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# Slavery, Servitude and Wage Work

*Domestic Work In Bengal*



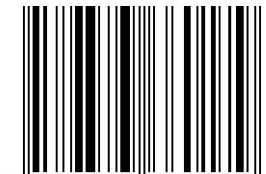
Samita Sen

Professor Samita Sen is at present at the School of Women's Studies, Jadavpur University. She served as Director between 2006 and 2013 and briefly as Vice Chancellor, Diamond Harbour Women's University. Her monograph on women's employment in the jute industry in colonial Bengal was published in 1999 and won the Trevor Reese Prize in Commonwealth History. She is at present working on women's migration in relation to tea and overseas plantations. Her various research publications include issues such as education, the women's movement, marriage, domestic violence, domestic workers, women in governance and women's land rights. Her recent publications include jointly edited volumes *Intimate Others* (Stree, 2010) and *Mapping the Field* (Stree 2011). She is a member of a Kolkata-based voluntary women's association, Sachetana, since 1983. She is also a member of the Governing Body of the Mahanirvan Calcutta Research Group. She was General Secretary to the Indian Association of Women's Studies and is a member of the Association of Indian Labour Historians.

SWS-RLS Occasional Paper 1

Slavery, Servitude and Wage Work  
Domestic Work in Bengal  
Samita Sen

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Front Cover Image:  
Details from A Group of Women Ayahs (Maids), 1860s

SLAVERY, SERVITUDE AND WAGE WORK

SLAVERY, SERVITUDE AND WAGE WORK  
Domestic Work in Bengal

Samita Sen

SWS-RLS Occasional Paper 1



School of Women's Studies  
Jadavpur University



Rosa Luxemburg Stiftung  
Germany

**Slavery, Servitude and Wage Work  
Domestic Work in Bengal**

School of Women's Studies  
Jadavpur University

Rosa Luxemburg Stiftung  
Germany

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## FOREWORD

The School of Women's Studies has completed more than a decade long relationship of research collaboration with the Rosa Luxemburg Stiftung (RLS), Berlin. We had started this journey in 2004 and it has been exciting as well as challenging. The research on the important question of gender and labour began in 2012, when Professor Samita Sen, renowned labour historian and the Director of the School then, conceptualized the project on studying the rising trend of single women migrating within and from West Bengal as domestic workers. The first occasional paper in this series authored by Samita Sen is an output of her archival research in the project linking women domestic workers and migration in nineteenth century Bengal. The paper thus lays the historical context to study the issue of domestic workers in present times. It further acts as the stepping stone in the series of occasional papers, where we use gender as an intertwining thread to link the broad themes of labour, informality, migration and organization. Professor Sen has led from the front with her academic vision in this successful research collaboration with the RLS. This occasional series would not have been possible without her academic rigour, hard work, and continuous supervision of the research team. She has patiently responded to our relentless queries whenever we have approached her even when she was on leave for two years during the tenure of the project. I thank her and am deeply grateful to her for being there for us always.

Being a part of the RLS project from the first year I recall how our research traversed through different themes. There have been collaborations with the RLS on seven projects till date with the first project on Women and Media (2004-06) focusing on gender analysis of representation of women in globalised media, viz., print and electronic. The nodal centre of the project was IJDK, Kolkata and Professor Malini Bhattacharya supervised the project being conducted in



four states of the country. It was Professor Bhattacharya's meticulous training and supervision that helped us grasp the nuances of working in a research project. I deeply thank her. Professor Shefali Moitra was the Director of the School during that time. I thank her for her constant support. I would also like to thank Professor Subharanjan Dasgupta, IDSK, who guided us during report writing. I am grateful to Dr. Paromita Chakravarti, then Joint Director of the School, who allowed us to start this project in her room because of lack of space. I also thank her for being there for us when she later became the Director of the School. I owe my thanks to the then Librarian, Shrabani Majumdar, for being a pillar of support for us during times of need.

The next project focused on a rather neglected field within the social sciences – marriage. This research project (2007-09) focused on using gender as a category of analysis to map the trends in marriage by positing class, caste and community as major categories of change. The project gained legitimacy of sorts when in September 2007 the Rizwanur controversy demonstrated the political significance of marriage in Kolkata. This project stands out for the statistical survey with sample size of approximately 6000 conducted in Kolkata and Bidhan Nagar over 164 wards. We organised two conferences in this project and published a book in 2011.

The findings of the study on marriage steered us to look at the question of domestic violence as integral to the institution of marriage. We decided to shift gears from an 'academic' engagement with marriage to an 'activist' commitment to the issue of domestic violence. The two year project (2010-11) on the issue of domestic violence was focused on assessing the implementation status of the Protection of Women from Domestic Violence Act, 2005 (PWDVA) in West Bengal. Professor Jasodhara Bagchi, the founder Director of our School, had imbibed in us the philosophy to link up academia and activism while doing Women's Studies. We are deeply indebted to her. This project on domestic violence led to important publications, including an academic article. There is even now demand for these publications from various quarters.

In the year 2011, it was the former RLS South Asia Resident Representative, Dr. Carsten Krinn, who suggested that we enter the domain of gender and labour which could be included under the RLS theme of 'Labour Affairs'. And the rest as they say is history. We plunged into dual projects from the year 2012. As already mentioned, the first project (2012) studied the phenomenon of large scale migration of single women from villages to join the unorganized informal sector especially as domestic workers. In another project, we explored the important question of organization given the changing role and constitution of traditional trade unions in

facing the challenges of diverse informalisation of workers.. The research project aimed to understand the structure, activities, membership and ideological framework in which labour organizations function in the states of West Bengal and Gujarat.

The School housed two projects again from 2013 when in addition to examining the labour practices and working conditions, we explored the possibilities of organisation in three sectors of informality namely domestic work, beauty work and auto rickshaw transport. The first project (2013-15) aimed to understand new complexities of domesticity and domestic labour with reference to women's agency and organization. We wanted to provide a platform for effective advocacy for better working conditions and social security of domestic workers. The second project (2013-15) examined the labour practices and working conditions for auto-rickshaw operators and beauty workers in West Bengal. We also tried to understand the structure and functioning of unions in these sectors and analyse whether gendering of workers affect the culture and politics of organisation of workers.

Our projects on domestic workers mentioned above have been greatly benefitted from work of two important organisations in Kolkata – Sachetana and Parichiti. Sachetana, an autonomous women's group of Kolkata, has examined the phenomenon of migration of rural women of West Bengal migrating to Kolkata to work as domestic workers. Professor Nirmala Banerjee, a renowned feminist economist, has supervised the important research of Sachetana. I am thankful to her not only for giving us permission for printing this paper in this series but also for being there as an advisor during our research. Parichiti, an NGO in Kolkata, has focussed on everyday problems faced by women domestic workers in Kolkata with regard to their rights and entitlements. I thank Anchita Ghatak, Secretary of Parichiti, for allowing us to print their research findings at a short notice.

The research of Sachetana and Parichiti has emphasised the need for a strong trade union in this occupation, which has been a difficult task given the nature of their work and the 'politics of distinction' carried out by middle class employers as well as the state against the domestic workers. The paper by Dr. Aishika Chakraborty and Anindita Ghosh portrays the debates on domestic work in the form of a fictional narrative through a dialogue between the employer 'boudi' and the employee domestic worker. The piece uses the research findings of our project to raise important debates, conflicts and dependencies between representatives of the two classes in question. It further points out to challenges faced by women's movement in uniting women across class. I thank the authors for introducing this novel way of presenting academic debates. I specially thank Dr. Chakravorty for taking out time to write this paper despite her

busy schedule as the Director of the School. We, the RLS team, are grateful to her for her constant support.

The researchers in these projects have made important contribution to the series and I thank all of them for their hard work and dedication. The paper titled, 'Women Domestic Workers: Recognition, Rights, and Organisation' prepared by the project team of the School of Women's Studies is noteworthy due to a wide range of information on the rights, relevant laws, and various organisations working on domestic workers' unionisation. The struggle to form collectives of domestic workers becomes more challenging because of the insensitive attitude of politically affiliated trade unions towards these female workers, though we do see some positive change in their approach in recent times. Chitranka Banerjee focuses on the issue of collectivization and explores the ongoing process of mobilisation of women domestic workers in West Bengal.

