

**BONDED LABOUR – A MYTH OR REALITY**

**Ms. Sunita Singh Khatana**

Research Scholar,  
Manipal University Jaipur  
Jaipur. Rajasthan

**Dr. Vijaylaxmi Sharma**

Associate Professor,  
Manipal University Jaipur  
Jaipur. Rajasthan

**ABSTRACT**

Man is born free and has been blessed with right to freedom as Fundamental Right by the Constitution of India but not all are lucky enough to enjoy this basic Human Right and have to face the atrocities in the form of Bonded Labour. Labour means service, **Forced labour** is any work or services which people are **forced** to do against their will under the threat of some form punishment. Almost all slavery practices, including trafficking in people and bonded **labour**, contain some element of **forced labour**. Bonded labor also known as debt bondage, is a specific form of forced labor in which compulsion into servitude is derived from debt. Not all bonded labor is forced, but most forced labor practices, whether they involve children or adults, are of a bonded nature. Bonded labor is most prevalent in rural areas where the agricultural industry relies on contracted, often migrant laborers.

Nationally and internationally there are various laws to keep check on practice of bonded labour throughout the world. Which are as follows:-

- *Universal Declaration of Human Rights*. Following Articles of the declaration forbids practice of bonded labour
  - Article 1**
  - Article 4**
  - Article 5**
  - Article 23**
  - Article 24**
  - Article 28**
- **Forced Labour Convention, 1930**
- **International Covenant on Civil and Political Rights (ICCPR), 1966**
- **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**
- **Convention on the Rights of the Child, 1989**

Article 32:

Article 35

Article 36:

**Following Indian laws restricts the practice of bonded labour :**

- Indian Constitution
- Indian Penal Code 1860
- Bonded Labour System (Abolition) Act, 1976
- Children (Pledging of Labour) Act, 1933
- Child Labour (Prohibition and Regulation) Act, 1986
- Factories Act, 1948
- Contract Labour (Regulation and Abolition) Act, 1970
- Contract Labour (Regulation and Abolition) Act, 1970
- Minimum Wages Act, 1948
- Plantation Labour Act, 1951
- Apprentices Act, 196
- Shops and Establishments Act, 1961

Still the problem persists in many areas of India in spite of so many legal provisions, through this work the researcher draws the attention towards this severe social stigma and tries to give some possible solutions to this problem .

*We have a list of human rights - right to food, right to shelter, right to health, right to education, and many such items which are considered and accepted as bill of rights. These are to be insured to people. So all nations, all societies try to do that.*

**Muhammad Yunus**

Man was born free and expects to die free, during the life time one always dreams to lead a free life with dignity. The Constitution of India guarantees to all its citizens justice, social and economic security, and political freedom of thought, expression, belief, faith and worship, equality of status and of opportunity, fraternity, dignity of the individual and unity of the nation .But in spite of all these assurances not everyone is blessed with this life of freedom and dignity and are forced to lead a life of forced labour in form of a bonded labour.

## INTRODUCTION

Labour means service. **Forced labour** is any work or services which people are **forced** to do against their will under the threat of some form punishment. Almost all slavery practices, including trafficking in people and bonded **labour**, contain some element of **forced labour**.

Bonded labor also known as debt bondage, is a specific form of forced labor in which compulsion into servitude is derived from debt. Categorized and examined in the scholarly literature as a type of forced labor, bonded labor entails constraints on the conditions and duration of work by an individual. Not all bonded labor is forced, but most forced labor

practices, whether they involve children or adults, are of a bonded nature. Bonded labor is most prevalent in rural areas where the agricultural industry relies on contracted, often migrant laborers. However, urban areas also provide fertile ground for long-term bondage.

A bonded labourer is one who renders service to another person on account of certain obligations emanating from loan/debt/advance obtained from that person. The system essentially represents the relationship between a creditor and a debtor. When such a relationship exists and the debtor in pursuance of the obligation arising out of loan/debt/advance mortgages his services or the services of any of his family members to the creditor for a specified or for an unspecified period with any of the following consequences,

- work without wages or minimum wage;
- restriction on the freedom of employment or other resources of livelihood;
- refutation of the right to move freely in any part of the territory of India as a citizen;
- refuse to sell at market price any property or product of labour/ his family members or dependents.

