

**UNITED NATIONS AND HUMAN RIGHTS :
A STUDY OF THE INCIDENCE OF BONDED LABOUR IN INDIA**

Dissertation submitted to the Jawaharlal Nehru University
in partial fulfilment of the requirements for the
award of the Degree of
MASTER OF PHILOSOPHY

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1988**



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INTRODUCTORY NOTE

This study attempts to analyse the United Nations' activities for the promotion of respect for, and observance of human rights, with special reference to the abolition of slavery and slave-like practices, and in that context it examines the incidence of bonded labour in India.

Over a hundred years ago steps were initiated for the abolition of slavery, first in the British Empire and then in other parts of the world. In the subsequent years a larger number of international treaties have been concluded to abolish slavery in all its forms.

With the inception of the League of Nations and the International Labour Organisation the activities against slavery and slave-like practices, gained momentum on international level. In the course of years, many legally binding international instruments were signed prohibiting slavery and forced labour. The signatory states which ratified them accepted the obligation to endeavour to eradicate such evil practices from their territory. Further the establishment of United Nations gave an added impetus to these endeavours, and UN together with ILO continued the activities against slavery. The inclusion of the human rights provisions in the UN Charter and the adoption of the Universal Declaration

(ii)

of Human Rights followed by International Covenant on Civil and Political Rights, manifest the active concern of the international community to fight against all sorts of inhuman practices. Today almost all the nations have taken adequate legislative measures to eliminate the evil practice.

In India the problem of slavery and slave-like practices had been prevalent since time immemorial and was intertwined with various economic and social institutions. Whether it was a legally recognised system remained a moot point. Because of the then prevailing environment of extreme poverty, illiteracy and feudalism, as is still existing in different parts of India, it was not surprising to find slave-like practices such as bonded labour. A substantive step to abolish the slavery was taken by the British Government in 1833, by passing the Slavery Abolition Act. Nonetheless the evil practice continued in different parts of the world particularly in remote parts of rural area.

After independence various steps have been taken for the elimination of this inhuman practice. The provision of fundamental rights have been included in the Constitution. The Constitution prohibits "traffic in human beings and beggar and other similar forms of forced labour" (Article 23/1).

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Moreover the Government has taken some specific steps by enacting Bonded Labour System (Abolition) Act of 1976, which exhaustively defines bonded labour, declares the practice illegal and providing for severe punishment for those holding anyone in bondage. The Act also provides for rehabilitation of labourers freed from bondage. Every year government allocates a lot of money for the rehabilitation of such people. The non-governmental organisations are also doing commendable service in this field. Still the evil system continues unabated in India.

Against this background certain pertinent questions may be asked. What was the socio-economic environment which led to slavery in general and slave-like practices like bonded labour in particular in various parts of the world? What were the steps taken by ILO and other international bodies for the abolition of the practice? To what extent the bonded labour system has been abolished? To what extent the process of rehabilitation has taken place and what are the impediments for that? What are the factors responsible for continuing the evil practice? These and related questions will be the subject of this study.

First chapter deals with a brief survey of slavery and slave-like practices in general with special reference to India in particular. It also discusses the various steps

taken for its abolition by ILO and other international bodies.

Second Chapter examines the role of UN with regard to the promotion of respect for and observances of human rights with special reference to slavery and slave-like practices.

Next chapter deals with the incidence of bonded labour in India.

Fourth chapter focuses its attention on the problem of abolition of the evil practice and the process of rehabilitation of the freed bonded labourers and looks into how far it has been successful. It also analyses the factors responsible for the continuance of the bonded labour system.

Finally, the conclusion makes an overall assessment and suggests some constructive steps for the abolition of this evil practice.

I take this opportunity to express my gratitude towards those who have helped me one way or other in the completion of this work.

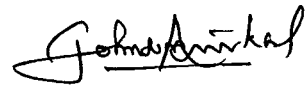
First of all I am deeply indebted to my supervisor Prof. K.P. Saxena for his guidance and critical suggestions at every stage of this work.

(v)

I gratefully acknowledge the assistance rendered to me by the staff of various libraries where I consulted the required materials.

I would also like to extend my thanks to my friends for their timely help and kind co-operation.

New Delhi,
July, 1988.


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Chapter I

SLAVERY AND SLAVE-LIKE PRACTICES: A HISTORICAL PERSPECTIVE

The practice of bonded labour has historical and socio-economic roots. In a way, it is an off-shoot of slavery that was common practice all over the world until efforts were directed at international level to abolish it legally. Though the practice was abolished legally man continued keeping his fellow human beings in perpetual bondage for his selfish and personal designs in a highly organised and systematic manner. These evil practices have not been confined to a particular land or territory. It remained a global phenomenon and continued mainly due to various socio-economic factors. The more man became civilised, the better devices he developed to perpetuate his stranglehold on weaker sections. Though the slave like practices such as bonded labour does not have any legal standing, still it is very much prevalent throughout the world. The bonded labour system is not a new phenomenon, its origin can be traced back to the practice of slavery. Therefore here it is pertinent to reflect briefly on the practice of slavery and slave like practices.

From time immemorial slavery had been prevalent in the world among all races and peoples. There were several factors contributing to the emergence of this evil system. At the outset one thing should be borne in mind that 'slaves are not

born, but they are made'. Arnold Toynbee says, "Slavery is a non-voluntary system of personal relations resting wholly upon force".¹ The most fundamental element of the slave relationship is that the slave does not have any social or legal rights. "A slave" said Aristotle, "is a living tool, a tool which can move and talk with some amount of intelligence".² In primitive society, slavery came into being either as a form of punishment or as a response to the demand for labourers and a slave was any human being who was under the absolute control of a master and was considered by the latter as his property.³ Organised religions and every type of society accepted slavery as a normal part of human activity until the late eighteenth century.

Slavery in the Ancient World

As it is generally agreed, slavery largely originated from the earliest laws of wars. People captured in war were treated as slaves and the war continued to be the chief source of slaves in primitive society.⁴ The Archaeological

¹Arnold Toynbee, A Study of History (London: Oxford University Press, 1961), p.308.

²Aristotle cited in Amal Kumar Chattopadhyay, Slavery in the Bengal Presidency: 1772-1843 (London: The Golden Eagle Publishing House, 1977), p.2.

³Dev Raj Chanana, Slavery in Ancient India: As Depicted in Pali and Sanskrit Texts (New Delhi: Peoples Publishing House, 1960), p.1.

⁴The World Book Encyclopedia (USA: 1983), Vol.17,p.414.

studies reveal that although nowhere in primitive societies had human beings been subjected to the gross exploitation, Slavery existed in varying degrees among primitive European and oriental peoples.⁵ With the advance of time, the forms and varieties of slavery greatly changed. The slaves were exploited in various ways in different countries. The owners controlled the lives of their slaves, often sanctioned their use in ritual sacrifices and subjected them to compulsory labour. Even the Greek political philosophers discussed the institution of slavery, but only as to whether it was a condition grounded in natural law or made by man. In short, to the ancient mind slavery was a fixed and accepted element of life, and no moral problem was involved. With the crystallisation of social institutions the modes of slavery again changed. But far from being relaxed its form became more and more rigid and horrible with the growth and development of human civilisation.

Greek society had all the characteristics of a true slave system. The chief sources of slavery in Greece were (1) birth, the condition being hereditary; (2) sale of children by their parents; (3) capture in war; (4) piracy and kidnapping; (5) slave trade.⁶ In Greece the slave held

⁵Collier's Encyclopedia (New York: 1983), Vol.21,p.72.

⁶Encyclopaedia Britannica (London: 1950), Vol.20,p.774.

the lowest social status and they could not hold any public office.⁷ According to the Greek laws "the slave was a property, hence a legal object. He could be sold or mortgaged or his services leased."⁸

It may be noted that slavery had acquired such a privileged status among the Greek people that rich merchant families invested a lot of money in purchasing and keeping a large number of slaves. It is intriguing that such renowned thinkers of Greece, Aristotle and Plato not only permitted but also appreciated the institution of slavery.⁹

In the Roman Empire too slavery had been very much prevalent. The Romans took over the institution of slavery from the Greeks and further expanded it as the Roman Empire extended its territorial gains. The Romans systematically developed slavery in order to free the local population for wars of conquest which in turn brought the slaves.¹⁰ They recruited slaves in five ways, (1) by taking and enslaving war prisoners, (2) by convicting and sentencing to slavery those free citizens who committed common crimes, (3) through

⁷Encyclopaedia of the Social Sciences (New York: 1948), Vol.14, p.76.

⁸Ibid.

⁹Encyclopedia..., n.6, p.774.

¹⁰Encyclopedia Americana (USA: 1983), Vol.25, p.19.

the sale of infants or orphans into slavery by their parents or guardians, (4) by the sale of waifs by their finders, (5) by enslaving victims of piracy and plunder who could not pay ransoms.¹¹

The conditions of labour were severe and by the original Roman law "the master was clothed with absolute dominion over the slave, extending to the power of life and death... The slave could not possess property of anykind; whatever he acquired was legally his master's."¹² However, it is noted that the lot of the slaves gradually improved in the later period of the Empire. Seneca one of the greatest philosophers of the ancient period, appealed to the conscience and sense of justice of free citizens, which made a strong impact upon them.

Slavery in Medieval Europe

Here again the slave-like practice was largely the relationship between the conqueror and the conquered. But the practice of slavery took a new shape in the medieval Europe. Apart from those slaves taken from battles they also recruited slaves from the long distance slave traders around the Black-Sea area. The slaves were most brutally and barbarously treated. They were considered as legal objects,

¹¹Ibid., p.19.

¹²Encyclopedia..., n.6, p.775.

not as human beings and they could be "whipped, chained, sold, tortured or killed at his master's pleasure. He could also be inherited like other property".¹³

Pre-Colonial Africa and Asia

In Africa and Asia also slave like practices continued unabated. The slaves in pre-colonial Africa had no demeaned status. They fell into two categories - Muslim and non-Muslim. Muslim slavery derived its sanction from Koran "as a means of converting non-Muslims".¹⁴ The slave was accepted into the master's household and his status was similar to that of a child or ward. In non-Muslim Africa, slaves tended to form part of the extended family system sharing the duties of other members of the society. The two forms of indigenous African slavery appear to be "a sociologically viable way of acquiring new members of the group rather than the means of distributing labour functions or of increasing property assets".¹⁵

Centuries before the Christian era slavery was established in Asia also. In India by around 500 B.C. slavery was fully established and slaves performed agricultural

¹³Encyclopedia..., n.10, p.20.

¹⁴Paul E. Lovejoy, Transformation in Slavery: A History of Slavery in Africa (Cambridge: Cambridge University Press, 1983), p.16.

¹⁵Encyclopedia..., n.10, p.20.

labour as well as the more usual household work.¹⁶ Likewise in all the Southeast Asian states with the exception of Thailand slavery existed from ancient times. Slaves were taken both as prisoners of war and also locally recruited mainly as a result of poverty and warfare.¹⁷

Slavery and the Industrial Era

With the advent of industrial era slave-like practices acquired new complexities. The most significant and dynamic development of the institution has taken place in connection with the industrial revolution and the plantation economy in the Americas. Thus it can be said that in the industrial era the slavery and the slave-trade were intimately connected with the rise of European capitalism. The slave was viewed not only as a unit of potential labour but also as a commercial asset. After the industrial revolution there was the demand for cheap available labour. The colonists realised that slavery afforded both the fastest and easiest method of providing the labour force for developing the colonies. This was also made possible by taking

¹⁶Collier's..., n.5, p.72.

¹⁷Ibid., p.73.

recourse to the bonded labour system. The big industrialists who had never been in shortage of money started advancing money to the poverty-stricken people and dumped them into permanent bondage. Together with this there started the transportation and slave-trade of African Negroes. The European tradition of 'absolute property rights' dominated the relation between master and slave.

However, territorial expansion of European colonies in Americas added a new dimension to the slave trade. The Spanish and Portuguese, who had used African slaves on their plantations, brought them to the new world. But the scarcity of man power and high mortality of the settlers coupled with the growing economic importance, stimulated the expansion of the transatlantic slave-trade. It is noted that nearly 9.6 million Africans were introduced into Europe and the new world as slaves between 1510 and 1870.¹⁸

The regular slave trade between Africa and the English North American colonies began in 1619. "By 1670 both law and custom defined all Africans in the colonies as slaves unless otherwise proved."¹⁹ English North American vessels freely participated in the rapidly expanded transatlantic slave trade.

¹⁸Encyclopedia..., n.10, p.21.

¹⁹Ibid.

The dominant purpose even in the Spanish and French colonies was the promotion of the prosperity and the safeguarding of the security of the white population.

In short it may be said that the most important factor that was involved in the slavery in the industrial era, was the economic factor. The big industrialists made use of slavery to avail cheap labour force.

Slavery in India

Slavery had existed in India as elsewhere in the world, from time immemorial. According to the archaeologists, slave labour could have existed in the social set up of the Indus Valley Civilization²⁰ which is believed to have flourished between 2500 and 1500 B.C.²¹ Like most ancient cultures, Indus Valley Civilization also considered slavery as an adjunct of its positions. These slaves might have been persons captured in battle or persons reduced to bondage for crime or debt.²²

²⁰Chanana, n.3, p.17.

²¹Ibid., p.15

²²Adoor K.K.Ramachandran Nair, Slavery in Kerala (Delhi: Mittal Publications, 1986), p.1.

