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Bonded Labour in India: An Analysis

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I. INTRODUCTION

The origin of bonded labour can be traced back to ancient times whereby, the Hindu society was divided into caste structures. The lower caste strata did not have sufficient means for their sustenance due to which they often depended on higher castes for their own survival. Due to extreme scarcity of resources on the part of debtor, he had nothing to offer as security. Thus, the creditor and debtor entered into an agreement where the debtor pledged his person and work in lieu of unsatisfied debt.

"There still exists in different parts of the country a system of usury under which the debtor or his descendants or dependents have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exorbitant and such bondage cannot be realized as a result of any legitimate contract or agreement. The system implies the infringement of the basic human rights and destruction of the dignity of human labour."

Apart from various constitutional provisions, there is a specific legislation to prohibit bonded labour i.e. The Bonded Labour System (Abolition) Act, 1976 (hereinafter referred as act). Bonded labour system as defined under The Bonded Labour System (Abolition) Act, 1976: "bonded labour means any labour or service rendered under the bonded labour system"

II. JUDICIAL INTERPRETATION ENFORCING THE CONSTITUTIONAL PROVISIONS VIS-À-VIS BONDED LABOUR

The Hon'ble Supreme Court of India has from time to time interpreted various constitutional provisions to safeguard the weaker strata of society against the menace of bonded labour. Some of them are enlisted below for kind consideration.

A. Peoples' Union for Democratic Rights V. Union of India,

The petitioner commissioned three social scientists to enquire into the conditions under which the workman worked in Asiad projects. Based on the investigations conducted by the social scientists, petitioner sent a letter addressed to Justice P.N Bhagwati. In pursuance to the same, the Hon'ble Supreme Court took notice of the letter on the judicial side and issued notice to Union of India and State of Delhi. The court held that, "The Union of India, the Delhi Administration and the Delhi Development Authority cannot escape their obligation to the workmen to ensure observance of the provisions of various labour law by its contractors and for non-compliance with the laws by the contractors, the workmen would clearly have a cause of actions against them as principal employers." The Hon'ble Supreme Court of India dealt with the expression "other similar form of forced bonded labour" envisaged in Article 23 of The Constitution of India, 1950. The court gave the expression a wide interpretation to meet the objectives of Article 23. The court held that a person who has been forced to work as a bonded labour and person who is working as a labour at a rate lesser than the minimum wage shall be dealt equally.

B. Badhua Mukti Morcha V. Union of India,

The Public Interest Litigation was filed before the Supreme Court under Article 32 of The Constitution of India to issue appropriate directions for prohibition of Bonded Labour. The petitioner conducted a survey in stone quarries situated in Faridabad district. It was found by the petitioner that they were living in substandard conditions. There were a lot of middlemen who extracted the money from the workmen as commission. The court directed the Central Government and the State of Haryana to install washrooms, suitable drinking facilities, provide medical kits so as to raise the living standards of the workmen. The court directed the Central Government to conduct inspection every fortnight and in case, any workman is found in distressed condition, he should be provided medical and legal assistance. The court went on to observe that, This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.

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These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State neither the Central Government nor any State Government has the right to take any action which will deprive a person of the enjoyment of these basic essentials."

C. Neerja Chaudhary V. State of Madhya Pradesh

It was alleged by the petitioner that in spite of the fact that a long time has elapsed, quite a number of labourers rescued from Faridabad quarries have not been rehabilitated. It was contended by the petitioner that the State Government was obligated to overlook the rehabilitation of rescued labourers and rehabilitation of labourers is necessary so as to ensure Right to Life guaranteed to them under The Constitution of India, 1950. The Hon'ble court held that as per the requirements of Article 21 and 23, the bonded labourers need to be identified, rescued and also rehabilitated. The court highlighted the importance of rehabilitation observing that in absence of any concrete measures for rehabilitation of rescued labourers, they would be driven into the state of poverty and substandard conditions again and it might lead them to the bonded labour system again.

D. Statutory Safeguards Against Bonded Labour

The Bonded Labour System (Abolition) Act (hereinafter referred as "the act", 1976 provided various safeguards against bonded labour. Some of them are enumerated below:

1) Under Section 4 of the act, the primary relief that was awarded to the bonded labourers with the commencement of the act was that the bonded labour stood discharged from any sort of obligation to provide bonded labour.
2) Under Section 5 of the act, any custom/agreement whereby bonded labour existed was rendered void and inoperative.
3) Prohibition was casted on institution of any suit before any civil court vis-à-vis recovery of bonded debt.
4) "Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied."
5) Under Section 7 of the act, any property which is under mortgage vis-à-vis bonded debt shall stand freed on commencement of the act.
6) Any person detained in civil prison in pursuance of the bonded debt shall be freed as per the provisions of the act.
7) Under Section 8 of the act, a bonded labour who has been freed shall not be evicted from homestead.

III. JUDICIAL INTERPRETATION ENFORCING STATUTORY PROVISIONS VIS-À-VIS BONDED LABOUR

A. Balram V. State of Madhya Pradesh

The Hon'ble Supreme Court issued several directions to the Central Government and its' officials in order to enforce the provisions of the act such as:

1) Maintain adequate funds for the purposes of the act
2) The collector and other designated officials to ensure that the stipulated amount reached the beneficiary i.e. the free bonded labor.
3) Individual bank accounts to be opened in the name of the beneficiary.

