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IS INDIA FUELING MODERN SLAVERY?

Unearthing Modern Slavery: A Critical Analysis on the Modern Slavery in Contemporary India and its Legal Vanguard in The Light of Global Slavery Index 2023.

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Abstract

Modern slavery, manifesting as belief that slavery is a relic of the past, it endures with a chilling persistence, manifesting in covert and insidious forms where invisible chains and systemic discrimination replace the iron shackles and whips of bygone eras. Despite the prohibition of slavery and servitude under Article 4 of the Universal Declaration of Human Rights (UDHR) and the Indian Constitution's formidable legal arsenal—encompassing forced labour, debt bondage, human trafficking, forced marriage, and descent-based slavery, ensnares millions globally, including in contemporary India. This exploitative condition traps individuals due to social, economic, or political reasons, transcending boundaries of country, gender, age, caste, and economic status. Despite the extensive Fundamental Rights enshrined in Articles 14, 15, 21, and 23, as well as the Directive Principles of State Policy outlined in Articles 39, 42, and 43, tackling and eradicating the persistent issues remains a significant challenge. This paper explores the dark reality of modern slavery in India, shedding light on its insidious forms and starkly revealing how it flouts Article 4 of the Universal Declaration of Human Rights and the Fundamental Rights enshrined in the India. Constitution. It critically examines the legal frameworks designed to shield individuals from this relentless injustice, highlighting the urgent need for effective action and reform.

Key Words- Modern Slavery, forced labour, Forced Marriage, Human Trafficking, United Nations Declaration on Human Rights

I. INTRODUCTION: ARTICLE 4 UNDER SEIGE

“There are more slaves today than there were at the height of the slave trade.”

-Ross Kemp, British Investigative Journalist

In 2023, we marked the 75th anniversary of the Universal Declaration of Human Rights (UDHR), a landmark document adopted by the UN General Assembly in 1948¹. Human Rights Day, observed each year on December 10th, is a solemn occasion to honour this revolutionary charter. This year’s theme, "Freedom, Justice, and Equality for All," poignantly reaffirms the UDHR’s profound and enduring relevance. As a bedrock of the post-World War II international order, the Declaration articulates 30 fundamental rights that encompass civil, political, socio-economic, and cultural dimensions. Yet, even after 75 years, the struggle for these rights continues as modern forms of slavery—such as forced labour, debt bondage, forced marriage, and coerced prostitution—persist in our societies. India's pivotal role in the drafting of this monumental document serves as a powerful reminder of its unwavering commitment to human dignity and global justice.

While Article 1 of the Universal Declaration of Human Rights asserts that every individual is born free and equal in dignity and rights, aiming for universal equality and respect, this ideal is severely compromised by the ongoing issue of modern slavery that still affects our society. Conversely, Article 4 emphatically forbids all forms of slavery, standing in stark opposition to the very tenets of freedom, justice, and dignity that the Declaration upholds.². This unequivocal prohibition is directly aligned with the fundamental rights outlined in Articles 12 to 35 of the Indian Constitution, which encompass Equality, Freedom, Protection against Exploitation, Freedom of Religion, Cultural and Educational Rights, and Constitutional Remedies. These provisions collectively affirm a steadfast commitment to justice and human dignity, forming the bedrock of a responsible society.

While the overt forms of tyrannical slave trade may have diminished in the modern era, slavery has merely evolved into more insidious forms, where individuals are exploited through threats, coercion, violence, deception, and abuse of power. India, too, remains ensnared by the pervasive

¹ United Nations, ‘The Universal Declaration of Human Rights Turns 75’ (Welcome to the United Nations , 10 December 2023) < <https://www.un.org/en/observances/human-rights-day> > accessed date 20 July 2024.

² United Nations Human Rights Office of the High Commissioner, ‘30 articles on the 30 Articles of the Universal Declaration of Human Rights’ (Press Releases, Office of the High Commissioner for Human Rights, 14 November 2018) < <https://www.ohchr.org/en/press-releases/2018/11/30-articles-30-articles-universal-declaration-human-rights> > accessed 21 July 2024.

grip of modern slavery. This contemporary scourge manifests in various egregious forms, including Forced Labour, Debt Bondage, Human Trafficking, Child Labour, Forced Prostitution, Forced Marriage, Domestic Servitude, Unlawful Recruitment and Use of Child Soldiers, Sex Trafficking, and Descent-Based Slavery. This violates Article 4 of UDHR which reads as “No *one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms*”.³ This in turn violates,

- ❖ Article 3: Asserts everyone has the right to life, freedom, and personal safety.
- ❖ Article 5: Asserts no one should be subjected to torture or cruel, inhumane, or degrading treatment.
- ❖ Article 7: Asserts everyone has the right to be recognized as a person before the law.

Added, The Global Slavery Index of 2023, with its stark revelations and India's troubling position within it, underscores the urgency with which modern slavery must be confronted. This glaring evidence calls for immediate and uncompromising action, revealing the dark and persistent stain of human exploitation that demands our collective and resolute response. Modern slavery, in all its forms, is a critical international issue that acts as a slow poison, gradually consuming the sweat and blood of humanity. This crisis gained significant attention with the release of the 2023 Global Slavery Index, which unveiled startling revelation.