In India the origin of systematic slavery is closely associated with the advent of Aryans and the inception of the caste system. Having arrived in India they fought against their enemies, the 'dasas' and the 'dasyus' who were the original inhabitants of the land. They had nothing but contempt for these people whom they called "noseless and flat-lipped".²³ They were degraded and neglected as uncivilised and darkskinned. According to the Aryan connotation the word 'dasa' meant those people who were first conquered by them and reduced to bondage. Since then, "the word dasa began to denote a slave and has continued to do so till our time".²⁴ Strictly speaking, there is no western counterpart for the Indian term. "The term dasa encompasses all forms of servitude ranging from absolute control over a person on the one hand to limited, conditional and temporary bondage on the other."²⁵ Whereas in Vedic literature dasas are described as being in a perpetual state of conflict with the Aryans.²⁶ They were treated like slaves and were meant to serve the

²³Chanana, n.3, p.19.

²⁴Ibid.

²⁵Utsa Patnaik and Manjari Dingwaney, eds., Chains of Servitude: Bondage and Slavery in India (Madras: Sangam Books, 1985), p.36.

²⁶Ibid., p.37.

members of the Aryan society. According to Kautilya "an Arya cannot be reduced to slavery".²⁷ Then slowly slowly the aborigines confined themselves to the interior regions, they developed a sort of reverence for the invaders and ultimately accepted the supremacy of the victors.

The second major reason for the origin of slavery in India is the inception of caste system. In Hinduism there are four castes - Brahmin, Kshatriya, Vaisya and Sudra. According to Manu, the earliest law-giver in India, only the first three categories of people were eligible to have any right, whereas the Sudras had no rights to enjoy, they had only duties to perform.²⁸ They were to serve the other three divisions of society. To the Sudras acquisition of property was unlawful. Finally by denying the right to education the Brahmins could easily suppress the Sudras and exploit their services for the benefit of all the other divisions of society. Here we find the probable origin of Indian slavery. The whole structure was given a religious background and holy garb and none was permitted to transgress

²⁷Chanana, n.3, p.88.

²⁸K.K.Kusuman, Slavery in Travancore (Trivandrum: Kerala Historical Society, 1973), p.19.

the boundaries. According to Manu the Sudras were created by God to serve the Brahmins and he also enunciated the principle that slavery is the eternal destiny of the Sudras. He believed that a Sudra, whether or not he is bought, should be reduced to slavery because he had been created for the sole purpose of serving the Brahmins. He further states that a Sudra could not be released from servitude because servitude is innate in him.²⁹ As it is observed by an analyst, "Though slavery did not become a caste institution, and men of any caste might become slaves, through crime or debt, doubtless, most slaves were of the Lower Castes, their status blurring with the servile position of the Sudras, to whom the Hindu society allotted its menial tasks".³⁰ Thus by B.C. 500 slavery was fully established in India and continued down to the centuries.

When the British laid the foundation of their Colonial Empire, slavery was one of the social problems which they had to face. The arrival of Europeans did not make any basic change upon slave-trade and the various evils connected to it. As it is noted, they administered, legalised and perpetuated

²⁹Patnaik and Dingwaney, n.25, p.52.

³⁰Chattopadhyay, n.2, p.2.

Hindu and Mohamedan slavery.³¹ The system of indentured labour supply was the exclusive colonial innovation which supplies slaves to tea and coffee plantations in India.³² Apart from using the services of native slaves, they even imported slaves from Africa and western Asia. During the visit of Marco Polo, Calcutta was a major centre of slave-trade, where foreigners as well as Indians flocked together for the purchase of slaves.³³

In this context there arises a pertinent question. Had there been legal sanction for slavery? There exists divergent views regarding the legality of slavery. Some say that it had only social sanction, but some others are of the opinion that it was legally sanctioned. "However there is no doubt about it," says Banaji, "that it existed legally under the Company's Government in India as an effect of the legal existence it possessed under the former Hindu and Mohamedan Governments."³⁴ The system of slavery continued legally, until the British regime in India passed the Slavery Abolition Act of 1843.

³¹D.R.Banaji, Slavery in British India (Bombay: D.B.Taraporevala, 1933), p.1.

³²Patnaik and Dingwaney, n.25, p.114.

³³Kusuman, n.28, p.23.

³⁴Banaji, n.31, p.12.

Bonded Labour in India

The genesis of bonded labour system can be traced back to the practice of slavery that was prevalent in our country. Moreover, the system was the result of various socio-economic factors. In the Indian context the bondage is closely linked with the deprivation of the ownership of land. Agriculture had been virtually the only source of national wealth in India and four-fifths of the Indian people depended on agriculture. The rural economy of India was based chiefly on a system of village communities of landowners or what is otherwise known as peasant-proprietorship. The economic bondage has a long history in India. It existed on a wide scale in the Moghul period. When a region was opened up, the tribal population presumably lost their control of the land and were compelled to accept bondage.

It is also argued that bondage is associated with a need for regular labourers. In this view, it was the largest landowners, doing little or no work on their land, who imposed servitude. Only in this way could they be sure of a steady supply of labour. One thing is sure that the bondage of the agricultural labourers resulted from their inability to earn an independent living.

It was Britishers who systematically created and nurtured the economic bondage. They very well knew that

once the people were deprived of land, they can easily be put into bondage. Thus the British introduced a system, under which land revenue was assessed at high rates and was payable only in cash, and which held individuals responsible for payments. The peasant was forced to sell land to pay the tax and this land went either to the state for non-payment of taxes, or to the money-lender for non-payment of debt. This turned the peasant into a landless labourer. Thus the peasants driven by economic necessity, accepted bondage as the traditional village community disintegrated. It is noted that the freedom is not denied to the landed labourer through the exercise of force but these labourers in India were compelled to accept bondage because that was the only available method to secure a livelihood. The striking aspect of this phenomenon was the small amount involved, "for only a few rupees a man would sell himself and his descendants to bondage. These loans were taken mainly for urgent domestic expenses, rent payment or ceremonial expenditure. The widespread prevalence of the latter reveals the extraordinary pull of ritual obligations even at the cost of perpetual servitude."³⁵ It is noted that while the slavery was a legal institution, a bonded labourer is a freeman legally and the

³⁵Patnaik and Dingwaney, n.25, p.113.

legal provisions have categorically declared the system of bondage illegal. Even after the abolition of slavery and various legislative measures adopted before and after the independence, the system of debt bondage continued and still continues in India.

Anti-Slavery Movements

To ancient mind, slavery was an accepted element of life and this came down to continue in the medieval and modern ages as well. Its validity as a system of labour was never seriously questioned. Even the Christian church did not challenge its believers to own slaves. Thus slavery was accepted as a part of the general labour system of the world. No one found anything wrong in it. It was only in the seventeenth century that great political thinkers began to feel that there was something degrading in the heart of the system. Jean Bodin, the French political thinker denounced the institution.³⁶ He not only declared it illegal, immoral and degenerating, but sharply criticised and refuted the theory and arguments of Aristotle who pleaded for the retention of the institution due to its universal acceptance. Later the Enlightened thinkers like Montesquieu and Rousseau

³⁶ Amal Kumar Chattopadhyay, Slavery in India (Calcutta: Nagarjun Press, 1959), p.12.

brought the whole question of slavery under systematic attack in their advocacy of social and political platform. They strongly objected to the inequality of men for their difference in castes, creeds and colours.

The Quakers are reported to be one among the first organised bodies to condemn the slave trade in America in 1669 and in England in 1727.³⁷ However, the first important direct attack on modern Negro slavery was made by an evangelical Granville Sharp, who in 1771 and 1772 brought a Negro named Somerset before judge Mansfield and in 1772 Lord Mansfield, the English Chief Justice, declared that slavery was illegal in England.³⁸ But Sharp's efforts to secure Negro freedom in the British colonies by extending this judicial decision failed because colonial slavery having the sanction of positive law, could be abolished only by legislation. As a further step in 1787 in England and in 1788 in France anti-slavery societies were founded. The legislative attack began after the American revolution under the leadership of Thomas Clarkson and William Wilberforce.

³⁷Encyclopedia of Social Sciences (New York: 1948), Vol.1, p.370.

³⁸Ibid., p.369.

Their plan was not to molest the institution of slavery but to attack the slave trade."³⁹ This was to be achieved by laws against the traffic in each country and by international agreement for their enforcement. During the nineteenth century slavery came under criticism not only from religious sects but also from secular thinkers who realised it as an obnoxious form of special privilege, contrary both to reason and humanity.

Action by Governments

Slavery was temporarily abolished in the French colonies in 1791 due to the general climate of economic, political and social reform that followed the French revolution. The French revolution could instil in the minds of the people the anti-slavery values. The actual emancipation of slaves varied from country to country. The first European state to abolish the slave trade was Denmark which in 1792 prohibited the importation of slaves to its own possessions; this decree was made effective in 1803.⁴⁰ Due to sustained efforts, the abolitionists succeeded in moving the bill in

³⁹
Ibid.

⁴⁰
Encyclopaedia..., n.37, p.370.

British Parliament and get it passed on 16 March 1807.⁴¹ By this the African slave trade and all manner of dealing and trading in the purchase of slaves were "abolished, prohibited and declared unlawful".⁴² The next task was to extend the abolition to British colonies too. In 1823 under the leadership of Wilberforce an Anti-Slavery Society was established.⁴³ Buxton representing the Anti-Slavery Society argued in the House of Commons that "the state of slavery is repugnant to the principles of the British Constitution and of the Christian religion and that it ought to be gradually abolished throughout the British Colonies..."⁴⁴ At last in August 1833, the Abolition bill was passed by the House of Commons and it got the royal assent on 28th of the same month and the slaves were given freedom in August 1838.⁴⁵ The example of Britain was gradually followed by the other European States.

⁴¹Jack Gratus, The Great White Lie: Slavery Emancipation and Changing Racial Attitudes (London: Hutchinson and Co. Ltd., 1973), p.125.

⁴²Ibid.

⁴³Encyclopaedia..., n.37, p.370.

⁴⁴R.Coupland, The British Anti-Slavery Movement (London: Jhonton Butterworth, Ltd., 1933), p.124.

⁴⁵Encyclopaedia..., n.6, p.782.

Whereas the United States had to pay high price for the abolition of slavery. The problem of slavery created such a provocative political issue that it set the stage for the civil war. The union forces of the North won the war in 1865 and in "December 1865 a Constitutional amendment was ratified abolishing and for ever prohibiting slavery throughout the United States".⁴⁶

International Agreements

Since the beginning of the 19th century, a large number of international treaties and conventions have been concluded for the abolition of slavery in all its forms and the prevention and suppression of the slave trade. By the Peace of Ghent in December 1814, the United States and England mutually bound themselves to do all in their power to extinguish the traffic.⁴⁷ The international reprobation of the slave trade was first expressed at the Congress of Vienna in 1815, where the principle was acknowledged that the slave trade should be abolished as soon as possible: but the determination of the limit of time was reserved for separate negotiation between the powers.⁴⁸

⁴⁶Ibid., p.783.

⁴⁷Ibid., p.781.

⁴⁸Ibid., p.785.

In another development in 1831 and 1833 Great Britain entered into an arrangement with France for a mutual right of search within certain seas to which most of the other powers acceded;⁴⁹ and by the Webster-Ashburton Treaty of 1842 the slave-trade was put under the ban of the civilised world and machinery for its suppression, was established.⁵⁰ In 1885 the Berlin Act pledged the thirteen nations of Europe and the United States "to watch over the preservation of the native tribes... and to help in suppressing slavery and especially the slave trade".⁵¹ The Brussels Act of 1889 was another milestone in this direction in which the signatories of the Berlin Act, together with Iran, Zanzibar and the Congo Free State declared to put an end to the crimes and devastation engendered by the traffic in African slaves.⁵² After the First World War a new convention was signed at St. Germain in 1919 by the victorious Powers, in which the signatories pledged themselves to endeavour "to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea".⁵³

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⁴⁹ Ibid., p.781.

⁵⁰ Encyclopaedia..., n.37, p.370.

⁵¹ Encyclopaedia..., n.6, p.785.

⁵² Ibid.

⁵³ Roger Sawyer, Slavery in the Twentieth Century (London: Routledge and Kegan Paul, 1986), p.218.



League of Nations and ILO

With the inception of the League of Nations and International Labour Organisation the activities against slavery and slavery-like practices gain^{ed} momentum on international level. The League of Nations had universal peace as its objective but such a peace could be established only if it was based on social justice. Article XXIII of the covenant of League pledges the members among other things, "to endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend and for that purpose will establish and maintain the necessary international organisations". The task of implementing this pledge has been confined to a single body - the International Labour Organisation. Before ILO taking up the issue of slavery and slave-like practices League on its own had taken some steps in this direction.

The question of slavery was raised in League Assembly, by Arthur Steel Maitland of New-Zealand, who said that "there had been a revival of slavery recently... especially in Abyssinia, whose ruler was unable to suppress it owing

to difficulties for which he was not responsible".⁵⁴ The Assembly decided that "the question of slavery shall be included in the agenda of the fourth Assembly".⁵⁵ On September 28, 1923, the fourth Assembly adopted a resolution to the effect that "a competent body should be instructed to continue the investigation of the question of slavery",⁵⁶ and referred to the Council the question of the appointment of a competent body and on June 12, 1924 the Council appointed a Committee of experts known as Temporary Slavery Commission.⁵⁷

The Committee held its first session at Geneva from July 9-12, 1924 and it discussed various conditions restrictive of liberty which might be held to be analogous to slavery such as (1) the acquisition of girls by purchase designed as dowry; (2) the adoption of children for the sake of profit from their labour or sale; (3) debt bondage and pledging of persons; (4) compulsory labour paid or unpaid.⁵⁸ In the second session of the Committee majority

⁵⁴Monthly Summary of League of Nations (Geneva), Vol. II, No. 9, 1922, p. 224.

⁵⁵Ibid.

⁵⁶League of Nations Official Journal (Geneva), February, 1924, p. 331.

⁵⁷Monthly Summary of League of Nations, Vol. IV, No. 6, 1924, p. 123.