While our project focus has been on single women migrant domestic workers, a large part of this migration happens in the form of trafficking which further complicates the debates. Somdutta Mukherjee, in her paper, works on the possibility of migration ending up in trafficking. Given that West Bengal has a prominent presence on the map of human trafficking, her paper draws on important links between migration and trafficking, by exploring the process of intermediation. Srabasti Majumdar has studied the process of migration of poor women to Kolkata and focused on women entering the sector of sex work (other than domestic work). She examines their decision to migrate along with the impact this may have on their family and identity building.

Naba Dutta has laid down the socio-economic, political and legal context in which to study the informality and organizational debates of auto rickshaw operators. I specially thank him for his valuable contribution not only to this series but also to the project through his extensive engagement during our field work with auto rickshaw operators. His long experience in the field of labour helped us generate a level of confidence among auto rickshaw operators who then agreed to talk to us regarding their labour and working conditions, and challenges they face in this paralegal sector of work. This paralegality is obvious given that auto rickshaw is still not a recognizable mode of transport in the Motor Vehicles Act 1988. This is an issue discussed in greater details by Saurabh Pal who further examines how auto rickshaw operators act as support and resource for the political party in informal terms and ways in which this ambivalence weakens their ability to demand their rights and entitlements from the state.

The sector of auto rickshaw is in complete contrast to that of beauty workers in terms of the latter's feminine workforce and lack of unionization. However, as in domestic work, beauty work too was traditionally dominated by lower caste men, primarily barbers (*napits* in West Bengal). Our project findings have revealed the persistence of caste-based practices in the barber trade on the one hand and the globalisation of beauty industry on the other providing a stark contrast within the industry. Undoubtedly, this has opened up possibilities of employment for young women as well as men. Bratati Mukherjee explores the mobilization of women from domestic work to beauty work and analyses the socio-economic and cultural factors behind this change.

I express our sincere thanks and gratitude to all the respondents in the projects for their immense patience and cooperation in talking to us.

We could not have conceived research on such a large scale without the financial support of the Rosa Luxemburg Stiftung, Berlin. I sincerely thank them for providing us the funds as well as the space to pursue our research interests. My deepest gratitude and thanks are due to Stefan Mentschel, Resident Representative RLS South Asia, for his support and encouragement. I also thank the former Resident Representative of RLS South Asia, Dr. Carsten Krinn, during whose tenure we had initiated these projects. I wish to thank Sonja Blasig for helping us in gaining stability during the initial stages of our collaboration with the RLS. I specially thank Vinod Koshti, Project Manager, RLS South Asia, for being there for us in his advisory capacity. This project could not have reached its completion without his support. Our thanks are due to Jitendra Kumar for his financial advice and patience in tackling our queries. I also thank Rajiv Kumar and Sonila Swaminathan in the RLS South Asia office.

I express my deepest gratitude to the Vice Chancellors of Jadavpur University, who have supported our projects with RLS since 2004, and our current Vice Chancellor, Professor Suranjan Das. Without their continuous support, it would have been impossible for us to complete these projects. Our thanks are due to the Registrar, Dr. Pradip Kumar Ghosh, for dealing with our administrative demands. We are extremely grateful to him for his support. The Finance Officer, Mr. Gour Krishna Pattanayak, has been extremely supportive with regard to the financial documentation. I thank him deeply. I also thank Professor Asis Mazumdar, Dean Inter-Disciplinary Studies, Law and Management (ISLM), for his support. I thank all other members of the RLS administrative committee for guiding us in taking administrative decisions whenever required. I specially thank the external members of the committee, Professor Diganta Mukherjee

and Dr. Anasua Basu Ray Chaudhury for taking time out of their busy schedules to participate in project meetings and discussions.

My heartfelt thanks are due to Hardik Brata Biswas and Anindita Ghosh for supervising and successfully completing the project of printing this series of occasional papers with diligence and efficiency. Hardik has readily taken the responsibility for designing our publication and conference documents in many projects. I thank Rimple Mehta for helping us with editing and proof checking. I also thank Dr. Panchali Ray for her assistance in editing at a very short notice. Joyanti Sen, Arijit Mukherjee, Dr. Kashshaf Ghani and Anindita Ghosh helped us in translation. I thank all of them. I thank Madhurima Mukhopadhyay for helping us with proof check. I thank Amar Sapui for his DTP services. Our thanks are due to Tamojit Bhattacharya for patiently accommodating our demands in printing this series of occasional papers.

I thank all the members of the project teams for their academic engagement with the research. They have all taken up various responsibilities of the project very efficiently and have participated intensively in the field work. Our thanks are due to Professor Mukul Mukherjee for guiding us in our research. She has not only helped us with the nuances of quantitative research but has also been with us in her advisory capacity whenever we have needed her help. I thank Dr. Bidisha Dhar, Nilanjana Sengupta, Adrita Mukherjee and Rudradip Das for having shared administrative responsibilities as coordinators between them in one of the projects from 2013 to 2015. Nilanjana Sengupta has also supervised the research team in quantitative analysis. I also thank Dr. Ranjita Biswas for coordinating the second project since its inception in 2013 till June 2015. My thanks are due to Dr. Sudarshana Sen for advising us on research methodology of the projects. I also thank Maitri Das, Gargi Adhikari, Suchibrata Das, Paromita Chowdhury for their active participation in the projects. Our sincere gratitude to Dr. Abhijit Gupta, Director of Jadavpur University Press, for assigning us the ISBN numbers for the papers.

Many other researchers have been with us in the projects since 2004, my thanks are due to all of them. We are extremely grateful to all our field workers for helping us in successfully completing very difficult projects in the last twelve years. I also thank all the NGOs, organisations, and individuals with whom we have collaborated in the past and present.

I convey my deepest thanks to Debaprasad Guha and Chinmay Pal. The projects would not have been completed without their competent financial management and documentation. I thank Debamitra Talukdar, librarian, for dealing with our never ending demands. Anindita Bhaduri, Professional Assistant, has always helped us with arranging events and publications

including this series with a smile on her face. I thank Anindita Bhaduri for her unflinching support not only for this project but from the inception of the RLS project at the School. I also thank Jolly Bose, Data Entry Operator, for her services to the project whenever required. I owe special thanks to Dipankar Haldar and Avimanna Sarkar, without whose support and toiling labour our daily functioning of the project would have been stalled. Their tireless efforts and cooperation made it possible for us to conduct all events related to the project.

In the last twelve years, all the projects have yielded important publications. Not all have been included in this series. These independent publications are available in the School Library. This series of SWS-RLS occasional papers marks a successful collaboration in academic research for the School. I hope it will make a significant contribution to the larger debates in this field as well.

**Nandita Dhawan**

School of Women's Studies

October 2015

*Note on spelling*

Many of the places mentioned in this paper have had several changes in name and spellings. Since the period spanned in this paper starts from early nineteenth century, the colonial period, and runs up to the present, there has been some doubt about how to indicate these changes. By and large, I have used the spellings as given in the sources, or I have used the more common of the old colonial spellings for the second part and the contemporary spellings for the first part of the paper. In case there is some confusion, this list is appended.

