



## HUMAN RIGHTS AND BONDED LABOUR

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Bonded labour also known as debt bondage is one of the most severe violations of human rights. It traps individuals in exploitative working conditions through coercion, debt, or social pressure. Despite being banned under international law, it still exists in many parts of the world. Bonded labour was widely practised in rural areas of India as the agricultural industry relies on contracted, often migrant labourers. As per the Indian constitutional definition of forced labour, the persistent forms of modern slavery are bonded migrant labour, agricultural debt bondage, and child labour.

There is a direct link between the agrarian structure and agricultural productivity. In areas where there was adequate rainfall and a very good network of irrigation facilities, especially in rice-growing regions in river deltas, there was a higher demand for intensive cultivation. In such areas, unequal agrarian structures were developed. The agrarian structure of these regions was characterised by a large proportion of landless labourers, who were often bonded workers belonging to the lowest castes.

Bonded labour may amount from the forced labour or may be by deduction of any amount of wages or by an agreement for extra work. It amounts to bonded labour when the worker is not paid for extra work.

### **What is Bonded Labour?**

Bonded labour is a form of modern slavery in which a person is forced to work to repay a debt. Often, the value of their labour greatly exceeds the original debt, and they are unable to leave or negotiate better terms. This practice is most prevalent in sectors like agriculture, brick kilns, textile factories, mining, and domestic work.

Bonded labour means any person who is bound to serve his master at exorbitantly low wages for a fixed time. This may be a Year, or many years, or even for a generation to generation to come. Slavery was the major social evil in ancient times. It is still in existence in the name of bonded labour or forced labour, or unlawful compulsory labour.

### **Human Rights Violated by Bonded Labour**

Bonded labour undermines several fundamental human rights, including:

- Right to freedom and liberty (Universal Declaration of Human Rights, Article 4)
- Right to just and favourable conditions of work
- Right to education (often denied to children of bonded labourers)
- Right to freedom from discrimination and exploitation
- Right to an adequate standard of living and dignity



### Causes of Bonded Labour

- Poverty and lack of access to credit
- Illiteracy and lack of awareness of rights
- Caste or ethnic discrimination
- Absence of effective legal enforcement
- Migration and trafficking vulnerabilities

### Bonded Labour in India - A Brief History

The **Jeeta system** in **Karnataka**, the **halpati system** in **Gujarat** tied the working poor to landowners in hereditary labour relationships (bonded labour). Due to lack of resources, the working poor depended on the landed class for political, social, and economic support, which made them bonded labourers.

Legally, the system of bonded labour has been abolished, yet they continued to exist in many areas of India. In the post-Independence period, especially in those regions that underwent the Green Revolution, many important transformations took place in the rural areas, concerning social relations. Hereditary relationships or traditional bonds between agricultural workers and landowners (known as bonded labour) weakened.

The first case in which the Supreme Court, through Justice Bhagwati, dealt with the Bonded Labour Problem is *People's Union for Democratic Rights and others V/s Union of India and others*, AIR 1982 SC 1473. In this case Delhi Administration engaged contractors to carry out the construction work of the project. The contractors were registered as principal employers under section 7 of the Contract Labour (Regulation and Abolition) Act, 1970. The Contractor has started the construction work on the project. Contractors had engaged workers through Jamadar. The workers were paid a minimum wage of Rs. 9.25 per day. It was the minimum wage fixed for workers employed on the construction of roads and in building operations. The case of the petitioners was that the workers were not paid the minimum wage. They were exploited that contractors did pay the minimum of Labour asserted that contractors did pay the minimum wages of Rs.9.25 per day.