II. GLOBAL SLAVERY INDEX 2023: ARE G20 NATIONS FUELLING MODERN SLAVERY?

The Global Slavery Index, an annual beacon of truth from the Walk Free Foundation, unveils a chilling reality: modern slavery ensnares an estimated 50 million souls across the globe.⁴ It is profoundly disheartening to witness leading G20 nations, India, Russia, China, Indonesia, the United States, and Turkey, entangled in this insidious web of exploitation while North Korea, with its staggering rate of 104.6, stands at the forefront of this grim tableau, highlighting a severe human rights catastrophe.⁵ It's hardly cause for celebration that North Korea leads the pack with an astonishing prevalence rate of modern slavery. Yet, what is even more disconcerting is the paradox of G20 countries, nations heralded for their commitment to sustainable development, being key contributors to this global affliction.

³ Amnesty International, 'WHAT IS THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND WHY WAS IT CREATED?' < <https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/> > accessed 21 July 2024

⁴ Walk Free, 'Understanding the Scale of Modern Slavery' (Global Slavery Index, 24 May 2024) < <https://www.walkfree.org/global-slavery-index/> > accessed 21 July 2024.

⁵ Rimjhim Singh, 'Global Slavery Index 2023: G20 nations fuelling modern slavery' (Business Standard, 13 June 2023) < https://www.business-standard.com/india-news/global-slavery-index-2023-g20-nations-fuelling-modern-slavery-123061300720_1.html > accessed 22 July 2024.



Asia, in particular, bears the immense burden of modern slavery, with India, China, Russia, Turkey, and Indonesia among the worst offenders. Strikingly, India ranks 53rd out of 167 countries on this index, highlighting a widespread crisis.⁶ Addressing this issue demands an examination of its root causes: pervasive poverty, severe economic inequality, climate-induced migration, entrenched social hierarchies exploiting marginalized communities, weak governance, and rampant corruption. To confront this issue, we must plunge into its root causes: rampant poverty, glaring economic inequality, migration spurred by climate upheaval, entrenched social hierarchies, exploiting marginalized communities, feeble governance, and pervasive corruption.

The COVID-19 pandemic has dramatically worsened these issues, causing a surge in forced labour, debt bondage, and other forms of exploitation, particularly in lower- and middle-income countries. The rise in online recruitment scams and cyber fraud has further fuelled human trafficking, including sex and child trafficking. Moreover, the crisis has been exacerbated by rampant unemployment and financial instability, driven by the mass dismissal of migrant workers, lack of access to personal loans, deplorable working conditions, and widespread business closures.

Despite these alarming trends, the persistence of modern slavery does not imply the absence of international laws; rather, it underscores the failure in effectively implementing global efforts to combat this atrocity.

⁶ Udit Misra, 'Explain Speaking | Global Slavery Index: Where does India rank, and why are its findings contested?' (The Indian Express New Delhi, June 15 2023) < <https://indianexpress.com/article/explained/explained-economics/global-slavery-index-2023-india-rank-explained-8659738/> > accessed 23 July 2024.

- Article 4 of the Universal Declaration of Human Rights (1948): Prohibits slavery and servitude unequivocally.⁷
- Article 8 of the International Covenant on Civil and Political Rights (1966): Outlaws slavery, servitude, and forced labour.⁸
- The Hague Convention on the Civil Aspects of International Child Abduction (1980): Addresses the abduction of children, intersecting with issues of modern slavery.⁹
- The Trafficking Protocol of the UN Convention Against Transnational Organized Crime (2000): Aims to prevent and combat human trafficking.¹⁰
- The Council of Europe Convention on Action against Trafficking in Human Beings (2005): Provides a comprehensive approach to preventing trafficking and protecting victims.¹¹

On paper, we have a plethora of international laws championing human justice. But the cold, hard truth is laid bare by the statistics and graphs. Though countless international laws address the scourge of modern slavery, its persistent prevalence reveals a stark truth: the real challenge lies not in crafting these laws, but in their steadfast and effective implementation.

III. SHACKLES OF MODERN SLAVERY IN CONTEMPORARY INDIA

Despite India's strides in IT, pharmaceuticals, space technology, renewable energy, startups, innovation, and tourism, its 53rd rank in the Global Slavery Index casts a glaring light on the widespread inhumane practices of forced labour, debt bondage, human trafficking, sex trafficking,

⁷ Equality and Human Rights Commission, 'Article 4: Freedom from slavery and forced labour' (Equality and Human Rights Commission, 4 May 2016) < <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-4-freedom-slavery-and-forced-labour#:~:text=1..perform%20forced%20or%20compulsory%20labour.> > accessed 23 July 2024.

⁸ Compass Manual for Human Rights Education with Young People , < 'The International Covenant on Civil and Political Rights' (Council of Europe Portal) <https://www.coe.int/en/web/compass/the-international-covenant-on-civil-and-political-rights> > accessed 24 July 2024.

⁹ Stellina Jolly, 'International Parental Child Abduction: An Explorative Analysis of Legal Standards and Judicial Interpretation in India' (International Journal Of Law Policy and the Family, April 2017) <https://www.researchgate.net/publication/317759147_International_Parental_Child_Abduction_An_Explorative_Analysis_of_Legal_Standards_and_Judicial_Interpretation_in_India > accessed 24 July 2024.

