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## **SLAVERY IN 19<sup>TH</sup> CENTURY INDIA: CONTINUITY AND CHANGE**

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# Slavery in 19<sup>th</sup> Century India: Continuity and Change

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**Abstract – The article studies the prevalence and extent of slavery in the 19<sup>th</sup> century India. It looks at the various ways and means through which slave servitude was perpetuated. It also discusses the various aspects of slavery and its legitimizing factors such as caste relations, indebtedness and also contract. The article also delves into regulation of slavery in India through several legislative interventions and finally analyses the continuation of slavery under the garb of debt-bondage and forced contract labour.**

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Slavery was already an established institution when the British East India Company made inroads into the polity of Bengal and Bihar post the Battle of Plassey and Buxar in 1757 and 1764 respectively. This system of servitude was deeply embedded in the society and internalised by people, so much so that it had become inseparable feature of rural India. Slaves were in great demand throughout the country. It was also generally perceived that slavery in India was largely domestic in contrast to the Atlantic slavery where slaves were employed exclusively for surplus production; moreover, slaves in India were required to carry out the household chores and other routine work relating to agriculture and never became an indispensable economic factor. Nevertheless, the position and condition of slaves was noticeably wretched. They were miserably treated and at times severely beaten up by their masters.<sup>1</sup>

Slavery in India was not only legitimised by the Hindu and Mohemmedan Law, but also sanctioned by the customs and traditions from time immemorial. The slaves formed an intrinsic part of the society that both the masters and servants viewed as natural state of affairs. Possession of slaves was a conspicuous element defining the status and power of the person in society. His reputation depended upon the size of the retinue of slaves that he kept. The Law Commission reported, "slaves are kept by almost all families of respectability, both Hindoo and Mahomedan, who can afford to do so, and even by such as are in a state of decay. To possess slaves is considered a mark of distinction."<sup>2</sup> Time and again the British officials reiterated the mildness and paternalistic nature of Indian slavery. The Report on Indian Slavery in 1841 also hailed the humane treatment meted out to the slaves by their masters and the better condition of slaves vis-a-vis the hired labourers or the free servants. It stated that 'the slaves were well fed and clothed, and the instances of cruelty and ill-usage

were rare, and the correction which they received at the hands of their masters was moderate. Also in times of scarcity they had advantage over the generality of lower orders.' It was further highlighted that the servants of the household lived in a great measure on a footing of equality with the rest of the family, and the reciprocal regard that generally existed between the master and his slave, particularly a hereditary one, was sometimes heightened into an attachment resembling that between parent and child.<sup>3</sup>

Notwithstanding the rosy picture of Indian slavery that was depicted in the official discourses, the British government was constantly embarrassed by the effervescent trade in human beings which was being carried out in Native as well as British territories in India. The slave trade, whether overt or clandestine, especially the overseas trade remained very lucrative throughout the 19<sup>th</sup> century. The regular demand for domestic slaves in the Hindoo and Mohemmedan households was fuelled by the demand from European households. The British, the Portugese and the Dutch settlers in India trying to imitate the lifestyles of India's elite and wealthy, frequently demanded a retinue of servants at their disposal. Dennis Kincaid describing a usual morning of a British official in India writes, "The young factor was awakened by a posse of respectful servants. A barber shaved him, cut his fingernails and cleaned his ears. For breakfast he had tea and toast and as he sat at table the hairdresser attended to his wig. When he had finished his tea, his houccabunder softly slips the upper end of the snake or tube of the hucca into his hand. When he drove or rode to office he was preceded by eight to twelve chubdars, harcarrahs and peons..... a drowsy servant waved a fly whisk without appreciably stirring the air."<sup>4</sup>

The stop the illicit trade in human beings that slavery had given rise to was a formidable task for the British Indian Government. Given the fact that the British territories in India were interspersed with the native territories, it was even more difficult to keep vigil on the routes by which the slave trade was carried out. Once the slave dealers along with the slaves crossed over the boundaries of the British territories, it was impossible to trace them. In 1830, the acting Magistrate of Agra wrote to the Commissioner of the Circuit, "Our Courts have indeed eradicated the open purchase of slaves and slavery in these Provinces, but when the customs which gave rise to them are in full force in neighbouring independent states and the system is permitted, may be authorized, by the Supreme power, no vigilance of the Judicial authorities can check its influence from extending secretly to this District like Agra."<sup>5</sup> Thus, slave trade was not only a threat to law and order, but also posed a risk to the political integrity of the government. Large number of slaves were imported from ports in Arabia and Africa through the ports of Bombay, Kutch, Kathiawar, Sind and Portuguese possessions of Diu, Goa and Daman. After entering the mainland, slaves were transported to different parts of India.<sup>6</sup> Similarly many slaves were procured from within India (by capture, kidnapping, purchase etc) and transported away from the country in a covert manner. Foreign trade in slaves was predominantly carried out with Persian Gulf, areas surrounding Red Sea and Africa.