To understand it in legal context, we should recall two cases dealing with bonded labour decided by the Supreme Court of India which are as follows:-

1. In *People's Union for Democratic Rights and others v. Union of India and others*<sup>1</sup> otherwise referred to as the Asiatic Workers Case, the Supreme Court said, "We are, therefore, of the view that when a person provides labour of service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words "forced labour" under Article 23 (of the Constitution of India)."
2. In *Bandhua Mukti Morcha vs Union Of India & Others* on 16 December, 1983  
This case was related to the 'Existence of Forced Labour'-if it has to decide whether it is bonded labour or not- The burden of proof lies upon the employer that the labourer does not come under the meaning of bonded labour.

The above two judgments of the Supreme Court of India lay down the law, in terms of Article 141 of the Constitution of India, to the effect that:-

- (a) Where a person gets a remuneration which is less than the current notified minimum wage under the Minimum Wages Act, 1948 for the particular scheduled employment, the labour or service provided by that person clearly falls within the ambit of the term 'forced labour' under Article 23 of the Constitution, and
- (b) Where a labourer is made to provide forced labour, he is presumed to be a bonded labourer in terms of the Bonded Labour System (Abolition) Act, 1976.

In other words factors should we apply in identifying bonded labour?

Thus the factors are the handicaps of:

- (i) Absence of freedom to choose one's employment.
- (ii) refutation of freedom to surrender one's employment when desired.
- (iii) Debt bondage and
- (iv) substantial ostensible or no income imbursement.

---

<sup>1</sup>1982 II LLJ 454 SC (1982) 3 SCC 235

Bonded labour is still prevalent in many regions of India. The main feature of the system is that the debtor pledges his person or that a member of his family for a loan and is released on the repayment of the debt.

Bonded labour is known by different names in various regions of India.

The Elayaperumal Committee mentions the following:

- Gothi in Orissa;
- Machindari in Madya Pradesh;
- Sagri in Rajasthan;
- Vet Begar and Salbandi in Maharashtra;
- Jana, Manihi or Ijhari in Jammu and Kashmir;
- Jeetha in Mysore;
- Vetti in Tamil Nadu;
- Kamiya or Kuthiya in Chattisgarh.

Initially the system consisted mainly of the elements of mistreatment ,exploitation, patronage and protection at least in some regions. With the growing trend towards the money-economy and change in the type of exercise to which agricultural land is put, the component of patronage vanished and that of exploitation persisted.

#### **LAWS RELATED TO BONDED LABOUR**

Nationally and internationally there are various laws to keep check on practice of bonded labour throughout the world. Which are as follows:-

##### ***Universal Declaration Of Human Rights***

Following articles of the declaration forbids practice of bonded labour

##### **Article 1**

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 4**

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

##### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or Punishment

##### **Article 23**

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

##### **Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

##### **Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms

set forth in this Declaration can be fully realized.

### **Forced Labour Convention, 1930**

The International Labour Organisation (ILO) Forced Labour Convention requires signatories to “suppress the use of forced or compulsory labour in all its forms in the shortest period possible.”<sup>2</sup> In 1957, the ILO explicitly incorporated debt bondage and serfdom within its definition of forced labor<sup>3</sup>, the ILO also passed the Abolition of Forced Labour Convention (No. 105) in 1957; India, however, chose not to sign this convention].

### **International Covenant on Civil and Political Rights (ICCPR), 1966**

Article 8 of the ICCPR prohibits slavery and the slave trade in all their forms, servitude, and forced or compulsory labor. Article 24 entitles all children to “the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”<sup>4</sup>

### **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**

Article 7 of the ICESCR provides that States Parties shall “recognize the right of everyone to the enjoyment of just and favourable conditions of work.” Article 10 requires Parties to protect “children and young persons... from economic and social exploitation.”<sup>5</sup>

### **Convention on the Rights of the Child, 1989**

**Article 32:** “States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or... be harmful to the child’s health or physical, mental, spiritual, moral or social development.”<sup>6</sup> States are directed to implement and ensure these protections.