⁵⁸Encyclopaedia..., n. 6, pp. 785-86.

of members were of the opinion that it would be desirable to adopt an international convention and the Sixth Assembly recommended for approval of a draft convention for the suppression of slavery.⁵⁹ "By the draft convention, the contracting parties undertake to prevent and suppress the slave trade and to bring about progressively and as soon as possible the disappearance of slavery in all its forms".⁶⁰ Finally the Assembly held and enacted the slavery convention in 1926 and opened for signature on September 25th of the same year.⁶¹ The convention defined slavery as "The Status or Condition of a person over whom any or all of the powers attaching to the right of ownership are exercised".⁶²

The object of the convention was to complete and extend the work accomplished under the other international agreements. It also provided for a formal undertaking on the part of the signatory states to prevent and suppress the slave trade to endeavour to bring about the entire suppression of slavery in all its forms and to take measures to

⁵⁹Monthly Summary of League of Nations, Vol.V, No.9, 1925, p.234.

⁶⁰Ibid., p.235.

⁶¹Monthly Summary of League of Nations, Vol.VI, No.9, 1926, p.221.

⁶²James Avery Joyce, Human Rights: International Documents (New York: Sijthoff and Noordhoff, 1978), Vol.1, p.54.

prevent forced or compulsory labour from developing into conditions analogous to slavery.⁶³ By the year 1938, twenty-nine states ratified the convention.⁶⁴

In the days of the League two further conventions, designed to suppress the traffic in persons, were concluded: the convention for the suppression of the traffic in women and children, opened for signature on 30 September 1921, and the convention for the Suppression of the Traffic in Women of Full Age, opened for signature on 11 October 1933.⁶⁵

It was in 1930 for the first time the International Labour Organisation turned its attention towards the issue of slavery and slave-like practices. The question of forced labour was referred to the International Labour Office by the League of Nations and in the same year the General Conference of the ILO adopted the convention on forced or compulsory labour. It is known as Forced Labour Convention, 1930 (No.29), which provided for "the suppression of forced or compulsory labour in all its forms within the shortest

⁶³Monthly Summary of League of Nations, n.76, p.221.

⁶⁴Encyclopaedia..., n.6, p.786.

⁶⁵United Nations and Human Rights (New York: United Nations Publications, 1984), p.48.

possible period, subject to exceptions with reference to compulsory military service, normal civil obligations, convict labour, work in emergencies, and minor communal services".⁶⁶

The results of these efforts to arouse international interest in the suppression of slavery and slavery-like practices were disappointing, and the Assembly of the League of Nations decided in January 1932 to appoint another committee to make practical suggestions on this issue.⁶⁷ Its principal recommendation was that permanent committee of seven members should be appointed for this purpose. Accordingly an Advisory Committee of Experts was appointed in October 1932.⁶⁸ But the work of Committee was reduced to practically of little value, because of the regulations imposed on it. Its duties were defined as "strictly advisory and it will have no powers of supervision... It shall not be competent to hear depositions."⁶⁹ Later the United Nations together with ILO further continued the activities against slavery and slavery-like practices.

⁶⁶Ibid., p.53.

⁶⁷Encyclopaedia..., n.6, p.786.

⁶⁸Ibid.

⁶⁹Quoted in Ibid.

Chapter II

THE ROLE OF UNITED NATIONS

The post-war period was specifically characterised by the growing international concern for human rights. It also strengthened the movement for eradication of slave-like practices such as bonded labour. The concept of human rights emphasising the positive aspect of availability of certain conditions for the development of human beings meant that the forced labour should be eradicated. In other words the movement for respect for human rights is also clearly directed against the evil practice of bonded labour. Therefore, ^{re} it is pertinent to reflect briefly on the development of the concept of human rights.

The international concern for human rights and fundamental freedoms can be traced back to the humanitarian traditions and the unceasing struggle for freedom and equality in all parts of the world. These factors manifested themselves at the international level early in the nineteenth century, when the abolition of slavery and the slave trade was vigorously pursued and when positive action was taken to promote economic and social progress. After the First World War, international concern for human dignity and rights found expression in certain provisions of the covenant of League of Nations. Moreover, in 1919 the International Labour

Organisation was established as an autonomous body associated with the League of Nations, in the realisation that universal peace "can be established only if it is based upon social justice". The inclusion of the human rights provision in the UN charter and the adoption of the International Bill of Human Rights once again manifested the active concern of the international community for the promotion of respect for and observance of human rights.

Charter Provisions of Human Rights

The Charter of the United Nations makes reference to human rights and fundamental freedoms in a number of clauses. In the Preamble, the peoples of the United Nations express their determination "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person in the equal rights of men and women and of nations large and small ...". The concern for human rights is amply manifested in Article 1 of the Charter which deals with the purposes and principles of the United Nations, i.e. "to develop friendly relations among nations based on respect for the principle of equal rights and self determination of peoples", and "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for

human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

In article 13, General Assembly is empowered to initiate studies and make recommendations for the purpose of "...assisting in the realisation of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

Article 55 provides that, "with a view to the creation of conditions of stability and well being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote... (c) universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". Whereas article 56 provides that, "All Members pledge themselves to take joint and separate action in co-operation with the organisation for the achievement of the purposes set forth in article 55".

Article 62 empowers the Economic and Social Council (ECOSOC) to "make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedoms for all". Moreover the ECOSOC "may prepare draft conventions for submission to the General Assembly, with

respect to matters falling within its competence," and may also call "international conferences on matters falling within its competence".

Regarding the recommendations, the ECOSOC under article 64 "may make arrangements with the Members of the United Nations and with the specialised agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly". Further the ECOSOC is empowered under article 68 to set up "Commissions... for the promotion of human rights, and such other Commissions as may be required for the performance of its functions".

In addition, in articles 73 and 76 UN expresses its concern for and responsibility towards the dependent territories whose peoples have not yet attained a full measure of self-government. Article 76 states that one of the basic objectives of the Trusteeship system shall be "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion and to encourage recognition of the interdependence of the peoples of the world".

International Bill of Human Rights

The most important landmark in the field of human rights was the adoption of the International Bill of Human Rights. The Preparatory Commission of the United Nations, which met immediately after the closing of the San Francisco Conference recommended that the ECOSOC should establish a Commission for the promotion of human rights as envisaged in article 68 of the charter. The Council established the Commission on Human Rights early in 1946¹ and the Commission in turn appointed a drafting committee to prepare a draft of an International Bill of Human Rights.

On 10 December 1948 the General Assembly adopted and proclaimed the Universal Declaration of Human Rights as "a common standard of achievement for all peoples and all nations".² Much later in 1966 two International Covenants on Human Rights were completed - International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.³ Each contains measures for international supervision of the rights which

¹Economic and Social Council (ECOSOC) Resolution, 5(i), 16 February 1946.

²General Assembly Official Records (GAOR), 3rd Session Plenary, 183rd meeting, 10 December 1948.

³General Assembly Resolution, 2200A (xxi), 16 December 1966.

it sets out and for the settlement of complaints by states that another state is not giving effect to its provisions. In addition, the **Optional protocol** to the International Covenant on Civil and Political Rights provides international machinery for dealing with communications from individuals claiming to be victims of violation of any of the rights set forth in that covenant. Today the two covenants and the **Optional protocol**, together with the Universal Declaration of Human Rights, form the International Bill of Human Rights.

Universal Declaration of Human Rights

The Declaration consists of a Preamble and thirty articles, setting forth the human rights and fundamental freedoms to which all men and women, in the world are entitled without any discrimination. Article 1 which lays down the philosophy upon which the Declaration is based, reads, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". Article 2 sets out the basic principle of equality and non-discrimination as regards the enjoyment of human rights and fundamental freedoms. Articles 3-21 deal with the civil and political rights and articles 22-27 deal with the economic, social and cultural rights. The concluding articles of 28-30 recognise

that everyone is entitled to a social and international order in which all human rights and fundamental freedoms can be fully realised and stress the duties and responsibilities which each individual owes to the community.

The Universal Declaration of Human Rights has become very important as a yardstick by which to measure the degree of respect for, and compliance with, international human rights standards. "Since 1948, it has been and rightly continues to be, the most important and far-reaching of all United Nations Declaration and a fundamental source of inspiration for national and international efforts to promote and to protect human rights and fundamental freedoms".⁴

Covenants

Both the Covenants and the Optional Protocol were adopted and opened for signature and ratification or accession by the General Assembly on 16 December 1966.⁵ The International Covenant on Economic, Social and Cultural Rights entered into force on 3 January 1976.⁶ The International Covenant on civil and Political Rights and the Optional Protocol thereto entered into force simultaneously on 23 March 1976.⁷

⁴The United Nations and Human Rights (New York: United Nations Publication, 1984), p.26.

⁵General Assembly Resolution, n.3.

⁶United Nations Action in the Field of Human Rights (New York: United Nations Publication, 1983), p.13.

⁷Ibid.

The Preamble of each Covenant recalls "the obligation of states under the charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms" reminds the individual of his "responsibility to strive for the promotion and observance of the rights" and recognises that "in accordance with the Universal Declaration of Human Rights, the ideal of free human being enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights as well as his economic social and cultural rights".

In the following articles both covenants recognise the most fundamental civil, political, economic, social and cultural rights of man, necessary for every human being to lead a better human life. The Covenant on civil and Political Rights provides for the establishment of a Human Rights Committee (Article 28) and it was established in 1977. It consists of 18 members of "high moral character and recognised competence in the field of human rights" (Article 28/2). It contains an important provision under which "A State party to the present Covenant may at any time declare that it recognises the competence of the Committee to receive and consider communications to the effect that a State Party

claims that another State Party is not fulfilling its obligations under the present Covenant" (Article 41). Whereas the Economic and Social Council is responsible for implementation of the International Covenant on Economic, Social and Cultural Rights.

The Optional Protocol to the International Covenant on Civil and Political Rights enables the Human Rights Committee "to receive and consider... communications from individuals claiming to be victims of violations of any of the rights set-forth in the covenant". Under articles 1-6 "a State Party to the Covenant that becomes a party to the present Protocol recognises the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set-forth in the Covenant".

Provisions on Slavery

The movement for observance of and respect for human rights has direct bearing on the question of bonded labour and slave-like practices. Nonetheless it was considered imperative that specific steps should be directed through international instruments for the eradication of slave-like practices.

Even before the inception of United Nations, steps were initiated against slavery and slavery-like practices by the League of Nations and ILO on international level. Although UN Charter does not specifically mention about slavery, it includes many specific provisions on human rights. Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights include specific provisions against slavery and slavery-like practices.

Article 4 of the Universal Declaration of Human Rights proclaims that, "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms". Article 6 provides that, "Everyone has the right to recognition everywhere as a person before the law". In this connection it may be noted that "the term 'slavery' implies the destruction of the juridical personality".⁸ This means a man cannot be treated as a 'living tool' or like cattles. Further article 13/1 provides that "everyone has the right to freedom of movement" and article 23/1 states that "everyone has the right to work, to free choice of employment", which are no doubt clear proclamation against slavery.

⁸Ibid., p.133.

Article 8 of the Covenant on Civil and Political Rights undoubtedly states that:

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.
2. No one shall be held in servitude.

International Conventions on Slavery

Though UN was established in 1946, only in 1953 the functions and powers exercised by the League of Nations under the Slavery Convention of September 1926, have been transferred to UN. To that effect a Protocol amending the Slavery Convention of 1926 was adopted in 1953 by General Assembly of UN⁹ in accordance with the recommendation of Economic and Social Council.¹⁰ Even before that in 1949 General Assembly had approved the Convention for the suppression of the Traffic in persons and of the exploitation of the prostitution of others.¹¹ Under the Convention no one is permitted to procure, entice, or lead away for purpose of prostitution another person, even with the consent of that person (Article 1/1).

1953. ⁹General Assembly Resolution, 794 (VIII), 23 October

¹⁰ECOSOC Resolution, 475 (XV), 27 April 1953.

1949. ¹¹General Assembly Resolution, 317 (IV), 2 December

Supplementary Convention

In 1955 the Economic and Social Council expressed the view, to prepare a draft supplementary convention which would deal with practices resembling slavery not covered by the slavery convention of 1926 and appointed a committee for that purpose,¹² and adopted a draft supplementary convention. In 1956 the Council decided¹³ that a Conference of Plenipotentiaries should be convened in order to complete the drafting of the supplementary convention and the conference adopted in September 1956 the Supplementary Convention on the Abolition of slavery, the slave trade and institutions and practices similar to slavery. The Convention provides that each state party shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of certain institutions and practices, where they still exist and whether or not they are covered by the definition of slavery contained in article 1 of the International Slavery Convention of 1926.

The international conference of Plenipotentiaries convened by General Assembly in 1957, adopted the Convention on the High Seas on 29 April 1958 laying down conditions for

¹²ECOSOC Resolution, 564 (XIX), 7 April 1955.

¹³ECOSOC Resolution, 608 (XXI), 30 April 1956.

the exercise of freedom of the high seas.¹⁴ Under article 22 of the Convention a warship may board a foreign merchantship on the high seas if there is reasonable ground for suspecting that the ship is engaged in the slave-trade.

Other Measures

In 1949 the General Assembly requested the Economic and Social Council to study the problem of slavery.¹⁵ Since that time a number of studies, surveys and reports on the subject have been prepared and examined by the General Assembly, the ECOSOC and the other related bodies. The sub-commission has undertaken regular consideration of the question of the abolition of slavery in all its forms, and has set up permanent machinery to assist it in this endeavour in the form of a working group on slavery which meets briefly before each sub-commission session and prepares a report and recommendations based upon the information made available to it. To a certain extent the emphasis in this field has shifted in recent years from the prevention and suppression of the slave-trade, which appears to have been eradicated through international cooperation, to the abolition of slavery and various institutions and practices similar to slavery.

¹⁴General Assembly Resolution, 1105 (XI), 21 February 1957.

