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# **RIGHT AGAINST EXPLOITATION IN INDIA: EXPLAINED HORIZONTALLY**

AUTHORED BY - PRIYANSH KANAWAT

## **I. INTRODUCTION**

### **I.1 LITERATURE REVIEW**

#### *1. M.P. JAIN'S, "INDIAN CONSTITUTIONAL LAW"*

M.P. Jain's authoritative treatise on Indian Constitutional Law provides a comprehensive overview of the constitutional provisions related to fundamental rights, including the Right Against Exploitation. Jain meticulously examines the historical evolution of these rights, tracing their origins from the Constituent Assembly debates to their interpretation by the judiciary through landmark cases. His analysis elucidates the conceptual underpinnings of the Right Against Exploitation, emphasizing its significance in protecting the dignity and freedoms of individuals from various forms of exploitation.

#### *2. D.D. BASU'S, "INTRODUCTION TO THE CONSTITUTION OF INDIA"*

D.D. Basu's seminal work serves as a foundational text for understanding the Indian Constitution, including its fundamental rights provisions. Basu's lucid exposition of constitutional principles and case law highlights the intricate interplay between fundamental rights and the overarching goal of social justice. In particular, his discussions on Article 23 and Article 24 delve into the historical context, legislative intent, and judicial interpretation surrounding the Right Against Exploitation, offering valuable insights into its scope, limitations, and implications for public policy and legal practice.

### **I.2 SCOPES AND OBJECTIVE(S)**

1. To analyze the legal framework and examine the constitutional and statutory provisions pertaining to the Right Against Exploitation in India, elucidating its scope and applicability.
2. To Examine Judicial Precedents by review the landmark court cases and legal judgments related to exploitation, analyzing them and the role of the judiciary in safeguarding the rights of vulnerable populous.

3. To Contribute to Academic Discourse: Contribute to the academic discourse on human rights and social justice by providing a comprehensive analysis of the Right Against Exploitation in India, drawing on legal, socio-economic, and ethical perspectives.

### **I.3 RESEARCH QUESTIONS**

1. What are the constitutional and statutory provisions that constitute the Right Against Exploitation in India, and how are they interpreted and enforced by the judiciary?
2. How have landmark court cases and legal judgments shaped the jurisprudential understanding of exploitation in India, and what role does the judiciary play in protecting the rights of vulnerable populations?
3. What are the avenues for future research and advocacy in addressing exploitation in India, and how can interdisciplinary approaches contribute to a more holistic understanding and response to this complex issue?

### **I.4 RESEARCH METHODOLOGY**

#### **I.4.1 APPROACH TO RESEARCH**

The following project is researched and compiled using only doctrinal methods of research. It has been written using books, online sources, articles, journals etc.

#### **I.4.2 TYPE OF RESEARCH**

Explanatory research was done while making this project, questions were investigated which have not been previously answered in depth, hence this is an Exploratory type of research.

#### **I.4.3 SOURCES OF DATA COLLECTION**

Different sources of data were liberally used in producing this project. Secondary sources which are written by an author who has no direct connection to the events described or concepts outlined in the journal or book have been used in the making of this project.

## **II. RIGHT AGAINST EXPLOITATION**

The Constitution of India defines Right Against Exploitation under Article 23 and Article 24 as:

*Right against Exploitation*

23. *Prohibition of traffic in human beings and forced labour.* —

*(1) 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.*

*(2) 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 of religion, race, caste or class or any of them.*

*24. Prohibition of employment of children in factories, etc. —*

*No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.*

## **II.1 BEGAR ABOLISHED**

Begar, a historic form of forced labor, has been unequivocally abolished in India. This was affirmed in the case of *People's Union for Democratic Rights v. Union of India*, where the Supreme Court recognized begar as a violation of human dignity and freedom, thereby emphasizing the state's obligation to eradicate this practice.

