

A large golden scale of justice is centered in the background. The left pan is higher and contains a document with a checkmark, a book with a dollar sign, and a gavel. The right pan is lower and contains three stylized human figures. The background is a light grey with faint icons of a court building and a network diagram.

Perspective of Law through the lens of Recruitment

Roseann Rajan
Advocate , Madras High Court

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor.

¹[*Explanation.*—For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is “bonded labour system” within the meaning of this clause;]

(h) “family”, in relation to a person, includes the ascendant and descendant of such person;

(i) “nominal wages”, in relation to any labour, means a wage which is less than,—

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

3. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

Explanation to Section 2 of BLSA

Section 2(1) (b) of The CONTRACT LABOUR (REGULATION and ABOLITION) ACT , 1970

“A workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer”

Section 2 (1) (e) of THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

“Inter-State migrant workman" means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment;

Purpose of Law on Bonded Labour

The Bonded Labour System (Abolition) Act

An Act to provide for the abolition of bonded labour...with a view to preventing the economic and physical exploitation of the weaker sections of the people.

Enacted: 9 February 1976.

THE BONDED LABOUR SYSTEM

Rights / Freedom forfeited (Any One)

Right to Minimum wage

Freedom of Employment

Right to move freely
throughout India

Right to appropriate or
sell at market value any of his
property or product of his
labour

BECAUSE OF

Debt or Obligation (Any One)

Advance / Debt

Custom or Social
Obligation

Succession

Other Economic
consideration

Caste or Community

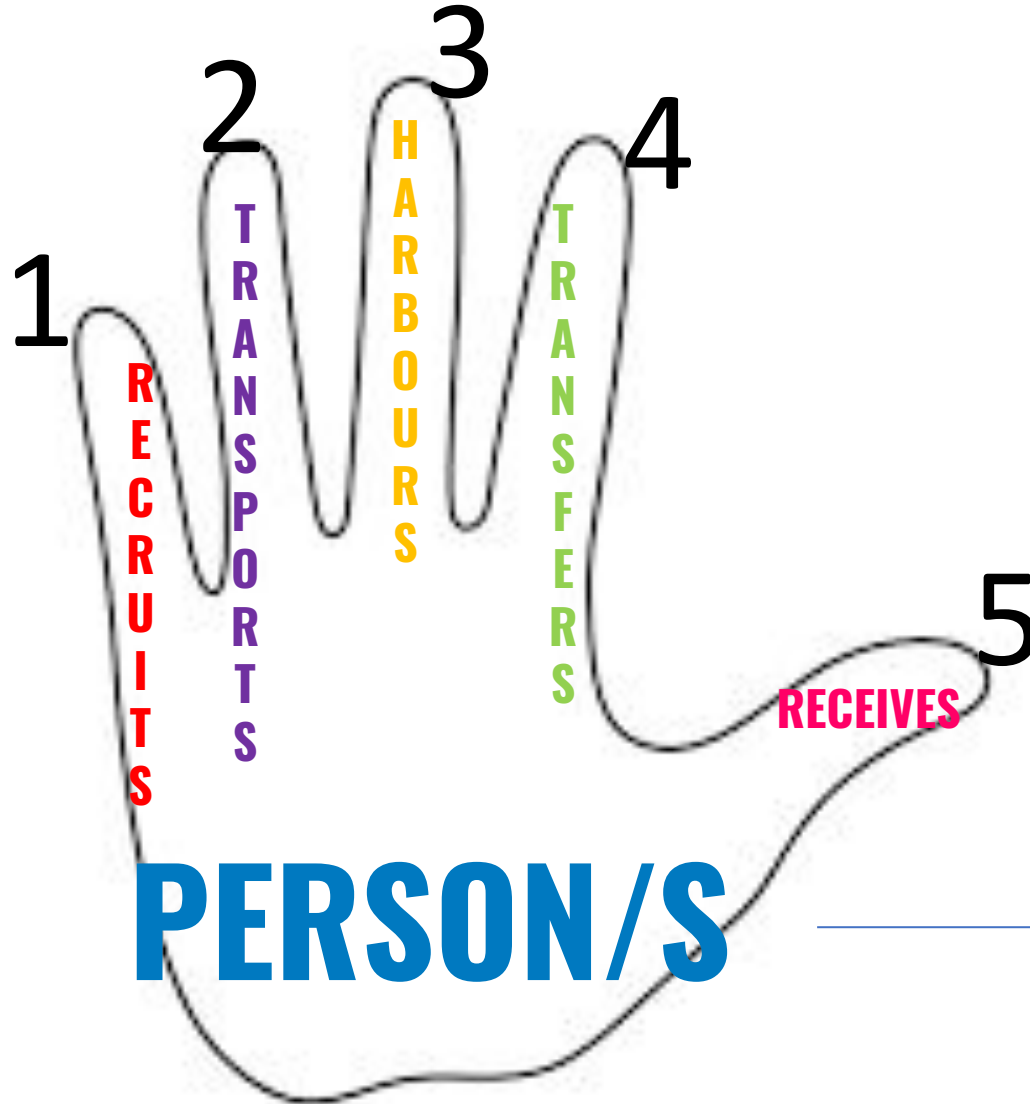


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Article 23 (1) of the Constitution of India prohibits trafficking in human beings and forced labour –

Trafficking 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.

