapter of the Act is of miscellaneous character. The burden of proof that a debt is not a bonded debt lies on the creditor. An action taken in good faith by authorities under the Act is protected from legal proceedings. Jurisdiction of civil courts as to any matter to which the Act is applicable or as to any action taken under the Act is barred.

3.00. Other Labour Welfar Enactment relating to Unorganized Labour

To protect the unorganised workers from exploitation, the Bonded Labour System (Abolition) Act has been supplemented with a number of other labour enactments passed in fulfillment of the Directive Principles of the Constitution. The workers can be exploited in many ways. The most common way
of exploiting worker is to pay him lower wages in a very irregular manner. The worker can be made to work for long hours in a bad environment without providing him with adequate safety, leisure and rest in a satisfactory manner. Apart from these exploitative situations, the worker also needs to be protected against certain forms of uncertainties such as sickness, accident, old age, unemployment etc. While in the earlier years of industrialisation, labour legislation was pre-occupied mainly with organised labour force, now growing attention is being paid to the interests of the workers in the unorganised sector. The Contract Labour (Regulation and Abolition) Act 1970, regulates the employment of contract labour and provides for its abolition in certain circumstances. The Bidi Workers Welfare Act 1976 seeks to promote the welfare of the workers engaged in bidi establishments. There are Acts to promote the welfare of the workers in iron ore, manganese ore, lime stone and dolomite mines. The Equal Remuneration Act 1976 provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination against women in the matters of employment. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979, regulates the employment and service conditions of inter-state migrant workers. To ensure fair wages to labour, Payment of Wages Act and Minimum Wages Act have been passed to
cover agriculture and a number of other unorganised industries. The Minimum Wages Act does not provide any guidelines on the quantum of minimum wages or the factors to be taken into account in fixing the minimum wages. It lays down the procedure for fixing and revising the minimum wages periodically. The national policy on child labour, which includes a legislative action plan, an anti-poverty oriented development programme and an area specific plan of action, aims at the regulation of child labour and stresses on the formal and primary education of the child labourers. Besides a number of other welfare enactments contain provisions aiming at the promotion of welfare of the unorganised labour.

To sum up every labourer in India has a right to freedom from any form of bond which subjects him to inhuman forced labour, compels him to accept nominal wages or attachment to an employer for a specified or unspecified time without the right to movement or to change the nature of work. The Bonded Labour System (Abolition) Act frees bonded labourers from the burden of the debt and places him at par with the feudal landlord. It confers on the labourer the right to demand from the state such social and economic rehabilitation as will place him beyond the need for entering into bonded labour agreement in future. The specific provisions of the Act make it very easy to prove the existence of bonded labour. In fact the object of the Act is laudable and its provisions are carefully planned and drafted to achieve it. If the persons entrusted
with the responsibility to enforce the Act apply their minds earnestly the identification of all bonded labourers would become easy and the implementation of their rights would be realized.