¹⁵General Assembly Resolution, 278 (III), 13 May 1949.

Implementation Measures

For many years no international body was specifically charged with supervision of the implementation of the Conventions. At its twenty seventh session, in 1974 the sub-commission established the working group on slavery composed of five of its members.¹⁶ The Working Group meets every year, prior to the sub-commission's annual session, to review the developments relating to slavery and slavery-like practices.

The working group receives reports from the states parties to the supplementary convention on the Abolition of slavery. It also receives information on measures to implement the convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others. On the basis of these materials the Working Group each year drafts recommendations which the sub-commission forwards to its parent bodies - the Commission on Human Rights and the ECOSOC.

In 1982 the sub-commission received and considered a report by Benjamin Whitaker, a special Rapporteur which dealt with many contemporary manifestations of slavery-like practices including debt bondage, forced labour, illicit traffic in

¹⁶Sub-Commission on Prevention of Discrimination and Protection of Minorities Resolution, 11 (XXVII), 21 August 1974.

migrant workers etc. In the study he concluded that: "The phenomenon of slavery manifests several of the gravest forms of the violation of human rights: often it combines coercion, severe discrimination, and the most extreme form of economic exploitation. It is the ultimate structural abuse of human power; that any vestiges should remain in the 1980s is a disgrace to professed international standards".¹⁷

Forced or Compulsory Labour

The slavery convention of 1926 as amended by the Protocol approved by the General Assembly in 1953, contains a paragraph in the preamble and one article dealing with the question of forced labour. The universal Declaration of Human Rights does not specifically mention forced labour, but only slavery. "However, it is clear from the records of discussions which preceded the adoption of article 4 that system of forced, compulsory or "corrective" labour were considered by the drafters of the Declaration to be new forms of slavery or servitude which were emerging in modern society, and were therefore, assumed to be included among the institutions and practices prohibited by the article".¹⁸ Article 8, paragraph 3 of the International Covenant on Civil and Political Rights reads: "No one shall be required to perform forced or compulsory labour".

¹⁷The United Nations and Human Rights, n.4, p.52.

¹⁸United Nations Action in the Field of Human Rights, n.6, p.140.

The supplementary convention on the Abolition of slavery, the slave-trade and institutions and practices similar to slavery of 1956 refers to forced labour only in a preambular paragraph which reads as follows. "Having regard to the Forced Labour Convention of 1930 and to subsequent action by the International Labour Organisation in regard to forced or compulsory labour..." The General Conference of ILO adopted a new "Abolition of Forced Labour Convention", on 25 June 1957, to abolish "certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights. Under article 1 of this convention each member of ILO which ratifies the convention undertakes to suppress and not to make use of any form of forced or compulsory labour:

- (a) "As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system,
- (b) As a method of mobilising and using labour for purposes of economic development,
- (c) As a means of labour discipline,
- (d) As a punishment for having participated in strikes,

(e) As a means of racial, social, national or religious discrimination".

Further under article 2 each state party undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in article 1. The implementation of the convention on Forced Labour has been further followed up by the ILO Committee of Experts, in accordance with the regular procedure based on examination of reports from ratifying states.

So far we have been analysing the human rights provision of the charter of United Nations and various UN instruments and also the various steps taken by the concerned UN bodies in accordance with those provisions.

Charter provisions regarding human rights marked a revolutionary step. Until then, the human rights issue was considered as an issue between individuals and the state. In other words it was only a domestic affair of each state. First time charter emphasised the importance of international law and expressed the international concern for human rights. Thus UN system has marked the beginning to march a long journey towards the promotion of respect for and observance of human rights. Though UN charter provides for the provision of human rights, that does not mean that all the states have

accepted those provisions. It cannot impose observance of human rights on all the members of the organisation. It requires them to co-operate in promoting respect for human rights and to take joint and separate action. By the **Universal Declaration of Human Rights**, UN set an international standard for nations and peoples. But it lacks the legal force of an international treaty. At the same time the states who ratify the Covenants take up the legal obligation to implement the provisions on human rights. Nonetheless the UN activities in the field of human rights have left their impact. In short we can say that **Charter** and other UN instruments have done much in the realm of promotion or standard setting, but much less as regards protection or measures of implementation. That is only because the organisation cannot exercise greater powers than its member states are prepared to give it.

Chapter III

INCIDENCE OF BONDED LABOUR IN INDIA

As we have already seen in the previous chapter the problem of slave-like practices such as bonded labour is no more a domestic issue of a state. It has acquired great international importance and concern as a violation of human right. Though world has advanced much in civilization and scientific progress, the problem of bonded labour is rampant in different parts of the world and India is not an exception. Bonded labour is a modified form of the slave system which existed centuries together in India and an outcome of the unequal socio-economic system prevailing in our country. The system provided for continuation of exploitation of the under privileged sections by the privileged sections of the society.

Generally speaking, all forms of labour are bonded or compulsory. Man is forced to work so that he may earn his livelihood. But based on the nature of the contract, we can classify the labour broadly into free and unfree labour. "Labour could be thought of as free if the possessor of that labour is able to realise the full market value for his service by withholding it or bargaining it or selling it in a free market."¹ According to Thorner and Thorner, "A free

¹H.V. Nagesh, "Forms of Un-free Labour in Indian Agriculture," Economic and Political Weekly, Vol.XVI, No.39, September 26, 1981, p.109.

labourer is one who is able to accept or reject the conditions and wages offered by the employer. If he wishes he may refrain altogether from working. Once having taken a job, he can decide to give notice and quit."² Economic stringency may compel a free labourer to agree temporarily to the terms he does not consider favourable. But his basic right to refuse work or to seek alternative employment remains uncompromised. Whereas an unfree or bonded labourer is "one whose bargaining power is virtually non-existent or has been surrendered. Such a labourer does not possess the right, or has yielded the right, to refuse to work under the terms set by his master."³ He can neither quit nor take up work for other masters without first obtaining permission. Bonded labour is one of the forms of unfree labour.

What is Bonded Labour?

Bonded labour has its roots in illiteracy, ignorance, poverty and other socio-economic conditions. It has acquired varied forms and it is prevalent in different sectors of economy and regions of the country. The bonded labour system Abolition Act, 1976 defines the bonded labour system as "the

²Daniel Thorner and Alice Thorner, Land and Labour in India (Bombay: Asia Publishing House, 1962), p.21.

³Ibid.

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 -

- (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or
- (ii) in pursuance of any customary of social obligation, or
- (iii) in pursuance of an obligation devolving on him by succession, or
- (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or
- (v) by reason of his birth in any particular caste or community,

he would -

- (1) 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 an unspecified period, either without wages or for nominal wages, or

- (2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
- (3) forfeit the right to move freely throughout the territory of India, or
- (4) 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".⁴

In a bonded labour agreement two parties are involved - a creditor and a debtor. The debtor pledges his person or sometimes a member of his family against an advance or any other economic consideration received from the creditor. He has to work for his master either without wage or for nominal wages, in cash or in kind, till the loan is repaid. During the period of bondage all of his fundamental freedoms and rights are forfeited. He has neither the freedom to move

⁴Bonded Labour System (Abolition) Act, 1976.

freely throughout the territory of India, nor the right to seek other employment or other means of livelihood. He also loses his right to sell his labour or the produce of his labour in the open market at market value. Nevertheless the debtor makes such an agreement because of his need for money, mainly for the maintenance of his family, or for marriage or for some other reason. In order to obtain a loan or advance from a money-lender, the debtor has to provide security. But a poor labourer unable to offer any other security pledges himself to work for the creditor. The debtor would not have normally agreed to pledge himself if he had money with him to pay. So a person who is economically backward would agree to take such loan on this condition. He then begins to work for the creditor either without wages or on paltry wages and hopes to repay the debts out of his wages, but the logic of usury defeats him. After him, his children and even grand children continue to work for nominal wages to liquidate the debts, thus the entire family becomes mortgaged for a small loan taken in some remote past. "The labourer", noted the Royal Commission on Labour in India, "borrows money from the landlord under a contract to work until the debt is repaid. The debt tends to increase rather than to diminish and the man, and sometimes his family, is bound for life."⁵ Theoretically it is possible

⁵Report of the Royal Commission on Labour in India, 1931 cited in Surendra J. Patel, Agricultural Labourers in Modern India and Pakistan (Bombay: Current. 1952), p.75.

for a bonded labourer to get redemption from the fetters of bondage by paying back the amount borrowed. But in reality his poverty and the exorbitant rate of interest do not allow him to shake off the bondage. As such the relationship of bondage amounts to a life-long stable alliance between the master and the labourer. Once a man accepts the status of a bondsman there is no escape from it.

Causes

1. Economic Backwardness and Indebtedness

The immediate factor which compels the labourer into bondage is the necessity of borrowing money. In India agricultural workers constitute the bulk of the rural labour force. These people do not get adequate work during the whole year as the nature of the agricultural operation is in itself seasonal, moreover the wages paid to agricultural labourers are not only inadequate but also not uniform throughout the season. On account of the lack of continuous employment and inadequacy of wages, these people find it difficult to maintain their families during the lean periods. They are, therefore, required to borrow from money lenders or big landlords for their domestic expenditure; besides money is needed for certain social customs like payment of dowry, ceremonies connected with births and deaths in the family and

other social cultural festivals, which are popular among the backward sections of the society. A study of Gandhi Peace Foundation, on bonded labour reveals that, "55 per cent of the bonded labourers take loans for the purpose of domestic expenditure, whereas the category of festivities and ceremonies falls as low as 30 per cent. The common assumption that labour goes into bondage voluntarily by incurring debts for unproductive purposes, like festive occasions, can be considered as refuted. The abject poverty and resultant incapacity to meet the three basic needs (food, shelter and clothing) drives the labour into bondage."⁶

2. Illiteracy

Another important factor because of which this evil is alive is the lack of education. Due to lack of education they are not conscious of the extent of exploitation, which they are liable to. Moreover, psychologically these people have been brainwashed by dominating class. Refusal of payment of debt is considered by them as a sin. They think that by working as bonded labour their need is satisfied and their problem is solved because they get food from the landlord. They don't have any higher ambitions. They do not think that

⁶Sarma Marla, Bonded Labour in India (New Delhi: Biblia Impex, 1981), p.147.

the labour they put with the landlord is much more than the amount of interest plus food. The psychological brain washing does not allow them to think more to free themselves from bondage. Only education can enlighten their minds and better their thinking pattern. Since they are illiterate they do not understand the amount entered and interest charged in agreement. It is noted that "Sometimes bonded labourers even fought and sacrificed their lives like a candid dog for their masters".⁷ Even they took pride in sacrificing their lives for protecting the interest of his masters. We cannot imagine that a literate person will do that.

3. Caste Structure

The most important reason for the origin of the bonded labour system can be traced back to the caste hierarchy and feudal structure of the Indian society. In the Hindu caste structure known as "Chaturvarna", the Sudras were always treated as the lowest and were subject to atrocities by the higher castes. All the heinous jobs were done by them. They were not entitled to hold land and have education. The Sudras had no rights at all but only duties and were required to serve the other three castes; he could not earn income or

⁷N.D. Kamble, Bonded Labour in India (New Delhi: Uppal Publishing House, 1982), p.7.

accumulate wealth by working for others. Since they had no right to education and no right to hold lands, they continued to remain uneducated, ignorant and landless. There was one more category of people, who did not follow the Varna system, and they were called outcastes or untouchables and unseeables. They were given even lower socio-economic status than that of Sudras and they could not be engaged in activities where their touch was involved. Since deprived of all rights they had to depend on others for their survival. Total dependence on others consequently reduced the status of Sudras and out-castes to that of slaves.

The victims of bonded labour system are, therefore, largely found among the backward communities and other economically weaker sections of the societies. "It is generally agreed that bonded agricultural labourers are drawn from the ranks of the aboriginal and untouchable section of the population".⁸ According to the Report of the Commission for Scheduled Castes and Scheduled Tribes, "about 80 per cent of the bonded labourers so far identified belong to SCs and STs".⁹ Whereas the survey conducted by Gandhi Peace Foundation

⁸K.G.Sivaswamy, cited in Patel, n.5, p.8.

⁹Report of the Commission for Scheduled Castes and Scheduled Tribes, April 1982-March 1983, Fifth Report, p.112.

reveals, "86.6 per cent of the bonded labourers come from Scheduled Castes and Scheduled Tribes".¹⁰ The Caste system not only resulted in ignorance and economic backwardness among these classes but psycho-religiously they are also under the belief that they are meant for the service of the higher castes and that they must have the protection of the mercy of the higher castes in the society for their survival.

The most important socio-economic effect of the human bondage is that it is a brutal violation of human rights. The bonded labourer forfeits all his fundamental freedoms and rights. It is apparent that under the system the labourers were being denied their just economic and social rights. Denial of wage or payment of wages less than the minimum wage is the first consequence of the unequal exchange relationship between the creditor and the debtor. He loses his freedom of opportunity for employment, his freedom of movement and his right to sell at market value the products of his labour. Bonded labour is thus grave but widespread violation of human rights - economic and social as well as political. As an analyst observes, "For all practical purposes a bonded labourer does not live the life of a human being. The man in him does premature death. Generation of

¹⁰Marla, n.6, p.144.

subhuman living effects complete emascination, physically and mentally... He develops servile attitude; motivation, creativity, even aspirations are nipped in the bud and have no place in personality development... He is an alien in the milieu that surrounds him. The galloping times has left him far behind. Modernity has refused to touch him. The child of a bonded labour is a potential hostage. His growth is stunted right from the womb... He remains 'fit' to be a slave and keep the flag of the father flying."¹¹ Thus the debt dehumanises him. The bonded labour system not only dispossess the labour but also divests him of his human essence.

