



GUARDIANS OF FREEDOM: ARTICLE 23'S STAND AGAINST EXPLOITATION

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Abstract: For a nation, its future citizen are the children, who are going to lead, control and take the nation towards further progress. Therefore they are the asset and priority for every nation. It is not only India, but overall worldwide that children are made to work. But child labour is tiring, dangerous and hazardous. Since, children are unable to distinguish between just and unjust, right or wrong, they are made to work harder which is hazardous and detrimental to their health. Our country has a huge made to work harder which is hazardous and detrimental to their health. Our country has a huge population of child labour.

KEYWORDS: Article 23, Child Labour, Constitution

1. Introduction

Article 23 of the Indian Constitution prohibits trafficking in human beings and any form of forced labor, including begar. It states that contravening this provision is punishable by law. However, it allows the state to impose compulsory service for public purposes, ensuring no discrimination based on religion, race, caste, or class. This article aims to protect individual dignity and freedom, addressing issues like bonded labor and human trafficking, and applies to both citizens and non-citizens

1.1 How has Article 23 been enforced in India since its implementation

Article 23 of the Indian Constitution, which prohibits trafficking in human beings and forced labor, has been enforced through various legislative measures and judicial pronouncements since its implementation:

- The Immoral Traffic (Prevention) Act, 1956 was enacted to deal with violations related to trafficking[2][3].
- The Bonded Labour System (Abolition) Act, 1976 abolished the bonded labor system, which was considered a form of forced labor[2][3].
- In the landmark case of *People's Union for Democratic Rights v. Union of India (1982)*, the Supreme Court held that paying less than minimum wages amounts to forced labor under Article 23[2].
- In *Sanjit Roy v. State of Rajasthan (1983)*, the Supreme Court ruled that payment of less than minimum wages to workers engaged in famine relief works was a violation of Article 23[2].
- The *Child Labour (Prohibition and Regulation) Act, 1986* prohibited the employment of children below 14 in hazardous occupations and processes[3][4].

- In **Bandhua Mukti Morcha v. Union of India (1983)**, the Supreme Court directed the government to take effective measures to abolish the practice of bonded labor[2].
- The **Child Labour (Prohibition and Regulation) Amendment Act, 2016** completely prohibited employment of children below 14 and adolescents between 14-18 in hazardous occupations[3].
- The **National Human Rights Commission v. State of Arunachal Pradesh (1996)** case affirmed that Article 23 is applicable to both citizens and non-citizens, and the State has a responsibility to protect the life and liberty of every human being[5].

So in summary, Article 23 has been enforced through a combination of specific legislation targeting trafficking, bonded labor and child labor, as well as judicial pronouncements expanding its scope and applicability. However, the practices prohibited under Article 23 still persist in various forms, necessitating further efforts to fully implement this constitutional safeguard against exploitation.

Citations:

- [1] Article 23 in Constitution of India - Indian Kanoon <https://indiankanoon.org/doc/1071750/>
- [2] Article 23 of the Indian Constitution - iPleaders <https://blog.ipleaders.in/article-23-of-the-indian-constitution/>
- [3] Right against Exploitation (Articles 23 & 24) - Indian Polity <https://byjus.com/free-ias-prep/right-against-exploitation-articles-23-24/>
- [4] Fundamental Rights (Part-2) - Drishti IAS <https://www.drishtiiias.com/to-the-points/Paper2/fundamental-rights-part-2>
- [5] Article 23 - Prohibition of traffic in human beings and forced labor <https://www.defactolaw.in/post/article-23-prohibition-of-traffic-in-human-beings-and-forced-labor>

1.2.How effective has the enforcement of Article 23 been in combating human trafficking

The enforcement of Article 23, which prohibits human trafficking and forced labor, has had some impact in combating trafficking in India, but significant challenges remain:

- The **Immoral Traffic (Prevention) Act, 1956** and other laws have been enacted to deal with violations related to trafficking, providing a legal framework[1][5].
- The government has taken administrative measures like setting up an Anti-Trafficking Nodal Cell in the Ministry of Home Affairs, issuing advisories to states, and providing funds to establish Anti Human Trafficking Units in 270 districts[5].
- Capacity building efforts through training workshops for police, prosecutors and judicial officers have been undertaken to enhance the response against trafficking[5].

However, the practice of trafficking still persists in various forms:

- In 2021, the **National Crime Records Bureau** reported 1,714 cases of human trafficking, with 5,748 victims, indicating the scale of the problem[2].
- Traffickers often exploit loopholes in the law and the criminal justice system. Conviction rates remain low, with only 10% of cases resulting in convictions in 2021[2].
- Factors like poverty, lack of awareness, and social discrimination make certain communities more vulnerable to trafficking[2].
- Coordination between central and state agencies, and international cooperation needs strengthening to effectively combat cross-border trafficking[2].

So while Article 23 provides a strong constitutional prohibition, more effective enforcement through better laws, robust investigation, victim support and rehabilitation, and addressing root causes is needed to fully eradicate human trafficking in India.