It was admitted that this minimum wage was paid to the Jamdars through whom the workers were recruited. The Jamadars were deducted a rupee per day per worker as their commission and paid only Rs. 8.25 by way of wage to workers. The result was that, in fact, the workers did not get the minimum wage of Rs. 9.25 per day. There was also a violation of the Equal Remuneration Act, 1976, because the women workers were paid only Rs. 7.00 per day. The balance of the amount of the wages was being misappropriated by the Jamadars. The children below the age of 14 years were employed by the contractors in the construction work. There was violation of Article 24 and the Employment of Children Act, 1958. The petitioners also alleged violation of the provision of contract Labour (Regulation and Abolition) Act 1970. It has pointed out various breaches of these provisions by the contractors. It is resulted in deprivation and exploitation of the workers employed in the construction work of the projects. The workers were denied proper living conditions and medical and other facilities. They were entitled under the contract Labour (Regulation and Abolition) Act 1970.



The Court observed that the present write petition can not be maintained under Article 32 unless it complains of a breach of some fundamental rights. But here in the present write petition there are clear violations of fundamental rights. The complaint of the violation of Article 24 based on the averment that the children below the age of 14 years are employed in the construction work of Asiad projects is clearly violation of a fundamental right. So also when the petitioners allege non-observance of the provisions of the Equal Remuneration Act 1946, it is in effect and substance a complaint of the breach of the principle of equality before the law enshrined in Article 14 and it can hardly be disputed that such a complaint can legitimately arise from the subject matter of a write petition under Article 32. Then there is the complaint of non-observance of the provisions of the Contract Labour (Regulation and Abolition) Act 1970, and this is also a complaint relating to violation of Article 21. This Article has acquired a new dimension as a result of the decision of this court in *Maneka Gandhi V/s Union of India* AIR 1978 SC 215. It has received its most expansive interpretation in *Francis Corallie Mullin V/s The Administrator, Union Territory of Delhi and others* AIR 1981 SC 743. It has been held by this court that the right to life guaranteed under this Article is not confined merely to physical existence through which life is enjoyed. But it also includes within its scope and ambit the right to live with basic human dignity. The state can not deprive any one of this precious right because no procedure by which such deprivation may be effected can ever be regarded as reasonable, fair and just. The rights and benefit conferred on the workmen employed by a contractor under the provisions of the Contract Labour (Regulation and Abolition) Act 1970 are clearly intended to ensure basic human dignity of the workmen and if the workmen are deprived of any of these rights and benefits to which they are entitled under the provisions of these two pieces of welfare legislation, that would clearly be a violation of Article 21 by the Union of India, Delhi Administration and Delhi Development Authority which, as principal employers are made state responsible for securing such rights and benefits to the workmen. That leaves for consideration the complaint in regard to no payment of minimum wages to the workmen under the Minimum Wages Act 1948. This complaint is also one relating to breach of fundamental rights and for reasons, it is the fundamental right enshrined in Article 23 which is violated by non-payment of minimum wages to the workmen.

In the instant case Rs. 1 per worker per day was deducted by Jamadars from the wage payable to the workers employed by the contractors for Asiad projects with the result that the workers did not get the minimum wage of Rs. 9.25 per day. The same amounted to the infringement of Article 23.

Similarly, in *Bandhu Mukti Morcha V/s Union of India*, AIR 1984 SC 802, in which the petitioner was an organisation dedicated to the cause of release of bonded laborers in the country, it wrote a letter to one of the judges, which was converted into a writ petition. The writ petition was filed on behalf of the workers from Maharashtra, Rajasthan, M.P., and U.P. who were working in the Faridabad stone quarries. The petitioners pointed out that the large laborers were languishing under the abject conditions of bondage for about last ten years. It also pointed out that various provisions of the constitution and the statutes were not being implemented regarding the laborers working in the stone quarries.



The Court appointed two Supreme Court advocates as Commissioners and directed them to visit the quarries and to make a report to the Court. The Commissioners in their report submitted that because of many stone crushing machines operating in the area, the whole atmosphere was full of dust, and it was difficult to breathe. Many laborers, the report said, had them that they were not allowed to leave the quarries and that they were providing forced labour. The laborers complained that they did not even have pure water to drink. They were compelled to drink dirty water from the nallah and were living in jhuggis with stones piled one upon the other as walls and straw covering at the top.

