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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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EXPLORING THE NATIONAL EFFORTS TO ABOLISH BONDED LABOUR IN INDIA

AUTHORED BY - SANCHITA SANAND

5TH YEAR, BA .LLB (HONS)

Galgotias University, Greater Noida

“Bonded labourers are the non-beings, exiles of civilization, living a life worse than that of animals, for the animals are at least free to roam about as they like.....”

-Justice P.N. Bhagwati

ABSTRACT:

Rousseau's eloquent statement, "Man is born free but everywhere he is in chains," which was popular in the eighteenth century, is still relevant in today's world. When applied to various social systems, organizations, and institutions, as well as to customs and traditions, this paradoxical statement reveals its fundamental truth¹. One such development that keeps the lower class of agricultural or other laborers from being free even after independence is achieved is the institution of bonded labor. They are exploited in one way or another and lack a taste for freedom. Force, obligation, and restriction of freedom are the most notable aspects of this evil system. Debt bondage, land attachment, house site attachment, and customary obligation are examples of bondage through obligation². One of the many socioeconomic ills that have plagued Indian society since ancient times and, regrettably, are still in use today in a variety of forms is the bonded labor system. Since ancient times, India has been recognized for its unequal society. Since exploitation is unavoidable in any unequal society, it has always existed in Indian society, where the strong and intelligent have benefited from the mistreatment of the weak and stupid.

KEYWORDS: Laborers, Freedom, Restriction, Bonded Labour, Exploitation

¹ Bandhua Mukti Morcha v. Union of India AIR 1984 SC 802, para 2.

² Rish Pal Nainta, Bonded Labour in India: A Socio-Legal Study, APH Publishing Corporation, New Delhi 1997

INTRODUCTION:

According to the Oxford Dictionary of English, "bonded" refers to a person who has been placed in bonds, and "bond" also refers to a method of tying or fastening objects together, such as ropes or chains used to hold a prisoner, restraining force, agreement deed, or object that restricts bodily freedom. According to the dictionary, "labor" refers to hard physical labor or group labor. Therefore, bonded labor refers to the provision of services by employees in limited circumstances where they are not free. "The laborer borrows money from the landlord under a contract to work until the debt is repaid," according to the 1937 Royal Commission on Labour in India. The man and occasionally his family are stuck for life, and the debt tends to grow rather than decrease. Bonded labor is defined as "working with an employer with an obligation but work not specifically compensated by any wage/salary" by the National Sample Survey Organization (June 1977). According to section 2(e), "any labor or service rendered under the bonded labor system" is what is meant by "bonded labor." Various known as slavery, serfdom, debt bondage, contract bondage, peonage, forced labor, etc., the bonded labor system is one of the many forms of abuse that have occasionally existed in Indian society. In practically all international human rights instruments, the practice of forced labor is denounced. The Constitution's Articles 23 and 24 specifically target all forms of discrimination, injustice, and exploitation. Among other things, Article 23 forbids forced labor and beggars. Any violation of this clause is considered a crime and is subject to legal penalties. Article 23's scope is broad and unbounded; it forbids the trafficking of people, beggars, and other forms of forced labor wherever they may be found. After 26 years after the Constitution went into effect, the parliament passed the Bonded Labour System (Abolition) Act, 1976, which ended the bonded labor system nationwide in order to implement this constitutional provision. However, it is deeply regrettable that this social evil persists in the nation despite international, constitutional, and statutory provisions.

NATURE OF BONDED LABOUR SYSTEM:

Judge P.N. Bhagwati, stated that "the system of bonded labor has been prevalent in various parts of the country since long prior to the attainment of political freedom and constitutes an ugly and shameful feature of our national life." A remnant of a feudal hierarchical society that hypocritically declares men to be divine while treating vast numbers of people from lower social strata or economically disadvantaged groups as dirt and property is this system, which is based on the exploitation by a small number of socially and economically powerful

individuals who trade on the suffering and misery of many men and hold them in bondage³. In addition to being a gross and abhorrent violation of constitutional values, this system, which allows one person to be bonded to work for another for years on end until an alleged debt is supposed to be paid off—something that never seems to happen during the bonded laborer's lifetime—is completely incompatible with the new egalitarian socioeconomic order that we have pledged to establish.