¹⁰ Joy N Ezeilo, ' Achievements of the Trafficking Protocol: Perspectives from the former UN Special Rapporteur on Trafficking in Persons' (Anti Trafficking Review, 2015) < <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/94/114> > accessed 24 July 2024

¹¹ Council of Europe Treaty Series - No. 19, 'Council of Europe Convention on Action against Trafficking in Human Beings' (Warsaw, 16.V.2005) <<https://rm.coe.int/168008371d#:~:text=Article%205%20E2%80%93%20Prevention%20of%20trafficking%20in%20human%20beings&text=Each%20Party%20shall%20take%20appropriate.and%20stay%20on%20its%20territory.> > accessed 24 July 2024.

descent-based slavery, and forced marriage. The chilling statistics from the Walk Free Foundation lay bare this harsh reality. The report vividly portrays modern slavery thriving in conflict-ridden areas with state-imposed forced labour and frail governance, while nations with robust governance stands as rare bastions against this scourge.

Most prevalent

The countries estimated to have the highest prevalence of modern slavery tend to be conflict-affected, have state-imposed forced labour, and have weak governance.

	Rank	Prevalence Rate*	# of People
North Korea	1	104.6	2,696,000
Eritrea	2	90.3	320,000
Mauritania	3	32.0	149,000
Saudi Arabia	4	21.3	740,000

Least prevalent

The countries with the lowest prevalence of modern slavery are those with strong governance and strong government responses to modern slavery.

	Rank	Prevalence Rate*	# of People
Switzerland	160	0.5	4,000
Norway	159	0.5	3,000
Germany	158	0.6	47,000
Netherlands	157	0.6	10,000

- ❖ Is weak governance to blame for the rampant prevalence of modern slavery in India?
- ❖ Is it the absence of laws that has deepened the crisis?
- ❖ Or is it the ineffective implementation of existing laws that has exacerbated the situation?

To unravel these questions, let us delve into the various realms of Modern Slavery that persist in India.

A. FORCED LABOUR AND DEBT BONDAGE

Forced labour represents a grave injustice, where individuals are coerced into providing services under the threat of penalty, without their voluntary consent. This abhorrent practice remains disturbingly widespread in traditional communities such as Kanua, Sevakias, Harwahi, Kamiauti, and others. The International Labour Organisation's report, "Profits and Poverty: The Economics of Forced Labour," exposes a staggering 37 percent surge in illegal profits since 2014¹², illustrating how these vast sums are reinvested into the exploitation of victims.

¹² 'Annual profits from forced labour amount to US\$ 236 billion, ILO report finds' (International Labour Organisation, 19 March 2024) < [Page | 10](https://www.ilo.org/resource/news/annual-profits-forced-labour-amount-us-236-billion-ilo-report-finds#:~:text=The%20total%20amount%20of%20illegal,from%20the%20exploitation%20of%20victims.> accessed 25 July 2024.</p>
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Modern Slavery

Bonded labourers rescued & rehabilitated and rehabilitation amount released during (2020-21 to 2022-23)

Year	State/UT	Assistance (₹ in lakh)	Number of bonded labourer rehabilitated
2020-21	Bihar	43.65	220
	West Bengal	11.20	16
	Rajasthan	9.80	49
	Assam	2.00	1
	Madhya Pradesh	6.20	34
2021-22	Chhattisgarh	50.00	250
	Tamil Nadu	203.13	1016
	Bihar	58.00	360
	Rajasthan	10.00	50
2022-23	Rajasthan	14.00	70
	Uttar Pradesh	390.20	287
	Tamil Nadu	59.40	297
Total		734.73	2080

This egregious situation endures despite the presence of numerous laws and regulations intended to combat modern slavery, highlighting a critical failure in our efforts to address this issue effectively.

- ❖ **The Bonded Labour System (Abolition) Act of 1976** was enacted to eradicate the bonded labour system by formally declaring it illegal and void. Its purpose is to liberate all individuals subjected to bonded labour and to annul any debts that were used to exploit them.¹³
- ❖ **The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979**, seeks to oversee the employment of workers who migrate between states, focusing on their working conditions and overall welfare.¹⁴
- ❖ **The Factories Act of 1948** governs labour conditions in factories, aiming to ensure that workers are provided with safe working environments, reasonable hours, and essential health, safety, and welfare measures.¹⁵
- ❖ **The Unorganized Workers' Social Security Act of 2008** is designed to offer social security and welfare benefits to workers in the unorganized sector. However, its effectiveness in truly safeguarding these workers' rights and improving their conditions remains a significant concern.¹⁶

¹³ Vibhor Goel & Nandeni Pundir, 'Bonded Labour System: Shackles of Slavery in Modern India' (Manupatra, 15 June 2021) < <https://articles.manupatra.com/article-details/Bonded-Labour-System-Shackles-of-Slavery-in-Modern-India> > accessed 25 July 2024.

¹⁴ Dr S. Irudaya Rajan and Dr. Anjana Rajagopalan, 'Inter-State Migrant Workers in India: Policy for a Decent World of Work' (World Bank Blogs, July 14, 2023) < <https://blogs.worldbank.org/en/peoplemove/inter-state-migrant-workers-india-policy-decent-world-work> > accessed 25 July 2024.

¹⁵ 'The Factories Act, 1948' (Labour Commissioner Govt of NCT of Delhi) < <https://labour.delhi.gov.in/labour/factories-act-1948> > accessed 25 July 2024.

¹⁶ Paromita Goswami, 'A Critique of the Unorganised Workers' Social Security Act' (Economic and Political Weekly, 14 March 2009) < <https://www.epw.in/journal/2009/11/commentary/critique-unorganised-workers-social-security-act.html> > accessed 26 July 2024.

