Bonded Labour in India- a Human Rights Approach

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Abstract

India, a country admired for its culture and unity in diversity suffers from certain historical ideologies which are deep rooted in Indian society like Caste system. One such off shoot of this ideology is the Bonded Labour. Bonded labour means where a person (worker) is exploited and forced to work under other person from whom certain debt amount is received and that worker is unable to pay off the debt. Human rights are the rights possessed by human beings and are guaranteed through fundamental rights which are recognized by law and legally enforceable as well as through statutory provisions. Bonded labour is a social evil which creates violation of human rights and thereby violative to fundamental rights of Constitution and statutory provisions. Though penal sanctions are guaranteed under law and statutes, they are not properly enforced, due to certain loopholes or negligence through which the wrongdoers escape or such a crime goes unnoticed.

Materials and Methods: This paper is done through doctrinal or non empirical research methodology. The study is done using secondary sources such as books, case laws, web information and newspaper articles.

Aim: To analyze the prevalence of bonded labour practices in India and how human rights of the labourers are affected due to bonded labour.
Conclusion: Reformative and preventive approach should be followed in order to abolish the bonded labour system completely in India. And a proper organization mechanism must be built to create a database of bonded labourers and transparency of such mechanism should be ensured. 

**Key Notes:** Bonded, labour, human rights, fundamental rights, statutory recognition, social evil.
1. **Introduction**

India being a country admired for its culture and unity in diversity suffers from certain historical ideologies which are deep rooted in Indian society like Caste system. And one such off shoot of this ideology is the Bonded Labour. Though at present bonded labour practice is abolished after bringing statutory prohibition, it cannot be presumed that there has been complete eradication of this evil practice. In many places this social evil is still taking place in spite of prohibition provided by law. So, some serious actions have to be taken to prevent such activities. Bonded labour is more or less similar to slavery but here under condition of debt. As stated by National Commission on Labour, Bonded labour is the “labour which remains in bondage for a specific period for the debt incurred.” In the 24th Report, the Commissioner of Scheduled Castes and Tribes stated bonded labourers as persons who are forced to work for creditors for the loan incurred either without wage or on nominal wage.

This social evil is not of recent origin but can be noted back to ancient times where Rajputs and Brahmins being of high caste exploit Sudras who were considered low caste people. Due to the economically weaker position and improper means of livelihood they fall under exploitation of such so called high caste exploiters. Dalit people were forced to sell or due to economic crisis they sell themselves to work for limited remuneration or no remuneration to village landlords or moneylenders.

2. **Objectives of the Study:**

1. To understand the forms and causes of bonded labour in India
2. To analyze how such bonded labour practice is violative of constitutional and statutory provisions
3. To analyze how human rights of workers are affected and what measures have to be taken

**Forms of Bonded Labour and their Causes**

Bonded labour practice can be found in Agriculture sector as traditionally land belonged to high caste people and low status people worked on those lands as they were economically instable and due to nonpayment of debts they were forced to work. But after statutory regulation and land reforms there has been a gradual decrease in such practice in State like Kerala but cannot be completely eliminated in States like Gujarat, Uttar Pradesh, Bihar, Tamil Nadu and Karnataka where lands are still held under feudal land ownership practice and labour employment.

Bonded labour is not completely eradicated which can be seen from an incident in Karnataka in the year 2000, when Karnataka RajyaSabhaSangh found out the way five labourers were treated badly and forced to work in quarry in Hangaralahalli. They were made to work to compensate the loan amount due to
the owner which range between 500 Rs to 2,500Rs. Only after 9 years, there happened conviction of four people regarding this issue.¹

Not only labourers in agriculture activities are exploited but also in urban areas, people of poor economy are exploited in sectors like match making, brick industries and many who are migrated from villages to cities for labour. Labourers engaged in agriculture sector are not restricted physically but are subjected to high interest debt bond by landlords thereby increasing their mental pressure and confining them indirectly.

Labourers from distant places are promised of paying lump sum amount after the period of work or by paying certain amount in advance are brought to work, but once they begin work, they are confined physically and subjected to physical abuse and even made to work for 18 hours a day.

Even children are subjected to such inhumane treatment in industries like firecracker units, textiles, leather goods manufacturing etc. and even in teashops, restaurants.