<b>Old Spelling</b>	<b>New/Alternative Spelling</b>
Arah	Arrah
Bengaluru	Bangalore
Bhagalpore	Bhagalpur
Bombay	Mumbai
Calcutta	Kolkata
Decca/Dacca	Dhaka
Madras	Chennai
Midnapur	Medinipur
Monghyr	Munger
Nuddea	Nadia
Orissa	Odisha
Purnea	Purnia

## PREFACE AND ACKNOWLEDGEMENTS

The project *Domesticity and Domestic Labour: Women's Agency and Collectivities in Contemporary West Bengal* supported by Rosa Luxemburg Stiftung, Berlin, started in 2013. The project was conceived in part to address a lacuna in an earlier project undertaken by the School of Women's Studies in 2006. The renewed academic interest in domestic work had just started at that time. Several scholars had begun to examine various aspects of the question. Our research continued till 2008 and it took us a considerable time to analyse the data and prepare the report, which is now with the publisher. In this project, which focused on a neighbourhood in south Kolkata, we realized that the bulk of our respondents were migrants only after our survey results were analysed. Since the research had not included any detailed investigation of migration, the results were preliminary and somewhat inchoate. We also realized that among the migrants, there were single women migrants, a category not given much importance in migration studies in India. It is in this context that we decided to undertake a study of single women migrants and to explore their links with domestic work.

Given that I have previously done some work on women's work and migration in the colonial period, I thought it would be useful to see whether the archive yielded any new material on domestic workers. Hence the project included a small component aimed at a historical understanding of the sector. As (ill) luck would have it, within a few months of the beginning of the project, the Government of West Bengal decided to shut down Writers' Building for renovation and, therefore, the twentieth-century archives. We were able to do some work in the nineteenth-century archives, which are housed separately. For most of our project period, the twentieth-century archives were not open to the public. The research perforce had to focus on the nineteenth century. We hope there will be another opportunity to look at the twentieth-century archives after the reorganization is completed. But that is for the future. This paper is based on the material we were able to gather within the limitations of the situation.



It never rains but pours. Within a few weeks of the beginning of the project, I left the School for a period of almost two years. I had to do this part of the work of the project, which was my responsibility, in fits and starts, along with other rather heavy responsibilities. Whatever we have achieved here would not have been possible without the able assistance of Anindita Ghosh, who undertook the onerous task of collecting the material from the archives. I am deeply grateful to her. Moreover, the paucity of the material had me in a puzzle until I had the good fortune to come across the Ph.D thesis of Akanksha Narayan Singh, titled 'Forms of Labour Servitude in Colonial North India, c. 1800 to 1920s', with Delhi University (2015). This dissertation explored the question of domestic slavery in some detail in a north Indian context; many of the basic questions of this paper were provoked or influenced by my reading of the thesis. To her too, I am deeply grateful. Others in the School of Women's Studies have helped in the writing of the paper. Chitranka Banerjee helped me with the newspaper research, which, I discovered to my delight and somewhat elderly amazement, is done now entirely on the net. I thank other members of the project team, Srabasti Chatterjee and Somdutta Mukherjee. Nandita Dhawan took over charge of the entire RLS portfolio when I left, which allowed the projects to run smoothly. My thanks to her. There is no work I do at SWS without drawing Debamitra Talukdar, Assistant Librarian, and Anindita Bhaduri, Programme Assistant, into my intermittent enthusiasms. As always, they have been forbearing and helpful. I must also thank the Director, Dr. Aishika Chakraborty, for her support to these projects and all the faculty, students and staff of the School, who get invariably entangled in all our activities. Hardik Brata Biswas as usual provided the necessary design and technical support, as well as bearing with our litany of complaints and grievances and dealing with our repeatedly deferred deadlines.

This is very much work in progress. It will need considerable more work to be able to draw out some of the critical questions around domestic labour in the colonial period. We will have to look at the twentieth century archives in some detail as well as cast our net more widely for both the periods. This is a preliminary paper setting out some of the directions in which we can think of the history of domestic work; it is also an attempt to see whether conventional archives can be made to yield information about a set of social relationships thought previously to be absent in it. I hope this paper will meet these limited ends.

**Professor Samita Sen**

School of Women's Studies

September 2015

## **SLAVERY IN MIDDLE-CLASS HOMES**

16 June 2015. Pran Gobinda Das (78 years) and Renuka Das (75 years) were found murdered in two rooms of their flat. Pran Gobinda had been bludgeoned and smothered; Renuka bludgeoned, her throat slit and smothered. About two lakh rupees and some jewellery had been taken. They were both retired teachers. Pran Gobinda taught Political Science at Sreegopal Banerjee College at Mogra and had written two textbooks. Renuka had taught History at Sarojini Naidu College in Dum Dum. Their only child, a daughter, Suchismita, married Tushar Deb, agricultural scientist, in 1998 and moved to the USA where she worked with the US Food and Drug Administration.

In 2001, Pran Gobinda brought Purnima and Kabita, two teenage girls, from his ancestral village in Nandigram (Medinipur) to Kolkata. In 2010 Kabita was married off. Purnima fell in love with Sanjay Sen, alias Bappa, an unemployed youth, and insisted on marrying him. They were married in 2011 and Pran Gobinda bought Bappa a rickshaw to give him a start in life. The elderly couple began to depend on Bappa to ferry them to local markets and run their errands. Over time, they began to trust him enough to give him a set of their keys to the building and their flat.

All was well until Bappa began to demand money. He asked for a lakh to start a business and then borrowed Rs. 20,000 from Renuka, which he could not return. He was addicted to gambling, according to one newspaper report, and had borrowed heavily. To escape his creditors, he wanted to move into the flat to live with the Das family, a request they refused.

Bappa was seen walking away from the flat the evening of the murder and was caught easily. Purnima professed ignorance at first. After Bappa was caught and he confessed, a rather predictable story emerged. Purnima knew everything; she knew where the loot was hidden. At first, she had said that the Dases were 'good people'. Later she said, they were good people but they spoke roughly to Bappa. He snapped one day, when they refused to loan him Rs. 20,000 (according to some reports, Rs. 2000) for his ill daughter's medical treatment. It transpired though that the murder was premeditated; the weapon had been hidden in the flat some time ago.

There is general outrage, as may be expected. The Das couple had 'brought up' Purnima, given her in a marriage of her choice, made a gift of the rickshaw and virtually adopted Bappa, who was 'like a son'.

The brutality of the murders galvanized public opinion in sympathy of the elderly couple, and quite rightly so. There is a long list of murder and theft of elderly employers perpetrated by domestic workers; some of these cases are very grisly indeed (see Insert 1). This case caught public imagination because of the profile of the Das couple—ordinary middle class Bengalis—but also because the perpetrators had been admitted into a relationship of trust. The problem, however, is a general one in ageing India. According to the National Crime Records Bureau, Mumbai tops the list of cases registered under Sections 379 to 382—dealing with crimes committed by domestic workers in homes. An NCRB report of 2008 listed 8904 cases in Mumbai, Delhi followed with 7272, while Bengaluru and Kolkata registered about half that number each. Big city aspirations, exposure to employers' lifestyles so vastly different from their own, anger at being refused something and revenge are the common reasons cited for domestic workers turning violent.<sup>1</sup>

There is also a flip side in this debate, one no less poignant, one that appeals not to the group interest but to the conscience of the middle class. In recent years, the media has begun to highlight the cruelty and violence perpetrated against domestic workers by employers in the confines of their home, away from public scrutiny. Some of the cases, which have been picked up by the media have caught public attention and they are no less grisly. A summary of some of these cases is given in Insert 2. Summaries cannot quite convey the horror of these tales, so some are narrated below.