People's Union for Democratic Rights v. Union of India AIR 1982 SC 1473¹⁷ is a pivotal case that revealed the harsh realities of forced labour and debt bondage within various industries, underscoring the critical need for robust legal reforms to eliminate these practices in India. Justice P.N Bhagavati and Justice R S Pathak emphasized that forced labour constitutes a direct violation of Article 21 (Right to Life and Personal Liberty) and Article 23 (Prohibition of Traffic in Human Beings and Forced Labor) of the Indian Constitution. By violating these fundamental rights, such practices compel the aggrieved individuals to seek redress through the Writ Jurisdictions provided under Articles 32 and 226.

Thus, bonded labour, especially when it targets children, is a deeply entrenched and harmful practice that urgently requires our collective action to eliminate. We must come together to dismantle this cruel system, ensuring that every child is liberated from such exploitation and given the opportunities and protections they are entitled to.

B. HUMAN TRAFFICKING

Human trafficking is a blight that has haunted our past and continues to cast its dark shadow over the present. The Bhopal Human Trafficking Case of 2018 which gained prominence due the involvement of high-profile individuals itself is an example. In a land where one of our Fundamental Rights stands dedicated entirely to the fight against this grave injustice, we are called to confront this enduring scourge with unyielding resolve.

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

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

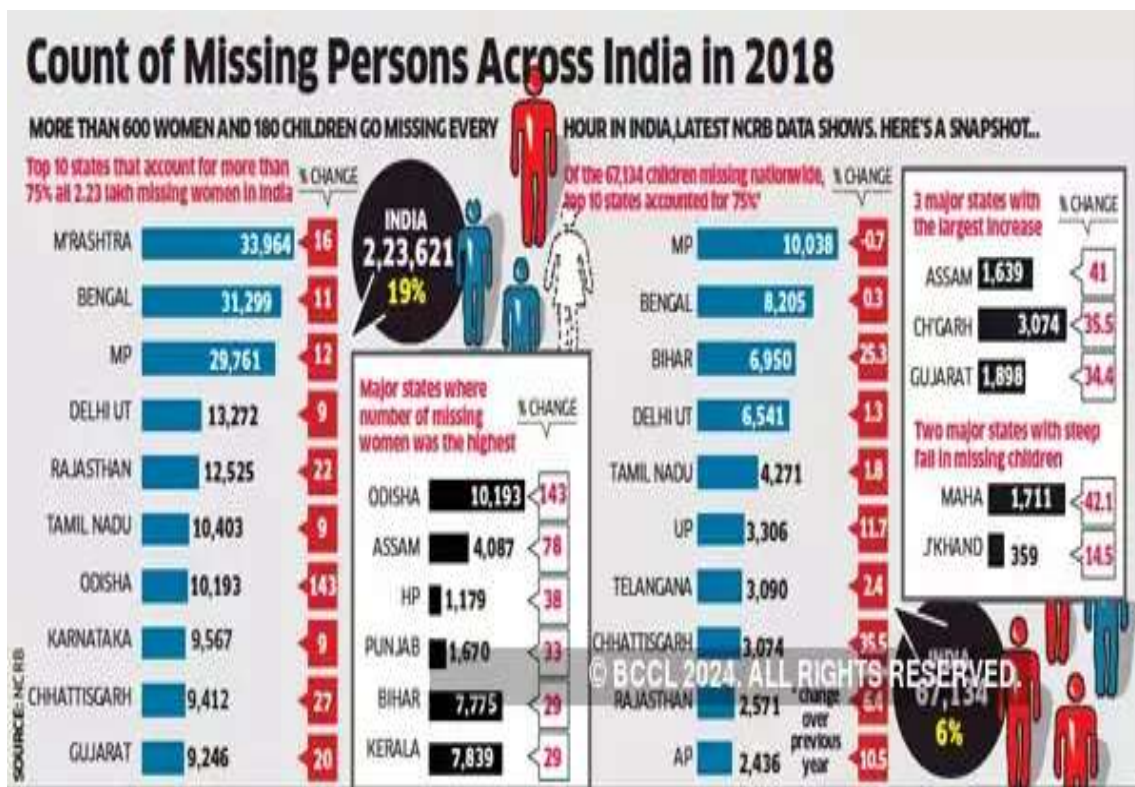
*(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.*¹⁸

The harsh reality of human trafficking reveals a troubling pattern, with a particular focus on women and children. In 2011, the Supreme Court appointed a panel to instruct the NCRB to compile data on missing children and women, resulting in deeply disturbing revelations. The findings identified Mumbai and Kolkata as key areas where trafficking of women and children is

¹⁷ AIR 1982 SC 1473

¹⁸ The Constitution of India 1950

alarmingly prevalent.¹⁹ The majority of victims faced exploitation through child labour, sexual abuse, and domestic servitude. While most female victims were trafficked for sexual exploitation, many men were subjected to forced labour, underscoring the widespread and complex nature of this serious issue. Organ trafficking is another crime that is scaling in contemporary India. Offenders purposefully create accidents, thereby creating an environment for organ trafficking. The fact that many hospitals have become partners of such organised crimes is highly concerning.



The rigorous enforcement of legal safeguards is imperative to shield society from the scourge of human trafficking.

- ❖ **The Immoral Traffic (Prevention) Act of 1956 (ITPA)** is aimed at trafficking people for commercial sexual exploitation. It specifically targets and imposes penalties on activities related to prostitution, with a focus on curbing the trafficking women and children for sexual exploitation purposes.²⁰
- ❖ **The National Guidelines on the Prevention of Trafficking of Children and Women for Commercial Sexual Exploitation (2005)** were developed to provide a structured

¹⁹ Rahul Tripathi, 'Mumbai, Kolkata see highest women, child trafficking cases: NCRB study' (The Economic Times , 10 February 2020) < <https://m.economictimes.com/news/politics-and-nation/mumbai-kolkata-see-highest-women-child-trafficking-cases-ncrb-study/articleshow/74053964.cms> > accessed 25 July 2024.