**Article 35:** “States Parties shall take all appropriate measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.” A significant portion of the bonded child laborers of India are trafficked from one state to another, and some are sold outright [Human Rights Watch/Asia, Rape for Profit: Trafficking of Nepali Girls and Women to India’s Brothels.<sup>7</sup>

**Article 36:** “States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.”<sup>8</sup>

ILO Conventions No. 29 and No. 105 on forced labour, as well as six out of 20 Conventions on the elimination of child labour, Though Convention 29 on Forced Labour did not specifically refer to debt bondage, over time the ILO’s Committee of Experts on the Application of

---

<sup>2</sup>Forced Labour Convention (No. 29), 1930, adopted at Geneva, June 28, 1930, as modified by the Final Articles Revision Convention, adopted at Montreal, October 9, 1946.

<sup>3</sup>International Labour Organisation, Conventions and Recommendations 1919-1966 (Geneva: ILO, 1966), p. 891.

<sup>4</sup>International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 (1966) (entered into force March 23, 1976).

<sup>5</sup>International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316 (entered into force January 3, 1976)

<sup>6</sup>Convention on the Rights of the Child, G.A. Res. 44/125, U.N. GAOR, 44th Session, Supp. No. 49, U.N. Doc. A/44/736 (1989) (entered into force September 2, 1990)

<sup>7</sup>Human Rights Watch: New York, 1995).

<sup>8</sup>Convention on the Rights of the Child, G.A. Res. 44/125, U.N. GAOR, 44th Session, Supp. No. 49, U.N. Doc. A/44/736 (1989) (entered into force September 2, 1990).

Conventions and Recommendations has stated repeatedly that ‘debt bondage’ is one form of ‘forced labour’ and is covered by the Convention’s definition.

**Following Indian laws restricts the practice of bonded labour :-**

A number of Indian laws (even dating back to before Independence) are supposed to protect exploitation of Indian children. Article 21 of the Constitution of India provides the strongest voice against such exploitation.

In addition, the most significant and effective law with respect to bonded child labour is the Bonded Labour System (Abolition) Act of 1976. It outlaws all debt bondage including that of children, and it requires government intervention and rehabilitation of the bonded worker. Every industry that includes bonded child labor – the main ones being beedi, carpets, and silk – violate the Bonded Labour System (Abolition) Act and the constitutional provisions that underlie such an act. In addition, they violate a number of other laws including the Child Labour (Prohibition and Regulation) Act, the Factories Act; the Beedi and Cigar Workers (Conditions of Employment) Act; the Contract Labour (Regulation and Abolition) Act; and the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act. All cases documented in this report also violate the Children (Pledging of Labour) Act, which is similar in its protections to the Bonded Labour System (Abolition) Act.

In addition, under the Indian Penal Code (IPC) rape, extortion, causing grievous hurt, assault, kidnapping, abduction, wrongful confinement, buying or disposing of people as slaves, and unlawful compulsory labor are criminal offences, punishable with up to ten years imprisonment and fines. Under the Juvenile Justice Act, 1986, cruelty to juveniles and withholding the earnings of a juvenile are criminal offences, punishable with up to three years imprisonment and fines.

- Indian Constitution
- Bonded Labour System (Abolition) Act, 1976
- Children (Pledging of Labour) Act, 1933
- Child Labour (Prohibition and Regulation) Act, 1986
- Factories Act, 1948
- Contract Labour (Regulation and Abolition) Act, 1970
- Contract Labour (Regulation and Abolition) Act, 1970
- Minimum Wages Act, 1948
- Plantation Labour Act, 1951
- Apprentices Act, 1961
- Shops and Establishments Act, 1961

**Constitutional and legal provisions in detail**

**Indian Constitution**

Some related provision regarding to bonded labour, namely:

- Preamble: The Constitution of India guarantees all citizen social, economic and political justice, freedom of thought and expression, equality of status and opportunity and fraternity assuring dignity of the individual;
- Article 14, 15 and these articles guarantee equality and equal treatment;
- Article 19(1) (g): The article guarantees freedom of trade and profession;

- Article 21: The article guarantees right to life and liberty;
- Article 23: Prohibition of traffic in human beings and forced labour - Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only on religion, race, caste or class or any of them.
- Article 24: The article prohibits the employment of children whether as bonded labour or otherwise. Together, Article 23 and Article 24 are placed under the heading “Right against Exploitation”, one of India’s constitutionally proclaimed fundamental rights.

