

THE LONG ROAD TO FREEDOM: DECONSTRUCTING THE ABOLITION OF SLAVERY

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Abstract:

"Slavery is wrong. If slavery is right, all words, acts, laws, and Constitutions against it, are themselves wrong, and should be silenced and swept away"

The right against slavery stands as a cornerstone of human rights, encapsulating the essence of human dignity and autonomy. Rooted in the principle that no individual should be subjected to the horrors of exploitation and bondage, this fundamental right has historical significance and contemporary relevance. From the transatlantic slave trade to modern-day forms of forced labour and human trafficking, the struggle against slavery persists as a global imperative. This paper explores the historical context, international and national legal frameworks to prohibit slavery and ongoing challenges in upholding the right against slavery. It emphasizes the importance of collective action, advocacy, and international cooperation in eradicating all forms of slavery and ensuring that every person can live a life of freedom, dignity, and equality.

INTRODUCTION:

The right against slavery stands as a beacon of humanity's collective moral conscience, embodying our unwavering commitment to the inherent dignity and freedom of every individual. Rooted in the foundational principles of human rights, this fundamental right serves as a bulwark against the insidious forces of exploitation and oppression that seek to subjugate and dehumanize. From the shackles of historical chattel slavery to the modern-day manifestations of forced labour, human trafficking, and debt bondage, the right against slavery resolutely declares that no person should ever be treated as property or subjected to involuntary servitude. As enshrined in international legal frameworks such as the Universal Declaration of Human Rights, these right demands not only legal prohibition but also concerted action to dismantle the systems of exploitation and provide meaningful redress to victims. Thus, the struggle against slavery is not merely a historical artifact but an ongoing imperative, requiring collective vigilance, advocacy, and solidarity to ensure that every individual enjoys the fundamental freedom to live a life of dignity and self-determination.

CONCEPT OF SLAVERY:

A scenario where by one person is deemed to be the property of another is known as slavery. Slavery can occur for a variety of causes, such as work, chattel slavery, etc. It is generally accepted that a slave is deprived of all the general rights that a normal person is entitled to. The owner is the one who decides what rights they have. Slavery, throughout history, has been a deeply entrenched practice whereby individuals are treated as property and denied basic human rights. It involves the systematic exploitation and control of people, often through coercion, violence, or deception. Slavery has taken various forms across different cultures and time periods, including chattel slavery, serfdom, debt bondage, forced labour, and human trafficking.

HISTORY:

Slavery's long and unfinished history is replete with cruelty and grief over numerous eras and nations. While the exact year of slavery's inception is hard to determine, historians can generally trace the practice's roots back 11,000 years. In the ancient times - debt, being born into a family of slaves, child abandonment, war, or being punished for a crime were the main causes of slavery. The slave trade was unpopular and certainly not a profitable international business in its early years. Slavery underwent significant changes during the Middle Ages, which historians classify as a three-part period between 500 and 1500 AD, as international warfare, raiding, and conquering expanded across continents. This led to chaos and confusion as the citizens of conquered regions were taken as slaves and transported across many miles to work as slaves for their captors. The worldwide slave trade truly began when European slaves gained immense popularity in Muslim nations. African slaves were used by European colonists as labourers on the islands to produce sugar and coffee. Furthermore, many African slaves were bought by owners in the Spanish Americas and Brazil for employment in the fields and the home. In 1619, the first slaves were transported to the Americas. Numerous people did not make it through the terrifying voyage from Africa to the Americas. The ships lacked adequate sanitation, had little food, and were densely populated. This caused deadly illnesses like smallpox, fever, and dysentery to spread quickly, killing the ship's crew as well as the Africans. Death was a typical event in the slave trade, with the deceased's body being thrown into the water. Over 4 million slaves were hired in the US at the start of the American Civil War, with most of them being in the Southern states. Slavery's westward spread was the main political concern before to the start of the Civil War. Abolitionists in the North thought they could completely eradicate slavery if they could only prevent it from spreading. Following Abraham Lincoln's election to the president in 1860, the Southern states quickly broke away from the Union to establish the Confederacy. The Northern Union was committed to both preserving the nation and ending slavery, whereas the Confederate States of America were focused on maintaining slavery.¹

