



Fracturing human rights in the name of nation's pride: Analysing supreme court's stance in people's union for democratic rights v. union of India (1982) 3 SCC 235

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Abstract

Labour laws have been constantly evolving over time through the introduction of four uniform codes of law in the year 2020^[1], alongside credible judicial interpretations^[2]. People's Union for Democratic Rights v. Union of India, 1982, stands as a landmark judgment in this area, determining workers' rights and establishing specific guidelines for minimum wages and working conditions, particularly on construction sites. The Supreme Court of India upheld the rights of labourers by enforcing existing labour laws^[3]. The Court emphasized the right to life with dignity and expanded the application of Article 21 of the Indian Constitution. Furthermore, the judgment broadened the scope of other fundamental rights, including Articles 23 and 24. This case is significant for its enunciation of the principle of public interest litigation and the expansion of the meanings of the words 'begar' and 'forced labour'. This case comment discusses the court's judgment after providing background information about the case, including an examination of the political and economic aspects of the ASIAD games, as well as the background of the labourers involved, offering a social context to understand the root causes behind those gross violations. Furthermore, it explores how public interest litigation serves as a proactive tool in the hands of the judiciary to prevent violations and protect our fundamental rights

Keywords: ASIAD, Asian games, PUDR, human rights, violations, fundamental rights, public interest litigation, labour rights, labour welfare

Introduction

In this case analysis, we examine a Public Interest Litigation (PIL) initiated against the State by a human rights group called the People's Union for Democratic Rights (PUDR). PUDR is dedicated to safeguarding and promoting the democratic rights of individuals. The PIL was prompted by allegations of the state's inaction in ensuring that labourers in the construction industry received their daily minimum wages during the preparations for the ASIAD games. Additionally, there were concerns about the absence of a safe working environment for economically disadvantaged individuals who were enduring human rights violations. These vulnerable individuals lacked the means to approach the court independently, prompting PUDR to step in and file the petition in good faith.

This legal action was rooted in the perceived violation of several constitutional provisions, including Articles 21, 23, and 24 of the Indian Constitution, as well as relevant labour laws such as the Minimum Wages Act, the Contract Labour (Regulations and Abolition) Act of 1970, and the Equal Remuneration Act of 1976.

1. Background of the case- the Asian games, 1982

The Asian Games, often referred to as ASIAD, stand as a prominent continental multi-sport event that convenes athletes from across the Asian continent every four years. The concept of the Asian Games can be traced back to India's visionary leader, Jawaharlal Nehru, who sought to foster a sense of Asian solidarity. He recognized sports as a convenient means^[4] to achieve this goal, and it was within this context that the inaugural Delhi Asian Games took shape in 1951, inaugurated by India's first President, Dr. Rajendra Prasad. As the Asian Games evolved, they not only became a celebration of athletic prowess but also a

platform for the country to showcase its economic and technological progress to the world^[5]. In a strategic move, the Indian government, under the leadership of Prime Minister Indira Gandhi, seized the opportunity to host the ninth edition of the Games in 1982. For India, this event held significant importance, serving as a means to project political and diplomatic strength, rehabilitate Indira Gandhi's image post the Emergency period, and regain legitimacy on the international stage.

The ASIAD 1982 held in India marked a significant milestone for several reasons. Firstly, it witnessed the introduction of *color television* in India for the first time, allowing the Games to be broadcast using cutting-edge technology and showcasing India's progress in the field of broadcasting. Secondly, this edition of the Asian Games introduced 'Appu,' an elephant, as its mascot, symbolizing fidelity, wisdom, and strength according to Indian officials. Thirdly, it expanded its sports portfolio, incorporating debut sports such as equestrian, golf, handball, women's hockey and rowing. Lastly, the event produced a new generation of sporting heroes for India.

2. The controversy around the Asian games

The Asian Games hold a significant place in the Indian context for two distinct reasons: the radical transformation of Delhi through extensive infrastructure projects and the reshaping of the country's international image. Five new stadiums, seven new flyovers and many new hotels were constructed, hundreds of kilometres of roads were widened and thousands of new phone lines were constructed. However, this is only one facet of the coin. The other side, which shows the sad reality behind the success and in the first place, making this event physically possible needs to be discussed here. It is the side that the State would very

clearly want to hide from the public perspective in view of the stark human rights and legal rights violations of the masses at the cost of which all this development was done.