Another challenge that slavery posed to the sovereignty of the colonial government were the several ills that had emerged in the society as the derivative of the same. Crimes such as child stealing for selling them into slavery, sale of female children and wives by their parents and husbands respectively for prostitution became widespread and at the same time more clandestine. Following the prohibition of import of slaves in the territories dependent on the Presidency of Fort Williams (Regulation 10 of 1811), these crimes became even more secretive and difficult to track. The Charter Bill of 1833, which provisioned for the abolition of slavery in India further pushed the slave dealers to carry on the trade in discreet manner, using routes and means which had hitherto not been used. e.g. in the 18<sup>th</sup> century and early part of the 19<sup>th</sup> century, the preferred route for the transportation of slaves to different places was through navigational rivers using boats or ferries. However, as these routes came under the vigilant eye of the British officials, the slave traders now chose to travel through thick jungles, avoiding highways, main roads and streets. But they still used Ghats of rivers to cross over from one place to another. They also now preferred to walk along the boundaries that separated Native territories from the British dominated areas, so that in an event of being caught, they could easily and immediately cross over to native territories and hence escape from being prosecuted.

Moreover, slavery was considered to be such inherent part of the society that for political reasons, the Government did not want to meddle with it directly. It

was portrayed and recorded officially to be mutually beneficial for both, the master and the servant. H.T.Colebrooke noted, "Indeed, throughout India, the relation of master and slave appears to impose the duty of protection and cherishment on the master as much as that of fidelity and obedience on the slave, and their mutual conduct is consistent with the sense of such an obligation; since it is marked with gentleness and indulgence on the one side, and with zeal and loyalty on the other."<sup>7</sup> Thus the Government wanted to play safe by directing and imposing abolition through indirect means without upsetting the social or economic status quo. The despatch from the Court of Directors, dated 16<sup>th</sup> December, 1834 observed, that "this subject in India is of great delicacy, and requiring to be treated with the utmost discretion; there are certain kinds of restraint required, according to the native ideas, for the government of families, and forming, according to both law and custom, part of the rights of heads of families, Mussulman and Hindoo, which are not to be included under the title of slavery. In legislating, therefore, on slavery, though it may not be easy to define the term precisely, it is necessary that the state to which your measures are meant to apply should be described with due care."<sup>8</sup>

However, in the wake of the abolitionist movement that was spreading fast from Britain to other parts of the world and especially to the colonies, the British Indian government could not have much lagged behind. But legislating on the issue of slavery and slave trade was not easy. Despite the fact that slavery was an acknowledged evil of the society, it was difficult for the elite strata of the society to let go of the system. On the eve of passing of the Slavery Abolition Act of 1843, the government received several petitions from different parts of the country which reiterated the prevalence of slavery from time immemorial. The petitioners stated that slavery in India was sanctioned by law and also by the customs of the land; they argued that their lives depended upon this class of slaves and if the bill was passed, it would lead to the ruin of India. The petitions also referred to the Regulation of 1793 which prescribed that the officers of Justice should act according to the customs of the places under the Government.<sup>9</sup>

In 1811, an Anti-Slavery statute (officially known as the Felony Act of 1811 or 51 Geo. III, C. 23) for the repression of the sale of human beings was enacted by the British Parliament, which was applicable to all British Dominions. This was adapted by the British Indian Government as Bengal Regulation X of 1811. It declared the importation of slaves, by land or sea, to be strictly prohibited. It also affixed a penalty of six months imprisonment and a fine not exceeding 200 Rupees to the offence, in default of which liability to be imprisoned for another six months was further added. Besides this, it was also extended to the removal of female children in order to bring them up as nautch girls.<sup>10</sup> However, this Regulation remained a dead letter in the context of India due to several reasons. Firstly, there was great divergence of opinion amongst the Supreme Government, the Bombay Government

and the Madras Presidency regarding its applicability and implementation. Secondly, it had no effect on the cases of slaves being brought by their owners from foreign lands, if they were not meant for sale. Thirdly, it also did not have any provisions for the slaves held legally and transported within the British provinces. Any such reference would have made great majority of Indian inhabitants liable to punishment under this Regulation, even as they acted in accordance with the established usages of the land.