**Directive Principles:** Moreover, the Directive Principles direct the State to strive to secure, inter alia: (a) Just and humane conditions of work (Article 42); (b) Educational and economic interest of the Scheduled Caste and Scheduled Tribe and other weaker sections of the society (Article 46).

- Under Article 42. Provision for just and humane conditions of work and maternity relief - The State shall make provision for securing just and humane conditions of work and for maternity relief.
- Under Article 43. Living wage, etc. for workers - The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work and living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

#### **Indian Penal Code:**

Under Section 374. Unlawful compulsory labour - Whoever unlawfully compels any person to labour against the will of that person, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both, also;

Children (Pledging of Labour) Act, 1933:

Children (Pledging of Labour) Act, 1933 says that unless there is something repugnant in the subject or context - “an agreement of pledging the labour of child” means an agreement written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilized in any employment. Provided that any agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child’s services and terminable at not more than a week’s notice, is not an agreement within the meaning of this definition. It also says that “Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend up to fifty rupees”.

Based on those provisions, the system of bonded labour is thus totally incompatible with the aim of an egalitarian socio-economic order under the Constitution of India. The system is also a violation of the basic human rights and obliteration of the dignity of human labour.

In order to give effect to the constitutional prevention of bonded labour as specified under Article 23 of Indian Constitution, Bonded Labour System (Abolition) Act was passed in 1976. The Act anticipated freeing all bonded labourers, canceling their debts, establishing rehabilitative measures and punishing offender through imprisonment and fines. Accomplishment of the Act is the liability of the State Government.

Before going into the material parts and the implementation of the Act of 1976, let us observe a few developments in this area prior to the posing of the Act of 1976.

### LEGISLATIVE HISTORY

Prior to 1976, some efforts were made to tackle the issue of bonded labour at the regional level. In the pre Independence period, there were two legislations, namely:

- The Bihar and Orissa Kamiauti Agreement Act, 1920;
- The Madhras Debt Bondage Abolition Regulation Act, 1940.

In the post independence period there were two legislation which mainly dealt with the abolition of bonded labour :

- The Orissa Debt Bondage Abolition Regulation, 1948;
- The Rajasthan Sagri System Abolition Act, 1961.

All these efforts and some more including the twenty-point programme were complete failure and therefore need was felt for an explicit law to check bonded labour thus came into being the Bonded Labour System (Abolition) Act 1976.

Along with these laws the judiciary has also worked in this direction for welfare of bonded labours but the disappointment comes when it is seen that till date there has not been a much cases of conviction. Some of the major case laws which shows that we are still not able to achieve our goals can be shortlisted as follows:

- ***Dharambir v State 1979***, where the Supreme Court held that prisoners are entitled to fair wages while doing work in the jails. The court held that free labour by prisoners violates the feeling of Article 23 of the Constitution.
- ***PUDR v UOI (1982)***, where the Supreme Court held that giving wages below the limits set by the Minimum Wages Act would amount to forced labour.
- ***Bandhua Mukti Morcha v UOI (1984)***, where the Supreme Court issued directions for the release and rehabilitation of bonded labourers engaged in the mining operations.
- ***Neerja Chaudhary v State of M.P (1984)***, where the Supreme Court expressed anguish over the indifference of the government towards the rehabilitation of released bonded labourers.
- ***Shankar Mukherjee v UOI (1990)***, where the Supreme Court held that the Contract Labour Act, 1970 is a welfare legislation that must be interpreted liberally in favour of the labourers. The court further held that the system of contract labour is just another form of bonded labour and it should be abolished due to its baneful effect.
- ***PUCL v State of TN (2004)***, where the Supreme Court appreciated the role of NGOs in the prevention of bonded labour and their emancipation. The court further observed that the approach of judiciary should be benevolent towards bonded labourers.