In Delhi, activists seeking to protect the rights of domestic workers tell some horror stories. Sangeeta, 17 years old from Assam, rescued by workers of Nirmala Niketan, was found with bite marks all over her body. The case was settled for Rs. 50,000. Domestic Workers' Forum in Delhi narrated the case of Veena, whose employer had dug her stilettos in her back. Shobha, a 15 year old from Jharkhand, was branded in the chest with a hot iron. Hasina (a minor) from West Bengal was salvaged from a bureaucrat's home whose 'private parts' had been prodded with a rolling pin. In a case that received considerable publicity, a 13-year old girl was locked in by a vacationing doctor couple. Chandni, now 18 years, was raped by the father-in-law of her employer in Amritsar and again by a man in Delhi who promised to help her. She was not paid anything and could not call for help because the phone was locked away. In Hyderabad, a retired DIG tortured two girls of 14 and 15 years employed as domestic workers in his home. When the girls ran away, they were accused of theft.<sup>2</sup> In 2014, a 25-year old woman from West Bengal was beaten to death by her employers. Mumtaz Begum had injury marks on her body and was bleeding profusely when she was brought to the hospital by her employer, Pujja Kapoor, but she locked her house and escaped.<sup>3</sup>

The cases in Delhi have grabbed national headlines, perhaps because it is the capital city. Even the most cursory survey of local newspapers tells us that there has been an alarming frequency of such reports in Kolkata too, especially in the last two years. These cases are characterized by the particularly brutal nature of violence inflicted and allegations of sexual abuse. Between 2013 and 2015, some horrific cases found their way into local dailies. In Kolkata, a 17-year old domestic worker accused her employers, a lawyer couple, of sexual abuse. Apparently, she was being lent to friends for sexual services. A policeman, a friend of the couple, was an accused in the case. The girl's mother was also purportedly involved and was arrested.<sup>4</sup> In Howrah, Tanusree Das came to visit her parents after there was trouble in Assam, where she lived after marriage. She brought a young girl with her as a domestic worker. When the girl tried to commit suicide, it transpired that Tanusree and her sister, Jayasree, had beaten, tortured and scalded her with a bowl of hot oil. When she cried out in pain, she was gagged. Moreover, she had not been given anything to eat for days. Tanusree's uncle had shut her in a room and raped her repeatedly.<sup>5</sup> In South City, the iconic south Kolkata gated residential complex, an 11 year old domestic worker accused her employer of raping her over two months. The girl, from Ilambazar in Birbhum district, sneaked out of the flat one afternoon, and was found by some other domestic workers huddled in the staircase. The man fled, but three women aged between 20 and 30, who were found in the flat said that the girl's mother, who came to collect the salary every month, was aware of the rape. The family was too poor and too dependent on this salary for her to do anything.<sup>6</sup> A 13-year old girl accused Bunty Rungta, a resident of Swiss Park in Kolkata, of rape. Apparently, the abuse began after Bunty's wife became pregnant. The girl was allowed to visit her mother every now and then and during the last visit, she confided in her mother, who took her to an NGO.<sup>7</sup> Tapati Das, 14 years, was set on fire by three members of the employer's household in Dumdum. Tapati died in hospital the next morning.<sup>8</sup>

These cases are not confined to the metros aspiring to be 'world class' cities. Reports of abuse have also emanated from the smaller towns and cities. Indeed, since such reports do not find national circulation unless the cases are exceptional for their brutality, we have little idea of their spread and extent. A few months ago, in April, two minor girls, employed as domestic workers in the Kokar area of Ranchi fled their employers' houses and were rescued by a lady constable and handed over to State Commission for Protection of Child Rights (SCPCR). One girl from Simdega was aged 10 years and the other, aged 8 years, could not even remember her address. The older girl said that they were tortured and had wanted to leave their workplaces for a long time. Child Labour (Prohibition and Regulation) Act, 1986, prohibits employment

of children up to 14 years. It also has provision for a fine of Rs 60,000 and imprisonment of up to two years for anyone employing underage children.<sup>9</sup> Despite these laws, the employment of underage girls as domestic workers is rampant.

We began this paper with a story of two college teachers being murdered. In another case, reported just a few months ago, a professor of English at St Xavier's College, Ranchi, was accused of torturing a 13-years old domestic worker. The minor girl had managed to call the childline. The Latehar girl, found with nail marks on her neck, as well as other injury marks on her body, stayed at the residence of Mamta Chaudhary, but was recovered from the woman's father's house. Hailing from a dirt-poor home, the girl had been working as a maid for the last two years. She said she worked in shifts at both the homes of Mamta and her father. When Mamta left to teach, the girl went to work in her father's house.<sup>10</sup>

A report released on 28 October 2013, by the US-based Human Rights Watch, International Domestic Workers Network and International Trade Union Confederation, reports 'horrific abuses' against domestic workers and includes India among the worst offenders.<sup>11</sup> The newspaper reports described above suggest that such cases are on the rise and the level of violence is also striking. In one report, it is suggested that the nouveau riche are worse offenders because they have no empathy with the poor. They think they are doing domestic workers, especially children, a favour by feeding them scraps, housing them and paying a meagre sum. The common refrain is that poor children, who would else have starved at home, are better off being savaged in middle class homes in return for food. It is important to note that most cases of rape, violence and torture involve young girls employed as domestic workers; they appear to be the most vulnerable section in this workforce. Most of this subjugated workforce, estimated at 90 million in some sources, comes from impoverished regions such as Jharkhand, West Bengal and Chhattisgarh. Of these, a substantial number are trafficked into urban homes. West Bengal alone reported as many as 8000 missing girls in 2010 and 2011. Helpless girls from tribal areas are particularly vulnerable, because they cannot report abuses. It is these girls who are also most in demand and for this precise reason. In Kolkata, researchers have noted the twin phenomena of feminization and juvenilization of domestic work, especially in the live-in segment. Mukul Das, running a small business in Gariahat, employs 8-years old Shefali to clean, sweep and cook. She sleeps on the floor. He prefers the young girl because she is more obedient. This is a burgeoning market and there are some 2300 placement agencies in Delhi alone. Last year 112 minor workers were rescued from middle class homes in that city. A survey in Mumbai found 60,000 girls between 5-14 years employed as domestic workers.<sup>12</sup>

West Bengal reported the highest cases of abuse of maids in India and an assessment by Ministry of Women and Child Development revealed human trafficking and assault cases reported in 2010-2012 to be 3422, 3517 and 3554 respectively. West Bengal registered 549 cases in 2012 (Tamil Nadu and Andhra Pradesh were next in line).<sup>13</sup> News reports have been highlighting the absence of regulatory mechanisms to protect domestic workers from gross physical and sexual abuse. When some of these cases have gone to courts, judges too have urged the government to make a law to deal with the issues of domestic workers that will not only protect the workers but also safeguard the employers from getting cheated by traffickers and middlemen. In 2011, a trial court had raised the issue of exploitation of domestic workers. Additional sessions judge, Kamini Lau, in her order, noted that thousands of complaints of exploitation and abuse were received every year and most of them were about unpaid wages, food deprivation and long work hours with verbal, physical and sexual abuse. 'Many cases are never officially reported, due to the domestic workers' confinement in private homes, lack of information about their rights and ability of the employer to deport/ relieve them before they can actually seek help,' the judge said.<sup>14</sup>

The market in domestic workers is complicated by trafficking, especially from eastern India, Jharkhand, Assam, West Bengal, and Odisha. The pathways of such trafficking are not fully understood as yet, but New Delhi as a destination area has been very much in the news in recent years. Ranju Enterprises is one of the oldest among scores of placement agencies supplying domestic maids, cleaning women, cooks, nannies, even drivers, guards and occasional dog-walkers to Delhi's burgeoning population of upwardly mobile middle-class households. It is run by Mahendra Subba, a Nepali of Bhutanese extraction, from a set of shabby quarters that include his office, a three-room home and a dingy stairwell, invariably occupied by young women from Jalpaiguri, West Bengal. Some are fresh migrants and some are 'old hands' scoping for new employers. It is all within shouting distance of a police station, but conveniently invisible to the khaki uniforms. Subba, who places 100 to 150 maids in South Delhi households every year, charges clients a non-refundable commission of Rs 25,000 for each maid that is good only for 11 months. Subba says as much as 70 per cent of the money goes to sub-agents who bring in the women, mostly sourced from tea gardens in Jalpaiguri. The real money is made by periodically shifting domestic workers from one household to another well ahead of 11 months. Subba admits that this is more lucrative, the agency gets the entire commission; there are no sub-agents. Yet, Ranju Enterprises is among the more reliable; the city is literally spotted with dozens of fly-by-night outfits operating from impossible-to-find locations and almost always

via constantly changing mobile phone numbers. In northwest Delhi's Shakurpur area, Krish Enterprises boasts of multiple phone lines on an independent website that features distinctly Caucasian women supposedly part of its workforce of maids, nannies and care-givers for the old and infirm. But four of the five phone numbers listed on the company's website are duds and there is nobody at the address given. They charge commissions of up to Rs 50,000 per placement, besides an unspecified percentage of the worker's salary.