During the two decades between 1811 to 1833, the Governments of Bengal, Bombay and Madras enacted several Local Acts in order to abolish slavery, but without much success. On a larger scale, legislative measure was taken up with the Charter Bill of 1833. It contained a provision for the abolition of slavery in India on or before 12<sup>th</sup> April, 1837. This Bill was amended on a motion by Lord Lansdowne which called for 'leaving the question to be settled in India.'<sup>11</sup> Also, the Section 88 of the Charter Act of 1833 directed the Government of India to take into immediate consideration 'the means of mitigating the state of slavery, and of ameliorating the condition of slaves, and of extinguishing slavery throughout the said territories, so soon as such extinction shall be practicable and safe.'<sup>12</sup> The government was further required to submit annual reports before the Parliament regarding the implementation of the above directive.

Following the Charter act of 1833, nothing concrete happened in the legislative sphere to tackle the issue of slavery in India till the Act V of 1843 which is considered a landmark in the legislative history of British India, was enacted. The Act laid down the following procedures:<sup>13</sup>

First, 'it is hereby enacted and declared that no public officer shall in execution of any decree or order of Court or for the enforcement of any demand of rent or revenue, sell or cause to be sold any person on the ground that such person is in a state of slavery';

Second, 'and it is hereby declared enacted that no rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any Civil or Criminal court or Magistrate within the territories of east India company';

Third, 'and it is hereby declared enacted that any person, who may have acquired property by his own industry, or by the exercise of any art, calling or profession or by inheritance, assignment, gift or request shall not be dispossessed of such property or prevented from taking possession thereof on the ground that such person or that the person from whom the property may have been derived was a slave';

Fourth, 'and it is hereby enacted that any act, which would be penal offences if done to a free man, shall be equally an offense if done to any free person on the pretext of his being in a condition of slavery.'

The above provisions did not declare possession of slaves to be a penal offense and therefore was only an enabling Act. It did not lead the masters to emancipate their slave. Dharma Kumar rightly argued that 'essentially the government solved the problem of slavery by ignoring it; the courts would not recognize the master's rights. The Indian institutions were too deeply rooted for a more direct attack.'<sup>14</sup> Therefore, in practical terms, the Act only abolished the legal state of slavery, which meant that any claim to the labour or services of a slave could no longer be recognised or upheld by any Court of Law. Moreover, the transmission of knowledge to the slaves never took place. As a matter of fact, the Indian officials who were vested with the responsibility of implementing this Act, were the people who themselves were slave owners. The provisions of the Act were never directly or indirectly communicated to the slaves and the world of the slaves was quite aloof to register or comprehend any changes in law by themselves.

But all this while the Government took an authoritative stand over other issues which had become synonymous with the practice of slavery such as child stealing and capture of children after their parents have been murdered.<sup>15</sup> In spite of all the efforts, it could not do much to prevent the sale of children by their own parents especially during famines. It was a celebrated fact by the Government that 'most of the slaves in Hindoostan have all lost their freedom by the act of their parents'<sup>16</sup> as an expedient measure in times of dearth. The apologetics of slavery argued that this was the only way by which thousands of children could be saved from starving to death. Furthermore, passing of children into slavery in order to redeem their parents from debt or to repay the loans that their parents had accrued over the years was not unusual. The government also could not do much in this regard as transfer of the burden of debt in this form was a norm of the society, legitimised by years of tradition and customary law.

Thus the sale and purchase of children slavery remained a very contentious issue in the debates that preceded the passing of Act V of 1843. There was strong opposition in Governor General's Council to the banning of the sale of children into slavery. Moreover, the suggestion that a system of apprenticeship with due registration of such sales before a Magistrate was refuted citing administrative unfeasibility as a reason.<sup>17</sup> At the end of the day Act V of 1843 did nothing to prevent possession of child slaves or traffic in them. It was only with the Penal Code of 1860, that possessing a child or children as



slaves and trafficking of children became a criminal offence.

The above description regarding the persistence of slavery into the second half of the 19<sup>th</sup> century has a thematic dimension as well. As has been argued before, the relations between the masters and servants were defined by customs and traditions, in which caste played a very crucial role in determining the hierarchy of relationships. The lender-debtor aspect of the relationship was only one of the many aspects that connected the servant to the master. How in the post emancipation period, the credit relationship became the 'only' connection that bound the two is a point of enquiry. Loan or advance became the fundamental basis on which the attachment of labourer to his employer rested. Legitimacy that was earlier granted to such relations of supremacy and subordination by defining them in terms of caste, religion and custom, were set aside as the same relations came to be remoulded as contractual credit relationships. Slavery over the years had spread to all sections of the society. Slaves no longer belonged to some specific castes of lower order as persons from all castes from Brahmin to Soodras could be enslaved. More so, it also ceased to be a system limited a particular religion as both Hindoo and Mohemadan law sanctioned it.<sup>18</sup> So as the system came to be disassociated with caste or religion, it was natural that its basis had to be located somewhere else. Thus, it was the gradual monetisation of the relations of servitude that took place and this process became even more intensified with the legal abolition of slavery. Jacques Pouchepadass notes, "the same dependents continued to work under the same masters, and their conditions of existence, work and remuneration remained identical.....in a sense, the colonial situation not only perpetuated the existence of personal servitude under a new garb, but it gave it the inflexible rigidity of the modern law and a new kind of legitimacy, independent from the personal relation of reciprocal exchange which bound master and dependent within the caste system."<sup>19</sup>

Post abolition, the relationship of master and servant was defined as arising out of an agreement or contract of service between two persons. This agreement may be express or implied and by which the person called "the servant became bound to obey the lawful orders and to be under the control of the other person called the master."<sup>20</sup> Although, the relation entailed security of employment for the servant, it nevertheless to a much higher degree also entailed loss of individual freedom.