WHOEVER



PERSON/S

EXPLOITATION

ACT

How will vulnerable people come?
MEANS

PURPOSE

R

T

H

T

R

RECRUITS (OR) TRANSPORTS (OR) HARBOURS (OR) TRANSFERS (OR) RECIEVES

A PERSON or PERSONS

by

using threats (or) force, (or) any other form of coercion, (or) by abduction, (or) by practicing fraud, (or) deception, (or) by abuse of power (or) by 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.

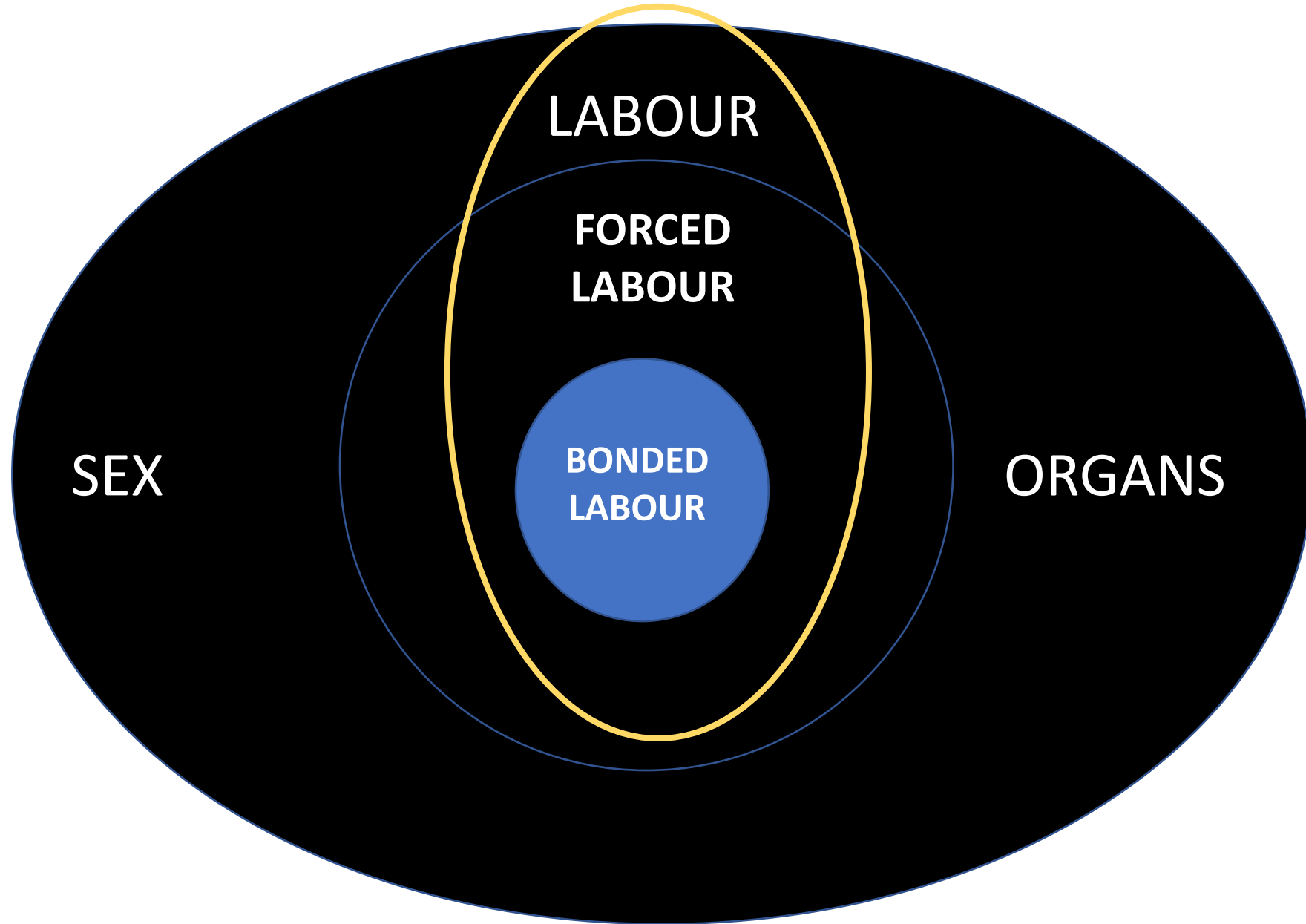
For the purpose of Exploitation

Section 370 IPC EXPLANATIONS

1. The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

2. The consent of the victim is immaterial in determination of the offence of trafficking.

HUMAN TRAFFICKING?



Burden of Proof

Section 15 of BLSA

“Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.”

Offence by Companies

Section 23 of BLSA

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section,--

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" , in relation to a firm, means a partner in the firm.

Finding of the Court

Accused is found guilty for the offence under sections 376, 341 and 374 of IPC and Secs 9, 16, 17 and 18 of Bonded Labour System (Abolition) Act and found not guilty for the offence under section 14 of Child Labour (Prohibition and Regulation) Act.