**Causes:** The main cause of origin and prevalence of bonded labour is the extreme poverty and caste system which leads to certain other economic inabilities like no proper livelihood, unequal education system, high expenses needed for marriage, death, birth of child, not able to manage the losses suffered due to natural calamities, very low income and raise in price of goods. All these lead to heavy debts and makes them bonded workers to an owner. Even poor enforcement of laws, reforms and schemes by government can serve as a cause for still prevalence of bonded labour in our country.²

**Constitutional Provisions against Bonded Labour**

The main provision displaying prohibition against bonded labour is Article 23 of Constitution which provides that Human Trafficking, making to beg and other forms of forced labour is prohibited and any violation of this provision is punishable under the law. Article 24 provides for prohibition of children from working as bonded labour. These Articles are further supported by other Articles such as Articles 14, 15, 16, 19(1) (g), 21, 42, 43 and 46.

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Statutory Provisions against Bonded Labour

1. **Indian Penal Code:** Section 374 of the Code provides for punishment in case of unlawful compulsion of any person to labour against the person’s will.

Many other Acts were enacted which indirectly showed prohibition of bonded labour like Children (Pledging of Labour) Act, 1933, Contract Labour (Regulation and Abolition) Act, 1970. Interstate migrant workers (Regulation of employment and conditions of Service) Act, 1979, Minimum wages Act, 1948. But the main legislation dealing directly with bonded labours is the Bonded Labour System (Abolition) Act, 1976.

2. **Bonded Labour System (Abolition) Act, 1976**

The main object of the Act is identification, release and rehabilitation of Bonded Labourers. The Act also lays down constitution of vigilance committees in district and sub-divisional level for better implementation of the Act and also penal sanctions for protection of bonded labourers.

3. **Problems in Implementation**

There arise problems while implementation of the Act due to various factors like,

1. Poor awareness of people or victims of bonded labour of the legislation.
2. Poor enforcement of penal sanctions as provided in the provision due to loopholes.
3. Administrative and political will and attitude affect the implementation of the Act.
4. Lack of facilities of legal aid and advice due to illiteracy and lack of communication restricts the weaker section from obtaining advantage from the Act.
5. Speed remedy and rehabilitative measures should be taken.
6. The social and economic background of the issue should be taken into consideration while implementation.

**Criticisms**

1. The main criticism that was raised in the Act is that the Act does not appear to include children and hence no benefit can be afforded to them. And so other Acts have to be depended for dealing with children.
2. And no proper collection statistics regarding bonded labours regarding identification and rehabilitation. For example in Tamil Nadu the Bonded Labour Investigating Team found that the registers relating to bonded labours were not properly maintained in many districts and even few statistics seem to be fabricated.³

International Instruments against Bonded Labour


With regard to abolition of bonded labour system, active role is played by National Human Rights Commission (NHRC) which is an autonomous body entitled for protection of Human Rights Act, 1993. This plays a pivotal role in implementation of bonded Labour System (Abolition) Act. The Commission is instrumental in sensitizing policymakers to the serious problem of bonded labour as per Supreme Court.

Present Scenario- Need for Protection of Human Rights and Reformation

Human rights are the rights which every human being possesses during their lifetime. They are guaranteed through fundamental rights which are recognized by law and legally enforceable as well as through statutory provisions. Bonded labour is a social evil which creates violation of human rights and thereby violative to fundamental rights of Constitution and statutory provisions. Though penal sanctions are guaranteed under law and statutes, they are not properly enforced, as there constantly remain certain loopholes or negligence through which the wrongdoers escape or such a crime goes unnoticed.