The first reason why the event was seen with contention was the amount of money that was being spent on it, at a time when the population was starving and homeless. According to the government's own admission^[6], the event cost the country an amount of Rs. 362 crores, an amount which could have provided housing for at least 4 million out of the 14.5 million landless labour households and whatnot. At a time when so much of the population did not have a roof, five-star hotels were being constructed for foreign athletes. Hungry workers were breaking out in strikes in different parts of the country demanding higher wages and better working conditions and the country was already under an external debt of Rs. 15000 crores.

Controversy had shadowed the Asian Games from the very beginning, primarily stemming from various political disputes. The decision to host the games in India was initially made during the Montreal Olympics in 1976 when the Indira Gandhi government was in power. However, the political landscape in India shifted dramatically after the general elections of 1977, when the Congress government was defeated by the Janata Government. At that juncture, the fate of the event hung in the balance, with uncertainty prevailing over whether it would proceed as planned. However, in 1980, the Congress returned to power again, and Indira Gandhi gave a green flag to the event. The concerns of the environmentalists regarding the environmental impact of such large-scale constructions also put the event in highlight. Then, it was the controversy of the Haryana Chief Minister Bhajan Lal suggesting the games be held in Haryana, further followed by controversies in the leadership of the organizing committees, thus delaying the project work. Due to these reasons, construction work only began in 1980 which left a very short time to get things done, which was only a period of eighteen months.

Another contentious aspect of the event lies in the widespread human rights violations endured by the labourers engaged in the construction projects essential for its success. These labourers toiled tirelessly, often working beyond regular hours, and were paid wages far below the legally mandated minimum. They resided in squalid conditions, with their children suffering from malnutrition, and themselves frequently falling victim to accidents. The pressure was immense as they were compelled to complete the projects before November 19, which marked the birthday of Indira Gandhi when she was slated to inaugurate these endeavors.

The deplorable working and living conditions faced by these labourers came to public attention through a fact-finding mission conducted by the People's Union of Democratic Rights (PUDR). This team visited major construction sites, conducting interviews with workers and employers. The resulting report unveiled a stark reality—numerous labour laws and the constitutional rights of these labourers were being systematically violated, right in the heart of the Indian capital and under the watchful eye of the Union government.

3. Background of the labourers

A major part of this labour was brought in through the *jamadari system*, particularly from the states of Rajasthan,

Uttar Pradesh, and Orissa. The jamadars brought these labourers from the remote sections of the country in the lure of better labour prospects in the developing city of New Delhi by paying them or "loaning" them the traveling costs or just meager amounts required for settling once. Thus, the labourers were under the control and mercy of these jamadars because in some way, a symbiotic relationship developed when the labourers reached these cities and they had nowhere else to head to. Also, since migrant labourers are easy targets for exploitation it was one of the strategies used by the contractors to save up money.

Almost all the labourers were migrants coming from states like Andhra Pradesh, Tamil Nadu, and Bihar. The floods in North-India had also led to a massive influx of labourers in Delhi at that time. Another major portion of the labourers included the peasants who came to the capital with the *Kisan Rally* organized by the Congress a few months prior and did not go back. Thus, these labourers had migrated out of sheer necessities and compulsion but had nowhere to return to rather than working in the inhumane conditions that the '*race-with-time*' based construction demanded. These labourers were in poor negotiation positions and had to bear with the whims of the jamadars as well as the contractors.

The description of the case

The writ petition was heard by a two-judge bench of Justice P.N. Bhagwati and Justice Islam Baharul. Justice P.N. Bhagwati, who authored a common judgment for the case is known for his proactive role in the area of public interest litigation cases and a pioneer in bringing PIL to an ambit where it stands today in the Indian Judicial system.

1. Facts of the case

PUDR, an organization dedicated to safeguarding democratic rights, joined several others in taking note of the dire situation faced by labourers employed in the ASIAD project, as previously described. These labourers were denied the legally mandated minimum wages and were compelled to toil beyond regular working hours in hazardous conditions. Additionally, child labour was prevalent, in violation of Article 23 of the Indian Constitution. In response, PUDR assembled a team comprising three social scientists to conduct an inquiry into the working conditions of the labourers. They visited major construction sites under the ASIAD project, conducting interviews with both labourers and contractors to gain a comprehensive understanding of the situation. Following their extensive investigation and analysis, PUDR drafted a letter addressing the issue of multiple labour law violations. This letter was directed to the respected Mr. Justice P.N. Bhagwati, seeking his intervention through the Supreme Court to ensure social justice by issuing appropriate directives for the benefit of the affected labourers. The Supreme Court acknowledged the letter as a writ petition and proceeded to issue notices to the Union of India, the Delhi Administration, and the Delhi Development Authority.