In Mumbai too, placement agencies do brisk business with migrant women. Janhvi Bellare Salvi was swindled of Rs 4,500 taken as 'processing charges' by Amir Sheikh, a well-spoken young man who showed up at her doorstep on behalf of Exel Manpower, a placement agency working from a shack in Govandi. After he scooted with the cash, Salvi staged a minor sting operation of her own. Sheikh and the company's owner, Suresh Gehlot, were arrested for cheating. Rita Singh paid Rs 15,000 as an annual retainer to a placement agency, which had sent her a maid. The maid returned to her village barely two months later. The agents simply stopped responding to phone calls, forcing her to initiate legal action.

Many of these placement agencies deal with trafficked minors; some of them are directly involved in sourcing migrants. Domestic workers, particularly young women and children are trucked in from Jharkhand, West Bengal, Assam, Odisha and Nepal, all well-known grounds of human traffickers. They are often victims of extreme violence from agents and employers. Kabi Karki, who heads Save Nepali Mission, a voluntary collective, speaks of underage women kept like animals with almost no food in placement agencies. There are horrific tales of brutal violence perpetrated on these trafficked workers. (Insert 2).

In this respect, Chhattisgarh government is the only one that has responded with new legislation in 2014 to curb trafficking of children. In response to a PIL, the Supreme Court also began to raise a number of questions and to call upon the state governments to be more accountable in cases of missing children. In October 2014, the Chhattisgarh government admitted to the Supreme Court that huge numbers of children were smuggled out of the Maoist-affected districts such as Bastar by private placement agencies to work as domestics or bonded labourers. They reported that out of 9428 children missing between January 2011 and December 2013, the government had traced 1204. The judges were not impressed: There was a glaring mismatch between these figures and those submitted to the Parliament (which was over 4000). The judges considered these reports to be misleading, since either the figure given to the court or that to the Parliament was wrong. The state had already passed the law to try and check the activities of placement agencies, but the numbers of missing children remained unacceptably

large. In Bihar, for instance, 2814 children were missing between January 2013 and September 2014, of who 633 could not be traced. The Bachpan Bachao Andolan had quoted NCRB figures to argue that 1,17,469 children across the country were missing between 2008 and 2010, but the police had registered only 20,000 FIRs. These figures were so disturbing that the court gave a special direction to the police in all states to register FIRs expeditiously in case of missing children. Most state governments were unresponsive; they had other priorities; and these was a pragmatic policy acceptance of the limited options open to poor families. Most of them did not bother to file the compliance records required by the court. Things remain much the same despite the intervention of the apex court.<sup>15</sup>

The chief trafficking corridor lies in some states of Eastern India. For instance, in Assam, anti-trafficking activists are pitching for a legislation to regulate placement agencies, on the lines of Chhattisgarh, given the rise in trafficking of children as domestic workers from the state. According to activists, owners of placement agencies keep the children in confinement in unhygienic conditions for days and prevent them from communicating with relatives back home. Digambar Narzary, chairperson of Nedan Foundation, a Kokrajhar-based anti-trafficking NGO, said such a law was very much required in Assam. Many districts in Assam, such as Kokrajhar, Baksa, Chirang and Sonitpur, have become a hotbed of trafficking, especially of children, who are forced into domestic work. They are often exploited, abused, even pushed into the flesh trade or simply remain untraced. Nobel laureate and child rights crusader, Kailash Satyarthi, during his visit to Assam in December 2012, had acknowledged the fact that the state had emerged as one of the biggest source areas, transit route and destination for trafficking of children. In 2013, the Regional Director of the North Eastern Regional Domestic Workers' Movement, Sister Teresa Ralte, said that there were 1500 children working in Shillong alone, apart from those taken to other metro cities. Children, who had been rescued, demanded in one voice an end to these trafficking networks and the right to education.<sup>16</sup> Ravi Kant, president of the NGO Shakti Vahini, who has been behind the rescue of several children who were forced into domestic work in Delhi in subhuman conditions, said the absence of such an act in Assam made it difficult to ascertain the exact number of placement agencies and their agents operating in the state. Existing data for 2011-2014 shows that a meager 344 women and children have been rescued, and only 257 culprits arrested.<sup>17</sup>

The situation in Assam is not so different from some other states in India. A vicious network of human traffickers has grown, drawing children from remote poverty-stricken areas and bringing them to the metros, primarily for domestic work. The worst affected state is undoubtedly



Jharkhand. Sanjay Mishra, an SCPCR member, and Shanti Kindo, chairperson of Jharkhand Labour Commission, agreed that every year, around 35,000 children were trafficked from Jharkhand to other states. A majority were engaged either in domestic work or as labourers in hotels and dhabas.<sup>18</sup> In 2013, another Phoolmani (her namesake's death in 1891 triggered the age of consent debates in British India), daughter of Lalmani Nagesia, aged 16 years, died under mysterious circumstances while working in a Delhi home. She had been brought to Delhi illegally by Batti Oraon, and sold to Anil Ahuja, the employer, for one year for Rs. 23,000. She was not paid anything at all.<sup>19</sup> In 2014, 4 girls were abducted from Jharkhand and employed as domestic workers in various parts of Delhi. While two of the girls were from Chaibasa, the others were from Khunti and Gumla. One of them was brought to Delhi by a network operated by Panna Lal Mahto, a trafficking kingpin who was arrested in Delhi. It was felt that the Jharkhand administration was not vigilant enough to check these cases.<sup>20</sup> Soon after, in April 2015, 26 girls between 10 and 15 years, who had been lured to Delhi and adjoining areas by middlemen for domestic work, were rescued and returned to their homes in Jharkhand. Among these, 12 had fled employer homes due to beatings, starvation and abuse and had subsequently been placed at shelters. Fourteen others were rescued by Delhi and Jharkhand police and welfare teams in a series of crackdowns on homes and placement agencies since 7 December 2014. This eight-member crackdown team comprised two persons of the Delhi-based Child Welfare Committee, one Delhi Police personnel, four officials of Ranchi NGO Bhartiya Kisan Sangh and one from Jharkhand State Child Welfare Committee. The girls, hailing from poor homes in Simdega, Khunti, Sahebganj, Lohardaga, twin Singhbhum, Garhwa, Gumla and Bokaro, had been lured by their own relatives or professional middlemen, on the promise of a better life. Most were school dropouts but some of them wanted to pursue their education, such as a 14-year-old Simdega girl. This August, her own uncle took her to Delhi, she recalled. She remained as a domestic worker for four months but mental and physical torture induced her to escape from the house. Delhi Police took her to Nirmal Chhaya, a shelter. Gumla's Kranti Kumari (15 years) was a domestic worker for 3 months. She was beaten and starved and she escaped.<sup>21</sup> In an exceptional case, Nisha Kamari (12 years) started as a domestic worker at the age of six.<sup>22</sup>

A few months later (June 2015), Lata Lakra from Chhanho was arrested. According to her, she is just a domestic worker but allegedly she owns property and assets in Delhi and Jharkhand worth crores. She was arrested from her lavish mansion on Ranchi's outskirts. She was accused of trafficking and it was believed that she had sent nearly 1,500 children from Jharkhand in the

past decade. Lata, in her mid-thirties, confessed to having given jobs to around 150 underage girls as domestic workers, but her wealth suggested far higher numbers. She claimed that she received a commission of Rs 4,000 per girl she placed. Local NGOs had compiled a list of 245 traffickers in the state, of which 35 (including Lata) had been listed as kingpins. A school dropout from Chanhoo, Lata went to Delhi as a domestic worker in 2000. Within two to three years, she set up her own placement agency. Her husband is a casual labourer in Bharat Coking Coal Ltd in Dhanbad. Lata sent her two children to schools in Delhi.<sup>23</sup>