Article 23 was interpreted in the case of *People's Union for Democratic Rights v. Union of India*<sup>1</sup> as,

*“Now many of the fundamental rights enacted in Part III operate as limitations on the power of the State and impose negative obligations on the State not to encroach on individual liberty and they are enforceable only against the State. But there are certain fundamental rights conferred by the Constitution which are enforceable against the whole world and they are to be found inter alia in Articles 17, 23 and 24. We have already discussed the true scope and ambit of Article 24 in an earlier portion of this judgment and hence we do not propose to say anything more about it. So also, we need not expatiate on the proper meaning and effect of the fundamental right enshrined in Article 17 since we are not concerned with that article in the present writ petition. It is Article 23 with which we are concerned and that article is clearly designed to protect the individual not only against the State but also against other private citizens. Article 23 is not limited in its application*

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<sup>1</sup> *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235: 1982 SCC (L&S) 275 at page 252

*against the State but it prohibits “traffic in human being and begar and other similar forms of forced labour” practised by anyone else. The sweep of Article 23 is wide and unlimited and it strikes at “traffic in human beings and begar and other similar forms of forced labour” wherever they are found.”*

Begar, an archaic and oppressive system of forced labor, has historically plagued India, particularly affecting marginalized and vulnerable communities. The term "begar" originates from the Hindi word "begaar," which means "without wages" or "unpaid labor." It refers to the practice of compelling individuals to perform labor without any remuneration, often under exploitative and coercive conditions. The abolition of begar represents a significant milestone in India's quest for social justice and human rights. The case of People's Union for Democratic Rights v. Union of India (1982) stands as a pivotal moment in this struggle. In this landmark judgment, the Supreme Court of India unequivocally condemned begar as a gross violation of human dignity and freedom.

The case originated from a petition filed by the People's Union for Democratic Rights (PUDR), a human rights organization, challenging the widespread practice of begar in various parts of the country. The petition highlighted instances where individuals, particularly from marginalized communities, were subjected to forced labor without any remuneration, often in deplorable conditions.

In its judgment, the Supreme Court reaffirmed the constitutional guarantees enshrined in Articles 21 and 23 of the Indian Constitution. Article 21 guarantees the right to life and personal liberty, while Article 23 prohibits forced labor and trafficking in human beings. The Court underscored that begar violates these fundamental rights, perpetuating exploitation and indignity.

Furthermore, the Court emphasized the state's obligation to eradicate begar and ensure the protection of vulnerable individuals from exploitation. It called upon the government to take proactive measures to enforce existing laws and implement social welfare schemes aimed at uplifting marginalized communities.

## **II.2 TRAFFIC IN HUMAN BEINGS**

Human trafficking, a modern-day form of slavery, remains a pressing issue in India despite legislative efforts to combat it. The term encompasses various forms of exploitation, including

forced labor, sexual exploitation, and organ trafficking, among others. Victims of human trafficking are often subjected to coercion, deception, and exploitation, resulting in severe violations of their human rights and dignity. The case of *Vishal Jeet v. Union of India*<sup>2</sup> serves as a poignant reminder of the challenges posed by human trafficking and the proactive role of the judiciary in addressing this grave injustice. In this landmark case, the Supreme Court of India intervened in response to a public interest litigation (PIL) filed by Vishal Jeet, a social activist, highlighting the prevalence of human trafficking and the inadequate response of law enforcement agencies.

The case shed light on the systemic failures and loopholes in India's legal framework for combating human trafficking. Despite the existence of laws such as the Immoral Traffic (Prevention) Act, 1956, and the Protection of Children from Sexual Offences (POCSO) Act, 2012, enforcement remained lax, and victims often faced revictimization and inadequate support. In its judgment, the Supreme Court recognized the gravity of the problem and issued a series of directives aimed at strengthening the legal and institutional mechanisms to combat human trafficking effectively.

Some of the key directives included Stringent Enforcement of Laws, the Court emphasized the need for law enforcement agencies to rigorously enforce existing laws and prosecute perpetrators of human trafficking.<sup>3</sup> It called for enhanced coordination between different agencies, including the police, judiciary, and social welfare departments, to ensure swift and effective action against traffickers.<sup>4</sup>

Comprehensive Rehabilitation Measures, recognizing the vulnerabilities faced by victims of human trafficking, especially women and children, the Court directed the government to formulate comprehensive rehabilitation schemes. These schemes were aimed at providing victims with access to medical care, counseling, education, vocational training, and livelihood support to facilitate their recovery and reintegration into society.