The fundamental rights to life and personal liberty guaranteed by Article 21 of the Constitution and freedom of movement under Article 19(1)(b) are violated as a result of the system of bonded labor. The freedom of movement of bonded laborers is limited by social, psychological, economic, and physical factors. Hindu mythology holds that a person will burn in hell if they don't pay their debt, and this belief is ingrained in their psyche. A major factor in tying bonded laborers to their masters is economics⁴. They are compelled to work for lower pay in order to provide for their starving children because they are so impoverished that they cannot even afford to buy food for one day. Furthermore, they are forced to work for lower pay because they are unable to find other employment due to the obvious unemployment issue. Additionally, bonded laborers are denied the personal freedom and right to life that are protected by Article 21 of the Constitution. Article 21 encompasses a wide range of activities that allow people to enjoy life, not just physical existence. Because they do not receive minimum wages, they are denied both their livelihood and their right to live with human dignity. They endure various forms of exploitation and are not treated like human beings.

HISTORICAL PERSPECTIVE OF BONDED LABOUR SYSTEM:

India has been known to have a system of bonded labor from ancient times to the present. Its origins can be traced back a long way. Its origins lie in our agricultural society's socioeconomic structure, which is still shaped by caste hierarchy, economic poverty and ignorance, feudal and semi-feudal conditions, and social customs⁵. For historical reasons, India continued to be a caste-based society. This system, which was primarily used in the agricultural sector, has now expanded to other locations, including forestry, construction sites, stone quarries, brick kilns, carpet weaving, fishing, beedi making, etc. The historical retrospect of the pernicious system of bonded labour can be studied under the following heads:

³ V. R. Krishna Iyer, *Social Justice and Handicapped Humans*, Academy of Legal Publications, 1978

⁴ *Bandhua Mukti Morcha v. Union of India* AIR 1984 SC 802

⁵ J.L. Hamilpurker, *Changing Aspects of Bonded Labour in India*, Himalaya Publishing House, 1989,

1. Slavery and bondage in Ancient India
2. Slavery and Bondage in Medieval India
3. Slavery and Bondage in British

1. Slavery and Bondage in Ancient India

In ancient India, slavery was a fundamental and necessary component of the unjust social structure. Dasa's existence is synonymous with India's system of bonded labor. Dasa is the word for a slave. From the Vedic era⁶ onward, slaves were one of the most unavoidable elements of ancient Indian society. The beginning of the Indus civilization at sites like Mohenjo-Daro and Harappa marked the beginning of Indian history. Slave labor was likely prevalent in both rural and urban areas of the Harappan civilization, demonstrating the prevalence of slavery. Four varnas—Brahmins, Kshatriyas, Vaishyas, and Shudras—were established in Indian society following the arrival of Aryans. Following their defeat by the Aryans, the majority of the native or original inhabitants were given Shudra varna⁷ and made slaves. Dasa was the most widely used word for slave. Shudras were denied the right to own property, receive an education, and choose their own jobs. Strict laws that were harmful to the Shudra varna's interests were created. The assumption that varnas are arranged in descending order⁸ is made by almost all authors of the Dharamshastras.

2) Slavery And Bondage In Medieval India:

The end of the ancient era in 550 marked the beginning of Indian medieval history, which lasted until the fall of the Mughal Empire in the 17th century. Several Indian dynasties gained power during this time. The unequal economic and social structures that had existed in ancient India persisted in medieval India and did not change. However, a new form of slavery—domestic slavery—emerged during this time. In some regions of medieval India, the practice of keeping eunuchs as a staple of household life was one of the most egregious forms of domestic slavery. In South India, "Vetti," or forced labor, was used during the Chola era. Devadasis was a common institution in the majority of Chola period temples.