2. Allegations in the petition

1. Payment of wages to the workers was not made directly but funnelled through intermediaries known as "jamadars," who deducted a commission. This resulted in the workers receiving less than the legally mandated

minimum wages, constituting a violation of the Minimum Wages Act.

2. Female workers were remunerated at a rate of only Rs. 7, in stark contrast to their male counterparts, who received Rs. 9.25 after deductions. This disparity in payment violated the provisions of the Equal Remuneration Act of 1976.
3. There was a clear breach of Article 24 of the Constitution and the regulations outlined in the Employment of Children Acts of 1938 and 1970. Contractors were found to be employing children under the age of 14 in various construction projects.
4. Violations of the Contract Labour (Regulations and Abolition) Act of 1970 were evident, leading to the exploitation of workers and a denial of their rights to suitable living conditions, as well as access to medical and other essential facilities as mandated by the Act.
5. Despite the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979 coming into effect in the Union Territory of Delhi on October 2, 1980, contractors failed to implement its provisions effectively.

3. Main legal issues

1. Is it possible to relax the rule of locus standi in order to consider a writ petition?
2. Can individuals below the age of 14 be legally employed in the construction industry?
3. Is it permissible to file a Writ petition against private individuals under Article 32 of the Indian Constitution?
4. Does Article 21 of the Indian Constitution encompass the right to live with human dignity and the right to livelihood?
5. Can a writ be filed against the respondents in their capacity as principal employers?

4. Arguments of the respondent

1. The Respondent contended that the Petitioner lacked the necessary locus standi when filing the writ petition, as there was no violation of their own rights. The rights in question were those of the labourers, and it was argued that they should have initiated the petition since the Petitioner, PUDR, had no valid cause of action.
2. The Respondent's defence centred on the direct employment of workers by contractors, absolving the respondents of liability for any rights violations. They asserted that the cause of action rested with the contractors, not the respondents, rendering the writ petition under Article 32 inapplicable to them.
3. Concerning the Employment of Children Act of 1938, the Union of India, Delhi Administration, and Delhi Development Authority contended that they had never received any complaints regarding violations of this Act. They disputed any claims of contractors violating its provisions.
4. It was further argued on behalf of these Authorities that the Employment of Children Act of 1938 did not apply to employment in the construction work of these projects. They argued that the construction industry did not fall within the purview of this Act since it was not listed in the Act's schedule, and therefore, the provisions of subsection (3) of section 3 of that Act were not applicable.

5. Held/ Decision in the case

1. The court's decision affirmed the right of economically disadvantaged workers to directly approach the Supreme Court under Article 32 of the Indian Constitution to seek the enforcement of their rights, as established by various labour laws and regulations.
2. The Court ruled that the rule of locus standi could be relaxed in cases where individuals approached the court on behalf of the aggrieved parties in good faith and without ulterior motives, particularly when public interest was at stake.
3. The Court expanded the interpretation of Article 21 of the Constitution (right to life) to encompass not only the right to life with basic human dignity but also the right to livelihood.
4. The court interpreted the provisions of Article 21, 17, and 23 of the Constitution more broadly to encompass cases of non-payment or underpayment of wages to workers, as mandated by law. It emphasized that the scope of Article 23 was extensive and limitless, addressing "traffic in human beings" and various forms of forced labour wherever they were found.
5. The court asserted that it was the duty not only of the contractors but also of the respondents to ensure that the fundamental rights of citizens were not violated in the process.

Analysis of the judgment and the ratio decidendi

1. Enunciation of principle of public interest litigation

- **Court's clarification on PIL:** The court's judgment provided a clear elucidation of the concept of Public Interest Litigation (PIL) by drawing a stark contrast with the traditional *adversarial system* of litigation, where one party makes claims against another. In contrast, PIL is instituted to serve the public interest by safeguarding the constitutional and legal rights of marginalized individuals. The judgment emphasized the significance of the "*rule of law*" in two aspects: first, ensuring equal protection of laws for all members of society, including the underprivileged who may not have the means to enforce their rights through the court system. The judgment underscored that the fundamental right of economically powerful individuals to conduct their business should not infringe upon the fundamental right of the weaker segments of society to earn an honest livelihood.
- **PIL as a multi-dimensional strategy:** The court articulated PIL as a "multi-dimensional strategy" involving the judiciary, executive, and legislature, aimed at fostering social and economic order. PIL serves as a mechanism for the judicial system to act as an effective instrument of social justice, addressing the needs of "*the People of India*"^[7] by being attuned to the imperative of social justice. The judgment emphasized that PIL should be a *collaborative effort* involving petitioners, the State, or public authorities to safeguard constitutional and legal rights. Rather than adopting a passive role as a respondent, the State should view PIL as an opportunity to rectify injustices and correct wrongs. The court firmly rejected the perspective held by some lawyers and journalists that PILs were merely adding unnecessary clutter to the court's caseload, condemning such views as "*elitist and status quoist*."

