

TOPIC-BONDED LABOUR

UNIT-IV

Introduction

A man keeping another man in perpetual bondage for his selfish and personal designs is a kind of man's cruelty to man which is not confined to a particular country or a particular region but is found as a global phenomenon for thousands of years, right from the Biblical days to the present era. The nomenclature changed from period to period and place to place: slave, serf, and bonded labour.

In India, this type of exploitation of man remained prevalent in the name of beggar and riot for years. The term 'bonded labour' or bandhuamazdoor is of recent origin. Despite the abolition of the zamindari system, land reforms, Bhoodan movement, enactment of legislation (Bonded Labour Abolition Act, 1976), establishment of Panchayati Raj, interest shown by Social Action Groups and spirited individuals from society, lakhs of bonded labourers continue to be exploited and carry the yoke of neglect, suffering and frustration in abject silence.

In fact, the system of bonded labour, as prevalent in Indian society, is a relic of feudal hierarchical society. A considerable interest has come to be shown in bonded labour during the past two decades by social workers, social scientists and the government because it is considered incompatible with our social ideal of egalitarianism with our commitment to human rights. The magnitude of bonded labour is just baffling as lakhs of adult males and females as well as children are condemned to suffering under its yoke.

The Concept:

We have to understand the terms 'bonded labour system' and 'bonded labour'. The 'bonded labour system' refers to "the relationship between a creditor and a debtor who obtains loan

owing to economic compulsions confronting his day-to-day life, and agrees to abide by the terms dictated by the creditor”.

The important term of agreement is that the debtor agrees to mortgage his services or services of any or all the members of his family for a specified or unspecified period. The relationship built on the agreement is on such unequal terms that while for every labour or service, there must be some fair remuneration equivalent to the price of labour in the market, under the bonded labour system the service is rendered for the debt or in lieu of the interest accruing to the debt. The debtor either works without receiving any remuneration or if at all there is any remuneration, it is much less than the minimum wage (notified under the Minimum Wages Act) or the prevailing rate of market wage.

The 1976 Bonded Labour (Abolition) Act defines ‘bonded labour system’ as “the system of forced labour under which a debtor enters into an agreement with the creditor that he would render service to him either by himself or through any member of his family or any person dependent on him, for a specified or unspecified period, either without wages or for nominal wages, in consideration of loan or any other economic consideration obtained by him or any of his ascendants, or in pursuance of any social obligation, or in pursuance of any obligation devolving on him by succession”.

The agreement has other consequences too, such as, forfeiting the debtor the freedom of employment, denial of freedom of movement in any part of the country, and denial of the right to sell at market value any of his property or product of his labour.

The term ‘bonded labour’ has been defined by the National Commission on Labour as “labour which remains in bondage for a specific period for the debt incurred”. The Commissioner for Scheduled Castes and Scheduled Tribes explained the term bonded labour in its 24th report as “persons who are forced to work for the creditors for the loan incurred either without wage or on nominal wage”.

The ‘bonded labour’ is different from ‘contract labour’ employed in industries, mines, plantations and docks, etc. Contract labour includes workers who are not directly recruited by the establishment, whose names do not appear on the pay-roll and who are not paid wages directly by the employer. In theory, contract labourers in India are covered by the Factory Act, 1948, the Mines Act, 1952, the Plantations Labour Act, 1951 and the Dock Workers Act, 1948 so as to give them benefits as are admissible to labour directly employed.

However, the advantages of employing both bonded labour and contract labour are the same:

(i) Labour is engaged at a lower cost,

(ii) The employers have not to extend fringe benefits to the workers, and

(iii) The employers are not under any obligation of providing welfare and security measures to the workers as stipulated in various Acts. The system of contract labour in our country was abolished in September 1970 by an Act called 'Contract Labour (Regulation and Abolition) Act'.

The two basic features of bonded labour are indebtedness and forced labour. Forced labour can hereditarily descend from father to son or be passed on for generations together. During the period of bondage, the debtor cannot seek employment with any other person.

In economic terms, this means that he cannot 'sell his labour in the market at market value'. The bonded labour system is mostly found among agricultural labourers in villages, though today it has extended to workers working in stone quarries, brick kilns, bidi factories, glass factories and in detergent carpet, gem stones and many other factories.