B. Peoples' Union for Civil Liberties V. State of Tamil Nadu

A writ petition was filed in the year of 1985 highlighting the plight of migrant labourers from Tamil Nadu in the State of Madhya Pradesh. The court passed an order directing the National Human Rights Commission to monitor the fulfilment of objectives of the act. The court called for suggestion by the Government as well. While analyzing the situation at hand, the court concluded that without chalking out the exit plan on how to rehabilitate the bonded labourers, their release would render them languishing in the streets without any source of livelihood. In pursuance of which the court issues certain directions such as:

1) States and Union Territories to submit their status report in the form prescribed by the National Human Rights Commission in every six months
2) Vigilance committees shall be constituted at district and sub-divisional levels in accordance with S. 13 of the act
3) It was the duty of the states and the union territories to chalk out a plan to rehabilitate released bonded labourers either by itself or with the aid of the NGOs.
4) Arrangements to be made to sensitize the statutory authorities under the act in order to enable them to carry out their duties efficiently.

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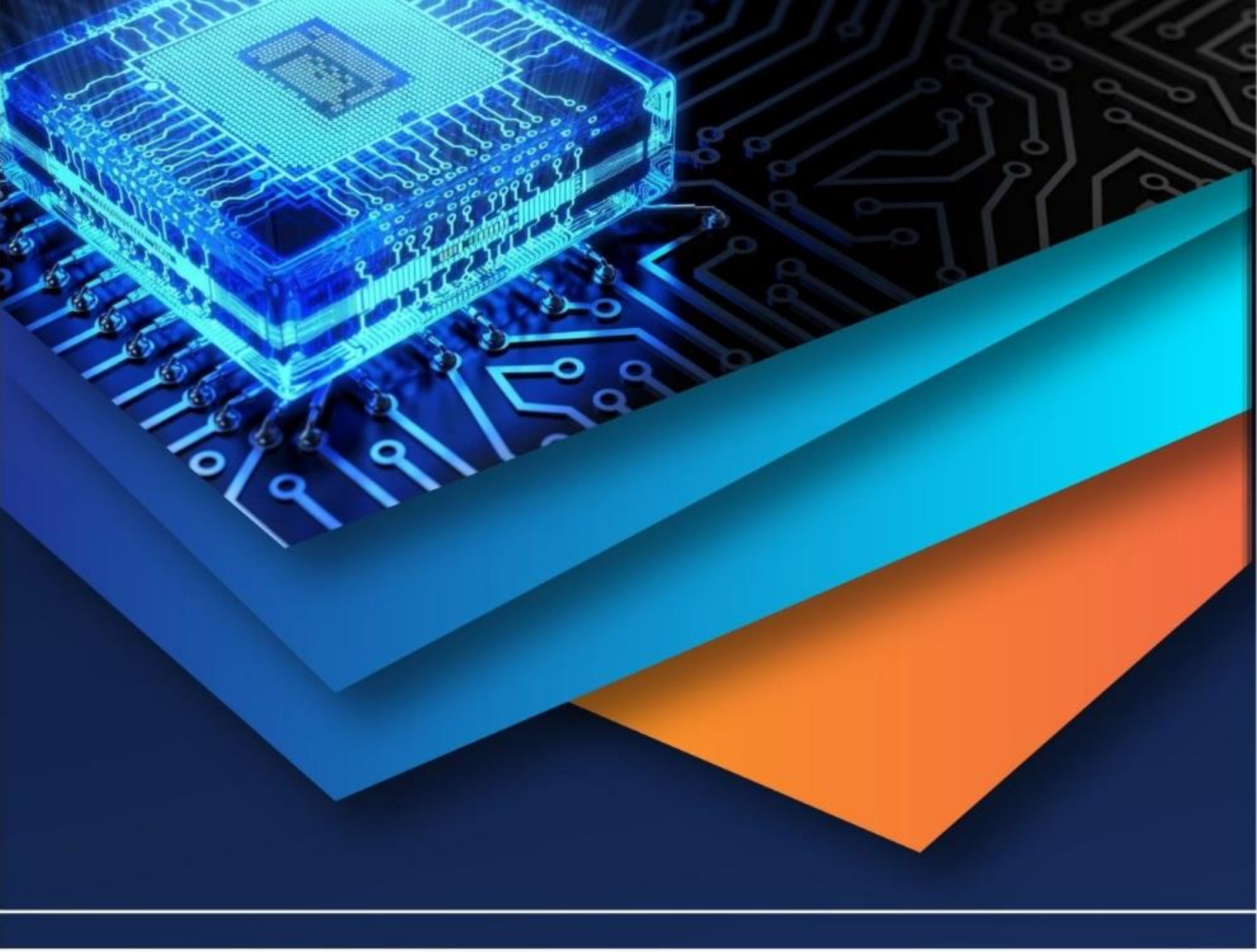
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IV. CONCLUSION

According to a Global Slavery Index, India has been a poor performer as far as enforcement of anti-slavery laws. The reasons for the same are attributed to the under resourced judiciary and police force. However, with the passing times, bonded labour has increased its' scope and the way it effects the lives of the people. Often the people from the rural areas especially the Dalits are lured by the traffickers only to find themselves toiling as labourers in factories or working in brothels against without their consent. Strict measures need to be take up to ensure that the district committees constituted under Section 13 of the Act, do not lie dormant and special care needs to be taken so as to ensure that the members who are a part of those committees are vigilant towards the growing menace of Bonded Labour.

Enough emphasis has to be given on the functioning of government agencies along with the nongovernmental organizations so as to ensure that they act in concert. The reason for the same is that the government has the authority, resources and expertise to enforce the law. Whereas, non-governmental organizations have the grass root connections to report any violation of law to the government agencies. It is also the need of the hour to formulate and implement a time bound action plan so as to enforce the existing legislation of The Bonded Labour System (Abolition) Act, 1976 and other constitutional provisions.

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