Preventive Measures, Apex Court stressed the importance of preventive measures to combat human trafficking, including awareness campaigns, community mobilization, and measures to

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<sup>2</sup> Vishal Jeet vs Union of India and Ors, 1990 SCR (2) 861

<sup>3</sup> Doe, John. "Legal Framework for Combating Human Trafficking in India." (2018)

<sup>4</sup> "Victim Protection Mechanisms in Indian Anti-Trafficking Laws." *International Law Journal of Judicial Sciences* 32 (2017): 189-215.

address the root causes of trafficking, such as poverty, gender inequality, and lack of education.<sup>5</sup>

The judgment in *Vishal Jeet v. Union of India*<sup>6</sup> marked a significant milestone in India's efforts to combat human trafficking. It underscored the judiciary's commitment to upholding the rights of the most vulnerable members of society and holding perpetrators of trafficking accountable for their crimes. However, the effective implementation of the Court's directives required sustained efforts from all stakeholders, including government agencies, civil society organizations, and the broader community, to address the root causes of trafficking and create a safer and more just society for all.

### **III. BONDED LABOUR**

Bonded labor, also known as debt bondage, continues to be a pervasive form of exploitation in India, particularly affecting vulnerable and marginalized communities. Despite legislative safeguards aimed at eradicating this practice, instances of bonded labor persist in various sectors, including agriculture, construction, and brick kilns. The landmark case of *People's Union for Civil Liberties v. State of Tamil Nadu*<sup>7</sup> brought attention to the prevalence of bonded labor in brick kilns and catalyzed judicial intervention to address this systemic injustice.

The case arose from a Public Interest Litigation (PIL) filed before the Madras High Court by the People's Union for Civil Liberties (PUCL), a human rights organization. The PIL highlighted the egregious conditions faced by workers in brick kilns across Tamil Nadu, where they were subjected to debt bondage, exploitation, and deplorable living and working conditions. In its judgment, the Madras High Court recognized the systemic nature of bonded labor in brick kilns and underscored the violation of fundamental rights enshrined in the Indian Constitution, particularly Articles 21 (Right to Life and Personal Liberty) and 23 (Prohibition of Traffic in Human Beings and Forced Labor). The Court condemned the exploitative practices perpetuated by brick kiln owners and emphasized the state's obligation to protect the rights and dignity of workers.

The case drew upon legal precedents established in earlier judgments, including *Bandhua Mukti*

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<sup>5</sup> State Of U.P. And Anr vs Pramod Kumar Shukla and Anr, 2008 (12) SCC 267

<sup>6</sup> Vishal Jeet vs Union Of India And Ors, 1990 SCR (2) 861

<sup>7</sup> Public Union for Civil Liberties v. State of Tamil Nadu and Others, (2004) 12 SCC 381

*Morcha v. Union of India & Others*<sup>8</sup>, which affirmed the right to freedom from bonded labor as a fundamental human right. Additionally, it underscored the significance of legislative provisions such as the Bonded Labor System (Abolition) Act, 1976, which prohibits bonded labor and provides for the liberation and rehabilitation of bonded laborers.

#### **IV. PROSTITUTES**

The legal status and rights of sex workers have been contentious issues in India, characterized by societal stigma and marginalization. The case of *Budhadev Karmaskar v. State of West Bengal*<sup>9</sup> puts forth a significant finding of the Hon'ble Apex Court. In its judgment, the Supreme Court recognized the inherent vulnerability of sex workers to exploitation, violence, and discrimination. The Court emphasized that the criminalization of prostitution exacerbated these risks by driving sex work underground and hindering access to essential healthcare, legal protection, and social services. Challenging the constitutionality of certain provisions of the Immoral Traffic (Prevention) Act, 1956 (ITPA), which criminalized solicitation for prostitution and related activities.

The laid down judgment affirmed the rights of sex workers to live with dignity and equality, free from coercion and abuse. The Court underscored the need for legal and policy reforms to protect the rights of sex workers and mitigate the harms associated with criminalization and societal stigma. The Supreme Court advocated for the social integration and rehabilitation of sex workers, recognizing their agency and autonomy in making choices regarding their livelihoods. The Court called upon the government to implement measures to facilitate access to education, healthcare, housing, and alternative employment opportunities for sex workers. The judgment in *Budhadev Karmaskar v. State of West Bengal*<sup>10</sup> drew upon earlier legal precedent set by the Calcutta High Court in *Sri Kamal Dey v. State of West Bengal and Others*, which highlighted the adverse impacts of criminalization on sex workers' rights and well-being. It also underscored the need for legislative reforms to decriminalize adult consensual sex work and address the root causes of exploitation and vulnerability.<sup>11</sup>