Bonded labourers are known by different names in different parts of India. For example, in Andhra Pradesh and Karnataka they are known as 'Jeethams', in Gujarat and Madhya Pradesh as 'Halts', in Bastar district in Madhya Pradesh as 'Kabadis', in Hyderabad as 'Bhagela', in Rajasthan as 'Saggris', in Bihar as 'Kamias' or 'Kamiantis', in Orissa as 'Gothees', in Tamil Nadu as 'Pandiyals', in Kerala as 'Adiyas', 'Paniyas', and 'Kattunaikens', and in Uttar Pradesh as 'Koltas'.

Causes of Bonded Labour:

Though the main causes of origin, growth and perpetuation of bonded labour system are economic, the social and religious factors to support the custom. The economic causes include: extreme poverty of people, inability to find work for livelihood, inadequate size of the landholdings to support family, lack of alternative small-scale loans for the rural and urban poor, natural calamities like drought, floods etc., destruction of men ' animals, absence of rains, drying away of wells, meagre income from forest produce, and inflation and constant rising prices.

The social factors include:

High expenses on occasions like marriage, death, feast, birth of a child, etc., leading to heavy debts, caste-based discrimination, lack of concrete social welfare schemes to safeguard against hunger and illness, non-compulsory and unequal educational system, and indifference and corruption among government officials.

Sometimes, exploitation by some persons in a village also compels people to migrate to some other place and seek not only employment on the employer's conditions but also get protection from influential persons. Religious arguments are used to convince the people of low castes that religion enjoins upon them to serve people of high castes. Illiteracy, ignorance, immaturity and lack of skill and professional training sustain such beliefs. Broadly speaking, it may be maintained that bondage originates mainly from economic and social pressures.

The Legislation:

The pernicious and inhuman, callous, reprehensible practice of bonded labour existed in many states in India. After independence, it could not be allowed to continue to blight national life any longer. As such, when the Constitution of India was framed, Article 23 was enshrined in it which prohibited 'traffic in human beings', 'beggar' and other similar forms of forced labour.

However, no serious effort was made to give effect to this Article and stamp out the shocking practice of bonded labour. The Forced Labour (Abolition) Convention adopted by the International Labour Organisation (ILO) in 1919 was ratified by India only in November 1954.

Some states in India had also enacted laws for abolishing bonded labour. For example, the Bihar Kamianti Act was passed in 1920, the Madras Agency Debt Bondage Regulation in 1940, Kabadi System Regulation in Bastar in Madhya Pradesh in 1943, Hyderabad Bhagela Agreement Regulation in 1943, Orissa Debt Bonded Abolition Regulation in 1948, Rajasthan Sagri System Abolition Act in 1961 (which was amended in 1975), and Bonded Labour System (Abolition) Act, Kerala in 1975.

It was specifically laid down in most of these regulations (like those of Madras, Orissa, Bihar, and Hyderabad) that the agreement between the creditor and the debtor entered into after the commencement of the regulation was to be wholly void if:

- (a) The full terms of the agreement were not expressed in writing and a copy thereof was not filed with the designated authority,
- (b) The expressed and implied period of labour exceeded one year,

(c) The interest provided for was not simple interest over one year, and

(d) The interest exceeded 6.25 per cent per annum. But it was after the announcement of the 20-point programme on July 1, 1975 that the legislative exercise at the national level began with some amount of seriousness and urgency.

The ordinance was enacted in October 1975 which was later replaced by the Act passed in February 1976, called the Bonded Labour System (Abolition) Act. All the state laws became inoperative after the enactment of the Act by the union government in 1976.

The Act implies:

(i) Identification of bonded labourers;

(ii) Release of bonded labourers;

(iii) Action against offenders, i.e., creditors who had forced agreement upon the debtors

(iv) Holding of regular meetings of vigilance committees at the district and tehsil level;

(v) Maintenance of the prescribed registers; and

(vi) Conferring of judicial powers to executive magistrates.

The Act also provides for the rehabilitation of bonded labourers who are freed from their creditors. The 1976 Act was amended in 1985 in which it was clarified that the contract workers and inter-state migrant workers, if they fulfill the conditions laid down in the Bonded Labour System (Abolition) Act, will be considered as bonded labour.

The main problem that is faced in the implementation of the 1976 Act is the identification of bonded labourers. Neither the administrators at the district and tehsil levels admit the existence of bonded labourers in their areas nor do the creditors accept that any bonded workers are serving them, nor are the workers themselves willing to give statements that they are being forced to work as bonded labourers since long. It is the social workers attached to non-political social action groups and voluntary organisations who identify the bonded labourers.

The other handicap which aggravates the problem is the economic rehabilitation of the released labourers. The economic rehabilitation includes: finding jobs for them, getting them minimum wages, giving them training in arts and crafts, allotment of agricultural land, helping them in

developing the allotted land, helping them in the processing of forest produce, educating them and their children, arranging for their medical care, etc.