2. Employment of children in construction activity

- **Respondents' argument regarding employment of children act, 1938:** The respondents argued that the Employment of Children Act, of 1938 did not apply to employment in construction projects because the construction industry was not explicitly listed in the Act's schedule. However, the court took a proactive stance in aligning domestic legislation with international principles. The court directed the State governments to amend the schedule to ensure that these laws conformed to the standards set out in International Labour Organization (ILO) Convention No. 59.
- **Court's active role in interpreting the law:** The court, in taking on an active role, emphasized that while there might not have been a specific prohibition under any particular legislation, employing children in construction work contravened Article 24 of the Indian Constitution. Article 24 prohibits the employment of children in any hazardous activity, thus categorizing construction work as a hazardous form of employment. This interpretation expanded the scope of protection for children engaged in construction activities.

3. Emphasis on the role of subordinate judiciary

The court emphasised the role of subordinate judiciary in labour welfare and reprimanded the Magistrates and Judges for not taking the violations of labour laws with strictness. The court said that the paltry fines imposed were not sufficient and rather adequate punishments should be given to ensure compliance of the labour laws.

4. Relaxation of the rule of standing

The court did away with the traditional rule of standing according to which the person whose fundamental rights were aggrieved could only approach the court under Article 32. Considering the economic challenges faced by the impoverished and marginalized individuals who lacked the means to access the court, the traditional Anglo-Saxon rule of standing was relinquished in favor of a more inclusive and liberalized approach. Under this revised approach, any member of the public, acting in good faith and without ulterior motives, could approach the court on behalf of the aggrieved parties. This could even be accomplished through the simple act of sending a letter addressed to the court.

5. Principle of principle employers- accountability of the respondent authorities

One of the central arguments put forth by the Union of India, Delhi Administration, and the Delhi Development Authority was that the provisions of labour laws did not directly apply to them. They contended that the labourers were under the employment of contractors and operated under the contractors' authority, not under the direct control of these government entities. However, the court ruled differently, asserting that these authorities held responsibility as the "principal employers." As a result, the workers had a legitimate cause of action against them.

6. Scope of article 23 and 24

Article 24 is not only enforceable against the State but against everyone including private individuals and private entities, i.e., contractors in this case. It is a constitutional mandate on the part of the contractors to not employ any child under the age of 14 years as well as the duty of the

Union of India, Delhi Development Authority, and the Delhi Administration to make sure that the contractors to whom they have entrusted the work comply with the provisions of socio-welfare legislations and uphold fundamental rights.

The court further observed that the petition does not merely constitute violation of legal rights under these labour welfare legislations rather the violation of them was in substance, a violation of fundamental rights only.

Talking about the scope of Article 23, the prohibition stated therein is a general prohibition and not enforceable only against the state but also against any person indulging in any such practice. The Court expanded the scope of Article 23 by interpreting 'begar and other forms of forced labour' in an extensional meaning. According to the judgment, the meaning of these words shall not only be used in a sense of 'labour for no remuneration' rather it should be interpreted in the sense to include any labour by force or compulsion. By force or compulsion, one should not refer to just physical force or compulsion, rather it should be read to include any work which is done only because of not being left with any other choice. Thus, when a worker is doing a labour work when he is getting paid less than the minimum wage, even though he is being paid something, it comes under the ambit of Article 23 because nobody would work on a wage less than a minimum wage if he has the opportunity to do so even though it is a contract entered voluntarily. By quoting the United States Supreme Court judgment in case of *Baily v. Alabama* ^[8] and *Pollock v. William* ^[9] the Court cleared that no workers could be forced under any compulsion to do a particular work and any forced work is not only against Article 23 and 24, but also against Article 21 as it takes away basic human dignity around liberty.

Rules of interpretation and interpretative approach

1. Rules of interpretation

The court relied on the judgment given in the case of *Maneka Gandhi* ^[10] emphasising the judgment in the context that while interpreting the Constitutional provisions relating to fundamental rights, the court should try to give an interpretation that would expand the reach and ambit of Fundamental rights rather than to narrow their meaning.

Similarly, the provisions under Article 23 should be interpreted to *expand the scope of these beneficent provisions* rather than an interpretation which would defeat the very purpose of them.

