

Rehabilitation of bonded laborers in India: An analysis

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Abstract

The Supreme Court of India, recently given direction to the National Human Rights Commission (herein referred to as NHRC) to inspect complaints concerning bonded labour who were working in the three kilns of Bihar and Uttar Pradesh. A plea was filed in the Supreme Court by the social worker² who had alleged that around 187 people have been enforced to bonded labour in brick kilns. They are forced to do hard bodily labour in insensitive conditions.³ On 24th March India declared a nationwide lockdown. It was an unexpected declaration there was no preparation for those whose livelihood had been threatened. Almost 90% of the workforce employed in the informal/unorganised had been affected badly. This study explored how the pandemic impacted the informal sector, especially bonded labourers. Data and cases are collected through the internet, books and newspapers. During a pandemic, the helplessness of bonded workers was exposed. certainly, it did not arise in a couple of days and needs to see the brief backdrop of the forced/bonded labourers. Another part of the paper takes care of the current conditions and rehabilitation policy of the bonded labourers and its impact. The study suggests that identifying and rehabilitation policy of bonded labour will be helpful for these voiceless labourers.

Keywords: Labour, Pandemic, Forced labour, unorganised sector, bonded labour.

Introduction:

The reason for the national lockdown was a necessary step for breaking the rapid spread of the virus. A large number of approximately 39 crores of unorganised workers were thrown out on the street without any social security and they become most vulnerable. It was evident that the pandemic has aggravated the issue of a bonded labourers in India. It was witnessed during the pandemic most of the migrants moved to their home town, and the employers or factory owners were searching for low-priced labourers for their production going. Many enterprises employed young children with a promise of employment until the pandemic gets over. Not only this many states such as Gujrat and Punjab amended the Factory Act,⁴with the amendments, enhanced the working hours to 72 hours a week. The Rajasthan government increased working hours from 8 hours per day to 12 hours.⁵ The Uttar Pradesh government to have issued a notification during COVID-19 and excused companies from most of the labour regulations for the coming next three years.⁶ Many young children and workers were forced to work in different factories for long hours in unsafe conditions. The effect of Covid is evident that it was a menace to existing socio-economic conditions. In a survey conduct by the United Nations, it is stated 70% of fighters of human trafficking in almost 35 countries are trapped by the pandemic. The deterioration in monetary

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³ HT Correspondent, *National Human Rights Commission to examine allegations of bonded labour in brick kilns in UP, Bihar*, The Hindustan Times (Last visited Sept. 9, 2020).

⁴ PTI Punjab decides to amend law to facilitate large industrial units, create job opportunities, The Times of India (last visited Jun. 6, 2020).

⁵ Somesh Jha, 'Rajasthan govt withdraws order increasing daily working limit to 12 hours' Business Standard (last visited Jun. 6, 2020).

⁶ Somesh Jha 'Covid-19 crisis: UP exempts biz from all but 4 labour laws for 3 years', Business Standard, (last visited Jun. 6, 2020).

comfort caused a rise in domestic violence cases and concern for mental health and exploitation.⁷

In a case, in Madhya Pradesh, the boy aged eight-year whose parent's worked as bonded labourers death has shaken the consciousness of authorities in the country and put the burden on authorities to trace out innumerable cases of bonded labourers in central India.⁸ In India, debt bondage is considered to be the most common form of slavery. In the Guna case according to the police statement "the boy's parents, who had been working on their employer's farm without pay for five years to repay a 25,000-rupee loan, lived in a polythene hut and were assaulted when they asked for money to take their sick child to a doctor. The family was in a bad shape ... it was distressing to see how they lived."⁹ The employer and others were arrested based on bonded labour. The family of the victim is waiting for justice. ¹⁰According to the 2011 census, India identified more than 1,35,000 bonded workers. The identified and released bonded labourers based on the information provided by different states and union territories are as under:

Name of the States	Numbers of bonded labourers identified and released
Andhra Pradesh	38,141
Arunachal Pradesh	3,526
Assam	12
Bihar	17,886
Chhattisgarh	3,548
Gujarat	64
Haryana	594
Jharkhand	314
Karnataka	66,281
Kerala	823
Madhya Pradesh	13,319
Maharashtra	1,404
Odisha	51,441
Puducherry	09
Punjab	252
Rajasthan	7,872
Tamil Nadu	65,573
Uttar Pradesh	42,279
Uttaranchal	5
West Bengal	344
TOTAL	3,13,687