3) Slavery and Bondage in British India

Although the British arrived in India as traders at the start of the seventeenth century, they

⁶ Dev Raj Chanana, Slavery in Ancient India, Peoples Publishing House, New Delhi, 1960

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

⁸ S.K. Singh, Bonded Labour and the Law, Deep & Deep Publications, New Delhi, 1994

gradually gained control of the country and ultimately took control of Indian destiny. They dominated India for two centuries. Slavery and bondage were common practices in India when the British arrived there. Slavery and bondage were so closely related to one another that it was difficult to tell them apart; they essentially overlapped and blended into one another⁹. The main characteristic of this system was that slaves were viewed as commodities and chattel that could be purchased and sold on the open market. In British India, it was legal everywhere to buy and sell slaves. Numerous political, economic, and social changes were brought about by the British. One of those that saw significant changes was the system of slavery. Three types of slavery were common in India during this time: "domestic slavery," "aggressive slavery," and "slavery in the military"¹⁰. Prior to the arrival of English power, the Portuguese had engaged in a slave trade in Bengal. Bengal was the birthplace of agrestic slavery during the 1770 Great Famine. Many people sold themselves to save their lives, and about one-third of the population perished from starvation. The situation for Bengal's peasants was at its worst. They were forced to borrow money from the Zamindars because they lacked resources due to cattle deaths and a lack of rain. To counter the illiterate peasants, they imposed exorbitant interest rates, utilized resources, and engaged in forgery. A large percentage of the agricultural labor force consequently became enslaved and indebted.

CAUSES OF BONDED LABOUR:

Each element contributes to the continued oppression and indifference of bonded laborers, making the phenomenon of bonded labor a "vicious circle." The system's capacity for survival is the first link in the chain that creates the vicious circle. It is a holdover from the feudal and colonial systems, which are still in place¹¹. Without a doubt, the caste system's sanctions have loosened considerably. Even today, the effects of the historical stigma and disabilities are still felt, albeit to varying degrees, across the nation, especially in rural areas. This system was initially limited to agriculture, but over time, it spread to other industries, including factories, fishing, stone quarries, brick kilns, construction sites, and carpet weaving. The most severe aspects of discrimination and exploitation are combined in the long-standing, cruel system of bonded labor. Its origins lie in the socioeconomic structure of rural areas, which was characterized by a hierarchical caste system, feudal conditions, extreme poverty, ignorance, and social customs. The need for money for social obligations and subsistence drives people to

⁹ Orlando Patherson, *Slavery and Social Death: A Comparative Study*, Harvard University Press, 1982

¹⁰ Indrani Chatterjee, *Gender, Slavery and the Law in Colonial India*, Oxford University Press, 1999

¹¹ Abhishekkumar and Kamini Jaiswal, "Critical Analysis of Bonded Labour System (Abolition) Act, 1976

take out loans or advances in cash or kind by mortgaging their labor, which results in "debt bondage" that can last for generations and enslave a family member or members¹². Nevertheless, the persistence of this system cannot be ascribed to a single cause. The following categories can be used to group the different factors that contribute to the continuation of bonded labor:

1. Social Causes
2. Economic Causes
3. Psychological Causes

1) SOCIAL CAUSES:

The following social factors are responsible for the emergence and persistence of bonded labor:

- **Caste hierarchy:** Caste has played and continues to play a significant role in India's social structure. Caste governed the economic system as well as social life. The feudal structure and the caste system are the roots of the bonded labor system¹³. The caste system served as a means of transferring this kind of slavery from one generation to the next. The Scheduled Tribes and Scheduled Castes are structurally associated with this phenomenon. India's caste system has its roots in the people's inherited professions. Brahmins, Kshatriyas, Vaishyas, and Shudras were the four castes that made up the Hindu caste system. The higher castes always viewed the Shudras as inferior and took advantage of them. Serving the higher castes, who were essential to their survival, was their primary responsibility. In addition, the higher caste members despised and shunned these individuals. In this sense, the caste system greatly aided in the growth of bonded labor.
- **Social traditions:** Another significant factor contributing to the ubiquity of the bonded labor system is the society's social customs and traditions. The idea of rural debt and the ensuing continuation of the bonded labor system have been given new dimensions by social customs and traditions. Costs associated with marriage, childbirth, death, or fulfilling certain religious obligations take on disproportionate proportions, to the point where the borrowers are unable to repay the loans. He approached moneylenders due to the unproductive burden of compulsive spending, and the resulting debts remained unpaid and grew over time. These kinds of obsessive spending drove them to become slaves.