²⁰ *The Immoral Traffic (Prevention) Act of 1956 (ITPA)*

framework for preventing trafficking, rescuing victims, and facilitating their rehabilitation.²¹

- ❖ **The Juvenile Justice (Care and Protection of Children) Act, 2015** provides a detailed legal framework for the care, protection, and rehabilitation of children, including those who are victims of trafficking. It includes provisions to prevent child trafficking and to facilitate the effective rehabilitation of trafficked children.²²
- ❖ **The Trafficking of Persons (Prevention, Protection, and Rehabilitation) Bill, 2018**, though still awaiting enactment, seeks to create a robust legal framework to tackle trafficking. It advocates for the creation of a national anti-trafficking authority, the establishment of specialized courts, and the implementation of comprehensive measures for the prevention of trafficking, protection of victims, and their rehabilitation. There are many such acts and legislations solely aiming to prevent such atrocities against women and children. The 86th Amendment Act of 2002, which introduced Article 21-A, mandates free and compulsory education for all children aged 6 to 14 years, also supports efforts to combat child trafficking.²³

*Vishal Jeet v. Union of India 1990 AIR 1412*²⁴ is the landmark case where the Supreme Court addressed serious issues of human trafficking, forced prostitution, and the exploitation of women and children through a public interest litigation filed by Vishal Jeet. The Court reaffirmed the state's duty to proactively prevent trafficking and protect victims, directing both central and state governments to implement comprehensive legal and policy measures. It emphasized the need for specific anti-trafficking legislation, stringent enforcement, and effective support systems for victim rehabilitation. The judgment also called for improved coordination among government agencies, law enforcement, and NGOs to enhance monitoring and enforcement. This case played a crucial role in shaping India's legal framework against human trafficking, raising awareness, encouraging advocacy, and promoting a victim-centered approach.

C. FORCED MARRIAGE

Forced marriage remains a deeply ingrained problem in Indian society, largely due to entrenched patriarchal norms. Women are frequently coerced into accepting marriages arranged by their families, subjected to significant family pressure and psychological distress. This issue is further

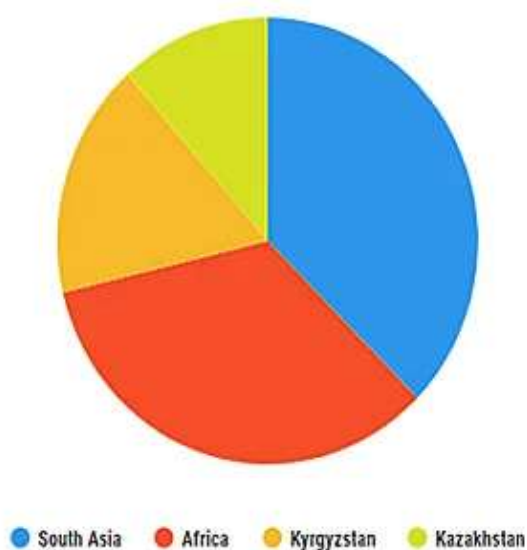
²¹*The National Guidelines on the Prevention of Trafficking of Children and Women for Commercial Sexual Exploitation (2005)*

²² *The Juvenile Justice (Care and Protection of Children) Act, 2015*

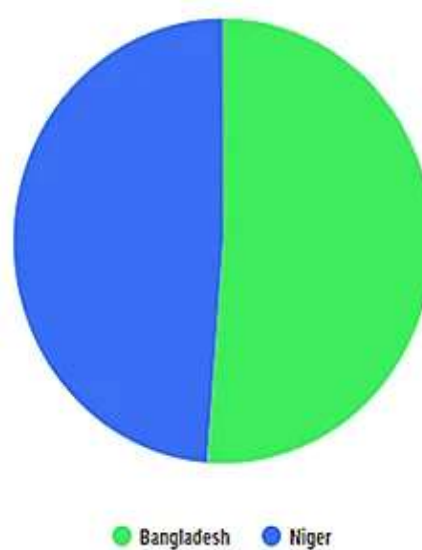
²³ *The Trafficking of Persons (Prevention, Protection, and Rehabilitation) Bill, 2018*

compounded by the prevalent practice of child marriage in various regions of India, where threats and coercion deprive girls of their rights to education, employment, and the freedom to choose their own spouses. According to the Global Slavery Index 2022, the year 2021 witnessed a troubling surge in forced marriages globally, affecting around 22 million individuals. The incidence of such marriages per thousand people rose from 2.1 in 2016 to 2.8 in 2021, reflecting a significant escalation in this grave human rights violation.²⁵ More than half (52 per cent) of all forced labour and a quarter of all forced marriages were found to be in upper-middle income or high-income countries. The World Economic Forum has pointed out a troubling phenomenon in North India, where the "male marriage squeeze"—a disparity in the number of eligible men compared to women—has led to a troubling culture of bride purchasing.²⁶ This practice is especially common in rural and underdeveloped areas. Additionally, a study by Lancet Global Health has uncovered disturbing statistics: one in six boys and one in five girls are married before the age of 18.²⁷ The gravity of this issue is highlighted by Britain’s designation of India as a ‘focus country’ for forced marriages, underscoring the widespread nature of this abuse.