Around the time the police were investigating Lata, in Noida, in July 2015, there was a bizarre case of the death of Kaleshari Kumari, who fell from an eighth floor flat purportedly while feeding her employer's pigeons. The Delhi police did not act on the case, but a murder case was registered in Latehar from where the girl hailed. The case related to murder, kidnapping, human trafficking, suppressing evidence, criminal conspiracy and violation of the Juvenile Justice Act. The Noida police prepared an inquest report showing the girl's age as 22, but the Latehar police have called Kaleshari a minor. Placement agent Mahavir Yadav, the second defendant, hails from Gumla and supplies maids to Delhi. A third defendant, a woman named Gudiya, is suspected to have procured Kaleshari and sent her to work at locations of which neither she nor her family were told about. Though the girl died in Noida, the crime of trafficking a minor began from Latehar. The girl's father has complained that his daughter, taken away by a placement agent three years ago, had no communication with the rest of the family. Despite objections from NGO Shakti Vahini, which had alerted Noida police about the girl's death, and Latehar sub-inspector Sanoj Kumar in Noida, the girl was cremated before proper investigations could be undertaken.<sup>24</sup>

This new class war inside well-to-do urban homes is now openly characterized as a 'modern master and slave' relationship. And the report, which makes this assertion, asks an important question: How do we prevent 'middle-class homes' from being 'zones of inequity and oppression in a free and independent India'?<sup>25</sup> The association with slavery is strengthened by the conditions in which the trafficked children enter service and are often incarcerated. The headlines proclaiming 'slavery' in middle class homes is brought into poignant reality in the figures of children starved, beaten, tortured and imprisoned, for the purpose of reproducing cleaning, polishing metal and glass, cooking, caring for children and pets, watering indoor plants in the increasingly glamorous lifestyles in swanky residential areas. Of course, children, especially girl children, are the prime target of this 'incredible India'.

The slavery motif is suggestive. In an earlier work on the history of domestic workers in colonial Bengal, Swapna M. Banerjee spoke of the centrality wage workers within the home mediating domestic life and relationships within the articulation of middle class identity.<sup>26</sup> In a recent book on domestic workers in Kolkata, Raka Ray and Seemin Quayum invoke ‘servitude’ to understand the relationship between master/mistress and servant, not as a feudal remnant but as embedded in our modernity.<sup>27</sup> Domestic workers partake in a relationship that appears to be synchronous and anachronous to modernity and to the contemporary.

Let us return briefly to the case we began with—the murder of Pran Gobinda and Renuka Das. Looking at this case in a different way will help us move away from a simple opposition between employers’ atrocities versus servants’ violence. The pre-history of the murder of the Das couple raises questions about the complexity of the relationship in domestic service in urban India, viz., the tension between ‘domestic’ and ‘worker’ in the figure of the domestic worker. This murder resulted from an ambivalent relationship established over years between the Das family (father, mother and daughter) and two young girls from poor families of a remote village, separated by a wide gulf of social distance. Were Purnima and Kabita ‘brought up’ by the Das family or were they domestic workers? In some of the Bangla reports (newspapers and TV), they were called *paricharika*, i.e., maidservant. The English-language media was more ambivalent in naming the relationship. Clearly, there was no attempt at education or improving their social situation or providing better opportunities to Purnima and Kabita. They were ‘like a daughter’ or Bappa ‘like a son’ across a static and unbridgeable class divide. The gift of a rickshaw was symbolic of the relationship. The Sens, reprehensibly, were not grateful and not satisfied with the standard of life possible from rickshaw pulling.

The idiom of kinship and the language of family is an old one, often used to signal an extended and incorporative system of household formation, serving multiple purposes, including domestic and reproductive labour. These drew on established feudal norms of (unequal) reciprocity. Purnima and Kabita inhabit a cusp where they were not domestic workers in a wage relationship but were fetched to Kolkata to be ‘brought up’ by strangers in an alien city, no doubt required to pay for bed and board with labour. It was an arrangement complicated by gender and class, with an overlay of an unsustainable claim to kinship. Paradoxically, even as modern families more narrowly focus on biological kinship and lineage from the vantage of nuclear families, supported by technological advances in genetic sciences, abrogating older more incorporative modes of family formation, the domestic worker remains a symbolic residue of the old. These young women who are at the same time domestic workers and ‘like’ family, are in everyday

habit neither worker nor family. The diurnal distinction lies not in lineage and inheritance, though they inform its ideological basis, but most conspicuously in consumption, increasingly the most contested marker of class. In Kabita's case, this troubled relationship seemed to have been severed at marriage. Purnima's marriage, however, appeared to have drawn Bappa into her slippery terrain. Thus, Bappa, 'like a son', wanted to stay with the couple at their flat. However, this was too great a stretch of the claims of kinship, which were not only 'fictive' but rendered untenable except as a service relationship by social difference.

Purnima left the job as maid servant after her marriage. After her two daughters were born, she returned to her parents in Nandigram (specifically village Daudpur) because of lack of space in her marital home in Kolkata. The marital home was where Bappa lived with his parents. There appears to have been some estrangement—Bappa had not visited her for several months nor had she been to Kolkata since the Durga Pujas. Purnima and Kabita represent the increasing trend of underage and underpaid young female workers in the live-in segment of the domestic service market. The provision of domestic labour by poor young girls in elite households as a rite of passage bear a significant mark of continuity with nineteenth-century and older practices. This case reminds us again of the need to understand the continuities in domestic relationships and the long and significant history of slavery in organizing domestic labour.<sup>28</sup>

**Insert 1**

**Some prominent cases of crimes against employers by domestic workers in Kolkata, 2005-2015**

18 April 2005: Kewal Rai, alias Pancham, about 25 years' old, hit 68-year-old Tarachand Banka on the head with a heavy frying pan and slit with a kitchen knife the throat of his wife Sarada Devi, 56, when other family members were not in the flat. He then fled with cash and valuables worth Rs 20 lakh.

15 February 2007: Ravinder Kaur Luthra (51 years) was strangled by domestic worker, Nikku Yadav.

14 April 2011: Alope Kumar Roy (65 years) and his unmarried sister, Suchitra Roy (61 years), were killed by workers hired to paint their building.

27 July 2011: Shanta Bhattacharya (93 years) was gagged to death at Bidhan Nivas in Ultadanga. The mastermind was the security adviser of the complex.

21 February 2013: Shampa Ghosh (56 years) was murdered by two accomplices of Shibani Manna. Shampa was alone at home in Jadavpur with Shibani, who had been working for the family for six years. Shibani knew that Shampa had Rs. 50,000 with her.

9 July 2013: Sulochana Chary (69 years), retired teacher, was found with her throat slit in her Kasba flat.

11 November 2013: Ranjit Chatterjee (82 years), who lived with his bedridden wife in Deshapriya Park, was murdered by their employee, Sona Das.

22 November 2014: Subhra Das, 27, turned up a month after she had been terminated and flung a mug of acid and tried to snatch a gold chain before neighbours rushed to the aid of Shampa Sinha. Both her eyes were damaged and she was likely to lose her vision.

29 December 2014: Kamala Devi Mintry (78 years) was killed by a former help and an accomplice.

## Insert 2

### **Some cases of violence against domestic workers by employers, 2009-2015**

June 2009: Actor Shiney Ahuja allegedly rapes his maid in Mumbai, is later arrested. Granted bail in April 2011.

August 2009: Actress Urvashi Dhanorkar's 10-year-old maid was rescued with burn injuries on forearms and bruise marks all over.

October 2010: A young woman was brutally tortured with blades and a hot iron before she managed to flee from the house of a divorced single woman in Rajouri Garden, New Delhi.

September 2011: A 12-year-old girl is found charred to death at her employer's home in Kurnool, AP. Rape allegations follow.

October 2011: The Delhi Police booked a Kaushambi-based doctor for allegedly raping his 20-year-old housemaid over months.

October 2011: An airhostess with Air India was booked on charges of torturing and physically abusing a 12-year-old girl she had illegally engaged to work in her Vasant Kunj apartment.

December 2011: A Chennai woman is convicted and fined Rs 50,000 for burning her help in 2008 after she failed to pay back a loan of Rs 15,000.