¹² G.P. Sinha & P.R.N. Sinha, *Industrial Relations and Labour Legislations*, Oxford and JPH Publishing Co. Pvt. Ltd., New Delhi, 1986,

¹³ Parmanand Singh, "Social Justice for Harijans: Some Socio-Legal Problems of Identification, Conversion and Judicial Review"

Another significant factor that forced the impoverished farmers to turn to borrowing was their drinking habits.

- **Illiteracy:** One of the main reasons bonded labor is so common in the nation is illiteracy. In actuality, education has become essential in the modern era and is crucial to a person's overall growth. It raises awareness and enlightens the individual. People from lower castes and the poorer sections of society in India are largely illiterate¹⁴. It is well known that the higher caste groups used to treat the lower caste members harshly and forbid them from attending any schools. This is because those in positions of power in the higher caste were worried that as education spread among lower caste groups, their knowledge would grow and they would begin to demand their own rights.

2) ECONOMIC CAUSES:

In addition to social factors, a number of economic factors contribute significantly to the continuation of India's system of bonded labor. Bonded labor is undoubtedly more of an economic problem than a social one. The following explains the economic factors that contribute to the continuation of bonded labor:

- **Poverty:** It appears that hunger and poverty go hand in hand. The only thing that can end the relationship between hunger and poverty is food. Various socio-economic compulsions result if this fundamental biological need of man is not adequately satisfied by resourcefulness. One such compulsion that stems from poverty is bonded labor. Poor people have no choice but to take out loans to pay for their consumption, which eventually leads to their enslavement¹⁵. Individuals from lower castes and those living in tribal areas suffer the most. It has been determined that domestic reasons rank highest among all the justifications offered for taking out loans. It covers the cost of the bonded labor family's food and clothing, medical care, and other necessities for the home. Therefore, it is evident that a poor person is forced to take out loans in order to meet his household needs, which keeps him trapped in the harmful system of bonded labor.
- **Unemployment:** In our societal structure, the issue of unemployment has persisted. The poor's circumstances have gotten worse due to rising unemployment. Poor people are forced to rely on loans to meet their basic needs because they lack employment,

¹⁴ Indian Planning Commission-PRC, Evaluation of Centrally Sponsored Scheme for the Rehabilitation of Bonded Labour, New Delhi, 1986

¹⁵ People's Union for democratic Rights v Union of India (1982) 3 SCC 225

and they have been duped by moneylenders who charge exorbitant interest rates. They must live their entire lives in bondage in order to pay the principal and interest. As a result, the only employment option available to them for their survival is bonded labor. Every day puts them in a more difficult situation, so they are unable to imagine a better tomorrow. They are still bound from generation to generation¹⁶ by bonded labor, which serves as a constant source of income for them.

- **Indebtedness:** The primary component of the nefarious system of bonded labor is loan or debt. The system of bonded labor is based on the existence of a debt and the provision of labor in order to repay it. Therefore, one of the main causes of the system of bonded labor is rural debt, which leads to high interest rates and loan taking. Thereon created a situation where the impoverished were forced to the landlord's doorstep and were unable to turn back. As a result, debt has emerged as the primary driver of bondage in a nation like India, which is primarily an agricultural one and where the vast majority of the population lives in abject poverty.

3) PSYCHOLOGICAL CAUSES:

In addition to social and economic factors, psychological factors also contribute to the continuation of bonded labor in India. The ruling classes in society are easily brainwashed because the majority of bonded laborers lack literacy. Refusing to pay is viewed by them as sinful. They believe that how well they serve their masters will determine whether they are saved. Additionally, because they receive food from their landlords¹⁷, they believe that working as bonded laborers will satisfy their needs and solve their problems. They are unable to even consider the fact that their master is giving them far less than they are giving him. They can't even consider rescuing them from the bonds of servitude because their brains have been so thoroughly cleansed. Because this is the only thing that can satisfy them and allow them to receive food from the landlord, they psychologically develop the belief that bonded labor is their fate. They derive a sense of psychological fulfillment from their labor with the landlord due to long-standing customs, poverty, illiteracy, and other related factors. They are unable to escape the bondage or escape the culture of their lords due to the psychological brainwashing. Therefore, it becomes evident that it is incorrect to claim that a single factor is entirely to blame for the continuation of bonded labor; rather, all of the factors are so interconnected that they

¹⁶ Bandyopadhyaya, D., "External Impediments to the growth of Organisation of Rural Poor in India", National Labour Institute Bulletin, V. 3, 418 (1977).