State-wise Survey of Incidence of Bonded Labour

Because of linguistic differences, the bonded labour is known by a variety of names in different parts of the country.¹² Though there are variations in local names, a

¹¹M.K.Patra, "Bonded Labour: The Inhuman Bondage," in U.P.Arora, et al, Nurturants of Bonded Labour (Allahabad: Indian Academy of Social Sciences, 1977), p.9.

¹²The Bonded Labour System (Abolition) Act of 1976 has noted the following forms of bonded labour in different parts of the country - Adiyamar, Baramasia, Basahya, Bethu Bhagela, Cherumar, Garru Galu, Hali, Hali Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish System, Nit-Major, Paleru, Padiyal, Pannayilal, Sagri, Sanji Sanjawat, Sewak, Sewakia, Seri, Vetli.

common feature of all these forms of bonded labour is exploitation. The upper stratum in the society continues to indulge in this exploitation and the worst sufferers are the weaker sections, particularly the scheduled castes and scheduled tribes. Its incidence is more pronounced in the agricultural sector. It does not mean that non-agricultural sectors like stone quarries, brick kilns, weaving, hotel industry etc. are free from this menace. Here we focus our attention on agricultural sector.

1. Andhra Pradesh

In Andhra Pradesh the phenomenon of bonded labour is very much prevalent. The popular names for bonded labour are vetti, chakiri, jeetam and bhagela. It is completely absent in the coastal areas, but on medium and large scale it is prevalent in Rayalaseema and Telangana. 70 per cent of the bonded labourers belong to the historically deprived scheduled castes and 94 per cent of the bonded labourers in Andhra Pradesh are illiterate.¹³ They take loans ranging between Rs.500 and Rs.1,000, the average loan taken amounts to Rs.600 only.¹⁴ Mainly they have to do agricultural work alone. The loans taken by them are adjusted against their wages. Wages

¹³Marla, n.6, p.42.

¹⁴Ibid., p.45.

are paid both in kind and cash but in much lower when compared to those paid to the casual labourers. Attempt was made to abolish bonded labour through the Madras Debt Bondage Abolition Regulation 1940 in the Scheduled Areas of Andhra Region.¹⁵ The State Government also attempted to abolish the system and passed a law in 1947. All these legislations did not, effectively help in eradicating the evil. The Government of Andhra Pradesh, therefore, issued an Ordinance in 1975 banning the bonded labour practice in the state. That step also was proved to be ineffective. The various reports and surveys show that the evil is still prevalent in various parts of the state.

II. Bihar

In Bihar the problem is acute in different parts of the state. It is popularly known as Kamia and Bandhwa Majdoor. 80 per cent of the bonded labourers in Bihar come from the Scheduled Caste community, 10 per cent of them belong to Scheduled Tribes and 6 per cent come from the backward classes.¹⁶ The range of loan varied from Rs.22 to Rs.350 and of the period from few months to 20 years.¹⁷ The masters generally belong to

¹⁵K.C.Alexander, "Bonded Labour: A Review of Measures Adopted for Its Abolition," Social Action, Vol.29, April-June 1979, p.166.

¹⁶Marla, n.6, p.51.

¹⁷Alexander, n.15, p.166.

Brahmin and Baniya communities, who owned land and village shops. The Gandhi Peace Foundation survey reveals that "about 98 per cent of the bonded labourers never received any schooling. This is not only a symptom but also a cause of continued bondage and pauperisation".¹⁸ The predominant reason for their having become bonded labourers was indebtedness due to poverty. Vast majority of the bonded labourers have to work in agriculture alone. "The typical feature of bonded labour in Bihar may be found in the status of a bonded labourer as an agricultural worker-cum-domestic servant, who should be at the master's disposal whenever required. He may live in close proximity of the master's house, but he should always be available whenever the master needs him".¹⁹

The first attempt to abolish this practice was made as far back as in 1920, when the Bihar Orissa Kamiauti Agreements Act was passed. But this Act could not do much to eradicate the evil. Later recognising that rural indebtedness was at the root of the problem the Bihar government enacted two laws in 1974 to meet the situation (1) The Bihar Scheduled Castes, Scheduled Tribes, Backward Classes and

¹⁸Marla, n.6, p.52.

¹⁹Ibid., p.55.

Denotified Tribes Debt Relief Act 1974. (2) The Bihar Money Lenders Act 1974. In spite of these measures, the system of bonded labour continued unabated in this state.

III. Gujarat

In Gujarat the bonded labour is known as Hali and Halipatra. Southern and Eastern Gujarat belong to the very high, and high bonded labour incidence regions of Gujarat. One of the notable features of Gujarat is that vast majority of bonded labourers are recruited from tribal groups. According to the survey "65 per cent of the bonded labour in Gujarat belong to the tribal communities and only 27 per cent of them come from Scheduled Castes".²⁰ As elsewhere, almost all of them are illiterate. The main purpose of taking loan is to meet domestic needs, which explains the fact that lack of work in the open labour market had forced the agricultural labourer to go to the landlord and mortgage himself.

IV. Karnataka

In Karnataka the bonded labour system is known as Jeeta. As in other states of India, the majority of them belong to the Scheduled Castes and Scheduled Tribes. Under this system, the labourers are usually engaged on an annual

²⁰Ibid., pp.61-62.

basis and the contract between the employer and the worker is ordinarily entered into at the beginning of the agricultural year. The Jeeta servant works in the farms of his master for months and years till the loan is cleared off. The Jeeta relationship may last for generations. 74 per cent of the bonded labourers in Karnataka never had any chance of going to school and 5.4 per cent were able to make up to fourth standard.²¹ Generally the masters in Karnataka belong to the high caste Hindus. Yet surprising fact is that 10.2 per cent of the masters come from Scheduled Castes and Scheduled Tribes.²²

V. Kerala

In Kerala, the problem of bonded labour is prevalent only in Wynad district, the northern most region of the state, in a small measure. It exists mainly among the four tribal communities - Paniyans, Adiyans, Wynad Pulayans and Kattunaickans.²³ The bonded labour is called Valliyurkavu panam or Nilpu panam. The traditional manner of recruiting the tribals as bonded labourers is by advancing loans at the Valliyurkavu festival in the last week of March. The most significant feature of the system is that a tribal pledges

²¹Ibid., p.69.

²²Ibid., p.72.

²³Dr. P.R.G. Mathur, "Bonded Labour in Kerala," Vanyajati, Vol.24, July 1976, p.7.

not only himself but the members of his family as well against a loan. Until the debt is discharged all of them are bound to work for the creditor for which they get only daily meals. The relationship between the master and the bonded labourer lasts for years and sometimes for the whole life. "The minimum period for which a person had been bonded was one year and the maximum 40 years."²⁴

The state government had enacted a legislation "The Bonded Labour System (Abolition) Act, 1975". Thereafter the government entrusted the Bureau of Economics and Statistics to conduct a survey to identify the bonded labourers. Based on the information of the survey government has taken up various schemes for the release and rehabilitation of the identified bonded labourers. Though we cannot say it is fully eradicated, compared to other states the incidence of bonded labour in Kerala is very scanty.

VI. Madhya Pradesh

Bonded labour is popularly known as Bandwa majdoor and Lagua in Madhya Pradesh. It is also known as Hali system. A Report in Economic and Political Weekly mentions that in certain districts the Hali system enjoys the sancity of

²⁴Ibid., p.10.

generations.²⁵ As Madhya Pradesh has a large adivasi population, naturally a large number of bonded labourers come from Scheduled Castes and Scheduled Tribes. 90 per cent of them have no school education. According to the survey of Gandhi Peace Foundation²⁶ a number of bonded labourers do not know the amount of loan they have taken. Others have not taken any loan themselves but were bonded for customary reasons. Sometimes the bonded labourers are forced to work for the landlord. If they fail to appear they have to pay Rs.5 a day as fine to the landlord. During the years, these fines accumulate to a big amount. The mere brutal force of the landlord and the terror of his regime made bonded labourers work for him. Though majority of the masters are upper caste Hindus, around 23 per cent of them come from Scheduled Tribes landlords.

VII. Maharashtra

The Government of Maharashtra maintained that the system of bonded labour did not exist in the state. But some investigating agencies have evidences to the contrary. The Gandhi Peace Foundation made a survey in 65 villages and

²⁵"Bonded Labour: Invisible to Official Eyes," Economic and Political Weekly, Vol.XI, No.45, November 6, 1976, p.1754.

²⁶Marla, n.6, p.76.

estimated that there are one lakh bonded labourers in the state.²⁷ As in other states vast majority of the bonded labourers belong to the Scheduled Castes and Scheduled Tribes and generally illiterate. In Maharashtra the bonded labourers take big loans. The range extends from Rs.60 to Rs.5,000. Generally they have to do the agricultural and domestic work. The type of bondage which prevails in Maharashtra is bondage of the traditional type. The master demands servile service from the bonded labourer in the manner of a feudal landlord.

VIII. Orissa

The system of bonded labour known as 'Goti' prevailed in different forms in different parts of Orissa. It is also called 'Halya' in the coastal districts. The practice stipulated to work until the debt is repaid. Even children and near relatives of the Gotis had to serve the creditors if they died before the debt was liquidated. According to the survey conducted by Gandhi Peace Foundation, "The amount of loan which is sufficient to make a man bonded and deprive him of the right of freedom is very low in Orissa. We found bonded labourers who became bonded for a loan of Rs.5 or Rs.10... The poor man becomes bonded in Orissa. Under the

²⁷Ibid., p.84.

cover of one year contracts, greedy landlords take possession of members of the Scheduled Castes and Scheduled Tribes Communities and make them bonded slaves."²⁸ Unlike in other states the figures reflect a different picture of the caste composition of the masters in Orissa. Only 25 per cent of the masters belong to the upper castes. About 50 per cent of the masters came from Scheduled Castes, and 22 per cent from Scheduled Tribes.²⁹ The indebtedness is not the main reason for bondage in Orissa, the lack of other employment and poverty forced them to agree to the terms of bondage. In short bonded labour in Orissa is "a socially respected form of contract work into which a landless labourer enters whenever he finds no other means of survival".³⁰

Several measures have been taken since 1947 to regulate and abolish the evil practice. The Orissa Debt Bondage Abolition Act was passed in 1948 declaring all Goti arrangements void, unless the full terms of the agreements were expressed in writing and a copy submitted to the subdivisional officer. The system of Dadan Labour is another abusive form of bonded labour in Orissa. It has been observed that these workers work for 15 or 16 hours a day and for all days in a

²⁸Ibid., p.94.

²⁹Ibid., p.99.

³⁰Ibid., p.101.

week. At the place of work, each worker is issued everyday one kilogram of rice and 25 paise for vegetables, dal etc. With the enactment of the Orissa Dadan Labour (Control and Regulations) Act, 1975 the Government of Orissa tried to present the abuses inherent in the system. Still the practice is very much prevalent in various parts of the state.

IX. Rajasthan

In Rajasthan the system is known as "Sagri" and "Hali" and exists in 13 of the 26 districts of the state.³¹ It was customary for the labourers to take advances of money or grain from farmers, traders or money-lenders and become bonded to them. They belonged to Scheduled Castes and Scheduled Tribes and were bound to render both agricultural and domestic services, for the masters. The educational situation in the bonded labour affected area of Rajasthan is worse than in other states. 96 per cent of all bonded labourers have not attended school at all.³² On an average, the duration of bondage in Rajasthan is between 8 and 9 years. Majority of them were bonded for debts, although there are some other reasons for bondage in addition to debt bondage.

³¹Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1975-76 and 1976-77, pp.30, 34.

³²Marla, n.6, p.104.

Efforts were made initially to regulate the evil practice through the Scheduled Areas Act, 1951 and the Minimum Wages act, 1951. The Sagri Abolition Act, 1961, was, however aimed at totally abolishing the system. Again in 1975 the state government issued an Ordinance abolishing the bonded labour system. Still there is no much improvement in the situation.

X. Tamil Nadu

The Government of Tamil Nadu also denied the existence of bonded labour in the state. But various studies and reports show that the system prevails in various parts of the state. The Gandhi Peace Foundation estimated two and a half lakhs of bonded labourers in the state.³³ Even quite recently some cases of bonded labour are reported in Kodaikanal area.³⁴ The popular name for bonded labour is 'Padiyal'. Regarding the caste and community about 90 per cent of the bonded labourers belong to the scheduled castes and 8 per cent to the backward classes and majority of the masters came from the backward classes.³⁵ Most of the labourers are illiterate and are mainly engaged in agriculture.

³³Ibid., p.112.

³⁴K.P.Sunil, "Of Human Bondage," Illustrated Weekly of India, Vol.107, No.23, June 1986, pp.8-17.

³⁵Marla, n.6; pp.112, 117.

XI. Uttar Pradesh

In Uttar Pradesh the bonded labour is known as Bandhwa Mazdoor and Bandhak. The great majority of them belong to the scheduled castes and backward castes. Only a few could be called literate, others had not received any school education. There are three important reasons for taking a loan - acute poverty or urgent domestic needs; festive occasions or loans for death rites and marriage celebrations etc. and repayment of a previous loan. Once they take the loan, they agree to work to the money lender simply in lieu of the interest till the debt is repaid. The rates of interest in Uttar Pradesh are exorbitantly high and inter-generation and lifelong bondage is very common. The masters show a typical community/caste composition; the great majority of masters belong to upper castes.³⁶ The poor bonded labourers are often subjected to atrocities and inhuman treatment by the higher caste people. "In case bonded labour does not turn out for job due to illness or personal reason he has to send his wife or other members of family as substitute otherwise he is not given food and sometimes he is abused and beaten, physical punishment like cattle is still prevalent."³⁷

³⁶Ibid., p.128.

³⁷Indian School of Social Sciences, Calcutta, Bonded Labour in India (Calcutta: India Book Exchange, 1976), p.6.