Source: Ministry of Labour and Employment.¹¹

In 1976 India passed the legislation on bonded labourers.¹² The objective of the Act is to abolish and penalise an employer/contractor for rendering bonded labour. Under the Act, the practice of bonded labour is punishable with detention and a nominal fine.¹³ The expression 'Forced labour'¹⁴ and 'Debt bondage'¹⁵ (or bonded debt) are well-

⁷ Mental Health in the times of COVID-19 Pandemic available at <https://www.mohfw.gov.in/pdf/HCW MentalHealthSupportGuidanceJuly20201>. (Last visited Jan. 8, 2020).

⁸ Rupak De Chowdhuri/Reuters, 'Indian boy's death highlights plight of bonded labour', Al Jazeera (last visited Jan. 8, 2020).

⁹ *Id.*

¹⁰ Roli Srivastava 'In India, boy's death spurs call for bonded labour crackdown', Thomson Reuters foundation news, (last visited May. 5, 2020).

¹¹ The bonded laborer identified and released available at <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1556210#:~:text=Article%2023%20of%20the%20Constitution,of%20the%20bonded%20labour%20system>. (Last visited Jul. 7, 2019).

¹² The Bonded Labour System (Abolition) Act, 1976.

¹³ Section 16 of The Bonded Labour System (Abolition) Act.

¹⁴ Section 2(g) of The Bonded Labour System (Abolition) Act.

¹⁵ Section 2 (d) of The Bonded Labour System (Abolition) Act.

defined under the Act. The highest number of cases of bonded labour has been recorded in states such as Karnataka,¹⁶ Madhya Pradesh¹⁷, Tamil Nadu¹⁸.

Labour arrangements in brickmaking and sugar cane cutting income are typical forms of "neo-bondage".¹⁹ The concept of bonded labour is not new if we see the origin of this term it was used for DASA (means a slave) this term has been developed under different various literature. Olson and Murthy stated that approximately 150,000 labourers migrate during seasons from one of the districts of Andhra Pradesh of which around 50,000 are bonded.²⁰ According to the available data India has around fifteen million bonded child labourers.²¹ Bonded labour is a variation on slavery.²² Thorner and Thorner had explained 'unfree' labour relations are of three different types. "One is— the long-duration relations, the second relation is of 'beck and calls' relationship, and the third is the system of 'forced' free or underpaid labour of tenants—the common thing is each of these forms being supported by a relationship of dominance and dependence."²³

The backdrop of the bonded labour

In old times slavery was similar to the slave trade and to trafficking in persons, forced prostitution, debt bondage, forced labour it also includes child labour pornography and prostitution, the use of children in armed conflicts and practises related to religious customs and colonial regimes.²⁴ Globally, modern slavery is based on two main issues (i) forced marriage (ii) forced labour. According to the International Labour Organisation (herein referred to as ILO), approximately 40.3 million people were part of modern slavery in 2016. According to data out of these 40.3 million victims, around 24.9 million were involved in forced labour. The countries where slavery was predominant are Africa (7.6 per 1,000 people followed by Asia and the Pacific (6.1 per 1000) then Europe and Central Asia (3.9 per 1000). Forced Labour is highest in Asia and the Pacific where four out of every 1000 people were victims, followed by Europe and Central Asia (3.9 per 1000) Africa (2.8 per 1000 the Arab States (2.2 per 1000) and the American (1.3 per 1000). According to United Nations approximations, around 27 to 30 million workers are trapped in the slave trade industry. The United Nations described debt bondage as 'modern-day slavery. Most of the South Asian countries and Saharan countries are signatories to the supplementary convention on the abolition of slavery but the evil practice is still prevalent in the region.²⁵

Origins and causes of India's Bonded Labour Problem

¹⁶ Varghese K. George, 'Bonded labourers of Bengaluru' The Hindu, 07/05/2020. Available at <https://www.thehindu.com/opinion/op-ed/comment-bonded-labourers-of-bengaluru/article31527606.ece>. (last visited Jul. 27, 2019).

