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BONDED LABOUR

INTRODUCTION

- The system of debt bondage in India is an outcome of certain categories of indebtedness, which have been prevailing for a long time involving certain economically, exploited, helpless and weaker sections of society. This system originated from the uneven social structure characterised by feudal and semi-feudal conditions. Bonded Labourers constitute perhaps the weakest section of the rural poor.
- The genesis of rural poverty in India dates back to the later half of the 18th Century when the erstwhile colonial rulers introduced the *Zamindari* System. Subsequently the anti-farmers policies of the colonial Government had also contributed towards the indebtedness of a large number of small and medium farmers and eventually pushing them into the category of landless labourers
- The problem of bonded labour was closely linked to the broader socio-economic problems of surplus labour, unemployment/under-employment, inequitable distribution of land and assets, low wages, distress migration, social customs etc. with the phenomenon of small and marginal farmers and rural artisans steadily becoming landless labourers generate environment, which can perpetuate the system of bonded labour.

CONCEPTS & DEFINITION

- **Forced Labour Convention, 1930 (No. 29) [Article 2(i)]** - The term forced or compulsory labour shall mean all work or service, which is exacted, from any person under the menace of any penalty and for

which the said person has not offered himself voluntarily.

- **Universal Declaration of Human Rights** – On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Article 4 says: “No one shall be held in slavery or servitude; slavery and slave trade shall be prohibited in all their forms.”
- **UN Supplementary Convention on the Abolition of Slavery (1956)** - Under this Convention debt bondage is defined as “the status or condition arising from a pledge by a debtor of his personal service or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined”.
- **As per ILO Report on Stopping Forced Labour (2001)** - The term (Bonded Labour) refers to a worker who rendered service under condition of bondage arising from economic consideration, notably indebtedness through a loan or an advance. Where debt is the root cause of bondage, the implication is that the worker (or dependents or heirs) is tied to a particular creditor for a specified or unspecified period until the loan is repaid.
- **As per the Bonded Labour System (Abolition) Act, 1976:**
 - “bonded labour” means any labour or service rendered under the bonded labour system - Section 2 (e) .
 - “bonded labourer” means a labourer who incurs, or has, or is presumed to have incurred a bonded debt - Section 2 (f).

- “bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that he would –
 - (i) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for any unspecified period, either without wages or for nominal wages, or
 - (ii) for the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
 - (iii) forfeit the right to move freely throughout the territory of India, or
 - (iv) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him;

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor – Section 2(g)

Through its various judgements, Supreme Court has given a very broad, liberal and expansive interpretation of the definition of the bonded labour. According to the interpretation given by the apex court, where a person provided labour or service to another for remuneration less than the minimum wage, the labour or service falls clearly within the scope and ambit of the words forced labour under the constitution.

CONSTITUTIONAL AND LEGAL PROVISIONS

- The Constitution of India guarantees to all its citizens- justice, social, economic and political, freedom of thought, expression, belief, faith and worship, equity of status and opportunity and fraternity, dignity of individual and unity of the Nation.

- Under Article 23 of the Constitution Traffic in human beings and *beggar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- Bonded Labour System (Abolition) Ordinance was promulgated. Which was later on replaced by the Bonded Labour System (Abolition) Act, 1976.

SALIENT FEATURES OF THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

- This Act provides for the abolition of the system of bonded labour. It freed unilaterally all the bonded labourers from bondage with simultaneous liquidation of their debts.
- The Act does away with every obligation of a bonded labourer to repay any bonded debt; it also dispenses with the future liability of repaying a bonded debt. The law provides that (a) no suit or other proceedings shall be instituted in any Civil Court for the recovery of any bonded debt (b) every attachment made before the commencement of the Act for the recovery of any bonded debt shall stand vacated and (c) such movable property shall be restored to the bonded labourer.
- The district and sub-divisional magistrates have been entrusted with certain duties/responsibilities towards implementation of statutory provisions. Under Section-13 of the Act, Vigilance Committees are required to be constituted at the district and sub-divisional level for implementation of the provisions of the law. They are composite bodies with representatives from different cross sections of the society and have a life of 2 years.
- Registers containing the names and addresses of all freed bonded labourers, their vacation, occupation and income, details of the benefits received are required to be maintained under the Bonded Labour System (Abolition) Rules.
- The Act provides for imprisonment up to 3 years and fine up to Rs.2000/- to whoever compels any person to render any bonded labour and whoever advances any bonded debt. An offence

under the Act may be tried summarily and every offence under the Act shall be cognizable and bailable.