Percentage of girls forced to marry before 18



Percentage of girls forced to marry before 15



²⁵ ‘Global Estimates of Modern Slavery: Forced Labour and Forced Marriage’ (International Labour Organisation, Walk Free, International Organisation for Migration, 12 September 2022) < <https://www.ilo.org/publications/major-publications/global-estimates-modern-slavery-forced-labour-and-forced-marriage> > accessed 26 July 2024.

²⁶ Reena Kukreja, ‘Caste and Cross-region Marriages in Haryana, India: Experience of Dalit cross-region brides in Jat households’ (Research Gate, November 2017) < https://www.researchgate.net/publication/320986867_Caste_and_Cross-region_Marriages_in_Haryana_India_Experience_of_Dalit_cross-region_brides_in_Jat_households > accessed 26 July 2024.

²⁷ ‘Progress in ending child marriage stagnating in India; 1 in 5 girls, 1 in 6 boys are married: Study’ , The Economic Times (16 December 2023) < <https://m.economictimes.com/news/india/progress-in-ending-child-marriage-stagnating-in-india-1-in-5-girls-1-in-6-boys-are-married-study/articleshow/106043650.cms> > accessed 26 July 2024.

Some of the Legal Vanguards adopted by India that would collectively aid in curbing the burden of forced marriages. In India, the issue of forced marriages is addressed through several robust legal frameworks. Section 366 of the replaced Indian Penal Code (IPC) criminalizes the act of kidnapping or abducting a woman with the intent to coerce her into marriage or illicit relations against her will.²⁸ The Prohibition of Child Marriage Act, 2006, alongside the Protection of Children from Sexual Offenses (POCSO) Act, 2012, serves as vital tools in the fight against these practices.

Furthermore, **Article 16 of the Universal Declaration of Human Rights** affirms that all adults, irrespective of race, nationality, or religion, possess the inherent right to marry and establish a family. They are guaranteed equal rights throughout the course of marriage and its dissolution. Such unions must be entered into with the unequivocal and voluntary consent of both parties. Moreover, the family is recognized as the fundamental and indispensable unit of society, deserving of protection by both society and the state.

- ❖ **The Protection of Human Rights Act, 1993**, establishes the National Human Rights Commission (NHRC), a bastion against human rights violations. This act combats forced marriages, human trafficking, forced prostitution, and bonded labour, offering a formidable defence for the oppressed.²⁹
- ❖ **The Domestic Violence Act, 2005**, stands as a shield for women against marital violence, extending its protection and legal remedies to those ensnared in the grim reality of forced marriages. The Prohibition of Child Marriage Act, 2006, strives to abolish the scourge of child marriages by decreeing the lawful age of matrimony to be 18 for women and 21 for men. It delineates stringent penalties and offers recourse for those unions that transgress these statutory boundaries.³⁰
- ❖ **The Prohibition of Child Marriage Act, 2006**, strives to abolish the scourge of child marriages by decreeing the lawful age of matrimony to be 18 for women and 21 for men. It delineates stringent penalties and offers recourse for those unions that transgress these statutory boundaries.³¹
- ❖ **The Juvenile Justice (Care and Protection of Children) Act, 2015**, stands as a bulwark against the exploitation of children. It combats the horrors of forced marriages, forced

²⁸ *Indian Penal Code, s 366.*

²⁹ *The Protection of Human Rights Act, 1993*

³⁰ *The Domestic Violence Act, 2005*

³¹ *The Prohibition of Child Marriage Act, 2006*

labour, and human trafficking, providing sanctuary and rehabilitation for the vulnerable children.³²

In *Lata Singh v. State of Uttar Pradesh & Another* 2006 AIR SCW 3499³³, the Hon'ble Court affirmed the fundamental right of a woman to marry the person of her choice upon reaching the age of majority. This landmark ruling underscored the sanctity of individual autonomy in marital decisions and established a crucial precedent for safeguarding women against threats of honour-based violence from their families, particularly in cases of inter-caste marriages. The decision eloquently enshrines the principle that personal liberty and choice in marriage are paramount, providing robust protection against the scourge of honour killings as well as forced marriages.