¹⁷ Iram Siddique 'Bonded labourers rescued in Guna after five made to pick coins out of hot oil', The Indian Express, February (last visited Feb. 12, 2021). Available at <https://indianexpress.com/article/india/bonded-labourers-rescued-in-guna-after-five-made-to-pick-coins-out-of-hot-oil-7185013/>. (Last visited Jun. 6, 2021).

¹⁸ Hindustan Correspondent, 'Three bonded labourers rescued', The Hindu, February 20/02/ 2021. Available at <https://thehindu.com/news/national/tamil-nadu/three-bonded-labourers-rescued/article33884530>. (Last visited Jan. 10, 2021).

¹⁹ Breman, J. (1996), *Footloose Labour: Working in India's Informal Economy*, Cambridge: Cambridge University Press.

²⁰ Olson, Wendy K. and R. V. Ramana Murthy, *Contract Labour and Bondage in Andhra Pradesh, India*, JSP, Vol. 1, Nov. 2019.

²² Y. R. Hara Gopal Reddy, *bonded labour system in India* (1995); Ajay Kumar, *from slavery to freedom: the tale of Chhattisgarh bonded labourers* (Indian social institute, 1986).

²³ THORNER, DANIEL AND ALICE, *LAND AND LABOUR IN INDIA* (Allied Publishers, Bombay)

²⁵ Available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/ipecc/documents/publication/wcms_797515.pdf (last visited, Aug. 24, 2021).

In India, the first big survey was conducted in 1978 to find out the nature and scale of bonded labour and reported the overall figure of bonded labourers at 2.62 million. The calculation was based on an investigation of 1000 villages in 10 states. It was found in the investigation, around 61.5% of the bonded labourers belong to Scheduled Castes and 25.1% belonged to Scheduled Tribes. Around 89% of employers were from the agricultural sector. The investigation pointed out different types of bondage. It could be loyalty bondage; bondage through land allotment; child bondage, inter-generational bondage; and widow bondage. As per the National Sample Survey Organisation, an approximation of 3,43,000 bonded labourers were employed in sixteen states.²⁶ Bonded labour is a kind of forced labour that is in existence is because of debt. In most cases of the bonded labour, the worker entered into a contract with their employer. The said contract is not according to the law so it is not enforced by the law. Such contracts deny the fundamental right to work. It contains illegal conditions. In India, these contracts are enforced by customs or coercion. The interpretations are given by the Supreme Court to forced labour state that in general in cases of bonded labour the person picks on his own without any pressure from the creditors. The bonded labourers ask for advances from the creditors and appear that they come to an agreement with their creditors on their own to offer bonded labour to repay the debt of their creditors.²⁷

According to ILO forced or compulsory labour means “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.²⁸ It is noteworthy that the Apex Court ruled in *People's Union for Democratic Rights v. Union of India* held that “though bonded labourers seem to get into bonded service willingly, they are doing so under the force of their dire economic conditions. Hence, force is not just restricted to physical or legal compulsion but is broadly interpreted to also include economic compulsion.”²⁹

International Instruments

The bonded labour practice violates the rights of the workers under the subsequent international conventions. As far as India is concerned it is a signatory to most of the Conventions. It is mandatory on the part of India to obey their terms.

- Convention on the Suppression of Slave Trade and Slavery, 1926.
- Supplementary Convention on the abolition of slavery, the slave trade and Institutions and Practices Similar to slavery trade, 1956.
- Forced Labour Convention, 1930.
- International Covenant on civil and political rights 1966.
- International Covenant on Economic, social and cultural Rights, 1966.
- Convention on the Rights of Child (CCRC) 1989.

ILO Convention 29 on forced labour states that the members who ratified the convention. They shall ensure to undertake to overpower the use of force of compulsory labour in all its forms. India endorsed the forced labour Convention in the year 1954 and other Conventions on forced labour. Apart from this Article 23 of the Indian Constitution strictly forbids trafficking in human beings and forced labour,³⁰

²⁶ Alakh, N. Sharma, “Impact of Social Labelling on Child Labour in Carpet Industry” Economic and Political Weekly, Vol.37, Issue. 52, 2002.