CONVENTIONS ON PROHIBITION OF SLAVERY:

ILO LABOUR CONVENTION 1930:

The International Labour Organisation made Labour Convention, 1930 for the **suppression of forced or compulsory labour** in all its forms within the shortest period. However, exceptions were made in favour of compulsory military service, normal civic obligations, convict labour, work in emergencies and minor communal services.

UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948:

Art 4 of UDHR explicitly references slavery, stating that no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.²

Since they claim ownership, labour, and/or the humanity of another human being, human traffickers and slave owners seriously breach human rights. The human rights that are most pertinent to human trafficking are: the injunction against discrimination on the grounds of racial or social origin, property, birthplace, sexual orientation, language, religion, political opinion, or any other category; the freedom of movement and the establishment of security; the right to be free from gendered violence; the right to freedom of association; the right to freedom of movement; the right not to be subjected to torture or cruel, inhumane, or degrading treatment or punishment; the right not to be coerced into slavery, servitude, forced labour, or bonded labour; the right to the best possible level of mental and bodily well-being; the rights of children to special protection, social security, a livable wage, and fair and favourable working circumstances are all included in this list. In **Somerset v. Steward**³ held slavery is illegal.

¹ The history of slavery, Restavek freedom, < [The History of Slavery - Restavek Freedom](#) >

² Art 4 of UDHR, 1948, < [Universal Declaration of Human Rights | United Nations](#) >

³ Somerset v. Steward, 98 ER 499 (UK)

ILO ABOLITION OF FORCED LABOUR CONVENTION, 1957:

The General Conference of International Labour Organisation adopted Abolition of Forced Labour in 1957 provides for the abolition of certain forms of forced or compulsory labour constituting a violation of the right of man referred to in the Charter of UN. **Art 1 & 2** of the Convention mentions that the State parties should initiate effective measures for immediate and complete abolition and not to make use of any form of forced or compulsory labour - as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, as a method of mobilising and using labour for purposes of economic development, as a means of labour discipline, as a punishment for having participated in strikes, as a means of racial, social, national or religious discrimination.⁴

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, 1969:

Art 6 states that parties to the convention shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.⁵

Racial discrimination and slavery continue to be mutually reinforcing practices. While racial discrimination helps modern forms of slavery by leaving people open to exploitation and coercion based on their race, colour, descent, national or ethnic origin, or on other factors like gender, age, or disability, modern forms of slavery dehumanise the people who are ensnared and invalidate not only their ability to exercise their human rights on an equal basis but also their status as right holders. The dehumanising effect is made worse by structural prejudice, which makes society naive and eventually complicit.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1976:

Art 8 states that no one shall be held in slavery, servitude, slave-trade in all their forms shall be prohibited. Along with that no one shall be required to perform forced or compulsory labour, shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime.

Works or services normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention, services of a military character, any national services required by law of conscientious objectors, services exacted in cases of emergency or calamity threatening the life or wellbeing of the community, any work or service which forms part of normal civil obligations are exempted from forced or compulsory labour.⁶

WORKING GROUP ON CONTEMPORARY FORMS OF SLAVERY, 1995:

The Working Group on Contemporary Forms of Slavery observed at its April 1995 session that "foreign migrant workers are frequently subject to discriminatory rules and regulations which undermine human dignity"⁷

ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHT TO WORK, 1998:

Adopted in 1998 and amended in 2022, the ILO Declaration on Fundamental Principles and Rights at Work is a statement of governments', employers', and workers' organisations' commitment to upholding fundamental