INTERNATIONAL LABOUR ORGANISATION AND FORCED/ BONDED LABOUR

- There are two ILO Conventions, Convention No.29 concerning Forced or Compulsory labour (1930) and Convention No. 105 concerning Abolition of Forced Labour (1957). Government of India has rectified both the Conventions.
- Before the 89th Session of the International Labour Conference (June 2001) the Director General of ILO submitted a global report on 'Stopping Forced Labour'. This report contained references regarding incidences of bonded labour in India on the basis of survey conducted by the Gandhi Peace Foundation and National Labour Institute and also the estimates of some other NGOs. The Gandhi Peace Foundation and the National Labour Institute conducted a survey in 1978-79, which had estimated the number of bonded labour as 2.6 million. This survey was based on a random sample drawn from a total of 4,50,199 villages in the ten selected States. Finally, 1000 villages from out of the 4,50,000 villages were selected. Every 450th villages in the census list of villages of each State starting with a random number was selected for the survey. The findings of the survey in respect of the above 1000 villages were multiplied by 450 to find out the total number of bonded labourers in ten States. Since the methodology adopted by the Gandhi Peace Foundation was not scientific the Government have not accepted their estimates. The need for having authentic data on number of bonded labourers in India was emphasized. It was urged that comprehensive and authoritative survey might be conducted in this regard.
- From the Government side, it was stated that the Government has strong will and intent to abolish and totally banish the bonded labour system from every nook and corner of the country. It was indicated that the Government of India's estimates of bonded labour, as also reported in the following pages, were based on the information submitted by the concerned State Governments after conducting

detailed surveys in their States. The same information was submitted to the Supreme Court by the State Governments in the form of affidavits in 1997.

- One ILO project namely "Prevention of Family Indebtedness with Micro Finance Scheme and Related Services" is being implemented in three States, namely Andhra Pradesh, Tamil Nadu and Karnataka. The objective of the project is to induce existing micro finance institutions to develop, test and offer savings and loan products, particularly tailor-made for vulnerable families at the risk of getting into debt traps. The prime focus of the project is on preventing marginal families from falling into debt bondage and also to ensure sustainable rehabilitation of freed bonded labourers. Based on its experience, a model could be considered for replication or application in other parts of the Country.

ROLE OF THE NATIONAL HUMAN RIGHTS COMMISSION

- The Apex Court in its order dated 11-11-1997 in PUCL case has directed that the National Human Rights Commission (NHRC) should be involved in dealing with the issue of bonded labour. In pursuance to the above order, a Central Action Group has been constituted in the NHRC. This Group is holding regular meetings and the matter is being pursued with the State Governments.
- In Bandhuwa Mukti Morcha case also the Supreme Court had issued certain directions to the Central Government, the State of Haryana and various authorities. In order to ensure compliance of the above directions, Ministry of Labour constituted a Task Force, comprising of officers of the Central and the Government of Haryana who are responsible for enforcement of various labour laws. The Task Force was required to undertake periodic visits and inspections of the Stone Quarries and Crushers to ascertain facts about working and living condition of the workers. The Task Force is carrying out its assignment regularly and submitting reports to the Central as well as the State Government indicating therein status of compliance on the part of the concerned authorities with the statutory provisions and the directions of the Supreme Court.