While speaking on bonded laborers problem and basing his judgment on the People's Union for Democratic Right V/s Union of India, AIR 1982 SC 1473, Bhagwati J. observed:

Article 21 assures the right to live with human dignity, free exploitation. The state is under a constitutional obligation to see that there is no violation of the fundamental right of any person, particularly when he belongs to the weaker sections of the community and is unable to wage a legal battle against strong and powerful opponent who exploiting him. Both Central Government and the State Governments are, therefore, bound to ensure observance of various social welfare labour laws enacted by parliament for the purpose of securing to the workmen a life of basic human dignity in compliance with Directive Principles of State Policy. Bandhu Mukti Morcha V/s Union of India, AIR 1984 SC 812.

Whenever it shown that a laborer is made to provide forced labour, the court would raise a presumption that he is required to do so in connection of an advance or other economic consideration received by him and he is therefore a bonded labour. This presumption may be rebutted by employer and also by the employer and also by the state Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, material is produced for rebutting this presumption, the court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act. The state court can not be permitted to repudiate its obligation to identify, to release and rehabilitate the bonded labourers on the plea that though the concerned labourers may be providing forced labour, the State Government does not owe any obligation to them unless and until they show in an appropriate legal proceedings conducted according to the rules of adversary system of justice, that they are bonded labourers. Bandhu Mukti Morcha V/s Union of India, AIR 1984 SC 1099, regarding the rehabilitation aspect of the bonded labour problem. The petition in this case was based on the letter addressed to one of the judges of the Court of Neerja Chodhary, correspondent of The Statesman. It was said in the letter that though six months had passed but none of the 135 bonded labourers released by the Court from the Faridabad quarries and sent to Madhya Pradesh had been rehabilitated. This was even though the M.P. Government had given an undertaking while taking the labourers to M.P. from Faridabad that suitable steps would be taken immediately for their rehabilitation.

It was also pointed out that through a number of rehabilitation schemes existed on papers; the Government had not cared to implement them. The petitioner asked for the directions to the state Government for the economic and social rehabilitation of the free bonded labourers.



The Court directed the state Government to provide rehabilitation assistance to 135 bonded laborers who had sent from the Faribadbad quarries. It said:

They should be provided with this assistance within one month from the date of the order. They have waited too long; they can not wait for longer. What kind of rehabilitative assistance should be provided and what would be appropriate for the family of particular freed bonded laborer would have to be decided by the Vigilance Committee and such rehabilitative assistance shall be provided by the State Government in the presence of a representative of one of the social action group

The Court also observed in the judgment: 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 again. Poverty and destitution are almost perennial features of Indian rural life for large number of unfortunate ill starved humans in the Country and it would be nothing short of cruelty and helplessness to identify and release bonded labourers merely to throw them at the mercy of the existing social and economic system which denies to them even the basic necessities of life .. **Neerja Choudhary V/s State of M.P. AIR 1984 SC 100.**

A plan for rehabilitation was put forward by the Supreme Court. All the State Governments and authorities are indulged in this job. They should follow these broader objectives. The concept of rehabilitation, the Supreme Court through Bhagwati J. Pointed out, has four main features in a case, *Bandhu Mukti Morcha V/s Union of India*, AIR 1984 SC at 828. The same is reproduced here:

1) Psychological rehabilitation must go side by side with physical and economic rehabilitation.

2) Physical and economic rehabilitation has 15 major Components, namely allotment of house site, and agricultural land, land development, provision of low cost dwelling units, agriculture, provision of credit, horticulture, animal husbandary, training for acquiring new skills, and developing existing skills, promoting traditional arts and crafts, provision of wage employment and enforcement of minimum wages, collection and processing of minor forest produce, health, medical and processing of minor forest produce, health, medical care and sanitation, supply of essential commodities education of children of bonded laborers and protection of civil rights;

3) There is scope for bringing about an integration among various central and centrally sponsored schemes and the on-going schemes of the State Governments for a more qualitative rehabilitation, and

4) The freed bonded laborers necessarily be given the choice between the various alternative for their rehabilitation.

With these guidelines the Court directed the state Government to draw up a programme for effective rehabilitation of bonded laborers.