In November 2017, in Rajasthan’s Baran district about 25 bonded labourers which includes children were rescued from farmlands and they were migrant workers from Madhya Pradesh made to work for debt amount ranging between

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Rs. 500 to Rs. 20,000 and were promised to give work. But they were not paid for the work but were forced of hard labour.\(^5\)

Another incident is that bonded labour happening in tea plantations which is still creating a menace in India. The Plantations Labour Act, 1951 was enacted after independence in order to protect the rights of exploited workers during British Rule in India. But even today after passing of so many years, the situation of such workers have not changed. The labourers in tea gardens face problems of poor sanitation, drinking water problems, and problems relating to minimum wages, education and proper shelter. There is also issues relating to malnutrition, human trafficking at higher rates in these regions. Few NGOs have volunteered in protection of these plantation workers but still there is a poor awareness about the problems faced by such plantation workers. \(^6\)

Regarding child labourers there has been an issue in Karnataka where they are made to work. And bonded labourers are assigned to work in quarries by assuring them of being paid Rs. 20,000. The Mine Owners take help of contractors who supply such bonded labourers and mostly these contractors are illiterate and have no knowledge of labour laws. And these labourers are exploited by mine owners and even wages are not paid for overtime work.

The seasonal migrants are depended in large quantity about 61% to work in quarries in Andhra Pradesh and Telangana. They being migrant have no commitment and can work for long hours and they don’t fight but settle for even less wages in order to satisfy the economic needs. Most of the workers were from SC, ST or OBC groups and few were from so called upper castes and many were illiterate. \(^7\)

These workers in mines not only caused early deaths but also gave hearing problems due to loud sound of drilling. They also suffered from back pain and eye problems. Working conditions are unsanitary and result in malnutrition and poor drinking water and most of the times result in medical issues.

The District Mineral Foundation is established to address the grievances of such workers but the funds are not yet utilized properly. The report of Dutch NGO


\(^6\) Indian School of Development Management, Your Favorite cup of Chai is keeping Tribal People in Bonded labour, YOUTH KI AWAAZ (Oct. 31, 2017), https://www.youthkiawaaz.com/2017/10/chai-ki-charcha-the-literal-and-metaphorical-importance-of-such-conversations/

\(^7\)
Stop Child Labour, India Committee of Netherlands and Kerk has suggested that the European Union which is the substantial buyer of granite in India should impose that there should be transparency in supply chain and to ensure human rights of the workers in accordance with the International Labour Organization forced labour protocol.

The Global Slavery Index, 2016 has recorded that India has the most slaves in the World. Whereas among 46 million slaved people, India consists of 18 million people enslaved. In order to abolish bonded labour the Central Government has adopted three strategies: Constitutional restriction on bonded labour, the Bonded Labour System (Abolition) Act, 1976 and the Schemes relating to rehabilitation of Bonded Labourers, 2016\(^6\)

Initially Central Government has initiated Rehabilitation of Bonded Labours Scheme in 2011 which dealt with grant of financial help for rehabilitation of bonded labourers. This Scheme was later revised in 2016 where the amount granted for rehabilitation is raised from the earlier amount.\(^9\) Despite these policies and measures framed, India still has many bonded labourers and it’s because of poor implementation of four decade old labour law, under resourced police and judiciary and deep societal and economic inequities at present. Such bonded workers do not have written contracts and so cannot claim paid holidays, health insurance, provident fund and other medical benefits.

**Recommendations**

1. Improvement of conditions of bonded labourer can result in complete eradication of this social evil.
2. Providing education irrespective of caste inequities and decent work will be helpful to enhance the worker’s livelihood.
3. Creating awareness about the laws governing labour and labourers, contracts, employer-employee relationship and duties and penalties is necessary.
4. Reforms should be brought in labour laws then and there whenever necessary to ensure the progressiveness of the laws in accordance with the changing conditions of society.
5. Proper and accurate statistics should be maintained regarding the labourers working in factories or industries in India and regarding redress and rehabilitation of these workers in case of grievances.


6. The enforcement of legal mechanism which respect to labour law provisions should be transparent and in accordance with international obligations and statutory provisions.

4. Conclusion

Bonded labour in India can be viewed as an outcome of social, historical, economic and cultural factors. Though legislations were framed and constitutional protections are granted against such bonded labour system, it can be useful only when there is an effective enforcement of the laws, end of class based prejudices and public awareness. When any law does not reach the low levels of the public, such a law is deemed to be ineffective though received statutory recognition. Hence reformatory and preventive approach should be followed in order to abolish the bonded labour system completely in India. And a proper organization mechanism must be built to create a database of bonded labourers and transparency of such mechanism should be ensured. This can be a difficult task but it can form the first initiative for liberation and rehabilitation.

References

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