Citations:

- [1] Article 23: Prohibition of traffic in human beings and forced labour <https://www.constitutionofindia.net/articles/article-23-prohibition-of-traffic-in-human-beings-and-forced-labour/>
- [2] [Human Trafficking - Drishti IAS https://www.drishtiias.com/daily-updates/daily-news-analysis/human-trafficking-4](https://www.drishtiias.com/daily-updates/daily-news-analysis/human-trafficking-4)
- [3] [PDF] Designing More Effective Laws Against Human Trafficking <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1110&context=njihr>
- [4] Fundamental Rights (Part-2) - Drishti IAS <https://www.drishtiias.com/to-the-points/Paper2/fundamental-rights-part-2>
- [5] Human Trafficking - Ministry of External Affairs <https://www.mea.gov.in/human-trafficking.htm>

1.3 How effective has the enforcement of Article 23 been in combating human trafficking

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- [4] Fundamental Rights (Part-2) - Drishti IAS <https://www.drishtiias.com/to-the-points/Paper2/fundamental-rights-part-2>
- [5] Human Trafficking - Ministry of External Affairs <https://www.mea.gov.in/human-trafficking.htm>

1.4 What measures can be taken to address the loopholes in the enforcement of Article 23

To address the loopholes in the enforcement of Article 23 of the Indian Constitution, the following measures can be implemented:

- ***Strengthening Legal Framework***: Amend existing laws to close loopholes, ensuring comprehensive definitions of trafficking and forced labor that encompass all forms of exploitation.
- ***Enhanced Training***: Provide specialized training for law enforcement and judiciary personnel on human trafficking and forced labor issues to improve investigation and prosecution rates.
- ***Victim Support Services***: Establish robust support systems for victims, including rehabilitation, legal aid, and psychological support, to encourage reporting and cooperation with law enforcement.
- ***Public Awareness Campaigns***: Launch nationwide campaigns to educate communities about rights under Article 23 and the dangers of trafficking, targeting vulnerable populations.
- ***Inter-agency Coordination***: Foster collaboration between various government departments, NGOs, and international organizations to create a unified approach to combating trafficking.
- ***Monitoring and Evaluation***: Implement a system for regular monitoring and evaluation of anti-trafficking measures, ensuring accountability and effectiveness in enforcement efforts.

These measures can significantly enhance the enforcement of Article 23 and help combat human trafficking more effectively.

Citations:

- [1] Article 23 in Constitution of India - Indian Kanoon <https://indiankanoon.org/doc/1071750/>
- [2] Right Against Exploitation (Article 23 And 24) under Indian Constitution ... <https://lawbhoomi.com/right-against-exploitation-article-23-and-24-under-indian-constitution-with-landmark-cases/>
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- [4] Article 23 - Prohibition of traffic in human beings and forced labor <https://www.defactolaw.in/post/article-23-prohibition-of-traffic-in-human-beings-and-forced-labor>
- [5] Right against Exploitation (Articles 23 & 24) - Indian Polity <https://byjus.com/free-ias-prep/right-against-exploitation-articles-23-24/>

1.5 How can the State ensure non-discrimination in compulsory public services under Article 23

To ensure non-discrimination in compulsory public services under Article 23, the State can implement the following measures:

- ***Clear Guidelines***: Establish clear guidelines prohibiting discrimination based on religion, race, caste, or class in the imposition of compulsory service.
- ***Training and Awareness***: Provide training for officials involved in implementing compulsory service to recognize and prevent discriminatory practices.
- ***Monitoring Mechanisms***: Set up independent monitoring bodies to oversee the implementation of compulsory service and address complaints of discrimination.
- ***Public Awareness Campaigns***: Conduct campaigns to inform citizens about their rights under Article 23 and the importance of non-discrimination in public service.

- ***Legal Framework***: Strengthen legal provisions to penalize discriminatory practices in the enforcement of compulsory service, ensuring accountability.

These measures can help uphold the principles of equality and justice enshrined in Article 23.

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- [2] Article 23: Prohibition of traffic in human beings and forced labour <https://www.constitutionofindia.net/articles/article-23-prohibition-of-traffic-in-human-beings-and-forced-labour/>
- [3] Article 23 in Constitution of India - Indian Kanoon <https://indiankanoon.org/doc/1071750/>
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- [5] Article 23 and Article 24 of the Indian Constitution - Lawctopus <https://lawctopus.com/clatalogue/clat-pg/notes-on-right-against-exploitation-article-23-and-article-24-of-the-indian-constitution/>

1.6 Landmark case of Article 23

A landmark case under Article 23 is ***People's Union for Democratic Rights v. Union of India (1982)***, where the Supreme Court held that forced labor, including situations where workers are paid less than the minimum wage due to economic coercion, constitutes a violation of fundamental rights. The Court emphasized that "force" encompasses physical, legal, and economic pressures, thus broadening the interpretation of forced labor beyond traditional definitions.

Another significant case is ***Bandhua Mukti Morcha v. Union of India (1983)***, which recognized bonded labor as a form of forced labor, directing the government to take measures for the rehabilitation of affected workers. These rulings have been pivotal in shaping the enforcement of Article 23 and protecting individuals from exploitation.

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- [1] Article 23 Of Constitution Of India - Legal Service India <https://www.legalserviceindia.com/legal/article-5918-article-23-of-constitution-of-india.html>
- [2] Article 23 and Article 24 of the Indian Constitution - Lawctopus <https://lawctopus.com/clatalogue/clat-pg/notes-on-right-against-exploitation-article-23-and-article-24-of-the-indian-constitution/>
- [3] Article 23 in Constitution of India - Indian Kanoon <https://indiankanoon.org/doc/1071750/>
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