Sentence or Order

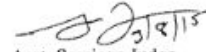
The accused is found guilty for the offence under section 370 IPC and he is convicted under section 235(2) Cr.P.C and sentenced to suffer rigorous imprisonment for a period of 7 (Seven) years and also to pay a fine of Rs.3,000/- and in default of payment of fine, simple imprisonment for Six months. For the offence under section 374 IPC, the accused is sentenced to suffer rigorous imprisonment for a period of one year and pay a fine of Rs.1,000/- and in default of payment of fine, simple imprisonment for a period of three months. For the offence under section 341 IPC, the accused is sentenced to pay a fine of Rs.500/- and in default, simple imprisonment for one month. For the offence under section 16 of Bonded Labour (Abolition) Act, the accused is sentenced to suffer rigorous imprisonment for a period of two years and also to pay a fine of Rs.1,000/- and in default simple imprisonment for two months. For the offence under section 17 of Bonded Labour (Abolition) Act, the accused is sentenced to suffer rigorous imprisonment for a period of two years and also to pay a fine of Rs.1,000/- and in default simple imprisonment of two months. For the offence under section 18 of Bonded Labour (Abolition) Act, the accused is sentenced to suffer rigorous imprisonment for a period of

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two years and also to pay a fine of Rs.1,000/- and in default of payment of fine, simple imprisonment for a period of two months. The accused is found not guilty for the offence under section 14 of Child Labour (Prohibition and Regulation) Act 1986 and he is acquitted under section 235(1) Cr.P.C. All the sentences shall run concurrently.


Addl. Asst. Sessions Judge,
Tirupathi

ORISSA

sentenced to undergo R.I. for six months for the offence U/s. **342/34** of the IPC.

[REDACTED]

[REDACTED] each are sentenced to undergo R.I. for ten years and pay fine of Rs.20,000/- (Twenty Thousand) each in default of payment of fine to undergo R.I. for one year each for the offence U/s. **370/34** of IPC.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S



Date : 09-10-2017 These matters were called on for hearing today.

CORAM :

For Petitioner

For Respondent



UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

A sum of Rs.75,00,000/- (Rupees seventy-five lakhs only) that has been deposited by the appellants before the Registry of this Court be disbursed amongst the workers/victims on pro rata basis on proper identification.



Mr. M. Yogesh Kanna, learned counsel appearing for the State shall assist the Registry through their competent officers so that identification will not be a problem. If any worker/victim is no more alive, his legal heirs will be entitled to the benefit.

As the amount has been deposited and the appellants have suffered custody for some period, we are inclined to direct that they shall be enlarged on bail on such terms and conditions to be imposed by the learned trial Judge.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar



Date :31-12-2025

Business	: A1 to A3 present. For clarification call on 20-01-2026
Next Purpose	: Judgement
Next Hearing Date	: 20-01-2026
Judicial Magistrate No II	



Date :20-01-2026

Business	: As per order of CC.134/2021 this case is converted to the PRC.9/2026, dt.20.01.2026 call on 27-01-2026 A1 to A3 present and their counsel present. Clarified. On perusal of records, It is observed that from the evidence of <u>PW1 and PW2 offence U/s.370 IPC</u> also madeout against the A1 and A3. Hence MC directed to give new PRC.No.9/2026 call on 27-01-2026
Next Purpose	: Compliance
Next Hearing Date	: 27-01-2026
Judicial Magistrate No II	

PMLA

“PROCEEDS OF CRIME”

Changing Dimensions of Prevention of Money Laundering Act : Any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property.”

Mere possession, acquisition, use or concealment of proceeds of crime would not tantamount to the offence of money laundering under PMLA (prior to Finance Act 2019 amendment). Thus, to bring a person accused of Money laundering into the fold of Section 3 of the Act, the provision mandates that the Enforcement Directorate must show that after the commission of scheduled offence, the person accused of money laundering has knowingly assisted others or indulged/involved himself in a separate criminal activity of converting the tainted property to untainted property.

THE FINANCE ACT 2019

PMLA ON “PROCEEDS OF CRIME”

- “Explanation— For the removal of doubts, it is hereby clarified that, —
- (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely: —
 - (a) concealment; or (b) possession; or (c) acquisition; or (d) use; (e) projecting as untainted property; or (f) claiming as untainted property, In any manner whatsoever;
- (ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.”

Thus, as per the explanation, the law as it stands today, makes a stark departure from the originally intended purpose of punishing the activities such as ‘placement, layering and integration’, **while penalising or at least attempting to penalise the mere act of possessing, acquisition, use or concealment of the proceeds of crime.**

FUTURE

UNDER SECTION-30 UNDER THE RECENT DRAFT TRAFFICKING BILL EXPLANATION III

Every person, knowingly or having reason to believe that in any of the supply chains there is bonded or forced labour of, or any other form of exploitation of victims, engage with such supply chains thereby taking benefit out of such bonded or forced labour or exploitation of such victims, directly or indirectly, shall be deemed to have committed an offence under this section.



Thank You