Further, it focused the interpretation in a manner that any words used should not get a meaningless effect. It works on the principle that if the legislature has used any words, there is a reason behind it and no words are used without a purpose.

2. Interpretative approach

While giving its decision on a particular point of law, the Supreme Court which is the enforcer of law must interpret the provisions of law by playing the role of an interpreter. And through that only, it plays a great role in the context of constitutional change. In this context, it is worth noting that the court employed a combination of various interpretative approaches when analysing and interpreting the law. While there are several established approaches, such as the *historical, textual, prudential, doctrinal, structural, and ethical approaches* ^[11], the specific approaches employed in the judgment will be the focus of our discussion. The court did not adhere rigidly to a single interpretative approach; instead, it utilized a fusion of different approaches to arrive at its conclusions. Further, although there is usually a

tendency to assume that the courts do not well-reason the judgments relating to PILs because of over-hastiness in doing welfare and increasing tendencies to adopt result-oriented interpretive approaches but this judgment is well-reasoned and explained.

1. **Historical approach:** The court applied the historical approach when interpreting the language of Article 23. It elucidated how, during the drafting of Article 23 of the Constitution, the framers had access to the Universal Declaration of Human Rights. However, they purposefully deviated from the language used in the Declaration and instead chose words that would expand the scope and applicability of Article 23 beyond that of Article 4 of the Universal Declaration of Human Rights. Specifically, the court highlighted the use of the phrases 'traffic in human beings' rather than just 'slave trade' and the prohibition of 'beggar and other forms of forced labour' within Article 23. The court's interpretation of these Articles took into account this historical context and intent.
2. **Textual approach:** The textualist approach was effectively employed in the judgment as well. When analyzing the use of the phrase "other forms of forced labour" within the text, the court did not restrict its interpretation to a mere ejusdem generis relationship with the term "beggar." Instead, the court ensured that these words were given substantive meaning and not rendered superfluous or meaningless within the context of Article 23. This demonstrated a careful and detailed textual analysis of the language used in the provision.
3. **Intra-structural and ethical approach:** The court adopted an Intra-structuralist approach by interpreting the fundamental rights considering each other and different parts of Part IV of the Constitution in harmony with each other. This can be seen in the interpretation of Articles 23 and 24 considering Article 21, by explaining how forced labour was not only against specific provision against forced labour but also against Article 21.

The court has used an ethical approach by establishing the co-relationship between Part IV and IV-A i.e., the Directive principles of State Policy and how it is very important to establish the desired socio-economic order.

Impact of the judgment and conclusion

The concept of 'Begar,' a system of inter-generational bonded labour unique to India, which is at the core of what Article 23 seeks to prohibit, may initially appear to offer only limited protection against debt slavery and its various forms. In fact, for the initial three decades following the Constitution's adoption, the Supreme Court saw little reason to invoke or interpret this guarantee. However, this changed dramatically in 1982. In a case addressing the exploitation of contract labour hired for the construction of the Asian Games facilities in the national capital, the Supreme Court, in the case of PUDR vs. Union of India, declared that the right against forced labour encompassed the right to receive a minimum wage. Remarkably, the Court framed this not as a positive socioeconomic right derived from the Directive Principles but as a matter of pure freedom: the freedom from economic pressures that compelled workers to accept employment at wages even lower than the minimum rates.

PUDR vs. Union of India marked the first instance in which a judgment articulated the transformative nature of Article 23 of the Constitution. The judgment also displayed discipline by recognizing the limitations of what Article 23 could achieve in the pursuit of transformative goals. The framers of the Constitution deliberately placed what is often referred to as "Labour's Constitution of Freedom" in Part IV, except for the prohibition of forced labour and child labour in hazardous employment.

The Court, therefore, faced a delicate balancing act between two competing forces: the inclination to give the term "forced" in Article 23(1) an expansive interpretation, based on labour-republican ideas of freedom and market domination, and respecting the framers' choice to delegate most economic matters to Part IV and the Parliament. The Court's response was to affirm that while the task of restructuring the economic system to ensure effective freedom remained the Parliament's prerogative, the Courts could still play a role in mitigating some of the market's more freedom-inhibiting consequences. Given the inherent inequality of bargaining power during contract negotiations between employers and employees, as well as the significance of financial independence in achieving non-dependence and freedom in the republican sense, the guarantee of a minimum wage was arguably the most natural and evident option to incorporate into Article 23(1). This was done under the framework of an expansive interpretation of "force" and "freedom."

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