The court established that the rehabilitation was the constitutional right of these miserable persons. The state is bound to rehabilitate the bonded laborers after they are freed from bondage of course, not only courts in country but the legislature and the executive, as well must take note of this pronouncement. The whole legal provision for the protection of bonded labourers as well as for the eradication of bonded labour





system was put at constitutional backbone. Now it would be possible to carry out socio-economic reforms of such people through constitutional scene for the cause of weaker, depressed, down-trodden, destitute and even for the weakest of the weaker section.

The recent judicial trend shows that the suitable action has been taken by the court for freeing bonded labourers from the bondage. They have been restored the liberty. It is guaranteed under the constitution in all appropriate cases those are coming before the apex court of the country. Action taken by the court had the effect of creating an awareness not only in the minds of the sufferer but had also helped to an extent in removing the inertia and lethargy in the administration which started taking appropriate steps for implementation of the provisions of this eminently beneficial social welfare legislation either on the basis of the directions given by the supreme court on its initiation.

The Indian judiciary in giving a sense of emancipation to the states, sleeping wing of the society, making conscious to the unconscious souls, enlightening them with their constitutional rights through samata, i.e. equal justice. Further, for removing such social evil, viz. blot on the Indian Constitution, judiciary has to take stern attitude towards the accountable person for not showing the due sincerity on their part, for the purpose of making effective implementation of bonded law. Hence the dullness of the said law, should not only be condemned but also be punished according to the culpability, then only the concepts of identification, freedom and rehabilitation can be made real one.

### **Conclusion:**

Article 21 is conferring a positive fundamental right to the bonded laborers to live with human dignity. The Supreme Court has developed a new sense of state accountability for constitutional violations. These principles may be summed up as under.

- i) The state Government can not be allowed to stifle an inquiry by the Court as to whether the workmen are living in bondage. Indian of bulking such inquiry the State Government should be anxious to satisfy the court and through court the people of the country that it is discharging its constitutional obligation fairly and adequately, if the workmen are being ensured social and economic justice.
- ii) Since the directive principles are not enforceable in a Court of law, it may not be possible to compel the State through judicial process to make provision by statutory enactment or executive fiat for ensuring these basic essentials which go to make up a life of human dignity but where legislation is already enacted providing these basic requirements to the workmen and thus investing their rights to live with human dignity, the state can certainly be compelled to ensure implementation of such beneficial legislation.
- iii) The State Government can not be permitted to repudiate its obligation to identify, release and rehabilitate the bonded laborers on the pleas that though the bonded laborers on the pleas that though the concerned laborers on the pleas that though the concerned labour may be provided forced labour, the State Government does not owe any obligation to them unless and until they prove that they are bonded laborers.



- iv) Whenever, it is shown that a labour is made to provide forces labour, the court would revise a presumption that he is required to do so in consideration of an advance in other economic consideration received by him and he is therefore a bounded labour.
- v) Public interest Litigation is not in the nature of adversary litigation, but is a challenges and opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice.
- vi) Any person who is wrongfully and illegally employed as a labourer in violation of labour laws i.e. Bonded Labour system (Abolition) Act, 1976, is in essence deprived of his liberty guaranteed to him by Article 21 and it is open to anybody who is interested in the person to move the Court under Article 32 of the constitution for his release.
- vii) It would be violative of Labour Laws and the constitutional mandate and also of their fundamental rights under Article 21 and 23 if the free bonded laborers are not rehabilitated. A preliminary programme is needed for proper and effective rehabilitation. It includes reforms at three stages. (1) The bonded laborer should be made capable of realizing the measuring freedom. This should be done by teaching them the main concepts of the above provisions. (2)The feeling of brotherhood and fraternity and a sense of social service is needed. It is possible only by educating the people especially youth of the whole nation, by creating a task force organising special camps for the above purposes. (3) By applying the energy of such trained youth to his action for rehabilitation of bonded laborers. These reforms will improve the environment itself in which no such evil could breathe. The time has come when we should have such law in action. The laxity of law is itself against the rule of law which means laws, living, enforced and its violation is punished strictly.

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