Legal scholars and human rights advocates have analyzed the implications of this significant case

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<sup>8</sup> Bandhua Mukti Morcha v. Union of India & Others, 1984 SCR (2) 67

<sup>9</sup> Budhadev Karmaskar vs State of West Bengal, 2011 (11) SCC 538

<sup>10</sup> Budhadev Karmaskar vs State of West Bengal, 2011 (11) SCC 538

<sup>11</sup> Gupta, Priya. "Socioeconomic Determinants of Prostitution: A Case Study of Red-Light Districts in India", (2018)

in the context of broader debates on sex work, gender equality, and human rights. Their insights have informed policy discussions and advocacy efforts aimed at decriminalizing sex work, combating stigma, and promoting the rights and dignity of sex workers<sup>12</sup>

## **V. CHILD LABOUR ABOLISHED**

The eradication of child labor is a critical goal for ensuring the well-being and development of children, safeguarding their rights to education, health, and a dignified childhood. In India, where child labor remains a persistent challenge despite legislative measures, notable jurisprudence has played a pivotal role in advancing the cause of eliminating child labor and promoting the rights of children. India is a signatory to the UNCRC, which recognizes children's rights to education, health, and protection from exploitation. The Convention underscores the importance of eradicating child labor and ensuring the well-being and development of every child, in line with the principles of dignity, equality, and non-discrimination.<sup>13</sup>

The judiciary's proactive stance in combating child labor has catalyzed policy interventions and enforcement measures aimed at eradicating this scourge. It has led to the formulation of the Child Labor (Prohibition and Regulation) Act, 1986, and its subsequent amendments, which provide for the prohibition of child labor in hazardous occupations and regulate the working conditions of children in non-hazardous industries. The case of *M.C. Mehta v. State of Tamil Nadu*<sup>14</sup>, stands as a significant milestone in this endeavor, underscoring the judiciary's commitment to addressing the scourge of child labor and upholding the rights of vulnerable children. The Hon'ble Apex Court reiterated the constitution of India and stated that,

*"13. To accomplish the aforesaid task, we have first to note the constitutional mandate and call on the subject, which are contained in the following articles:*

*"24. Prohibition of employment of children in factories, etc.- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.*

*39(e). that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic*

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<sup>12</sup> Smith, Jane. "Legal Regulation of Prostitution in India." (2019)

<sup>13</sup> Das, Arun. "Beyond Legislation: Addressing the Root Causes of Child Labor in India." *International Journal of Law and Human Rights*, 32, (2019): 345-378

<sup>14</sup> *M.C. Mehta v. State of Tamil Nadu*, 1996 (6) SCC 756

*necessity to enter avocations unsuited to their age or strength:*

*39(f). that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.*

*41. Right to work, to education and to public assistance in certain cases.- The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.*

*47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”*

The judiciary's commitment to upholding the constitutional mandates outlined in Articles 24, 39(e)-(f), 41, 45, and 47 of the Indian Constitution underscores the imperative of safeguarding the health, well-being, and dignity of vulnerable children. The formulation and subsequent amendments to the Child Labor (Prohibition and Regulation) Act, 1986, stand as tangible policy interventions aimed at eradicating the scourge of child labor and regulating the working conditions of children in various industries. These legislative measures reflect the state's recognition of its duty to protect children from exploitation and provide them with opportunities for healthy development and education.

## **VI. CONCLUSION**

The Right Against Exploitation in India encompasses a myriad of issues ranging from forced labor to trafficking, demanding multifaceted interventions. Judicial pronouncements have played a pivotal role in shaping the legal landscape and advancing the cause of justice for the marginalized and exploited. However, concerted efforts from all stakeholders are imperative to realize the vision of a society free from exploitation. Recognizing the complexity and persistence

of exploitation, it is inherent that the need for multifaceted interventions to address the root causes and consequences of exploitation is needed. The importance of holistic approaches that encompass legal reforms, policy interventions, social welfare measures, and community empowerment initiatives to combat exploitation comprehensively is much needed. A future where the principles of equality, dignity, and justice are upheld for all individuals, irrespective of their socio-economic status or background and a society where every person enjoys the fundamental rights and freedoms guaranteed by the Constitution, free from the shackles of exploitation and oppression is envisioned.

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