The Apex Court (Supreme Court of India) has adopted a proactive approach throughout towards elimination of bonded labour and child labour. The NHRC has been in existence for a decade and is responsible for promoting, protecting and preserving human rights for all sections of society, including those of the working class. The Apex Court has entrusted the responsibility of

**An International Multidisciplinary Research e-Journal**

overseeing the implementation of provisions of the Bonded Labour System (Abolition) Act, 1976, to the NHRC for quite some time.

- The most remarkable judgment in favour of bonded labour is of Justice Sri P.N. Bhagwati of the Supreme Court of India, dated 16 December 1983, arising out of a writ petition No. 2135 of February 1982 and filed by Bandhua Mukti Morcha, gave a broad, liberal and expansive interpretation of the definition of the bonded labour system, which can be summed up in the following words:
- it is not necessary to prove beyond doubt the element of loan/debt/advance in a creditor/debtor relationship;
- if the debtor is rendering certain services to the creditor free of cost, it is to be presumed that he/she is doing it out of some economic consideration;
- he/she, therefore, is a bonded labourer entitled to the benefits of law.

There are four essential provisions regarding the abolition of the bonded labour system:

1. On the commencement of the Act, the bonded labour system stands abolished
2. Every bonded labourer stands freed and discharged from any obligation;
3. After the commencement of the Act, no person shall make any advance under or in pursuance of the bonded labour system;
4. Any custom or tradition or any contract by virtue of which any person is required to do any work shall be illegal.

The Act does away with every obligation of a bonded labourer to repay any bonded debt; it also dispenses with the future liability of repaying a bonded debt

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

The main objectives of the Act are

- Identification,
- Release
- Rehabilitation of Bonded Labourers.

Some of the salient features of the Act are:

Firstly, it is about the awareness of the need for machinery relating to its implementation. Secondly, the Act envisages the Constitution of Vigilance Committees at the district and sub-divisional level, to advise the District Magistrate and to ensure the implementation of the provision of the Act.

Thirdly, Section 16 to 19 of the Act deals with the Penal Sanctions which are, if enforced properly, sufficient to have the requisite effect.

**ACTIONS NEEDED**

The real problem lies in the implementation aspects. Implementation may be a failure due to some of the following reasons, namely:

- Lack of Awareness: The need to create awareness of socio-economic legislation or to publicize it is hardly realized.
- Lack of Actual Prosecution of the Offenders: As also seen from past experience, there is hardly any enforcement of the penal sanctions provisions.

**An International Multidisciplinary Research e-Journal**

- Lack of Administrative and Political Will: Not infrequently, the administrators who implement the programmes are drawn from the dominant castes whose interests are adversely affected by the legislation.
- Lack of Facilities for Legal Aid and Advice: Often, illiteracy, lack of communication, remoteness from urban centers and poverty inhibits the weaker section from taking advantage of the legal process available to them.
- Social and Economic Dependence: The law should take account of the social and economic background of the issue.

**NUANCES OF THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**

- a. On commencement of this Act the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged free from any obligation to render bonded labour.
- b. Any custom, agreement or other instrument by virtue of which a person is required to render any service as bonded labour shall be void.
- c. Liability to repay bonded debt shall be deemed to have been extinguished.
- d. Property of the bonded labourer to be freed from mortgage etc.
- e. Freed bonded labourers shall not be evicted from homesteads or other residential premises which he was occupying as part of consideration for the bonded labour.
- f. District Magistrates have been entrusted with certain duties and responsibilities for implementing the provision of this Act.
- g. Vigilance committees are required to be constituted at district and sub-divisional levels.
- h. Offences for contravention of provisions of the Act are punishable with imprisonment for a term which may extend to three years and also with fines which may extend to two thousand rupees.→
- i. Powers of Judicial Magistrates are required to be conferred on Executive Magistrates for trial of offences under this Act. Offences under this Act may be tried summarily.→
- j. Every offence under this Act shall be cognizable and bailable.→

**HINDRANCES**

The problem of Bonded Labour System is not a problem in or by itself. It is a part of the larger issue of welfare of the nation as a whole. Besides the several failures of implementation of the Act, the Report from Human Right Watch Asia finds that there are also some obstacles to enforce the Act, namely:

- Apathy;
- Caste and Class Bias;
- Obstruction;
- Corruption;
- Lack of Accountability;
- Lack of Adequate Enforcement Staff.