¹⁷ D.K. Kumar, Land and Caste in south India: Agricultural Labourers in Madras Presidency During the Nineteenth Century, Cambridge University Press, 1965,

all contributed to the development of bonded labor. Nonetheless, it is argued that the underlying causes of this vicious cycle are poverty and economic reliance.

NATIONAL EFFORTS TO ABOLISH BONDED LABOUR:

Before and after independence, India passed a number of laws affecting bondage and slaves in an effort to help these impoverished people and improve their working conditions¹⁸. Three categories are used to examine legislative attempts to end India's system of bonded labor: pre-constitutional, and post-constitutional attempts. These are discussed about as follows:

ATTEMPTS TO ABOLISH THE BONDED LABOR SYSTEM PRIOR TO THE CONSTITUTION

Bengal Regulation 1806 marked the first time that the British government in India outlawed the system of agrestic slavery. Although slavery was outlawed, Act No. VI of 1825 made forced labor legal at the same time. Although the master's claim over the slave for sale or purchase was not carried out in court, the prohibition on abusive slavery¹⁹ was mentioned in part. However, his other claims were carried out in court. As a result, this clause only applied to the sale or acquisition of a slave in order to clear revenue. By enacting the Slavery Abolition Act of 1833, the British Parliament made the most significant attempt to end slavery. With the exception of areas in East India Company provinces, the island of Ceylon, and the island of Saint Helena, this law forbids slavery across the British Empire. Because the Princely States usually passed laws opposing such actions and because the British government also showed no interest in social and economic reforms, the government did not insist on its implementation in British India.

Report of First Indian Law Commission

The First Indian Law Commission's report Lord Macaulay served as the chairman of the first Law Commission of India, which was created in 1834 by the Charter Act of 1833. The Commission was tasked with codifying the Criminal Procedure Code, the Indian Penal Code, and a few other issues. Additionally, the Commission was requested to conduct research on the management of slavery in India. In February 1839, the Commission submitted the Draft Act for the Government's final approval. The proposal was rejected by the Indian government because it only changed how a master should treat his slaves, not abolishing slavery as an

¹⁸ Debi S. Saini, *Labour Law Work and Development*, Westvill Publishing House, New Delhi, 1995

¹⁹ N.D. Kamble, *Bonded Labour in India*, Uppal Publishing House, New Delhi, 1982

institution. Although the government seemed interested in improving the lot of slaves, it also demonstrated a strong desire to safeguard the interests of masters, who were ultimately in charge of maintaining the system of slavery and bondage²⁰. The Law Commission was successful in creating the Anti-Slavery Report in 1841 as a result of their tenacious efforts. According to the Law Commission's Report, slavery in India existed in nearly all forms, with the exception of the harsh and forced type that was prevalent in the West Indies. According to the Law Commission, domestic servitude²¹ was the only kind of slavery that existed in India.

Indian Slavery Act, 1843:

The Indian Slavery Act of 1843 (Act No. V of 1843) was passed as a result of the Commission's combined efforts. When the law was passed, Bengal's landowners protested passionately. They claimed that if the law were implemented, the slaves would regard themselves as free and might decline to carry out the tasks that were typically assigned to them. The law governing the conditions of slaves within the East India Company's territories was implemented in spite of steadfast opposition. Numerous provisions in the Act favored slaves. However, the Act gave slaves and masters the same legal treatment. Therefore, the Act of 1843 improved the lot of slaves but did not completely abolish slavery. Although the slaves were legally free, in reality, their bondage persisted because they were dependent on their masters to meet their basic needs. Many laws were passed to legalize forced labor even though slavery was officially abolished in 1843. Forced labor was made legal by the Madras Compulsory Labour Act of 1858, specifically Sections 1, 2, and 6. According to the Workmen's Breach of Contract Act, 1859 (Act No. 13 of 1859), receiving an advance after entering into a contract of service is a crime that carries a jail sentence. The Act prevented bonded laborers from escaping their masters unless the loan was paid back. A decree may be executed by attaching property or by imprisoning the party it is directed against, according to Section 200 of the Civil Procedure Code of 1859. Employees who attempted to leave the plantations before the end of their contract period could be arrested and subjected to corporal punishment by their employers under the Assam Plantation Act, 1863. Another goal of the Workers' Planters Act of 1903 was to shield planters from losing the advancements they had given their employees. In 1929, this Act was repealed.