D. DESCENT BASED SLAVERY

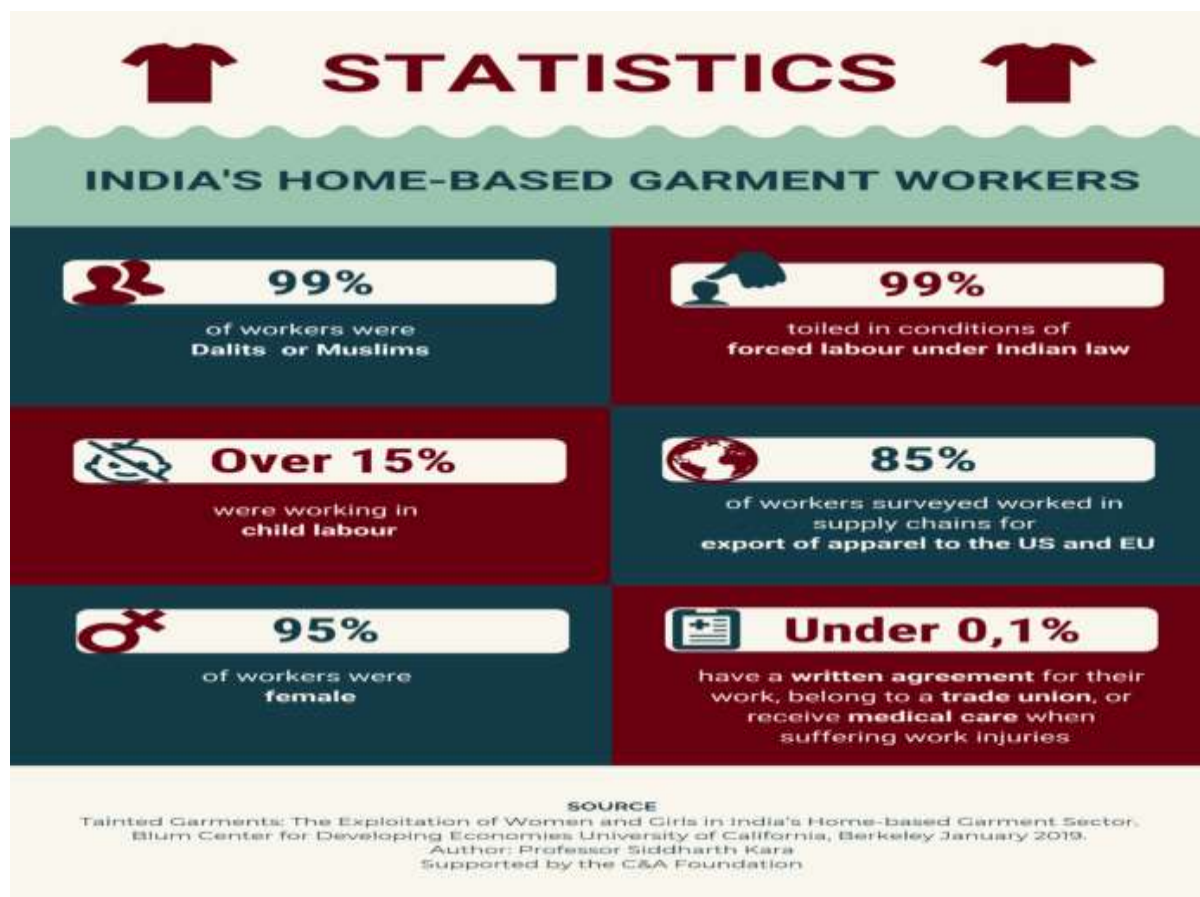
Descent-based slavery, an important ingredient of forced labour, describes a condition in which individuals are born into servitude, a plight that endures across generations. In India, this form of slavery is intricately tied to the caste system, with lower castes disproportionately subjected to such exploitation. These individuals are often coerced into performing unpaid labour under oppressive conditions. Dalits, in particular, face acute vulnerability to bonded labour due to their marginalized socio-economic status, further exacerbated by caste-based occupations. Extreme poverty compels Dalits into debt, with their only recourse being their labour, while social exclusion deepens their entrapment in bondage. Manual scavenging and forced prostitution are two prominent examples of caste-based bonded labour in India. Despite advancements in literacy, manual scavenging remains prevalent—a practice historically relegated to specific caste groups by birth. It is estimated that approximately 1.3 million Dalits, notably women, are engaged in this demeaning work, which involves the manual removal of human waste from dry toilets and sewers. This hazardous occupation poses severe health risks and results in profound societal exclusion.

Manual scavengers often face egregious discrimination, including denial of essential resources like water, and earn pitiable wages, sometimes as low as one rupee a day. Due to persistent caste-based bias, they find few opportunities for alternative employment, forcing them to rely on loans from upper-caste neighbours and thereby perpetuating a cycle of debt and dependency. The caste system is a deeply entrenched social malady in India, fostering numerous forms of discrimination. While eradicating this pervasive issue is fraught with difficulty, legislative measures such as **Article 17** of the Indian Constitution seek to dismantle untouchability and eliminate this insidious

³² *The Juvenile Justice (Care and Protection of Children) Act, 2015*

³³ 2006 AIR SCW 3499

practice. This inhumane practise also violates Articles **21, 23, 24, 39e and 39f**.³⁴ Effective implementation of legal frameworks which are meant to tackle oppression and brutal discrimination against minorities and so-called lower castes can effectively aid in curbing such slavery based on birth.



A meticulous study on India's home-based garment workers has unveiled that nearly 99% toil under conditions tantamount to forced labour as delineated by Indian law. This research, orchestrated by eminent labour scholars from the University of California, discovered that over 99% of these workers are either Dalits or Muslims.³⁵ The inquiry further illuminated that over 15% of these labourers are children, with numerous instances of bonded labour documented. Additionally, 85% of these workers contribute to the supply chains of global brands. To prevent descent-based slavery, protection of minority communities from brutal oppression and discrimination is mandatory. Some legal vanguards that may be effectively implemented are:

³⁴ The Constitution of India 1950

³⁵ Siddharth Kara, 'Bonded labour · Tainted Garments: The Exploitation of Women and Girls in India's Home-based Garment Sector' (International Dalit Solidarity Network) < <https://www.business-humanrights.org/en/latest-news/india-home-based-garment-workers-producing-for-major-western-brands-subject-to-forced-labour-exploitation-study-reveals/> > accessed 26 July 2024.