**STEPS NEEDED**

- a. There are various steps that need to be taken to change the present situation with regard to forced labour in India-

- b. One, awareness towards bonded labour in various sectors across in India, in the various Government agencies dealing with it and for the officials in charge of rescue and rehabilitation.
- c. Two, a robust and pragmatic rehabilitation program for the victim, to ensure his/her skill
- d. Generation, employability and professional freedom.
- e. Three, a comprehensive and standardised documentation of forced labourers and trafficked individuals, which would include identity, age and occupational details (wages, work conditions etc.) to create a national online data base.
- f. Four, creation of a system to identify cases of forced labour across the country in various sectors. Using surveys, analysis and vigilance committees.
- g. Five, investing in educating individuals about their rights, creating awareness against forced labour along with heavily publicising the penalty against those who are found involved in it.
- h. Dealing with those forcing individuals into labour in a strict and swift manner, publicising their identity and offence. Along with this, ensuring a re-designed government based rehabilitation program, unlike the present case where most of it is done through poorly funded NGO's.

### **SUGGESTIONS**

The problem of bonded labour is dynamic in nature and it can reoccur at any point of time. Thus, the bonded labourers must be rehabilitated as soon as possible after their release. If this is not done than it is a remedy worse than the malady because these labourers will die of starvation. Thus, before releasing the bonded labourers a sound rehabilitative planning is inevitable. The following measures can be adopted in this regard:

- Public awareness and education is a must,
- Productive and income generating schemes must be formulated in advance otherwise they will again fall back upon the system of bonded labour after their release,
- These schemes should be chosen after duly consulting the concerned labourers and NGOs involved in their emancipation and rehabilitation,
- The government should work on a priority basis in areas vulnerable for the system of bonded labour and for the rehabilitation of already releases labourers,
- An effective and speedier grievance redressal machinery should be established for proper disposal of cases pertaining to bonded labour,
- A humanitarian training programme should be formulated for persons dealing with bonded labourers,
- There should be a system of summary disposal of cases under various laws dealing with the evil of bonded labour,
- There should be a strict enforcement of the welfare and labour legislations,
- There should be more stringent penal laws for effectively dealing with the menace of bonded labour etc.

Besides the measures for improvement mentioned already in the foregone discussion, the Government of India should demonstrate its commitment to the eradication of bonded labour by implementing some of the following recommendations at the earliest possible.

- The Bonded Labour System (Abolition) Act should direct Vigilance Committees and District Collectors to initiate serving and credit programme at the community level.
- In addition to genuine government action, it is essential that non-governmental organization be encouraged by the Governance to collaborate in this effort.
- A nation-wide public awareness campaign should be launched regarding the legal prohibition of bonded labour.
- The scheme for rehabilitation programmes should be integrated with existing IRDP and NREP (35th Session of the Labour Ministers Conference held in 11 May 1985).
- The Court should also abandon the conventional approach and come to the rescue of the bonded labourers, particularly in the technical rules of evidence and degree of burden of proof.

### CONCLUSION

The [\*UN Guiding Principles on Business and Human Rights\*](#) explicitly makes it a clear duty to protect human rights from abuses involving non-state actors, including companies. In many countries, however, government ability to protect worker rights and create an environment that encourages responsible business is constrained, either through lack of resources, endemic corruption or simply unwillingness to act.

### **The central objective of preparing a perspective plan was to highlight the following aspects of elimination of forced/bonded labour which are non-negotiable:**

- the problem of forced/bonded labour in India is open-ended. it can occur and recur at any point of time. it does not cease to exist merely on account of enactment of a law nor on account of constitutional provisions;
- it is not confined to any particular sex or age group;
- it is the outcome of poverty, landlessness and lack of assets and various other forms of injustice and deprivation;
- no law is foolproof and everything cannot be stated in the framework of the law. To illustrate, the existing law is completely silent on the methodology to be followed for identification of bonded labour system. The law is silent on the modalities of socio-economic rehabilitation. In such a situation one has to think, reflect, critically analyze, apply one's imagination and come up with something which is not there in the body of the law and yet something which can be applied on the ground;
- in dealing with the problem one needs to adopt a non-formal, non-conventional and unorthodox approach which at the same time is intensely humane, patient, tolerant and catholic. Such an approach is likely to in still greater confidence in the mind of the people whom both the law and the programmes are meant to benefit;
- the basic approach to rehabilitation of freed bonded labourers is to treat them as free human beings with unsuspected possibilities. What is of utmost importance in such a process is the presence of all sections of a kind, compassionate and a caring civil society with equally kind and considerate individuals in charge of rehabilitation;
- it is not possible for one single ministry, department or agency to take the entire responsibility for implementing all the components of rehabilitation to produce optimal results.