²⁰ Rish Pal Nainta, *Bonded Labour in India: A Socio-Legal Study*, APH Publishing Corporation, New Delhi, 1997

²¹ Special Reports of the Indian Law Commission

Constitutional Measures for the Abolition of Bonded Labour System

The date of India's independence was August 15, 1947. The achieved freedom was not a goal unto itself. It marked the start of a new age. There were many social and economic obligations that came with the freedom. For centuries, the British had taken advantage of the people and their wealth. At the time of our independence, we inherited the colonial administration's legacy²² from the British, and the issue of bonded labor was still very much present. Therefore, one of the most crucial tasks that our nation's leaders had to undertake after gaining independence was to find a solution to this cruel practice and to start some constructive initiatives that would help the nation's depressed citizens stop crying. When the Constituent Assembly was established to draft the nation's constitution, this task was taken on.

Constituent Assembly and Bonded Labor

On December 9, 1946, the Constituent Assembly was established, and Dr. B.R. Ambedkar served as the chairman of the Drafting Committee. The creation of India's own constitution was the Constituent Assembly's first major assignment. The Constituent Assembly had already completed the groundwork. Determining the fundamental goals that should be maintained in mind when drafting the nation's Constitution was one of the first tasks the Assembly took on.³¹ On January 22, 1947, it was accomplished through the Historic Objectives Resolution and its modification.³² The Assembly also took a significant step by establishing various committees to carry out its operations. Special provisions were made for the abolition of exploitative labor during the preparation of the draft and notes on fundamental rights. B.R. Ambedkar, K.T. Shah, and K.M. Munshi all made reference to the rights against exploitation in their drafts.

Post-Constitutional Efforts to Eradicate the Bonded Labour System

The harmful system of bonded labor persisted and went unchecked for a considerable amount of time after the Constitution was drafted. To end the Zamindari system, laws were passed. But when the Zamindari system was abolished, landlords adjusted their methods to fit the new situation. They began providing advances to the underprivileged and destitute and enslaved laborers for generations. As a result, the system of bonded labor persisted into the post-constitutional period. To implement Article 23 of the Constitution, the State Government, however, passed numerous laws and took a number of actions in this regard. Following the adoption of the Constitution, the Rajasthan Sagri System (Abolition) Act of 1961²³ and the

²² Shiva Rao, The Framing of India's Constitution, Select Documents, Vol. II, 1968,

²³ Section 4 of the Rajasthan Sagri System (Abolition) Act, 1961

Kerala Bonded Labour System (Abolition) Act of 1975 were the two most significant provincial-level laws that directly affected the abolition of forced or bonded labor²⁴.

FRAMEWORK OF THE CONSTITUTION AGAINST EXPLOITATION:

The combination of Articles 23 and 24 is titled "Right against Exploitation." The preamble of our Constitution refers to the dignity of the individual, which is in opposition to exploitation, which is defined as using people for one's own purposes. It contradicts Article 39(e) and (f), which contain the Directives Principles of the State Policy.

PURVIEW OF ARTICLE 23 OF THE CONSTITUTION:

The Constitution's Article 23 addresses the ban on forced labor and human trafficking. "Traffic in human beings and beggar and other similar forms of forced labor are prohibited and any violation of this provision shall be an offense punishable by law," states Article 23(1). Nothing in this article will stop the state from requiring mandatory service for public purposes, and the state is not allowed to discriminate against people based solely on their race, religion, caste, class, or any combination of these, according to Article 23(2). Two statements have been embodied, as can be seen from a cursory reading of the aforementioned article. The first is that the trafficking of human beings, beggar, and other forms of forced labor are prohibited, and the second is that these acts are made illegal. It should be mentioned that this prohibition applies to both private citizens and the State. All citizens and noncitizens have the fundamental right to be free from forced labor, with the exception of mandatory public service mandated by the state. Therefore, the State is required by this Article to take action to eradicate the evils of "traffic in human beings, beggar, and other similar forms of forced labor."

