

would be forced to give ticket to a candidate with clean and good past record. Good representatives can actually be expected to keep up their performance for next five years.

7. In our parliamentary constituency in India has 20 lakh to 30 lakh voters. If 50 percent of them need to petition for a recall through a signature campaign, it would be impractical to verify all signatures.

## BONDED LABOUR SYSTEM IN INDIA - AN OVER VIEW

By

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### *Abstract*

Bonded labour, which is characterized by a long-term relationship between employer and employee, is usually solidified through a loan, and is embedded intricately in India's socio-economic culture, a culture that is a product of class relations, a colonial history, and persistent poverty among many citizens. Also known as debt bondage, bonded labour is a specific form of forced labour in which compulsion into servitude is derived from debt. Categorized and examined in the scholarly literature as a type of forced labour, bonded labour entails constraints on the conditions and duration of work by an individual. Not all bonded labour is forced, but most forced labour practices, whether they involve children or adults, are of a bonded nature. Bonded labour is most prevalent in rural areas where the agricultural industry relies on contracted, often migrant labourers. However, urban areas also provide fertile ground for long-term bondage.

Characterized by a creditor-debtor relationship that a labourer often passes on to his family members, bonded labour is typically of an indefinite duration and involves illegal contractual stipulations. Contracts deny an individual the basic right to choose his or her employer, or to negotiate the terms of his or her contract. Bonded labour contracts are not purely economic; in India, they are reinforced by custom or coercion

in many sectors such as the agricultural, silk, mining, match production, and brick kiln industries, among others.

### **Origins and Causes of India's Bonded Labour Problem**

Bonded labour systems from a variety of causes, which are highly debated in the literature:

- Ingrained legacy of caste-based discrimination,
- Poverty and inequality,
- Inadequate education system, unjust social relations, and

Additionally, India's colonial background and caste system have made it difficult to delineate the history of labourers' "unfreedom," as termed by several authors, and to understand legal and actual differentiations between slavery under British rule and debt bondage and child labour today.

There are many cultural reasons for the persistence of child labor in India. An expectation that children should contribute to the socioeconomic survival of the family and community, as well as the existence of large families, land scarcity, and inadequate enforcement of labor laws are contributing factors to this problem. In urban areas, following the migration of families to overpopulated cities, the disintegration of such

families due to alcoholism and unemployment often results in a proliferation of children living on the street, becoming laborers, and entering into prostitution.

### ***Elimination of Bondage: Nature and Scope of Interventions***

The existence of bonded labour is an affront to basic human dignity. There has been some change in the nature and incidence of bonded labour in India as a result of various factors, including the impact of social change and social movements, economic modernisation and State intervention. While these processes have impacted positively on the un free status of labour in traditional agriculture and in some other sectors, the incidence of bonded labour still remains high in some segments of unorganised industry, the informal sector and in the relatively modern segments of agriculture in some areas.

The Bonded Labour System (Abolition) Act created a legislative framework for the elimination of bonded labour in 1976. But, as both the Supreme Court and the NHRC have shown, its implementation by the States has generally remained weak.

### ***Legal Restrictions and Enforcement***

The domestic legal treatment of individual labour rights, which are clearly articulated but seldom enforced, reflects India's blurry history with slavery. Article 23 of the 1949 Constitution of India outlaws both the trafficking of human beings and forced labour, but the legislation defining and banning bonded labour was only approved by Parliament in 1976. The Bonded Labour System Abolition Act of 1976 stipulates that the monitoring of labour violations and their enforcement are responsibilities of State Governments. The Indian Government has demonstrated a severe lack of Will to implement this ban on bonded labour. Such pervasive non-enforcement may be attributed to several factors, including Government apathy, caste bias, corruption, a lack of accountability, and inadequate enforcement personnel.

The Supreme Court of India has interpreted bonded labour as the payment of wages that are below the prevailing market wage or the legal minimum wage. As a response to complaints of human rights violations, the Court relies on Public Interest Law (PIL) whereby citizens are able to petition India's Courts if they believe their rights, or the rights of their fellow citizens, are being denied. The Supreme Court's two major examinations of child labour in 1991 and 1997 resulted in PIL rulings that emphasized the role of poverty, and promoted children's education. However, the Court refused to ban child labour outright, citing its role as a judicial and not a legislative body.

The Indian Government has not yet actively linked economic development to human rights violations at work. A recent Government measure to raise the minimum wage for children exemplifies a lagging commitment to the eradication of child labour in particular, by essentially legitimizing children's work obligations and conditions. Nevertheless, the decision of the Supreme Court to establish a rehabilitation and welfare program for working children, in addition to the efforts of the National Human Rights Commission, have been instrumental in sensitizing policymakers to the serious problem of child labour.

### ***Internationally supported programmes***

Internationally supported programmes for the elimination of bondage are few, with the exception of a number of initiatives for elimination of child labour. Since June 2000, the ILO has been implementing a project to prevent and eliminate bonded labour in South Asia. In India, the project has been operational in Rangareddy District of Andhra Pradesh and Tiruvallur District of Tamil Nadu. Starting from the premise that lack of access of the poorest households to appropriate financial services is one of the causes of bonded labour; the project's initial aim was to induce microfinance institutions to develop products and services targeted at the poorest groups. Recognising the social

dimensions of bondage, the project aims also at other areas including public sensitisation and rights awareness, adult literacy, organising workers, income generation and vocational skills development. The project considers that “strategies to eliminate bonded labour need to go beyond the symptoms to address the root causes (labour market segmentation, entrenched social discrimination, lack of financial services, and lack of outreach of social partners in the informal economy). The multifaceted and deeply rooted nature of those causes requires an integrated and long-term strategy.” Project experience also indicates that it may be useful, when designing interventions, to draw a distinction between ‘severe’ and ‘mild’ forms of bonded labour, the latter being more suited to specific micro-finance based solutions which would be inappropriate for the former (ILO, 2004).

### Conclusion

Bonded labour in India can be viewed as a product of social, historical, economic, and cultural factors. The redress of child labor, agricultural debt bondage, and other violations will require an authentic commitment by the Indian Government to adhere to its constitutional ban of these practices, and to overcome class-based prejudices. The Western notion of social responsibility outside of

family loyalties does not exist in India. Certain Hindu beliefs such as the notion that a person’s role and purpose are determined by his or her status in society have informed attitudes about Governmental and social responsibilities regarding labor violations. Within a few generations, poor, low-caste Indians enter and perpetuate a cycle of poverty and illiteracy; children often abandon school and join the workforce. The effects of an increasingly sophisticated and prosperous India have not reached its poorest and least educated citizens. What remains to be seen is whether India—as its development and economic trajectories improve will invest meaningfully in the protection of human rights and of its labor force.

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## GIFTS UNDER MUSLIM LAW AND THE REQUIREMENT OF REGISTRATION: A STUDY IN THE LIGHT OF SUPREME COURT’S DECISION IN HAFEEZ BIBI & OTHERS\*

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1. The triple requirement<sup>1</sup> of a valid gift under Mohammadan Law can be stated thus:

\* AIR 2011 SC P.1695

1. View of *Syed Ameer Ali* in his book on ‘Mohammadan Law’ quoted by Privy Council in *Mohd. Abdul Ghani and others v. Fakhr Jaban Begum and others*, AIR 1922 PC.P.281

- (i) Manifestation of the wish to give on the part of the donor;
- (ii) The acceptance of the donee, either expressly or impliedly; and
- (iii) The taking of possession of the subject-matter of the gift by the donee either actually or constructively.