⁴ Art 1 & 2 of Abolition of Forced Labour Convention, 1957 < [Convention C105 - Abolition of Forced Labour Convention, 1957 \(No. 105\) \(ilo.org\)](http://www.ilo.org) >

⁵ Art 6 of CERD, 1969, < [International Convention on the Elimination of All Forms of Racial Discrimination | OHCHR](http://www.ohchr.org) >

⁶ Art 8 of ICCPR, 1976, < [International Covenant on Civil and Political Rights | OHCHR](http://www.ohchr.org) >

⁷ David Weissbrodt, Abolishing slavery and its contemporary forms, OHCHR.

human values that are essential to our social and economic existence. It upholds the duties and commitments that come with being an ILO member, including the following: the freedom of association and the realisation of the right to collective bargaining; the abolition of child labour; **the elimination of all forms of forced or compulsory labour**; the abolition of discrimination in the workplace regarding employment and occupation; and the provision of a safe and healthy working environment.

INDIAN PRESPECTIVE:

Art 23 of Indian Constitution emanates that 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 and 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.⁸ This article includes:

Beggar or Forced labour - This is an example of forced labour, which is unpaid labour that is performed against one's will. Stated differently, one could argue that a someone is forced to labour against their will and not receive compensation for it.

Bonded Labour or Debt Bondage - Since bonded labour is a type of forced labour, it is forbidden by Article 23. A person is compelled to labour under this practice in order to pay off his debt. They work twice as hard for a very small amount of money. These debts are frequently transferred to the following generation. It is therefore referred to as a type of forced labour.

Human trafficking - It involves the unethical trafficking of women and children as well as the selling and purchasing of human beings like commodities. Slavery is included in the definition of human trafficking even if it is not specifically addressed in Article 23. The **Suppression of Immoral Traffic in Women and Girls Act, 1956** was passed by Parliament in accordance with Article 23 to penalise human trafficking.

In **State of Gujarat v. Hon'ble High Court**⁹, observed that forced labour under Art 23 does not simply means providing labour or services to another on remuneration which is less than minimum wages. It means where a labour is forced upon a person irrespective of the fact, whether he is paid minimum remuneration as may be fixed or even higher than that. If labour is forced even the payment of higher wages would not be justified under Art 23.

In **People's Union for Democratic Rights v. UOI**¹⁰ stated that forced labour means physical force which compel a person to provide labour, force exerted through a legal provision such as imprisonment or fine when employees fail to provide labour, or compulsion arising from hunger and poverty, want and destitution.

In **Bandhua Mukti Morcha v. UOI**¹¹, SC held that bonded labour is inclusive in Art 23 and State should take steps to eradicate it. **Bonded Labour System (Abolition) Act, 1976** was enacted by the Parliament with the view to abolish bonded labour.

In **Raj Bahadur Case**¹² it was held that Article 23 specifically prohibits traffic in human beings or women for immoral purpose.

Art 24 of Indian Constitution states that 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.¹³

In **People's Union for Democratic Rights v. UOI**¹⁴ SC held that employment of children below 14 ears in construction building is regarded as 'plainly and indubitably hazardous employment' prohibited under **Art 24** and **Child Labour (Prohibition and Regulation) Act, 1986** and the same was held in **Salal Hydro**

⁸ INDIA CONST. art. 23 by The Constitution Act, 1950

⁹ State of Gujarat v. Hon'ble High Court, AIR 1998 SC 3164 (India)

¹⁰ People's Union for Democratic Rights v. UOI, AIR 1982 SC 1473 (India)

¹¹ Bandhua Mukti Morcha v. UOI, AIR 1984 SC 802 (India)

¹² Raj Bahadur Case, AIR 1953 Cal 496 (India)