Several delegates praised Article 23 during the Constituent Assembly's discussion, characterizing it as "a charter for liberty for the downtrodden people who had so far suffered from the imposition of forced labor in one form or another at the hands of the princes and zamindars." "The Constitution-makers... decided to give teeth to their resolve to obliterate and wipe out this evil practice by enacting constitutional prohibition against it in the chapter on fundamental rights, so that the abolition of such practice may become enforceable and effective as soon as the Constitution came into force," the Supreme Court noted in the *Asiad Workers' Case*, elaborating on the rationale behind the inclusion of the prohibition against forced labor

²⁴ Twelfth Report of the Commission for Scheduled Castes and Scheduled Tribes (1962-63). Quoted by Rish Pal Nainta, *Bonded labour in India: A Socio-Legal Study*, APH Publishing Corporation, New Delhi, 1997

in the chapter on fundamental rights. The clause enacted in Article 23 was added to the chapter on fundamental rights for this reason.

Human trafficking:

Articles 39(e) and 39(f), which require the State to protect children and youth from exploitation and from material and moral abandonment, should be read in conjunction with Article 23(1). Though it hasn't been mentioned explicitly, the phrase "traffic in human beings" also includes "slavery" in its scope. Although it does not specifically aim to outlaw prostitutes, the 1956 Act does seek to outlaw this vice. It plans to indict those who run brothels, including pimps, touts, procurers, managers, and others. "Anyone who imports, exports, removes, buys, sells, or disposes of any person as a slave or accepts, receives, or detains any person as a slave against his will shall be punished with imprisonment,"²⁵ states the current law. The fundamental right of the prostitute to engage in the prostitution trade under Article 19(1)(g) is partially enshrined in the provision found in Article 23 of the Constitution. With the exception of the question of whether a law that aims to suppress immoral trafficking in women or children is reasonable in the public interest, Article 23 will take precedence over Article 19(1)(g) insofar as it contradicts the fundamental right of a citizen to engage in any business or profession, including the profession of prostitution. One could argue that Article 19(1)(g) is reasonably restricted by the 1956 Act, which implements Article 23. If there is a conflict between what is prohibited by Article 23 and Article 19(1)(g), the provisions in Article 23 will take precedence.

According to the ruling in **Vishal Jeet v. Union of India**²⁶, "devadasis" are included in the human trafficking trade. "Even though such traffic may have the elements of a profession or business and the suppression of such traffic by law, therefore, may in a sense be an infringement of the provision of Article 19(1)(g)," the ruling in **Sharma Bai v. State of U.P.**²⁷. This is because, in the event of a conflict between an Article 19 Fundamental Right and an Article 23 prohibition, the latter must take precedence, regardless of whether the law is reasonable from the perspective of the public interest.

The Supreme Court thoroughly examined the reach and extent of Article 23 in the **People's Union for Democratic Rights v. Union of India**²⁸ case, also referred to as the Asiad Workers'

²⁵ Raj Bahadur v. Legal Remembrancer, AIR 1953 Cal 522

²⁶ AIR 1999 1412.

²⁷ AIR 1959 All 57.

²⁸ AIR 1982 SC 1473.

Case. According to the court, Article 23's reach is broad and unbounded, targeting "traffic in human beings, beggar, and other forms of forced labor" wherever it may occur. The Court ruled that Article 23(1) would target forced labor in all of its manifestations. Thus, it forbade forcing any unwilling labor, whether paid or not, in addition to beggar or other forms of unpaid labor.