²⁷ PUDR v. UOI, 1982 IN SC 67.

²⁸ Available at <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang-en/index.htm> (last visited Aug. 21, 2021).

²⁹ 1982 AIR 1473, 1983 SCR (1) 456

³⁰ Art. 23, the Constitution of India.



the Indian Penal Code the Immortal traffic (Prevention) Act, 1956 and various other laws deal with forced labour. Article 51(c) of the Constitution states that “respect for international law and treaty obligations in the dealings of organized people with one another.”³¹ Another important article is 253 of the Indian Constitution which “empowers the parliament to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.”³²

The Supreme Court has been contributing through judicial decisions to support the minimum standard under the ILO Conventions. The *Bandhua Mukti Morcha v. UOI* is a significant verdict of the Supreme Court concerning the bonded labour system. In this case, through a letter, NGO informed the SC about bonded labour working in quarries. The court considered the letter as a writ petition and instructed all states to offer help to the bonded labour and to provide them minimum wages and other facilities like clear water in the workplace, access to clean toilets, first aid facilities medical treatment for labourers and their families and legal assistance for any worker's compensation claims.³³

Bonded Labour – Formally Illegal but Still Continues

The bonded labour legally ended with the enactment of the Bonded Labour System (Abolition) Act, 1976. There are underdeveloped districts in Bihar and Uttar Pradesh where landlords exploited poor people from lower casts and make them work for free on their lands it continues because of social structure. The most vulnerable class are Maha Dalits with a very low literacy of 9 per cent. They are unable to get benefits from government schemes. In case of the inability to pay back the small loan whole family being bound into a slave in farms or brick kiln owned by the person, they are indebted for generations.³⁴ There are various reasons for the bonded labour the caste-based discrimination, unjust social inequality, vast poverty and inadequate education system contributes to it. According to the NCRL “the followings are the sectors where most of the bonded labourer are involved. migrant labour; stone quarries; brick kilns; system of *joginis* and *devdasis*; fishermen; forest labour; bidi workers; carpet weavers; pottery; weavers; head loaders; child labour in match and fireworks; carpet weaving etc.”³⁵

Rehabilitation of Bonded Labourer's

In *People's Union for civil liberties V. state of Tamil Nadu*,³⁶ the query was about rehabilitations of bonded labour. Based on the report submitted by the National Human Rights Commission (herein referred to as NHRC) the Apex Court noticed that the main issue regarding bonded labour was their rehabilitation and issue instructions to the state for actual rehabilitation.³⁷ The Ministry of Labour had framed a centrally funded scheme which used to provide initially rupees 4000 for the rehabilitation of bonded labour. On 17th May 2016, the Government has refurbished the centrally funded Scheme for the Rehabilitation of Bonded Labourers. According to the scheme,

³¹ Art. 51(c), the Constitution of India.

³² Art. 253, the Constitution of India.

³³ (1997) 10 SCC 549.

³⁴ Murali Krishnan *Plea in SC alleges 187 persons in bonded labour in brick kilns of UP, Bihar*, The Hindustan Times, (last visited Jan. 1, 2021).

³⁵ The National Commission on Rural Labour (NCRL) Report of 1991 (Ministry of Labour 1991a and 1991b), Volume I, 1991.

³⁶ (2004) 12 SCC 381.

³⁷ Available at <https://main.sci.gov.in/judgment/judis/14584.pdf> (Last visited Aug. 10, 2021)

the financial support for rehabilitation of a rescued bonded labourer was rupees one lakh for a grown-up male beneficiary. The scheme provided Rs. 2 lakhs for a special category of children. These children included orphans and the children who were rescued from begging circles or other forms of bonded child labour. In case of women bonded or forced labour (involves women or children rescued from sexual exploitation i.e massage parlours, trafficking, placement agencies etc., or in case of differently-abled persons) the scheme will provide Rupees 3 lakhs. The funds are provided by the central government. Apart from financial assistant to bonded labourers, the scheme provides financial help of Rupees 4.50 lakh per district to every state for inspection of bonded labourers, One lakh for evaluator studies and around rupees 10 lakh for awareness generations. 50% of the amount for leading inspection, awareness program and evaluator studies will be given in advance. In case of the rescue of bonded labour instant support up to Rs. 20,000/- may be provided by the District Administration regardless of the status of conviction proceedings. During 2016-17 to 2019-20, it was noted that an amount of Rs.33.00 crore has been assigned for the Central Sector Scheme for Rehabilitation of Bonded Labourer.

