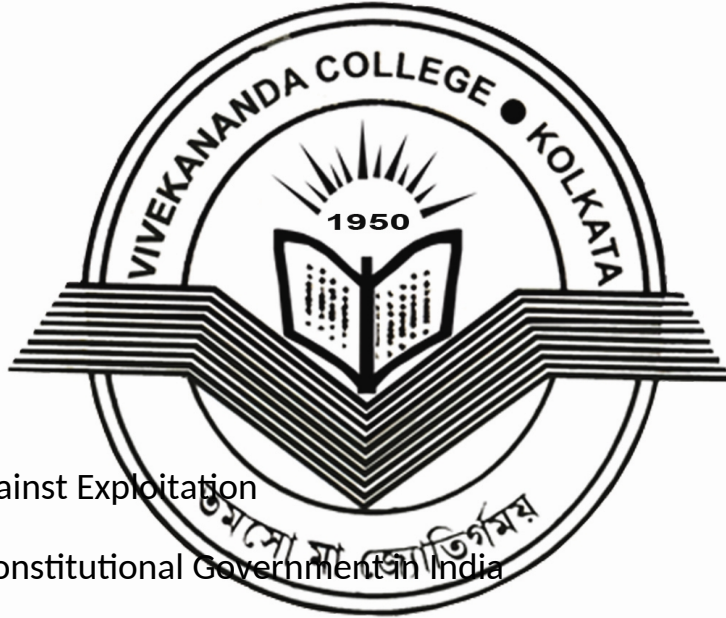


VIVEKANANDA COLLEGE THAKURPUKUR KOLKATA-700063

NAAC ACCREDITED 'A' GRADE



Topic: Right against Exploitation

Course Title: Constitutional Government in India

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RIGHT AGAINST EXPLOITATION (ARTICLES 23-24)

Articles 23 and 24 have been incorporated into Part III of the Indian Constitution to ensure social justice. Article 23 (1) says that “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.”

Traffic in human beings implies buying and selling of human beings like movable property. As per the ruling of the Supreme Court in *Shama Bai vs. State of Uttar Pradesh*, traffic in human beings also includes traffic in women for immoral purposes, which accordingly, is also prohibited by Article 23 (1). Our Constitution also prohibits forced labour of any form which is similar to begar, an indigenous system under which landlords used to compel their tenants to provide free service. This unjust practice, which was extensively in use in India’s feudal society, has been abolished. The Supreme Court interpreted begar as the act of compelling a person to render service without any remuneration. However, this clause does not prohibit forced labour as punishment for a criminal offence. But generally, to impose forced labour on someone is unethical and undemocratic and hence, cannot be permitted in a democratic setting.

Article 23 (2) provides exceptions, which are:

- a) The state may impose compulsory services for public purposes and in this matter, there shall be no discrimination on the grounds of religion, race, caste or class. It is to be noted that these grounds do not include sex, which implies that the state is not constitutionally permitted to impose compulsory services on women.
- b) As the Supreme Court ruled in *Dulal Samanta vs. District Magistrate, Howrah, 1958*, to compel a person to join police or military services does not come under this Constitutional prohibition.

However, if a person is conscripted by the state but does not get remuneration or gets less than the minimum wage, it will be treated as an instance of forced labour, which is constitutionally prohibited.

Article 24 made special provisions for the protection of children which says: “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.” The purpose of this article is to stop the practice of child labour in the country. It is to be noted that the prohibition imposed by this article is absolute and does not admit of any exception. The Supreme Court has taken positive steps in this matter in several cases. For instance, in *M.C Mehta vs. State of Tamil Nadu, 1996*, the Court issued the order to stop employment of child labourers in the Sivakasi Match Factory. Again, in *Bandhua Mukti Morcha vs. Union of India, 1997*, the Supreme Court opposed the employment of children in the carpet industry in Uttar Pradesh. Thus, the principle of social justice as put forward in the Preamble has been put into effect by these constitutional provisions.