Because the Rajasthan Famine Relief Works Employees Act, 1964 "permitted the payment by the State, wages less than the minimum wages, to the famine affected persons engaged in the famine relief works," it was ruled in **Sarjit Roy v. State of Rajasthan**, that the Act violated Article 23(1). One hundred According to the Court, "the State could not exploit the famine-affected individuals' helplessness and pay them less than the minimum wages on the grounds that it was given to them to help meet famine situation." The Supreme Court noted in **Bandhua Mukti Morcha v. Union of India**, that "the State violated Articles 21 and 23 by failing to identify the bonded laborers, release them from their bondage, and rehabilitate them as envisaged by the Bonded Labour System (Abolition) Act, 1976." The court ruled that Article 23 forbade "bonded labor," which is a rudimentary form of forced labor. According to the ruling in **Deena v. Union of India**²⁹, "work taken from prisoners without properly compensating them was 'forced labor' and violated Article 23 of the Constitution." The court has an obligation to uphold the inmates' claim that they should be paid fairly for the labor that was taken from them. "It would be lawful to employ a prisoner, sentenced to rigorous imprisonment, to do hard labor, whether he consented to do so or not," determined the **State of Gujarat v. Hon'ble High Court of Gujarat**³⁰. "One who willingly enters into a contract of service cannot claim exemption from civil liability for the non-performance of the promise," the ruling stated.

CONCLUSION

The discussion till now makes it clear that in Indian society the evil of bonded labour system is in existence from the ancient times and which, unfortunately after independence, is still prevailing in divergent forms in various parts of the country. It is a stigma on Indian society. Even after seven decades of freedom there are some people who are not free. They have no taste of freedom and are living in bondage. They are exploited in one form or the other. The most remarkable features of this pernicious system are obligation, force and curtailment of liberty. The system of bonded labour has its roots dug quite deep into the past. It has its roots in the socio-economic structure of our agricultural society which is continued to be determined

²⁹ AIR 1983 SC 1155

³⁰ AIR 1998 SC 3164

by feudal and semi-feudal conditions, caste hierarchy, economic poverty and ignorance coupled with social customs. Novel dimensions were attained by the problem during the Hindu and Muslim epochs. The poor and underprivileged people turned to be a saleable commodity. They could be bought and sold and even exported to foreign countries. The socio-economic conditions resulted in broadening the gap between the privileged and unprivileged classes of the society. The poor were compelled by social and economic factors to take loans from rich by mortgaging themselves that resulted into debt bondage. The conditions remained the same during British Empire. Even though some half-hearted steps were taken, yet the problem remained the same.

SUGGESTIONS:

The process of identifying, releasing, and rehabilitating bonded laborers using government machinery presented numerous challenges. To address these challenges, the following recommendations are offered:

- (i) To determine the prevalence of bonded labor, a nationwide survey ought to be carried out right away.
- (ii) All States and Union Territories should properly survey bonded laborers at least twice a year to determine the number of bonded laborers, the causes of bondage, and the motivations behind forcing migrant workers from other states to work as bonded laborers.
- (iii) The District and Sub Divisional Vigilance Committees are in charge of conducting surveys, and they are required to report the results to the National Human Rights Commission (NHRC).
- (iv) No methodology for identifying bonded laborers has been established by the Act or its implementing Rules. Many states declared that there was no evidence of bonded labor in the absence of such a methodology. Therefore, it is advised that the Central Government develop a standardized process for identifying bonded laborers. Until such a methodology is developed, all states must adhere to the guidelines on the identification of bonded laborers developed by Shri S.R. Shankaran, Chairman of the Expert Group established by the NHRC.
- (v) The rescue, release, and rehabilitation of the bonded laborers should be carried out right away without involving the conviction of the offenders because there has been a delay in these processes.

Unquestionably, a fundamental norm shared by all of the world's most prominent democracies

is that the state should protect and uphold the fundamental freedoms and rights of its people while also providing them with the necessities of life. Social and political justice were guaranteed to the Indian people by the Constitution. However, despite being in effect for 37 years, it is deeply regrettable that it has not been able to remove the tear from everyone's eye. We have not been able to eradicate this harmful social practice, even though the practice of bonded labor was declared to be unconstitutional on the day India became a republic. The Act and its implementing regulations urgently need to be amended. Although the study's recommendations are by no means definitive or all-inclusive, it is respectfully submitted that they will accomplish the goals of the Bonded Labour System (Abolition) Act, 1976 if they are appropriately carried out.