2011: Ashok Kumar, a pharmacist, (49-years) raped his 17-year-old maid. In 2014, he was sentenced by a Delhi court to 10 years rigorous imprisonment.

March 2012: An Indian maid receives a favourable ruling from a New York court, awarded \$1.5 mn as compensation after she accused her former employer Neena Malhotra (right), an IFS officer, and her husband of harassment and "slavery".

March 2012: A 13-year-old girl is rescued from Dwarka, Delhi. Her employers, Drs Sanjay and Sunita Verma, left her locked up while they went off on a vacation to Thailand. She is found with injury marks, including those inflicted by pinching, all over her body. She was apparently surviving on a diet of two rotis and salt.

April 2012: A teenaged domestic help from Bihar was raped and physically abused by her employer's children, Nadeem and Fardeen, for over two years. The young girl had burn marks on her hands. Fardeen was arrested.

April 2013: Two schoolgirls from Khunti, Jyoti Mariam Horo and Jaymani Guria, were brought to New Delhi by a trafficker. Both died within a week.

June 2013: A 16-year-old Lohardaga girl who worked as a live-in maidservant in the National Capital Region was found dead. Phoolmani Nagesia, alias Lurki, was found hanging at the home of her employer, restaurateur Anil Ahuja of upmarket Kaushambi in Ghaziabad. Lurki had been working at the Ahuja household since June 2012. The National Commission for Protection of Child Rights (NCPCR) launched a probe. Lurki's mother Lal Muni Nagesia alleged her daughter was murdered. She also named a woman, Satya or Batti Oraon, as having lured Lurki to go to Delhi. The girl was to be paid Rs 3,000 per month for a year till June 2013. However, she was not paid a penny. NCPCR declared this to be a case of bonded labour, but her employer said it was Lurki who wanted the amount at one go.

October 2013: Vandana Dhir (Delhi) was accused of confinement and assault of Kajal, a domestic worker from Jharkhand. The case also involved the placement agency and its agent, Dorothy. Hearing the case, the court had said that legislation for the regulation of placement agencies was "much needed".

November 2014: Dhananjay Singh (BSP MP) and wife, Jagriti, were arrested for the death of Rakhi, their domestic help, and another minor who had been 'mercilessly' tortured.

November 2014: Payel, 15 years, came from a maoist-infested village of Khunti. She dropped out of school after her father and siblings died of illness. At a village fair near her home, three women picked her up and put her on a bus to Ranchi and then by train to Delhi. She was found on the streets of Mayur Vihar, battered and bruised. She had been engaged as a domestic worker, working over 12 hours a day, abused and beaten.

April 2015: Two sisters from Assam were arrested for torturing a 22-year old maid also from the same state. She had been beaten with belts and sticks and burnt with hot tongs. The sisters played loud music to drown out her cries. She was found to have

scratches, cuts and burn marks. She was deprived of food and her hair was chopped off. The male member of the household fled from the house before the police raid.

April 2015: A domestic worker accused her employer, son of a senior Supreme Court lawyer, of allegedly sexually harassing her in South Delhi. Every time she tried to object to his behaviour, the accused threatened her with his father's authority.

April 2015: A 13-year-old boy was rescued from arrested Congress MLA Rumi Nath's official residence at Dispur where he had been engaged as a domestic worker. The MLA had brought the boy from Borkhola, her constituency in Barak Valley, nearly a month ago. The case raised questions about the state government's measures to provide compulsory education to children up to 14 years under the Right to Education Act 2009.

June 2015: A lawyer of Dhubri court, Sankar Kumar Das, and his wife Gauri were detained after the half-burnt body of their domestic worker, a young woman, was recovered from their house.

[ Sources : The Telegraph, The Times of India, Outlook, India Today, Anandabazar Patrika]



## **FROM SLAVERY TO WAGE WORK? DOMESTIC WORKERS IN TRANSITION IN BENGAL**

Domestic servitude was marked by close proximity of masters and servants bound in relationships of dependence and paternalism. Despite this, or perhaps because of this, we find very little trace of these relationships in conventional archives.<sup>29</sup> Much has been written about the invisibility of categories of workers such as domestic workers in the usual historical sources. I have argued elsewhere, that such workers, especially women domestic workers, who have left no ‘voice’ in the form of their own writings, have been relegated to the impenetrable ‘private’ of Indian domesticity; they have no history. In recent years, there has been renewed interest in constructing such histories. I have already mentioned Swapna M. Banerjee’s work, which we will discuss in more detail below, there is now more work in progress.

The law has been a major point around which archives have proliferated and a great deal of Indian labour history has depended on the incitement by debates over legislation to prolix discourse in official circles. In the context of domestic service, legal questions have been remarkably sparse in both the colonial period and in independent India. They were not, however, completely absent. Since domestic work was caught up in discussions both of Master and Servant legislation and slavery, we are able to find occasional mention of its specificities around legal debates of this period. The first legislative intervention was Regulation VII of 1819, which in its section 7, contained specific provisions regarding domestic servants. Other than this, there was no one major piece of legislation, which mentioned domestic servants specifically, though there was some debate about extension of contract and slavery/trafficking legislation, which we will discuss in later sections of this paper.

It has been argued that contract legislation has been the primary instrument for producing the ‘free’ labour markets of early capitalism. The trajectory of contract law in relation to labour has been varied and intertwined with the history other legislation, such as age of consent, for instance. In the colonies, in the nineteenth century, contract legislation was crucial in the process of creation of new regimes of law. The British, for instance, viewed contract as one of the major elements of their civilizing mission, an instrument that would create labour markets, reorganize labour regimes and reconfigure social relationships around labour. Thus, the British in India invested heavily on the formal transition from slavery and/or servitude to contract. It may well be argued that such an ambitious agenda rendered contract legislation a crucial

instrument of colonialism. As the chief means of making colonies profitable, these laws were probably the most important in the British imperium. Yet, the emphasis on formal transition also meant that contracts were able to build into its variety of forms, the substance of existing coercive instruments of control. The criminal breach of contract laws in India produced the indenture system, for instance, which governed plantation labour regimes involving several million workers over a century. It is remarkable that such legislation continued in India up to 1925, long after labour contracts had been decriminalized in Britain. These differences between metropolitan and colonial labour regimes were sustained by arguments of lack of development, but also by a range of exceptionalist arguments in the case of India, which hinged on British characterization of the peculiarities in the nature of Indian labour. Thus the trajectory from slavery/serfdom to contracts scripted in many of the laws of the period had contradictory consequences. This is clearly evident in the case of domestic workers, where the hesitant intervention of contract laws was balanced by a robust refusal to intervene in practices of dependencies and bondage. One of the crucial features of paid domestic labour in the colonial period, a legacy bequeathed to independent India, which has done little to look at this particular gift horse in the mouth, is the simultaneity of various forms of labour in this sector. This paper will discuss the interface of slavery and contract in domestic service, but not as a transition from unfree to free labour. Rather, freedom of contract produced labour regimes as harsh if not harsher than slavery, both in the colonial period, as described by Banerjee, as well as in contemporary India as described in the previous section.

Banerjee makes the point that domestic service predated colonialism; records such as Kautilya's *Arthashastra*, Ashoka's edicts, Buddhist and Jain literature indicate the existence of personal and domestic servants.<sup>30</sup> One of the earliest questions framed by feminist historians in India was with regard to the Vedic *dasi*.<sup>31</sup> W. H. Moreland was struck by the large numbers of domestic servants in the medieval period.<sup>32</sup> The early history of domestic service is embedded in servitude or slavery, but from the early nineteenth-century there was also an expansion of 'free' wage workers. Banerjee reconstructed from the accounts of Europeans and the records of the Tagore family, some of the major features of this expanding sector.<sup>33</sup> One of the few accounts of domestic workers in the early nineteenth century is by Francis Hamilton Buchanan, who noted in several districts of the then Bengal Presidency, the simultaneous existence of 'free' wage servants as well as domestic slaves of various denominations. Throughout the century and well into the next, we see these varied patterns within the sector. The ambiguities that followed from the interplay of forms of labour— slavery, servitude and wage work—

remained and, as a result, the question of domestic service employment has been for two centuries both inside and outside the ambit of the state. The unprecedented labour mobilization in the nineteenth century included domestic servants, which grew as an avenue of employment for the rural poor, especially women, and was linked with patterns of rural-urban migration. Yet, while most forms of employment, such as slaves, bonded agricultural labourers, contract labour, indentured labour, even wage labour in urban factories, were brought under some rudimentary legislation and intermittent state regulation, domestic servants remained a notable exception to this pattern.