All these are Herculean tasks. Besides ensuring economic rehabilitation, the state governments are also expected to arrange for their psychological rehabilitation and integration of various schemes of central and state governments. In chalking out plans and strategies of rehabilitation, the freed labourers are to be given the choice between various alternatives (Sharma, 1990:54).

Misery and Suffering in Bondage:

One former Chief Justice of the Supreme Court (Justice P.N. Bhagwati) described bonded labourers as 'non-beings, exiles of civilisation living a life -worse than that of animals', for the animals are at least free to roam about as they like and they can plunder or garb food whenever they are hungry, but these outcastes of society are held in bondage and robbed of their freedom even.

They are consigned to an existence where they have to live either in hovels or under the open sky and be satisfied with what- ever unwholesome food they can manage to get, inadequate though it may be to fill their hungry stomachs. Not having any choice, they are driven by poverty and hunger into a life of bondage, a dark bottomless pit from which, in a cruel exploitative society, they cannot hope to be rescued.

It is estimated that there are about 32 lakh bonded labourers in India. Of these, 98 per cent are said to be bonded due to indebtedness and 2 per cent due to customary social obligations. The highest number is believed to exist in three states of Andhra Pradesh, Karnataka and Tamil Nadu, followed by Orissa, Uttar Pradesh, Bihar and Madhya Pradesh.

According to the figures released in May 1997 on the basis of a state government-sponsored survey (conducted as per the Supreme Court direction), Tamil Nadu has the maximum number of 24,000 bonded labourers, in the country, engaged in 30 different occupations (The Hindustan Times, May 13, 1997).

It has been pointed out that the majority of bonded labourers works as agricultural labour in villages and belong to the Dutcaste or tribal communities. Of the total labour force in the rural areas, about 33 per cent are engaged in non-agricultural activities, 42 per cent work as cultivators, and 25 per cent as agricultural labourers. Of those who work as agricultural labourers, 48 per cent belong to Scheduled Castes and 33 per cent to Scheduled Tribes.

Being unskilled and un-organised, agricultural labourers have little for their livelihood other than personal labour. Bonded agricultural labourers occupy the lowest rung of the rural ladder. Social and economic stratification in a village is linked with land and caste which in turn govern economic and social status of the people. Bonded labourers thus live in pitiable and miserable conditions.

They are socially exploited because though in theory they are assured food, clothes, free tobacco, etc., in practice they get the food that is left over, and clothes that are discarded by family members. They are made to work for 12 to 14 hours a day and are forced to live with cows and buffaloes in shed. If they fall ill, they may be procured some medicines from the local Hakim depending upon the sweet will of the employer.

The total number of bonded labourers identified and freed in India by March 1989 was 2.42 lakhs, of whom 2.18 lakhs (i.e., 90%) were said to be rehabilitated also. Thus, hardly 8 per cent of total bonded workers in India have been identified so far, indicating lack of interest of state governments in solving the problem of bonded labour. At least four reports submitted to the Government of India between 1979 and 1983 pointed out how the disgusting and squeamish practice of bonded labour existed in India and continued to disfigure the social and economic life of the country.

Of the 2.42 lakh bonded labourers identified and released up to March 1989, 26 per cent were got released in Karnataka, 20 per cent in Orissa, 16 per cent in Tamil Nadu, 14 per cent in Andhra Pradesh, 11 per cent in Uttar Pradesh, 5 per cent in Bihar, 4 per cent in Madhya Pradesh, 3 per cent in Rajasthan, 0.5 per cent in Maharashtra, 0.3 per cent in Kerala and 0.2 per cent in Haryana.

Scheme for Rehabilitation of Bonded Labourers 2016-

- The revised scheme is a Central Sector Scheme i.e. the State Government is not required to pay any matching contribution for the purpose of rehabilitation assistance
- Rs 4.50 lakh will be provided per district for survey of bonded labourers
- Release of rehabilitation assistance is linked to conviction of accused
- Bonded Labour Rehabilitation Fund at district level by each state

- Financial assistance based on adult male beneficiary, special category beneficiaries & involving extreme cases of deprivation + other benefits for which the beneficiary is entitled to under other such schemes

It is so deeply embedded in India's socio-economic culture marked by caste class relations that it requires a holistic approach for law enforcement as well as comprehensive rehabilitation mechanism for social, psychological, educational and economic rehabilitation. Media support may also help put pressure on authorities to pursue the cases of bonded laborers.