As per the data available the Union Ministry of Labour and Employment, has reported that at least 13,512 bonded labourers have been released and rehabilitated.³⁸In September 2019, around 43 bonded labourers were rescued across Tamil Nadu, Uttar Pradesh and Gujarat.³⁹ The National Human Rights Commission (NHRC) is directed by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all in the country. Towards fulfilment of its directive, the Commission is deeply concerned about the rights of the vulnerable and marginalized sections of the society which have been excessively impacted by the COVID-19 pandemic and the resultant lockdowns, issued guidelines for protection, release and rehabilitation of bonded labourers during Covid-19 pandemic on 9th December 2020. Keeping in view the challenges posed by the second wave of Covid-19, the Commission issued the Advisory to identify, release and rehabilitate bonded labourers during Covid-19. ⁴⁰Below table shows the year-wise expenditure since 2016, under the scheme 2016 for Rehabilitation of Bonded Labourers;⁴¹

2016-17	2017-18	2018-19	2019-20
260.7	664.5	253.5	05.00 (till date)

Rs. In Lakh

During Pandemic a survey was conducted by Jan Sahas an NGO and found that out of 3,200 informal workers nearly a third had to repay loans to the money lenders from their communities.⁴²According to a survey⁴³ conducted in 2018 about 8 million labourers are in debt bondage, though experts guess the actual number of debt

³⁸ F. No, S-11012/01 I 20L5-BL Government of India Ministry of Labour & Employment.

³⁹ 'India's Ignorance Over the Bonded Labour System Exacerbates Caste Differences' The Economical Political weekly, Volume 31, Aug. 1, 2020.

⁴⁰ Press Trust of India, *NHRC issues more advisories on bonded labourers, migrant workers amid Covid*, Business Standard, (Last visited, Jun. 2, 2021)

⁴¹ Ministry of Labour & Employment Scheme for Rehabilitation of Bonded Labourer, 2016 (last visited Dec. 21, 2021)

⁴² Anuradha Nagaraj and Roli Srivastava *In locked down India, migrant workers walking home dial for help*, Thomson Reuters Foundation (last visited Jan. 8, 2021).

⁴³ Brooklyn Quallen 'COVID-19 keeps Indian labourers in debt bondage', The Borgen Project, (last visited March 30, 2021)



bondage to be much higher.⁴⁴ The bonded labourers work under despicable conditions. Women, men and children work tirelessly without any break and the treatment is merciless. They are often victims of sexual exploitation. In the year 2014 in one of the incidents, a group of bonded labourers were trying to escape from their captors but both the labourer were caught and had their hands cut off as punishment.⁴⁵ In another case assistant Collector, Sivakasi, M. Birathivira acting on a complaint searched polybag units of Kanmani and Kavitha. On search, it was found that children from Chhattisgarh, Bihar and Odisha were working in the unit. The children were transported by an agent. The children were promised at the time of employment ₹8,000 wages per month. The children were working in pathetic condition the salary was not paid to them. They were just provided with food. These children were not permitted to go out. They were oppressed and were compel to work for a least 12 hours. The government noticed the condition of the children and booked a case under the act and released the children.⁴⁶