So far there has been no comprehensive survey on national level to identify the nature and extent of the bonded labour system in our country. The estimates of total number of bonded labourers in different states of the country vary significantly. Most of the states were shy in revealing the exact statistics about the extent of its incidence. The main sources of the estimates are: (1) state governments; (2) The National Sample Survey Organisation (NSSO) and, (3) Gandhi Peace Foundation and National Labour Institute. Among these the survey conducted by Gandhi Peace Foundation in collaboration with National Labour Institute, is the only comprehensive survey made so far on national level, although they have covered only ten states. While the state governments identified only 2.13 lakhs bonded labourers, the 32nd round of NSSO survey had estimated the number at 3.45 lakhs in the 15 states surveyed by them. However, a nationwide survey by the Gandhi Peace Foundation and National Labour Institute conducted in 1978-79 in 10 states worked out the total figure to 26.17 lakhs. The state-wise figures are given in Table 1.

The table shows that notwithstanding several measures initiated by the Central and state governments to eradicate the phenomenon of bondage, the bonded labour system continued and still continues, even after so many years of independence. The approach to the problem has been so casual that till today,

Table 1

STATE-WISE FIGURES OF BONDED LABOUR

S.No.	State	As identi- fied by State Govt. as on 30.11.1986	As estima- ted by N.S.S.O.	As estimated by Gandhi Peace Founda- tion
1.	Andhra Pradesh	24,788	7,300	325,000
2.	Bihar	11,729	102,400	111,000
3.	Assam	-	4,400	-
4.	Gujarat	62	4,200	171,000
5.	Haryana	295	12,900	-
6.	Himachal Pradesh	-	-	-
7.	Jammu & Kashmir	-	900	-
8.	Karnataka	62,689	14,100	193,000
9.	Kerala	823	400	-
10.	Madhya Pradesh	5,627	116,200	500,000
11.	Maharashtra	740	4,300	100,000
12.	Manipur	-	-	-
13.	Meghalaya	-	-	-
14.	Nagaland	-	-	-
15.	Orissa	43,947	5,400	350,000
16.	Punjab	-	4,300	-
17.	Rajasthan	6,890	2,400	67,000
18.	Tamil Nadu	33,180	12,500	250,000
19.	Tripura	-	-	-
20.	Uttar Pradesh	2,269	31,700	550,000
21.	West Bengal	-	21,600	-
22.	All Union Terri- tories	-	-	-
TOTAL		213,465	345,000	2,617,000

Source: A.K. Srivastava, "Identifying Bonded Labour a Knotty Problem," Yojana, Vol.31, No.8, 1987, p.14.

no comprehensive nation-wide survey has been conducted to estimate the number of persons, who are trapped into the tentacles of bondage. Adequate legislation and its proper implementation is the only remedy for this evil. Hence the next chapter deals with the legislative measures and the process of rehabilitation.

Chapter IV

BONDED LABOUR IN INDIA: PROBLEM OF ABOLITION AND REHABILITATION

As we discussed in the preceding pages the incidence of bonded labour abounds in various parts of the country. Here we intend to discuss various legislative measures specifically, and how the process of rehabilitation was undertaken and with what results.

As regards the legislative measures, the Indian slavery Act of 1843 enacted by the then British Government was the first step which aimed at checking this evil practice. Subsequently legislative measures were taken by different provinces in British India, in accordance with the Slavery Act. India also expressed its goodwill and sincerity in abolishing slave-like practices such as bonded labour by being a party to the International Instruments on this issue. Except the Forced Labour Convention of 1957, India has ratified all other International Conventions on slavery and forced labour.

Legislative Measures After Independence

The Bonded Labour System has never been legal in independent India and the fact that the practice has persisted in almost all the states in some form or the other shows the

tenacity of the system. Immediately after Independence in 1947 Provincial Labour Ministers Conference agreed in principle to abolish the bonded labour system.¹ In accordance with that, many state governments passed laws banning the forced labour. Neither they were effective nor there was uniformity in the laws as they varied from state to state. All these Acts failed to implement the provisions and check the bonded labour mainly because the landlords who were holding huge lands were from high castes and had caste support. They could also influence the executive while the bonded labourers in whose favour laws were made, were poor and belonged to the under privileged low castes having no support of the executive.

Only after the adoption of the Constitution of India, on national level, forced labour in any form was made illegal and unconstitutional, under article 23 of the Constitution which prohibits "traffic in human beings and beggar and other similar forms of forced labour". Further it was made punishable offence under Indian Penal Code Section 374.² In response to the Constitution of India laws of all states and

¹N.D. Kamble, Bonded Labour in India (New Delhi: Uppal Publishing House, 1982), p.10.

²R.K.Tiwari, "Enforcement of Bonded Labour System Abolition Act: A Review," Journal of Social and Economic Studies, Vol.2, No.4, October-December 1982, p.383.

Union Territories were to be suitably amended if they were contrary to the provisions of the article 23. As we have already seen, in accordance with the provisions of the constitution many states amended their previous laws or passed new laws.

Even these laws did not serve the purpose because their execution was left to the bureaucracy who had no sympathy for the vulnerable sections of the society. Moreover the masters had upper hand even while implementing the legal provisions. Therefore, it continued in India even after independence.

The first Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1951 which gives a background of the steps taken by the Government of India, states that "inspite of vigorous efforts of the government, forced labour is still in existence and it is mostly the Scheduled Castes and Scheduled Tribes that are suffering on account of this unlawful practice".³ Again after more than twenty years the Commissioner notes, "The system of bonded or forced labour in some form or other is still in

³Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1951 in Indian School of Social Science, Calcutta, Bonded Labour in India (Calcutta: India Boox Exchange, 1976), Appendix I, p.vi.

existence in some states and Union Territories".⁴ The problem of bonded labour received serious attention of the government and the parliament before whom these reports were placed. In this connection the Prime Minister in her broadcast to the nation on 1 January 1975 observed, "The practice of bonded labour is barbarous and will be abolished. All contracts or other arrangements under which service of such bonded labourers are now secured will be declared illegal".⁵ Subsequently the abolition of bonded labour system was one of the major items included in the 20-point Economic Programme announced by the then Prime Minister on 1 July 1975. "Bonded Labour is abolished and shall be declared illegal wherever it exists",⁶ - thus read item No.5 of the 20-Point Programme. In pursuance of the Prime Minister's declaration an Ordinance entitled, "Bonded Labour System (Abolition) Ordinance, 1975," was promulgated on 25 October 1975, abolishing bonded labour, with immediate effect. The Ordinance was later replaced by an Act of Parliament on 9 February 1976, called "Bonded Labour System (Abolition) Act, 1976".

⁴Ibid., for the year 1972-73, p.LXVI.

⁵Prime Minister's Radio broadcast to the Nation on 1 July 1975, cited in O.K. Moorthy, "Rehabilitation of Freed Bonded Labourers," Vanvajati, Vol.24, October 1976, p.9.

⁶20-Point Programme item No.5, cited in Lakshmidhar Mishra, "Challenges of Retrieving Bonded Labour," Yojana,

The Act is a comprehensive piece of legislation and this drastic step created a feeling in all quarters that bonded labourers would be identified and freed soon. The Act defines the system and declares all types of bonded labour as illegal and the indebtedness of the bonded labour has been legally nullified. Punishment has been provided for those who are responsible for the continuation of the bonded labour system and machinery has been provided for implementing the provisions and also for supervising the implementation.

Main Provisions

1. Bonded labour is declared illegal. All the bonded labourers stand freed or discharged from any obligation to render bonded labour.
2. The Act states that in future after the commencement of the Act no person shall make any advance under or in pursuance of the bonded labour system or compel any person to render any bonded labour.
3. Any custom or tradition or any contract by any member of the family or dependent of such person who is required to do any work or render any service as bonded labourer shall be void and inoperative.
4. On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt stands extinguished.

5. No person who has been freed and discharged shall be evicted from any homestead or other residential premises which he was occupying.
6. Any violation of its provisions shall be a cognizable offence, punishable with imprisonment which may extend to three years and also with fine which may extend to Rs.2,000.
7. Vigilance Committees at the district and sub-divisional levels will be set up to advise the implementing authorities on all matters relating to the enforcement of the legal provisions.

This Act has an overriding effect on the laws of the states. Any state legislation that is inconsistent with or contrary to the Central Act shall be null and void. The responsibility of implementing the provisions of the Act rests upon state governments.

Process of Rehabilitation

It is evident that any programme aiming at eradication of poverty and promotion of human rights or eradication of such evil practices as bonded labour demands not only legislative measures but a comprehensive programme of rehabilitation. The strategy, which Government proposes to achieve the objective of the abolition of bonded labour system

involves the identification, release and rehabilitation of bonded labourers. The proper rehabilitation within a reasonable period of time is the most important thing, otherwise there is every possibility that the freed bonded labourers may again fall back into the clutches of old masters.

A review of the measures initiated at the national as well as state level indicates that no worthwhile effort was made to rehabilitate the bonded labourers until 1976. All the laws made in the past to tackle the problems of slavery, forced labour and debt bondage were only regulatory in nature and were not meant for rehabilitation. Slavery was declared illegal in 1843, in India. Since then, most of the provincial governments had enacted special laws to eradicate the debt bondage. After independence the state governments continued fresh legislative exercises in this direction. Nonetheless agricultural serfdom continued unabated in various parts of India. The Bonded Labour System (Abolition) Act, 1976 emphasized for the first time, the importance of rehabilitation of bonded labourers besides their identification and release. The main objective of the rehabilitation programme is to enable the freed bonded labourers to become economically self-sufficient and socially conscious of their rights.

Act Provisions

The Bonded Labour System (Abolition) Act envisages the identification, release and rehabilitation of bonded labour. District Magistrates have been entrusted with the responsibility of implementing the provisions of the Act. It falls in his duty to detect and rehabilitate the released labourers by securing and protecting the economic interests of such labourers so that they may not have any occasion or reason to contract any further bonded debt. This duty is to be done by him generally with the help of the Vigilance Committee, that is constituted according to the provisions of the Act.⁷ There will be vigilance committees in each district and each sub-division and shall consist of the following members:

The District Magistrate or a person nominated by him, three persons from the Scheduled Castes and Scheduled Tribes residing in the district, two social workers residing in the district, not more than three persons from the official or non-official agencies connected with rural development and one persons as representative of the financial and credit institutions. One of the main functions of the Committee is

⁷Bonded Labour System Abolition Act, 1976, Section 13.

"to provide for the economic and social rehabilitation of the freed bonded labourers".⁸

Identification

This is the primary stage in the process of rehabilitation. The Bonded Labour System (Abolition) Act prescribes the manner in which the bonded labourer is to be identified and freed. This is a judicial process and is performed by the magistrate under the Act. The Commissioner for Scheduled Castes and Scheduled Tribes opines: "There are two problems which require immediate attention in regard to the bonded labour system. The first is the identification of the bonded labourers undetected so far and second is about the rehabilitation of the freed bonded labourers."⁹ In other words identification of the bonded labour is the first step in the full implementation of laws abolishing the evil practice. This identification cannot be viewed as the same as plain counting of heads as in a census operation. "Identification in its true sense and ultimate analysis is discovery of a non-being, who though a human being has been reduced to a non-entity on

⁸Ibid., Section 14(1) b.

⁹Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1974-75, p.118.

account of years of unchecked social discrimination and economic exploitation tolerated due to an inexplicable social resilience."¹⁰

In a social situation, dominated by the forces who have promoted the system and who have thrived on it, it is very difficult to identify the actual sufferers. There are two aspects in the entire process, one is the methodology for discovery and other is machinery. The Act speaks of some machinery like the District Magistrates and the Vigilance Committee responsible for the implementation of the statutory provisions but does not lay down any precise methodology as such. Here lies the whole handicap in the process of identification. In actual practice the task of identification has been left to be performed mostly by the lower level personnel of the bureaucracy according to their own expediency. Added to this is the problem created due to the reluctance of the state governments to admit the existence of this evil system even where it is prevalent.

The state governments are still shy of admitting the existence of bonded labour in their states. In the beginning the states and Union Territories of Andaman and Nicobar Islands,

¹⁰Lakshmidhar Mishra, "Challenges of Retrieving Bonded Labour," Yojana, Vol.31, No.8, 1987, p.8.

Andhra Pradesh, Assam, Chandigarh, Dadra and Nagar Haveli, Delhi, Goa, Daman and Diu, Haryana, Madhya Pradesh, Gujarat, Jammu and Kashmir, Lakshadweep, Maharashtra, Manipur, Mizoram, Nagaland, Pondicherry, Sikkim, and Tripura informed the Ministry of Labour that bonded labour system is not in existence in their areas.¹¹ But the Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1974-75 shows the system is prevalent in most of these states and Union Territories. That means the attempts to identify the bonded labourers have been half-hearted. As per reports received from the State Governments, 213,465 bonded labourers have been identified up to November 1986.¹² The estimates of total number of bonded labourers in different states vary significantly according to the different agencies who have conducted the survey. Going through the statistics one can presume that the process of identification by state governments has been very slow. As it is rightly observed "At the rate at which the state governments are identifying bonded labour, the problem would continue to exist for a 100 years from now".¹³

¹¹Report of the Commissioner, n.9, p.118.

¹²A.K.Srivastava, "Identifying Bonded Labour a Knotty Problem!", Yojana, Vol.31, No.8, 1987, p.13.

¹³Dr.H.Pais, "Rehabilitate Quickly After Freeing Them", Yojana, Vol.31, No.8, 1987, p.23.