The neutral character of the contract between two free parties bound by a relationship evolving out of exchange of money (loan or advance) and services, redeemed it from the blemishes of slavery. In reality, a person entering into a contract of service for life was no different from a slave. But the fact that the relation arose out of free agency, voluntariness and assumed equality of the two parties, procured for it such legal

and social sanction which slavery could never garner. This process of remoulding of old relationships in new definitions was further intensified as the new laws of contract and property came to be codified, worsening the position of the workers and servants. The penalties that could be inflicted upon defaulting debtors were put in place with new rigour. The contracts even entailed the sale and mortgage of dependent labourers under the legal artifice of 'debt transfer.'<sup>21</sup> Furthermore, as Pouchepadass has argued that the piece of legislation, The Workmen's Breach of Contract Act, 1859 was exceptionally well suited to the *de facto* perpetuation of quasi-slavery in a country such as India, where the burden of debt was commonly conceived of as hereditary.<sup>22</sup> This process was further perpetrated by the low level of education and advancement amongst the masses. The Royal Commission on Agriculture cited inarticulateness of the labourers as one of the major reasons of indebtedness.<sup>23</sup> This coupled with the custom by which sons were made liable for debts incurred by their fathers, without stipulating that the inherited wealth should be able to cover the debts inherited, ensured that the next generation i.e. the son too continues to pay to the creditor in the event of the death of his father.<sup>24</sup>

To bring the above discussion to a reasonable conclusion it can be stated that the changes brought about in the nature of servitude through the various legislative measures in the first half of the nineteenth century remained quite superficial. In essence the relationship between the master and slave or a bonded servant remained unchanged in the period following the enactment of 1843. The only substantial changes that happened were with the drafting and implementation of the Indian Penal Code in 1861. It was only then that the possession of slaves in the British Dominion became illegal. The situation till 1850s can be summed up in the words of William Keane. To the question by Lord Bishop of Oxford- Has not a great deal been done to put a stop to the existence of slavery in India; Keane replied, "Yes a very little effort did it; it was almost like an accident; so much so, that we missionaries refused to acknowledge it was done."<sup>25</sup>

## NOTES-

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3. *ibid.*, p 30.
4. Dennis Kincaid, *British Social Life in India* (1938). p. 33.
5. Consultation-21<sup>st</sup> January, 1831. No. 65, Foreign Department, Political Branch, NAI.

6. Consultation- 19<sup>th</sup> Sept, 1836. No. 10, Foreign Department, Political Branch, NAI.
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8. India Law Commissioners' Report on Slavery in East Indies (1841). p. 10.
9. Consultation-7th April, 1843, No. 1-13, Legislative Department, NAI.
10. D.R. Banaji, *Slavery in British India* (1933). p. 297.
11. R.K. Tiwari, *Human Rights and Law-Bonded Labour in India* (2011). p. 19.
12. *ibid.*
13. G.S. Fagan, *The Unrepealed and Unexpired Acts of the Legislative Council of India*, Vol. 1 (1862). pp. 383-84.
14. Dharma Kumar, *Land and Caste in South India* (1965). p. 74.
15. Consultations- 21st Jan, No.65, 1831; 13th Sept, No.82-83, 1834; 23rd Oct No.33, 1834. Foreign Department, Political Branch, NAI.
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19. Jacques Pouchepadass, "After Slavery: Unfree Rural Labour in Post-1843 Eastern India" in Jan Breman, Isabelle Guerin and Aseem Prakash (eds.) *India's Unfree Workforce: Of Bondage Old and New* (2009). p. 30.
20. Anandinath Sarkar, *The Law of Master and Servant* (1939).
21. Cited in Jacques Pouchepadass, "After Slavery: Unfree Rural Labour in Post-1843 Eastern India" in Jan Breman, Isabelle Guerin and Aseem Prakash (ed.) *India's Unfree Workforce: Of Bondage Old and New* (2009). p. 30.
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24. Elizabeth Whitcombe, *Agrarian Conditions in Northern India: The United Provinces under British Rule 1860-1900* (1971). p. 165.
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