¹³ INDIA CONST. art. 24 by The Constitution Act, 1950

¹⁴ Id., at 10

Project v. Jammu & Kashmir.¹⁵

In **MC Mehta v. State of Tamil Nadu¹⁶** while the Constitution forbids the recruitment or enslavement of children under Article 24, it also requires the State to provide them with free and mandatory schooling in compliance with Article 41, even though a significant number of children are already employed in unsafe areas. Despite numerous State Governments outlawing child labour, the issue of child labour has persisted unresolved and continues to pose a threat to society every day. Public Prosecutor MC. Mehta has filed a PIL in accordance with Article 32, detailing the actions of Sivakasi Cracker Factories towards the girls. Hansaria J. was the one who held that children under the age of 14 are not allowed to engage in hazardous labour, and the government must establish rules to protect their social, economic, and human rights when they are employed in the public and private sectors. Additionally, it violates Article 24, as the state has an obligation to provide children with free and compulsory education. Additionally, it was mandated to setup the child Labour Rehabilitation Welfare Fund and give each child compensation of Rs. 20,000.

S. 370 of Indian Penal Code¹⁷ {Now S. 143 Bharatiya Nyaya Sanhita, 2023 (BNS, 2023)} states that whoever, for the purpose of exploitation, recruits, transports, harbours, transfers, receives a person or persons, by threats, using force, coercion, abduction, practising fraud, deception, abuse of power, inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking and punished under **S. 370A of IPC¹⁸ Now S. 144 BNS, 2023**.

S. 371 of IPC Now S. 145 BNS, 2023 states that Whoever habitually imports, exports, removes, buys, sells, trafficks or deals in slaves, shall be punished with imprisonment for life or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.¹⁹

S. 372²⁰ & 373²¹ of IPC Now S. 98 & 99 BNS, 2023 prohibits buying and selling of minors for prostitution.

S. 374 of IPC Now S. 146 BNS, 2023 states that whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.²²

MODERN - DAY SLAVERY:

This includes human trafficking for organs, forced marriage, domestic servitude, descent-based slavery, debt bondage etc. According to the latest **Global Estimates of Modern Slavery (2022)** from Walk Free, the International Labour Organization and the International Organization for Migration:

- **49.6 million** people live in modern slavery - in forced labour and forced marriage
- **Roughly a quarter** of all victims of modern slavery are children
- **22 million people** are in forced marriages. Two out of five of these people were children
- Of the **27.6 million** people trapped in forced labour, **17.3 million** are in forced labour exploitation in the private economy, **6.3 million** are in commercial sexual exploitation, and nearly **4 million** are in forced

¹⁵ Salal Hydro Project v. Jammu & Kashmir, AIR 1984 SC 177 (India)

¹⁶ MC Mehta v. State of Tamil Nadu, AIR 1991 SC 417 (India)

¹⁷ The Indian Penal Code, 1860, S. 370, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 143, No. 45 of 2023.**

¹⁸ The Indian Penal Code, 1860, S. 370A, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 144, No. 45 of 2023.**

¹⁹ The Indian Penal Code, 1860, S. 371, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 145, No. 45 of 2023.**

²⁰ The Indian Penal Code, 1860, S. 372, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 98, No. 45 of 2023.**

²¹ The Indian Penal Code, 1860, S. 373, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 99, No. 45 of 2023.**

²² The Indian Penal Code, 1860, S. 374, No. 45 Acts of Parliament, 1860 (India); **Now Bharatiya Nyaya Sanhita, 2023, S. 146, No. 45 of 2023.**



labour imposed by state authorities.

- Migrant workers are particularly vulnerable to forced labour.²³

CONCLUSION:

The degree to which the States parties implement the provisions of a treaty at the national level can be used to determine the treaty's actual effectiveness. In general, the terms "national measures adopted by States" and "international measures and procedures adopted to review or monitor those national actions" refer to the same thing when discussing the implementation of treaties. Such an international mechanism to oversee and uphold the duties of States to outlaw slavery and associated abuses does not exist. While it is a fundamental human right for everyone to be free from slavery, the absence of a sufficient implementation process discourages states from putting in place measures to prevent all modern forms of slavery.

²³ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, Geneva (Sept. 2022)