- One needs whole-hearted involvement of all ministries/departments/agencies to produce the desired results.
- One needs a convergent approach in which resources can be pooled from different departments and integrated in an imaginative manner to produce the desired results.
- social safety and security;
- accessibility/convergence of a number of agencies at a single point;
- economies of scale;
- significant improvement in quality.

A perspective plan essentially provides a direction which the policy formulators and programme implementers should follow. If there is a national policy, the plan may point out the gaps and omissions in the policy and suggest the correctives needed to bring the policy in tune with the ground level realities. If there is no national policy, the plan may help its formulation. Similarly, the plan may influence programmes on the ground where implementation may be flawed. The plan may accelerate the implementation process and may help to bring about qualitative improvement and change.

A perspective plan is not primarily a search for resources although resources –physical and financial – are extremely important and have to be tailored to the need. It is evident that no perspective plan can be put into operation without availability of adequate resources. Resources are needed to survey the identification and enumeration of bonded labourers. Resources are needed for the orientation and training of a large number of functionaries at various levels. Resources are needed for the rehabilitation of freed bonded labourers. Resources are needed for the monitoring, coordination and supervision and, lastly, for evaluation of the content, process and impact of the programme. If the domestic budget cannot guarantee financial resources of the desired sized one has to look for external funding to supplement the domestic budget. The size of funds will, therefore, require to be precisely worked out. The decision whether or not to seek external support is, of course, entirely the prerogative of the national Government.

Finally to conclude it can be said that

- Bonded labour must be attacked from many fronts. Enforcement of the law is essential, but it is not enough. The bonded labour must have someplace else to go. The elimination of current debt bondage and the prevention of new or renewed bondage therefore, require a combination of concerted government action and extensive community involvement.
- Bonded labour is a vast, pernicious, and longstanding social evil and the tenacity of the Bonded Labour System must be attacked with similar tenacity. Anything less than total commitment is certain to fail

## **REFERENCES**

- CONSTITUTION OF INDIA
- INDIAN PENAL CODE
- THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976
- CONVENTION ON THE RIGHTS OF THE CHILD, G.A. RES. 44/125, U.N. GAOR, 44TH SESSION, SUPP. NO. 49, U.N. DOC. A/44/736 (1989) (ENTERED INTO FORCE SEPTEMBER 2, 1990).

- FORCED LABOUR CONVENTION (NO. 29), 1930, ADOPTED AT GENEVA, JUNE 28, 1930, AS MODIFIED BY THE FINAL ARTICLES REVISION CONVENTION, ADOPTED AT MONTREAL, OCTOBER 9, 1946.
- INTERNATIONAL LABOUR ORGANISATION, CONVENTIONS AND RECOMMENDATIONS 1919-1966 (GENEVA: ILO, 1966), P. 891.
- INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, G.A. RES. 2200 (XXI), 21 U.N. GAOR SUPP. (NO. 16), U.N. DOC. A/6316 (1966) (ENTERED INTO FORCE MARCH 23, 1976).
- INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, G.A. RES. 2200 (XXI), 21 U.N. GAOR SUPP. (NO. 16), U.N. DOC. A/6316 (ENTERED INTO FORCE JANUARY 3, 1976)
- CONVENTION ON THE RIGHTS OF THE CHILD, G.A. RES. 44/125, U.N. GAOR, 44TH SESSION, SUPP. NO. 49, U.N. DOC. A/44/736 (1989) (ENTERED INTO FORCE SEPTEMBER 2, 1990)
- HUMAN RIGHTS WATCH: NEW YORK, 1995).