- ❖ **The Protection of Civil Rights Act, 1955** seeks to eradicate untouchability and forbids discrimination based on caste or religion. It imposes penalties for enforcing disabilities arising from untouchability.³⁶
- ❖ **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** (PoA Act) stands as a bastion of justice, meticulously crafted to shield SCs and STs from the scourge of atrocities and crimes. This far-reaching legislation mandates the establishment of special courts and imposes severe penalties on offenders, ensuring swift and stringent justice. It was amended in 2005, making regulations more stringent.³⁷
- ❖ **The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013**, stands as a beacon of justice, forbidding the engagement of manual scavengers and the erection of unsanitary latrines. This noble legislation also paves the way for the rehabilitation and dignified upliftment of manual scavengers and their families, guiding them towards a future of hope and respect.³⁸
- ❖ **The National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST)**, founded under Article 338 and Article 338A of the Indian Constitution, respectively, bear the solemn mandate to scrutinize and oversee all issues pertaining to the protections afforded to SCs and STs. These august bodies are also tasked with investigating specific grievances related to the violation of their rights, ensuring justice and equity are upheld.³⁹

*Bandhua Mukti Morcha v. Union of India & Others 1984 AIR 802*⁴⁰ is the case where the Court articulated comprehensive guidelines for the identification of bonded labourers who were particularly Dalits and imposed an obligation on the state government to identify, liberate, and rehabilitate them. The Court held that individuals subjected to bonded labour are deprived of their fundamental liberty, rendering them akin to slaves.

IV. DO NEW LAWS HERALD A NEW DAWN IN THE FIGHT AGAINST MODERN SLAVERY?

India has long grappled with the grave issue of modern slavery, enacting laws to combat it both before and after gaining independence. Legislative efforts date back to the 1800s, with the Indian Slavery Act of 1843 serving as a foundational legal instrument for subsequent anti-slavery

³⁶ *The Protection of Civil Rights Act, 1955*

³⁷ *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*

³⁸ *The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013*

³⁹ *The National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST)*

⁴⁰ *1984 AIR 802*

measures. In addition to a myriad of legislative efforts, numerous judicial decisions have sought to address this profound crisis. However, a significant transformation has recently occurred with the introduction of three landmark bills: the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhinyam, 2023 (BSA). Among these, the BNS, which replaces the Indian Penal Code, incorporates extensive provisions targeting various forms of forced slavery deeply entrenched in our society.

- **Section 81:** Chronicles the deceitful cohabitation arising when a man beguiles a woman into believing she is lawfully wed.⁴¹
- **Section 83:** Pertains to the fraudulent enactment of marriage ceremonies, devoid of any legitimate legal standing.⁴²
- **Section 87:** Encompasses the grievous act of seizing, abducting, or compelling a woman into matrimony against her will.⁴³
- **Section 111:** Defines organized crime as an illicit endeavour undertaken by an individual or a group, encompassing human trafficking for prostitution. These nefarious acts executed through the application of violence, threats, intimidation, coercion, or other unlawful methods are recognised by the new bill.⁴⁴
- **Section 146:** Any individual who compels another to toil against their will shall face a sentence of up to one year in prison, a monetary fine, or both, as justice demands.⁴⁵

Many such laws and judicial decisions stand poised to combat the scourge of modern slavery. Yet, their mere existence is insufficient to eradicate this profound evil. It is imperative to enforce stringent measures to disseminate these laws to the public, ensuring widespread awareness of their rights. Only through such vigilant education can the rigorous implementation of these statutes be achieved.

V. CONCLUSION: THE FREEDOM'S BLUEPRINT

The latest report from the International Labour Organization (ILO) unveils a distressing rise in modern slavery, which now affects an estimated 50 million people globally through forced labour and marriage. Despite its illegality, modern slavery thrives as a highly lucrative enterprise, with

⁴¹ *The Bharatiya Nyaya Sanhita s.81*

⁴² *The Bharatiya Nyaya Sanhita s. 83*

⁴³ *The Bharatiya Nyaya Sanhita s. 87*

⁴⁴ *The Bharatiya Nyaya Sanhita s. 111*

⁴⁵ *The Bharatiya Nyaya Sanhita s. 146*

the ILO estimating that forced labour in the private sector yielded approximately \$150 billion in 2017. India, with its vast population, is projected to have the highest number of individuals ensnared in modern slavery and ranks sixth in prevalence across the Asia-Pacific region. The principal drivers of vulnerability include conflict, climate change, gender inequality, and the marginalization of minority groups, including the LGBTQI+ community, lower castes, and religious minorities.

India's efforts to combat modern slavery, with a rating of 46 percent, surpass the regional average and even outshine some wealthier nations. Yet, the government's response remains insufficient to fully tackle the issue. The responsibility for implementing criminal justice measures largely falls to state governments. Despite India ratifying numerous international agreements and acknowledging most forms of modern slavery under international law, enforcement is inconsistent across states. A more robust and coordinated approach is urgently needed to ensure that all affected individuals—adult men, LGBTQI+ persons, and people with disabilities—receive the necessary support. Additionally, each state and union territory should establish community-based rehabilitation programs, with survivor consent, and provide avenues for financial empowerment. Addressing modern slavery demands a multifaceted approach, weaving together rigorous research, evidence-based advocacy, and targeted training for government officials, business leaders, community figures, and workers. Media campaigns are essential for raising awareness and driving prevention efforts. Equally vital is the provision of direct support to survivors and those at risk, encompassing the repatriation of trafficked individuals, comprehensive legal and psychosocial assistance, and the establishment of alternative income opportunities. Let us unite in our unwavering commitment to extinguish the blight of modern slavery, and strive towards a world where every individual's freedom and dignity is respected.