Since proper identification is not done there is a sharp difference even on the numbers of those in bondage. Therefore, wide and wild variations in the estimates of persons to be liberated co-exist. The state governments were for a long time ashamed of accepting the fact that bonded labour is rife in their territory. According to an analyst, "There seems to be no limit to the extent to which states go in order to underestimate or deny the existence of bonded labour. This is what the Tamil Nadu Government did until it was brought face to face with the statistics collected by the official National Sample Survey Organisation".¹⁴

Release

The next step is the release of the identified bonded labourers, from the shackles of bondage. "On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall... stand freed..."¹⁵ It has been observed that hitherto a very formal, rigid and legalistic approach is being followed in securing release of the identified bonded labourers. For every case of release each labourer has to undergo an endless process of trial with the normal

¹⁴M.V. Desai, "Released from Bondage, But...", Commerce, Vol.149, August 4, 1984, p.142.

¹⁵Bonded Labour System (Abolition) Act, 1976, Section 4(1).

procedure for recording of evidence. This will always be detrimental to the bonded labourers, who on account of fear, insecurity, absence of alternative job and illiteracy may not be able to admit that they lack the freedom of movement, have no choice of work etc.

This is one of the reasons for a wide gap between the number of bonded labourers which should have been identified and the number of actually identified and released. According to the information available with the Ministry of Labour more than two lakh bonded labourers have been identified in respect of eleven states as on 30 June 1986, but it is not certain if all of them have been released from bondage and if formal release certificates have been issued in favour of all of them.¹⁶

Since the poor and illiterate people can hardly withstand the rigours of law and the rigidities of a soulless legal process, much of the success depends upon the simplicity of method, adopted. In this case an unconventional and unorthodox approach should be adopted. Then only the bonded labourers can be taken into confidence and produce the desired result. Not only that the identification and release should be simultaneous.

¹⁶Mishra, n.10, p.9.

Rehabilitation

Following the identification and release the so-called 'means of livelihood' of the bonded labourers are dislocated. Theoretically he is now free to offer himself in the open market, but the practical situation is different. Because of these circumstances, it is necessary that release of bonded labour should be immediately followed by rehabilitation. It is given much importance that the rehabilitation of freed bonded labourers figures as item No.6 of the 20-Point Programme announced on 14 January 1982.¹⁷ Under the Act, the "District Magistrate authorised by the state government under Section 10 and the officer specified by the District Magistrate under that section shall as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt."¹⁸

The problem of bonded labour is both economic as well as social and therefore, the released labourers should be rehabilitated both socially and economically. The Commissioner for SC and ST observes that the rehabilitation process is to

¹⁷Ibid.

¹⁸Bonded Labour System (Abolition) Act, 1976, Section 11.

be three-fold. Immediately after a person is free, there is a need to provide financial help, food and clothing. The second part of rehabilitation would require allotment of house sites and land to landless agricultural labourers and some gainful employment to the adult members of the family. In the third phase a coordinated plan on long term basis, familywise, should be prepared for these persons for the economic rehabilitation in a manner which will enable them to stand on their own feet.¹⁹ In short, he has to start from the scratch and for that purpose all sorts of help should be provided. "If identification of bonded labourers is like discovery of non-beings, rehabilitation of released bonded labourers is a kind to resuscitating them from the morass of poverty, deprivation of subjugation and giving them the status of beings, so that they may be able to identify themselves with the mainstream of a civilised human society and realise the dignity, beauty and worth of human existence".²⁰

The Act originally envisaged that the state governments would take care of the rehabilitation of freed bonded labourers under the existing anti-poverty programme. But the state governments experienced financial and operational

¹⁹Report of the Commissioner, n.9, p.119.

²⁰Mishra, n.10, p.10,

limitations under the ongoing schemes and requested that central assistance should be provided to expedite the process of rehabilitation. This has led to the launching of "Centrally Sponsored Scheme for Rehabilitation of Bonded Labourers" since 1978-79, at a total cost of Rs.2 crores.²¹ Under this scheme a person is provided agricultural land or milch animals or implements or other facilities required for skill and craft-based occupations. This scheme has been in operation since 1979 in Andhra Pradesh, Bihar, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. It provides for a total subsidy of Rs.4,000 per head for the rehabilitation, half of which is the central share.²² The state governments have been pleading for enhancement of the ceiling, for the amount provided by the Centre is totally inadequate for formulating any worthwhile scheme of rehabilitation. Accordingly the amount was raised to Rs.6,250 from 1 January 1986.²³

Revised Scheme

To make the rehabilitation programme more meaningful the government of India issued revised guidelines in

²¹Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1978-79, p.30.

²²Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1979-81, p.28.

²³Pais, n.13, p.24.

1982.²⁴ According to this scheme stress is laid on two components:

- (1) Psychological rehabilitation
- (2) Physical and Economic Rehabilitation.

The two are interdependent, not independent.

Psychological Rehabilitation

Bonded labourers are used to a world of domination and servitude and are not aware of their rights. They believe that the destiny has condemned them to eternal bondage and there is no escape from it. It is a psychological phenomenon, and therefore, psychological rehabilitation is equally important as the economic rehabilitation. They need to be assured that they are also human beings, entitled to earn their livelihood and decent living like any other human being and that in times of need they need not fall back upon the usurious money lenders. If this is not assured there is every possibility of their going back to the debt bondage. "The first pre-requisite of psychological rehabilitation is that freed bonded labourers must be wrenched away from the old habitat and be rehabilitated at a place where they will no longer be subject to the

²⁴A Blue Print on Rehabilitation of Freed Bonded Labourers (Ministry of Labour, Government of India, 1982).

pernicious influence of the erstwhile bonded labour keepers. Unless they are psychologically assured and reassured that after release from bondage debt will not regulate their destiny any longer, there is every possibility that they will prefer sliding back to debt bondage".²⁵ The officials at the village and block level directly concerned with the release of bonded labourers have to play a significant role in this regard.

Physical and Economic Rehabilitation

It has the following major components:

(1) Allotment of house-site and agricultural land; (2) Land development; (3) provision of low-cost dwelling units; (4) agriculture; (5) credit, including consumption loan; (6) horticulture; (7) animal husbandry, dairy, poultry, piggery, fodder cultivation etc.; (8) training for acquiring new skills, developing existing skills, role of Trysem; (9) Traditional arts and crafts; (10) wage employment, enforcement of minimum wages etc; (11) collection and processing of minor forest produce; (12) health, medical care, sanitation etc.; (13) supply of essential commodities; (14) education of children of bonded labourers; (15) protection of civil rights.

²⁵Mishra, n.10, p.9.

As the bonded labourers have a widely different socio-economic background, no uniform guidelines for psychological, physical and economic rehabilitation can be laid down. Any programme to this end should be drawn up carefully to suit the local conditions. The basic approach behind any such rehabilitation effort should, however, be need based and development oriented. In other words, viability of a particular scheme or programme from the point of view of special needs of the freed bonded labourers should be examined and ensured.

The position as regards the number of bonded labourers identified, freed and rehabilitated in eleven states on November 1980 and June 1982 is given in Table II.

The table shows that the pace of identifying and freeing the bonded labourers has not been uniform in the eleven states. So is the case with the process of rehabilitation as well. The percentage of those rehabilitated to their total number identified and freed in these states works out only 58.14 per cent. The progress is unsatisfactory.

The figures regarding the release and rehabilitation of bonded labourers from 1977 to 1986 show that there is a

TABLE II

S.No.	State	Number of Bonded Labourers Identi- fied and Freed		Rehabilitated		Percentage of Rehabilitation	
		11/80	6/82	11/80	6/82	1980	1982
1.	Andhra Pradesh	12701	13422	7386	8610	58.15	64.15
2.	Bihar	4218	7651	2785	4503	66.03	58.86
3.	Gujarat	42	63	42	62	100.00	98.41
4.	Karnataka	62689	62699	46418	31189	74.05	49.74
5.	Kerala	700	829	308	452	44.00	54.52
6.	Madhya Pradesh	1531	1777	58	263	3.79	14.80
7.	Orissa	337	15632	321	1323	95.25	8.46
8.	Rajasthan	6000	6047	6000	6027	100.00	99.67
9.	Tamil Nadu	27874	27874	27670	26964	99.29	96.74
10.	Uttar Pradesh	4469	8644	4469	4584	100.00	53.03
11.	Maharashtra	-	292	-	292	-	100.00
<u>TOTAL:</u>		120561	144930	95457	84269	79.78	58.14

Source: Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year April 1981-March 1982, p.12.

substantial gap between them. The following chart is ample proof for this.

Table III
RELEASE AND REHABILITATION OF BONDED LABOUR

Year	Number identified and freed	Number rehabilitated
1977	102,060	23,728
1978	118,844	83,249
1979	N.A.	N.A.
1980	120,971	103,707
1981	133,663	109,781
1982	152,338	111,769
1983	163,245	116,917
1984	173,814	131,407
1985	194,263	144,284
1986 ²⁶	214,842	175,603

Source: Dr. H.P. Pais, "Rehabilitate Quickly After Freeing Them," Yojana, Vol.31, No.8, 1987, p.23.

The Programme Evaluation Organisation (PEO) of the Planning Commission which conducted a study of the rehabilitation programmes found that the conditions of bonded

²⁶M.Yunus Siddiqui, "Rehabilitation of Bonded Labour Under 20-Point Programme," Yojana, Vol.31, No.8, 1987, p.31.

labourers between release and rehabilitation was miserable. In a number of cases the families were found to be starving. The findings of PEO survey regarding the time lag between release and rehabilitation is given in the following table.

Table IV

S.No.	Time	Number	Percentage
1.	Upon release	57	7.3
2.	Less than six months	49	6.3
3.	Six months to an year	100	12.8
4.	One to two years	99	12.7
5.	Two to three years	219	28.0
6.	Three to four years	175	22.4
7.	Four to five years	83	10.6

Source: M.V. Desai, "Released from Bondage, But...", Commerce, Vol.149, August 4, 1984, p.142.

The table shows that out of 782 beneficiaries selected by the PEO for its study, 725, i.e. 92.7 per cent, reported a time lag between release and rehabilitation. Approximately half the number of the beneficiaries reported that their income in the intervening period was not sufficient to support their families. Although, provision exists for providing a

subsistence allowance to the bonded labourers immediately following release, in practice this was given only to 48 per cent of the bonded labourers. The chart shows that the gap between release and rehabilitation was considerable. Over 60 per cent of them were rehabilitated anywhere between two and four years after release.

The survey further reveals that the maximum number of beneficiaries were rehabilitated on land based schemes and generally the land given to them was of poor quality. Among the non-land based schemes were supply of milch animals, pigs and poultry. The beneficiaries had no choice in the selection of schemes. The selection is made by the implementing agencies only. In many cases where cattle were given, there was no land for raising fodder. Moreover, the total assistance offered appears to be inadequate to subsist the released bonded labourers' family in subsequent years.

It is worth mentioning in this connection what Supreme Court has to say on this issue. The Supreme Court after going through the merits of certain cases on bonded labour, has delivered landmark judgements, directing state governments to implement the provisions of the Bonded Labour System (Abolition) Act in letter and spirit. Justice P.N.Bhagavati in the case of Neerja Chaudhary Vs State of M.P., gave his judgement, "it is not enough merely to identify and release

bonded labourers but it is equally, perhaps, more important that after identification and release, they must be rehabilitated, because without rehabilitation they would be driven by poverty, helplessness and despair into serfdom once again... what use are identification and 'release' to bonded labourers if after attaining their so called freedom from bondage to a master, they are consigned to a life of another bondage, namely, bondage to hunger and starvation where they have nothing to hope for - not even anything to die for - and they do not know whether they will be able to secure even a morsel of food to fill the hungry stomachs of their starving children."²⁷

One reason why the well designed projects like the rehabilitation become a failure or at least do not reach the target, is due to the slothful attitude of the concerned state governments. Often the state administrations fail to make use of the funds allotted to them for this purpose. The state-wise allocation and expenditure under the centrally sponsored scheme for rehabilitation and the number of persons rehabilitated from 1978-79 to 1980-81 are given in Table V.

²⁷Justice P.N.Bhagavati in Neerja Chaudhary Vs State of M.P., cited in Supreme Court on Bonded Labour, Yojna, Vol.31, No.8, p.35.

Table V

S.No.	Name of the State	Allocation 1978-79 to 1980-81(in lakhs of Rs)	Expenditure 1978-79 to 1980-81 (in lakhs of Rs)	% of uti- lisation	Bonded labourers rehabili- tated/ covered re- habilitation	Per Capita cost (in Rs)
1.	Andhra Pradesh	56.90	48.98	86.08	6774	723.06
2.	Bihar	43.24	13.22	30.57	3052	433.16
3.	Karnataka	142.57	14.96	10.49	15484	96.62
4.	Kerala	2.25	1.65	73.33	170	970.59
5.	Madhya Pradesh	17.00	1.21	7.12	58	2086.21
6.	Orissa	16.33	8.41	51.50	854	984.78
7.	Rajasthan	34.88	14.00	40.44	1744	802.75
8.	Tamil Nadu	7.02	-	-	359	-
9.	Uttar Pradesh	30.0	20.0	66.67	3001	666.44
	<u>TOTAL</u>	350.19	122.43	34.96	31496	388.72

Source: Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year April 1981-March 1982, p.13.

The half hearted approach of the state governments is very well reflected in the table. The percentage of the utilisation of the funds is nil in the state of Tamil Nadu although they have rehabilitated 359 bonded labourers. In Madhya Pradesh the percentage is merely 7.12 per cent and the number of rehabilitated is 58. Although, Karnataka rehabilitated 15,484 persons it has only utilised 10.4 per cent of the allotted fund. All these highlight a hard reality that the rehabilitation programme have not been taken up sincerely and seriously and therefore, so far it could not achieve the desired results.

It may be mentioned that in several quarters, the term rehabilitation is misunderstood as mere distribution of money, land, milch animals etc. But real rehabilitation is a long term process to the extent of making non-beings into real human beings. They have to be assured and reassured that they are free citizens of a free country and therefore, like any other citizens, are entitled to certain inalienable human rights and to certain irreducible barest minimum needs of life.