According to Anindit Roy Choudhary, director of programmes and policy impact, Save the Children (India) estimates that “around two million children live on the streets. They are struggling to survive on the margins of society and are subject to exploitation by their borrowers. The Children take credit and have no means to return it except for working for free.”⁴⁷ During a pandemic, the Delhi Commission for Protection of Child Rights (herein referred to as DCPCR), led a liberation procedure at different places under the jurisdiction of Samaypur Badli. They were successful in rescuing 11 children from their workplace. According to the DCPCR statement “These children were working in hazardous conditions as bonded labourers in bakery units, kharat machine units and auto centre units of Alipur area of North Delhi District. One child was rescued from a residential place where he was working as a domestic worker. The rescued children were exposed to all kinds of physical and mental trauma, especially in the times of a Covid pandemic.”⁴⁸ The Ngo named the Child Rights Body, in its rescue operation rescued around 51 minors. Out of these 51 minors, 10 were male and the remaining 41 were girls. The mission was commenced at one sawmill, scrap and shoe units in the Nangloi area in West Delhi. During the operation, it was found that the children were mostly found to be working for the lowest amount of ₹ 100-150 for a day and they working in extremely unclean and unnatural conditions.”⁴⁹ Almost 90% of the sandstone deposits in India originate from Rajasthan. According to the survey report conducted by the central government, the report identifies an extensive presence of bonded labour in the sandstone industry known as peshgi in Rajasthan. It is a system of debt bondage that convert intergenerational and lead to child labour. Generally, the Local mine owners pay the workers an advance amount at the commencement of their work, and due to the seasonal nature of their work, workers take on wage debt from employers to supplement their incomes. The workers do not collect a formal record of debt and must accept the word of their employers regarding the amount of outstanding debt that is often subject to a high rate of interest. As a result, workers fall into a cycle of debt that is subsequently passed onto their children. If the worker becomes sick due to the high rate of silicosis (a lethal but preventable

⁴⁴ Anuradha Nagaraj and Roli Srivastava. “With no form of work, thousands of Indian's migrant workers have been forced to journey back to their countries by foot” Thomson Reuters Foundation News. (last visited Jan. 8, 2021).

⁴⁵ Bonded laborers tried to escape, available at <https://edition.cnn.com/videos/world/2014/04/09/india-bonded-labor-brutality-kapur-pkg.cnn> (last visited Jan. 8, 2021).

⁴⁶ Special correspondent, *14 bonded labourers rescued* by special correspondent, The Hindu, (Last visited, Jul. 22, 2021)

⁴⁷ Press Trust of India, *Has Lockdown Pushed Migrant Children into Bonded Labour?* HuffPost, (Last visited, Jun 28, 2021)

⁴⁸ PTI, *‘11 kids working as bonded labourers rescued: DCPCR’*, The Pioneer February (Last visited, Feb. 22, 2021)

⁴⁹ All India Press Trust of India *11 Boys Working as Bonded Labourers Rescued from North Delhi* NDTV, (Last visited Feb. 21, 2022).



lung disease afflicting many workers in the sandstone industry) or is unable to work due to occupational risks, their child will frequently take their place and be subject to a form of intergenerational bonded labour or indentured servitude.⁵⁰

Suggestion & Conclusion

The cases of bonded labour do not showcase the inadequacy of laws or constitutional safeguards, but it is because of poor application of the laws and government schemes. Many states are not in a position to utilize the budget allocated to them under the Rehabilitation of Bonded Labour scheme. There is a lack on the part of states when it comes to monitoring the scheme. Various labour laws regulate the conditions of work of the contract and minimum wages. The practice of bonded labour violates the rights of the workers. It was in 2016 the Ministry of Labour and Employment decided to rehabilitate around 1.84 crore bonded labour by 2030. To achieve this target the government accordingly developed a 15-year plan named, Vision 2030.⁵¹ According to the 15-year vision (till 2030), it has been planned to identify, release and rehabilitate. One of the agendas of the 15-year vision is to toughen the prosecution machinery and reaching a 100 per cent conviction rate for stopping new cases of bonded labourers. There is a need for an awareness programme to spread the information regarding how to identify the victims of bonded labour and efficient rehabilitation policy so the bonded labourers can be rescued. This is possible when there is a concerted effort by all stakeholders to stop this social evil.

⁵⁰ Waris Husain & Sonali Dhawan, *Tainted Stones: Sandstone produced by bonded labor and child labor makes its way into the United States*, Open Global Rights Journal 2019.

⁵¹ India Today, *Govt. look to rehabilitate 1.84 crore bonded labourers till 2030*, PTI (last visited Jun. 20, 2021).