CENTRALLY SPONSORED PLAN SCHEME FOR REHABILITATION OF BONDED LABOUR

- In order to assist the State Governments in their task of rehabilitation of released bonded labourers, the Ministry of Labour launched a Centrally Sponsored Scheme since May, 1978 for rehabilitation of bonded labourers. Under this Scheme rehabilitation assistance of Rs. 20,000/- per freed bonded labour is provided, which is shared by the Central and State Governments on 50:50 basis; in the case of the Seven North Eastern States, 100% central assistance if they express their inability to provide their share. The Scheme also provide for financing of the following activities.
 - Rs. 2.00 lakh per sensitive district can be provided to concerned state government to conduct survey for identification of bonded labour once in three years.
 - Central assistance of Rs. 10.00 lakhs every year can be sanctioned to every state government to undertake awareness generation activities relating to bonded labour system.
 - Rs. 5.00 lakh per year can be sanctioned to every state government to study impact of existing land-debt related issues affecting bonded labourers and the impact of poverty alleviation programmes and financial assistance provided by various Government sources so far.
- Besides above the States Governments have also been advised to integrate/ dovetail the Centrally Sponsored Scheme for rehabilitation of bonded labour with other ongoing poverty alleviation schemes such as Swaran Jayanti Gram Swa Rojgar Yojana (SJGSRY), Special Component Plan for Supreme Court, Tribal Sub-Plan etc. Accordingly, the rehabilitation package provided by the concerned Stated Governments for the freed bonded labourers includes the following major components:
 - Allotment of house-site and agricultural land;
 - Land development;
 - Provision of low cost dwelling units;
 - Animal husbandry, dairy, poultry, piggery etc.;
 - Training for acquiring new skills; developing existing skills;
 - Wage employment, enforcement of minimum wages etc.;
 - Collection and processing of minor forest products;
 - Supply of essential commodities under targeted public distribution system;
 - Education for children; and
 - Protection of civil rights.
 - Details on bonded labourers identified/released and rehabilitated as reported by the respective State Governments and the Central Assistance released under the above mentioned Centrally Sponsored Scheme are given in the following Table: —

Name of the State	Number of Bonded Labourers		
	Identified and Released	Rehabilitated	Central assistance provided (Rs. in lakhs)
Andhra Pradesh	36,289	29,552	680.10
Bihar (including Jharkhand)	13,092	12,368	314.48
Karnataka	62,763	55,269	1386.38
Madhya Pradesh (including Chattisgarh)	12,822	11,897	146.35
Orissa	49,971	46,843	898.13
Rajasthan	7,478	6,321	71.42
Maharashtra	1,393	1,309	8.70
Uttar Pradesh (including Uttranchal)	27,797	27,797	533.22
Kerala	823	710	15.56
Haryana	544	21	0.42
Gujarat	64	64	1.01
Arunachal Pradesh Tamil Nadu	3,526 65,573	2,992 65,573	568.48 1661.94
Total	2,82,135	2,60,714	6286.19

CONSTRAINTS

- Bonded Labour System is a dynamic problem; it can occur and reoccur at any point of time in any industry or occupation
- Once the bonded labourers are identified and released, in case they are not immediately rehabilitated, they become even worse off as compared to the situation when they were bonded and were at least able to survive by getting two square meals.
- Contrary to the traditional perception that bonded labour is confined to the agricultural sector alone, it can also occur and reoccur in any form of economic activity such as, agriculture, brick-kiln, stone quarries, carpet weaving, pisciculture, etc.,

ISSUES

- Freedom from bondage would be meaningful only when the uncertainty and insecurity associated with bondage is removed through productive and income generating schemes. In the absence of poverty eradication measures, the rehabilitated bonded labourers are likely to fall back into their original state of bondage.
- The scheme for rehabilitation should be chosen in consultation with the beneficiary and it should be well planned with all requisite components and infrastructural facilities tide up.
- By an order of immediate priority, pockets in different parts of country which are dry,

drought-prone and poverty stricken and prone to other natural calamities, migration, indebtedness and also from where the incidence of bonded labour system have been reported on one time or the other, could be identified and surveys undertaken on selective basis to identify the bonded labour system. The bonded labour so identified should be released and rehabilitated on priority basis. Besides special efforts should be made to remove the general economic backwardness of such area by focused integration of various ongoing plan programmes.

- All the pending cases filed under the Bonded Labour System (Abolition) Act, 1976 be disposed of by taking recourse to summary, trial and issue of release certificate in favour of those who are found to be having bonded.
- There is a need to have a massive programme of familiarization, orientation and sensitization of functionaries dealing with identification, release and rehabilitation of bonded labour at all levels and through periodic training programmes/workshops.
- Enforcement of the law on minimum wages and strengthening of Public Distribution System can go a long way in minimizing the circumstances, which force the workers to get into that bondage.
- There is a need for strengthening and activating the machinery for ventilation and redressal of grievances of the aggrieved.