

Understanding the bonded labour system

A Presentation by
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Definition

- The bonded or forced labour system was known by different names in different parts of the country like Begar, Sagri or Hali, Jeetham etc. The problem of bonded labour was closely linked to the broader socioeconomic problems of surplus labour, unemployment/under-employment, inequitable distribution of land and assets, low wages, distress migration, social customs etc.

How Act was formed?

- The issue of 'bonded labour' came to the forefront as a national issue, when it was included in the old 20-Point Programme in 1975. It was the 5th point of the Programme which stated that "bonded labour, wherever it exists will be declared illegal."
- To implement this, Bonded Labour System (Abolition) Ordinance was promulgated. Which was later on replaced by the Bonded Labour System (Abolition) Act, 1976.
- It freed unilaterally all the bonded labourers from bondage with simultaneous liquidation of their debts.

Definition by highest people

- **Forced Labour Convention, 1930 (No. 29) [Article 2(i)]** — The term forced or compulsory labour shall mean 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.
- **UN Supplementary Convention on the Abolition of Slavery (1956)** — Under this Convention debt bondage is defined as "the status or condition arising from a pledge by a debtor of his personal service or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined".

Act defines it as.....

- bonded labour” means any labour or service rendered under the bonded labour system-Section 2 (e).
- bonded labourer” means a labourer who incurs, or has, or is presumed to have incurred a bonded debt-Section 2(f).
- Through its various judgments, Supreme Court has given a very broad, liberal and expansive interpretation of the definition of the bonded labour. According to the interpretation given by the apex court, where a person provided labour or service to another for remuneration less than the minimum wage, the labour or service falls clearly within the scope and ambit of the words forced labour under the constitution.
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Understanding it...

Bonded labour system means the system of forced or partly forced labour under which a debtor enters or has or is presumed to have entered into an agreement with the creditor to the effect that he would –

1. Render, by himself or through any member of his family or any person dependent on him labour or service to the creditor for a specified period or for any unspecified period either with wages or nominal wages.
2. For the freedom of employment or other means of livelihood for a specified period or for unspecified period.
3. Forfeit the right to move freely throughout the territory of India.
4. Forfeit the right to appropriate or sell at market value any of his property or product of his labour of a member of his family or any person dependent on him.

And includes the system of forced or partly forced labour under which a surety for a debtor enters or has or is presumed to have entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor.

The factors are the handicaps of :

- 1- Absence of freedom to choose one's employment.
- 2- Denial of freedom to relinquish one's employment whenever desired.
- 3- Dept bondage and
- 4- Consequential nominal or no wage payment.

Constitution of India

- **Under 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.
- **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 industrial on an individual or co-operative basis in rural areas.

IPC

- **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.

Rehabilitation plan

- In order to assist the State Government in their task of rehabilitation of released bonded labourers, the Ministry of Labour launched a Centrally Sponsored Scheme since May, 1978 for rehabilitation of bonded labourers. Under this Scheme rehabilitation assistance of **Rs. 20,000/-** per freed bonded labour is provided, which is shared by the Central and State Governments on 50:50 basis; in the case of the Seven North Eastern States, 100% central assistance if they express their inability to provide their share. The Scheme also provide for financing of the following activities. **Rs. 2.00 lakhs per sensitive district** can be provided to concerned state government to conduct survey for identification of bonded labour once in three years.
- Central assistance of Rs. 10.00 lakhs every year can be sanctioned to every state government to undertake awareness generation activities relating to bonded labour system.

Rehabilitation

- **Rs. 5.00 lakhs per year can be sanctioned to every state** government to study impact of existing land-debt related issues affecting bonded labourers and the impact of poverty alleviation programmes and financial assistance provided by various Government sources so far.
- Besides above the States Governments have also been advised to integrate/ dovetail the Centrally Sponsored Scheme for rehabilitation of bonded labour with other ongoing poverty alleviation schemes such as **Swaran Jayanti Gram Sewa Rojgar Yojana (S.J.G.S.R.Y.), Special Component Plan for Scheduled Castes, Tribal Sub-Plan etc.**

Haliya system in Rajasthan

- The Haliya, which literally means "one who tills land," are enslaved within a system of bonded labour, and are forced by a landlord or "master" to execute various hard labour duties (usually agricultural) for many years, often for an entire lifetime. Other than the agricultural work, Haliyas fulfil a range of duties, including making tools (such as spades, knives, and sickles) out of iron, grazing animals, sewing clothes, making utensils and pots, and so forth. The labourers are not paid a wage for their extensive work; often they are only provided with a small amount of food. Extreme poverty and debt in the western and far western regions of Nepal has relegated many members of the lower castes, known as Dalits, to Haliya status.

Haliya and features....check

- This abusive pattern is willfully perpetuated by the landlords, many of whom provide a meager food ration rather than money to the Haliyas as compensation for their services
- Landlords are known to force such laborers to work exhausting shifts in dehumanizing circumstances, in hazardous environments
- Haliyas have historically been subjected to a wide range of egregious human rights abuses, including severe beatings, forced starvation and water deprivation as punishment, and various forms of humiliating treatment. In addition, female Haliya labourers, as well as their children, are often sexually abused by their masters.

In Baran, what SDM MUST DO

- Keeping an eye in their areas to identify such cases
- Investigation in case of suspicion- Please see wheter he is from other state- it is imp.
- Inquiry in 7 to 10 days if a person comes to complain or any other person on his behalf
- Taking independent statements, looking for ration cards/job cards in objective manner
- Look- where they are actually living

Role of SDM

- Don't decide in advance and don't take any complain lightly
- In some cases, these can be wrong
- But if your gut feeling smells rotten, just decide in the favour of complainant and release him/his family without worrying for stigma
- Sometimes, bonded labour may not be proved but please give him other benefits

Role of Police

- First of all, leave your pre-occupations and beliefs that bonded labour is not present.
- A master may be misbehaving with his servant so look into it. Use your ways to find the truth
- If you feel it is case of advance and forced labour, then take him/her to SDM Office in your custody.
- SDM and DSP/SHO must decide jointly how to go about it
- See whether you want to act under IPC or Bonded labour Act- No difference of opinion

Now we have to....

- Investigate the remaining cases whether with SDM or SHO
- Decide them in a time frame.
- By the time, your inquiry is over, please arrange for food/ration/stay somewhere (only in serious matters)
- Use hostels/Dharmshalas/school rooms
- Provide them reasonable security

PUNISHMENT

- **Punishment for enforcement of bonded labour** – whoever, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years **and** also with fine , which may extend to two thousand rupees.
- Punishment for advancement of bonded debt - Whoever advances, any bonded debt shall be punishable with imprisonment for a term, which may extend to three years **and** also with fine which may extend to two thousand rupees.
- Punishment for abetment to be an offence - Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence, which has been abetted.
- **SDM acts as the first class judicial magistrate** and he hears the case and decides it in tha capacity. Have you punished anybody???

See other possibilities

Your package for the freed bonded labourers can include any or all of the following-

- · Allotment of house site and agricultural land.
- · Land development.
- · Provision of low cost dwelling units.
- · Animal husbandry, dairy, poultry, piggery etc.
- · Training for acquiring new skills, developing existing skills.
- · Wage employment, enforcement of minimum wages etc.
- · Supply of essential commodities under targeted public distribution system.
- · Education for children.
- · Protection of civil rights.

Thanks a lot