Factors Responsible for the Continuance of Bonded Labour System

Economic Factor

Among the various factors responsible for the continuance of the system, the economic factor has been most

predominant one. The bonded labour system emerges out of economic indebtedness and continues because of that. The National Commission on Labour in India aptly remarked, "The system grew out of acute indigence and helplessness of tribal and semi-tribal communities in the grip of precarious subsistence economy".²⁸ The survey of Gandhi Peace Foundation reveals that debt was the most important obligation under which people were forced into bondage. There is a wide gap between the haves and have-nots. As long as our agrarian set up and economic structure continue like this the bonded labour system will also continue.

Ignorance and Illiteracy

Even after more than 40 years of independence acute illiteracy and superstition are rampant in our country. Though the Directive Principles of State Policy have obligated the Central and State Governments to take steps and adopt measures for the purpose of ensuring basic education to the people, so far no sincere step has been taken in this direction. All the studies and surveys show that almost all of them who are sliding into the debt bondage are the poor illiterate masses. These people can be easily brainwashed and kept under bondage. Once they get education they will be enlightened and they would start demanding their rights.

²⁸Moorthy. n.5. p.8.

Lack of Political and Administrative Will

In the Indian socio-economic context, even after various legislations to eradicate the evil practice, the most important factor responsible for the its continuance is the lack of political support and administrative will. In democratic set up political support ¹ plays an important role in the enforcement of regulatory laws. In India the landed class constitute an important segment in the deliberative bodies right from the Panchayat institutions to the Lok Sabha. This landed upper class is very much dependent on the farm workers. Therefore, they will do their maximum to keep them under bondage. Though almost all the state governments and union territories agreed that legislation for abolition of bonded labour was necessary, after the Bill became an Act some states and union territories denied the existence of bonded labour in their regions. Even those states, which admitted the prevalence of the system, took up the work of identification and release in an extremely half-hearted manner. Not only that even after more than a decade of enacting the Act, no thorough nation-wide survey was conducted for the identification of bonded labourers. In most cases those who are freed are not rehabilitated. The time lag again makes them fall into the same pit. All those show the lack of political and administrative will.

Lack of Commitment

The success and failure of the enforcement of the Act mainly depend upon the officials who are involved in its implementation. Their commitment is an important factor and that is what lacks in our socio-political system. It is noted that in Tehri Garhwal (Uttar Pradesh) the district authorities initially denied the existence of bonded labour and later on when the work was entrusted to a separate authority, more than 344 bonded labourers were identified and released in one block in a short period of time.²⁹ This lack of commitment to one's job has become a curse in Indian bureaucracy from top to bottom.

Moreover the Act envisaged setting up of vigilance committees as the main instrument for enforcement of the Act. As Tiwari notes: In Chikmangalur (Karnataka) and Medak (Andhra Pradesh) no such committees were established at all, right from the commencement of the Act till 1983. In Jabalpur (Madhya Pradesh) these committees were established merely as a matter of formality. In Tehri Garhwal district it was defective in composition to such an extent that at least one of the members had 18 bonded labourers serving under him.³⁰ All these clearly show the indifference of the

²⁹Tiwari, n.2, p.393.

³⁰Ibid., p.392.

authorities towards the setting up of the Vigilance Committees. Such committees will be mainly interested on devising ways and means of getting their allowances.

To sum up, though we have a comprehensive piece of legislation with us, the problem of bonded labour nevertheless continues to exist, even after the passage of twelve years of its enactment. Unless and until they are identified, released and properly rehabilitated the system is likely to continue.

Chapter V

CONCLUDING OBSERVATIONS

From the analysis presented above, it is evident that slavery and slavery-like practices are naked violation of human rights. Notwithstanding, the international norms laid down by ILO and UN and various legislative measures adopted by nations, the problem of slavery-like practices is still rampant in different parts of the world. It is intertwined with various socio-economic problems. It is tragic that, the more man became civilised, the better devices he developed to perpetuate his stranglehold on weaker sections. In our country this sort of exploitation remained prevalent for centuries. Even though, the term 'bonded labour' is of recent origin, for all practical purposes, the connotation remained the same as that of a slave. Bonded labour should be handled both as an issue of human rights and an economic and social issue. Unless and until the socio-economic structure of our society is revamped in favour of the have-nots, this inhuman practice is likely to continue.

The present study is a general analysis of the prevalence of bonded labour in India. Its major focus is on the incidence of bondage and the impact of rehabilitation programmes on the freed bonded labourers. From the study the following conclusions may be drawn.

The bonded labour system is a brutal violation of human rights and the phenomenon of bondage is the offshoot of feudal relations and caste system which continues to exist in the rural sector of India. Most of the bonded labourers come from the weaker sections of the society especially from the Scheduled Castes and Scheduled Tribes. The evil is perpetuated by the factors like economic indebtedness, illiteracy and lack of commitment from the part of the officials. The masters belong mostly to the upper castes and represent very powerful sections of the community, socially, politically and economically. The major purpose of loan is for domestic expenditure like food, clothing and shelter. Either they are unpaid or paid the wage lower than the minimum wage fixed by Government. There is no proportion of the wage paid and the amount of work done. Regarding the process of rehabilitation, the pace of identification, release and rehabilitation is totally unsatisfactory. Often the State Governments have taken very slow and half-hearted approach in the process of rehabilitation. The time lag involved in the process, relapses them into bondage. The lack of political will from the part of the Government and the lack of commitment from the part of the implementing authorities have frustrated the measures of rehabilitation. The official machinery engaged in the programme of rehabilitation

is generally prone to be influenced by the feudal elements, and in the process, the machinery itself is acquiring feudal attitude.

Though it was the Europeans who perpetuated the system of slavery in its ugliest form to suit to their selfish and vested interests, long back they had done away with the evil practice. But the countries like India is still limping out of this handicap. The problem of slavery in India is as ancient as the Indus Valley civilisation and continues to exist even today in the disguised form of bonded labour, in all the sectors of economy, particularly in the agrarian sector. As we have already noticed, it is deeply rooted in the structure of our society itself. It originated from the unequal hierarchical social stratification of Indian society. Economic disabilities of a group of people, due to their low social status exposed them to exploitation. It was not only justified but also glorified by the religious scriptures as they were written by those who enjoyed the advantages of the system. Feudalistic caste-ridden Indian society approved this agrestic slave system and provided built-in-mechanism for its continuation and perpetuation. Victims had no other option but to accept the slavery as a way of life. Psychologically, they were not prepared to question the inhuman system owing to their illiteracy and ignorance. Thus the backwardness

of their minds enabled the system to continue without disturbance and the legacy of slavery prevailed in the form of bonded labour up to modern times.

No ruler in India had formally banned this inhuman system because it had social sanction and political approval. Though the British Government abolished the slavery, it had only very limited impact on the practice which is referred to as bonded labour. After the achievement of independence, that was more political than socio-economic, the then leadership having respect towards human dignity, included in the constitution provisions against forced labour. Indian constitution recognised all citizens equal irrespective of religion, caste and creed. Moreover Indian Government has ratified all but one international conventions on slavery and forced labour¹. Thus, in India there exists political equality without social and economic equality.

That is why India has become a fertile land for the inhuman practice of bonded labour. In the case of a bonded labourer all his fundamental freedoms are restricted and

¹India has not yet ratified the "abolition of Forced Labour Convention" of 1957. A state that ratifies this convention undertakes to suppress and not to make use of any form of forced or compulsory labour. The convention mentions five specific forms of labour. Among these the second one reads "As a method of mobilising and using labour for purposes of economic development". India is of the opinion that in developing countries sometimes it may be necessary to mobilise and use labour for the purpose of economic development. Hence India has not ratified the convention.

human rights are infringed. The predominant feature of the bonded labour system is that a man mortgages himself against a loan and this bondage lasts for years, even for an entire life time. Once a man is mortgaged like that, he is never treated as a human being. All the international norms on human rights are transgressed in his case. There will be no stipulated time for his work, he should always be at the beck and call of his master. There is no minimum wages fixed, his right to freedom of movement, his right to seek alternative job etc. are denied. He is treated as a cattle not as a human being. Delhi based National Labour Institute conducted an educational camp for some of the freed bonded labourers in Palamau District of Bihar, years back. In the camp discussions certain shocking things were revealed. In one case one of the oxens of a 'Bania' landlord had fallen ill. To carry his goods to the market, he yoked a young 'Kamia' bonded labourer in its place.² Are we not ashamed of knowing that such a thing happened in India, the largest democracy in the world and the land of Mahatma Gandhi.

Several legislative measures adopted both before and after independence, did not yield the desired results in eradicating this evil. Whatever may be the political compulsions, the sincere administrative will in abolishing the

²Blitz, 6 November 1976, (Bombay).

bonded labour system, was expressed in the wake of emergency in 1975. An Ordinance was promulgated abolishing the bonded labour system in 1975 and later it was replaced by an Act. But who knows the bare fact that bonded labour can never be abolished, as long as the illiteracy, mass poverty and glaring inequalities in socio-economic life, persist in India. That mere legislation does not succeed in eradicating many of the social evils in society, is confirmed by the existence of bonded labour system in some form or the other in several parts of the country, in spite of the enactment of protective laws by the state governments. If bonded labour still exists, even after forty years of our independence and even after specific laws abolishing it came into force, obviously the remedy does lie not in mere legislation but in implementation. One special feature noted in the developing countries is that at the time of formulating legislation, an open clash of organised and vested interests is often absent. The role of interest groups begins at the time of enforcement of regulatory measures. Exactly that is what happens in India. At every stage of implementation the officers are influenced by the landlords and moneylenders. Even most of the state governments started denying the existence of bonded labour on the ground that landlords who do not compensate their labourers adequately, are guilty not of contravening the law abolishing bonded labour system, but the Minimum Wages Act.

The Union Labour Minister K.V. Raghunath Reddy, during the discussions on the provisions of the Bonded Labour System (Abolition) Act, told the Rajya Sabha that he did not rule out the appointment of a watch-dog committee both at the central and state level to ensure that the Vigilance Committees created under the Act functioned properly. He dispelled the doubts expressed by several members that officials dealing with offences under the Act might not take timely action. ~~Mr.~~ Reddy further said that such offending officials would be brought to book under provisions of law.³ But so far neither the watch-dog committee was appointed nor any offending officer was brought to book. All the promises and declarations were proved to be mere lip-service. Speaking of the travails of bonded labourers Jawaharlal Nehru once said "suffering has been their heritage". This is literally true. Our socio-economic system being essentially oriented towards well-to-do, the helpless have-nots have been mercilessly exploited by the landlords and money-lenders.

When we think of some constructive steps for the eradication of this evil practice, we must bear in mind the

³Hindu, 13 January 1976, (Madras).

fact that the problem of bonded labour is only a symptom; the root cause is poverty and economic backwardness. Therefore, the remedy for this evil does not lie either in passing certain laws by the government or in distributing some favours to the weaker sections. The state exchequer cannot be converted into a charity fund for all times. It may give only a temporary relief. The only permanent solution is, their liberation from the clutches of bondage and poverty and proper rehabilitation, and thus enable them to stand on their own feet with dignity and decency. The following suggestions may help for the same.

The first and foremost step to be taken for a permanent solution to the bonded labour system is the drastic land reforms and the distribution of land among the landless. This land will be a substantial economic asset for them and they will feel confident of working hard in their own fields rather than in the fields of their masters. When interviewed by a study group, a woman called Janaki, a Lohar by caste and who was sold into prostitution in Delhi, said that, nothing was going to help in ending prostitution. She continued, "Buy freedom for our men, give them land and only land. It is this land, these green fields, which will contain their girls. Nothing else can".⁴ Once the land is

⁴Indian School of Social Sciences, Calcutta, Bonded Labour in India (Calcutta: India Book Exchange, 1976) p.74.

distributed they should be provided with the supply of inputs - cattle, fertilizer, seeds, cash etc.

Strict enforcement of the Minimum Wages Act and Agricultural Labour Acts is another step to be taken to stop the exploitation of the weaker sections.

Education is another important factor that can do a lot for the abolition of this inhuman practice. Education is the only medium through which these people can be conscientised and prepared to combat against the existing social customs and rigid structure. Special scheme of adult education should be started by which they shall be made known about the government programmes to eradicate the bonded labour system and taught about their rights so that these people become conscious of their rights. Also various educational programmes should be adopted by which public conscience may be aroused against this inhuman practice.

Efficient and dedicated government officials have to be posted to solve the problem, who would work with sincerity and absolute commitment.

Development and extension work should be undertaken in the interior areas where the bonded labour system is prevalent.

Non-governmental organisations have an important role to play in the abolition of bonded labour system. Legislative measures and efforts at official level alone cannot free our society from this evil. People have to organise themselves in groups and raise the voice against this inhuman practice. They have to keep constant vigil against the human rights violation and such instances should be brought to the notice of the local authorities. The more important thing is that a general awareness should be created at grass root level against this evil practice. It is our common experience that there are some activities which cannot be left entirely in the hands of the government apparatus and the abolition of bonded labour is one among them. Here comes the importance of the social action groups and other non-governmental organisations and they have to act as the watch-dogs to get things done by the government. Some non-governmental organisations are doing commendable service in this field, by bringing into the notice of the court the issue of bonded labour and getting them released from the bondage. But that is not enough. Together with their release the rehabilitation process also should be undertaken. Otherwise there is every possibility of their sliding again into the tentacles of bondage. In short, the release and rehabilitation should be simultaneous.

And last but not the least, a thorough nationwide survey of bonded labour should be conducted and some time-

bound programme should be adopted to abolish this evil practice.

It is very unfortunate to note that, though we are geared to enter into the twenty-first century, lakhs and lakhs of people in India are still living in fifteenth or sixteenth centuries. Let us hope against hope that these downtrodden sections of the society too may be able to see the dawn of twenty-first century together with the rest of the people.

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