### **Servants, Slaves and Concubines:**

#### **Northern and Eastern India in Early Nineteenth Century**

As in case of many other institutions and social practices, domestic service and slavery created among British officers in India a terminological muddle. One of the early nineteenth-century attempts to address this confusion came from Buchanan Hamilton, who travelled widely in various districts of Bengal, Bihar and eastern UP and observed the condition of 'free' domestic servants and slaves. He was particularly concerned about the legal ramifications of the confusion between wage work, servitude and slavery in domestic work. He pointed out the specificities of slavery in India and was scathing about the 'infinite harm' done 'by representing the people as everywhere guided by the same laws and customs'. In India, he argued, terms and categories meant different things not only in remote provinces but even in neighboring districts, divisions and estates. It was thus easy to be 'misled by specious writers, generally extremely shallow'. Clearly, one concern in these arguments was to defend 'Indian slavery' as different from Atlantic slavery and more benign and paternalistic. He was, however, puzzled by the variations in terms used and the overlaps between various terms in the different districts he visited. He explains this terminological chaos as a consequence of rapid political change, so that 'an astonishing and most perplexing variety of local regulations and interpretations' had arisen. Despite his efforts, he admitted that he could not distinguish classes of slaves with proper accuracy, and though he endeavoured to give some numbers of servants and slaves, he himself cautioned the reader about them. In his estimate, male adult slaves were about a fourth of the total slave population, women and children being the larger portion. However, he does not disaggregate agricultural and domestic slaves, given the difficulty of distinguishing between them and the huge overlaps between agrestic and domestic labour; many workers, especially slaves, worked at both.<sup>34</sup>

Of the few districts of which he wrote, he gave detailed description of domestic servants in Purnea, Dinajpur, Bhagalpore, Shahabad and Rangpur. There is great similarity in some of these descriptions, and in the following paragraphs, a summary is provided of the main points in some of these reports. Buchanan wrote of both 'free' domestic servants and slaves. Of the free male domestic servants, there were three categories: *bhandaris*, similar to stewards, who took care of all the household; *kbidmutgars*, personal servants, who dressed their masters, attended at meals, supplied tobacco and betel, and made the bed; and *tabilijas*, who worked in the kitchen. In some cases, a single servant performed all these functions as well as taking care of horses, cows and goats. Their wages varied from 8 to 24 annas a month; including food and clothing, the total rarely exceeding Rs. 30 a year.<sup>35</sup> In Dinajpur and Purnea, he found the same three categories of free male domestic servants, but they were 'ragged dirty fellows'. According to him, wealthy men had crowds of servants for their carriages and cattle, grooms were 'considered merely as an appendage to the horse'. They were paid one to three rupees a month, food, clothing, and lodging. The provisions in kind were of poor quality, since they were allowed to sleep on the floor in a hut, which cost their master nothing. If the master provided no clothing, wages were a little higher.<sup>36</sup> In Shahabad, free male domestic workers, in common with other districts of Bihar visited by Buchanan, were usually paid 8 to 16 annas a month, with food and raiment; but in Arah their wages could be as high as Rs. 2.<sup>37</sup>

Women were rarely 'free' servants. In many parts of Bengal, there were no free women servants. In some areas where they were employed, they were paid nearly the same wages as men and were called *chakerani* and *dasi*. Most of these were elderly women without kindred of their own, but there were also some young women. Some of the young women were concubines and they doubled as domestic servants. In Purnea and Dinajpur, some of the women worked for merely food and raiment, and were sometimes called *bhatuyanis* (from *bhaat* or cooked rice), but they were also called *gulami* or *laundi*, (i.e., slaves, see below) even though they were in fact 'free', had not been purchased, could not be sold and technically were at liberty to change masters. Similar kinds of women workers were found in agriculture and sometimes even men were thus employed. These terminological overlaps made it difficult to sustain a separation between servants and slaves.<sup>38</sup> The picture was similar in the districts of Bihar and UP. There were few free women servants, except 'old woman who have lost all their kindred, and attend as domestics for food and raiment'. In Bhagalpore, as in Bengal, they were called *chakeranis* or *dasis*. In Shahabad, woman servants, called *asil tabalin*, were well paid, though, Hindu families tended to have fewer women workers. The kinswomen of their male slaves attended the women in the household; but they were 'wretched dirty creatures', who were engaged in hard labour in the field. Thus,

women domestic workers, free or slaves, were employed more in Muslim households. Hindu women, even in wealthy households, tended to perform ‘most drudgeries’, except fetching water or any other public activity.<sup>39</sup> In many districts, poor women, who lived at home, earned their living by bringing water for the rich. They served households where women were forbidden to go out at all, either because of status reasons or because, Buchanan believed, the men were ‘suspicious’ of their wives and did not wish them to have any excuse to go out of the house. Such women were called *panibharin*, and were usually paid a pittance— a paise a month for each pot. Their earnings were about 8 annas a month, which they supplemented with spinning and the supply of fuel.<sup>40</sup>

According to Buchanan, retired soldiers (he calls them invalids) had both male and female servants, procured either by purchase or by force. Clearly they were not ‘free’ but Buchanan distinguishes them from slaves; the ‘boys and girls are looked upon by the old soldiers [sic!] as his children, and when he dies, he in general leaves them the whole of his effects’. The girls, when they grew up, became their concubines, and many of them were treated as wives, receiving a pension from the East India Company. Apart from this, Buchanan found it difficult to make an estimation of ‘mere domestic slaves, either male or female’, kept in elite Muslim households. There were many such domestic slaves and he believed that there was considerable traffic in domestic slaves in wealthy Muslim households; he mentions two Abyssinian boys procured from Calcutta because they were considered to be faithful ‘throughout the East’. In Monghyr, he estimated there were 50 male, and 70 female domestic slaves (*golams* and *laundis*).<sup>41</sup>

**Table 1**

**Number of slaves in the District of Purnea in 1809-10**

Male free domestic servants ( <i>bhandaris, khidmutgars, or tabaliya</i> )	4225
Female free domestic servants ( <i>dasis</i> )	825
Servants who get only food and raiment ( <i>golams, laundas; agrestic &amp; domestic</i> )	2250
Slaves ( <i>khamas; agrestic &amp; domestic</i> )	1700
Domestic slaves	790
Agrestic slaves	8650

Source: Francis Buchanan Hamilton, *An Account of the District of Purnea in 1809-10*, printed from the Buchanan MSS in the India Office Library, with the permission of the Secretary of State for India in Council, Patna: Bihar & Orissa Research Society, 1978, 607-608.

In wealthy Hindu families, especially big landlord households, there was a similar category of slaves. The slave family received a farm free of rent, sufficiently large for a comfortable subsistence. The family cultivated its own land; the men attended the landlord and his male kinsmen; a few of the women attended the ladies. In comparison to other laboring people, they were well off and never attempted to run away. They were generally very faithful and obeyed the master's command, whatever its nature; and the landlords very seldom sold them even though they possessed the power to do so. Their marriage rules were the same as other slaves.<sup>42</sup>

To add to the terminological confusion, *golam* and *gulamior*, *launda* and *laundi* were names also given to male and female domestic slaves, i.e., those subject to sale and purchase as will be detailed below. The term *laundi* appears to have had capacious use. Among the Muslim elite, the term was used for concubines; sometimes a wealthy Muslim man would purchase a pretty child, use her as a domestic attendant while she was young but later as a concubine. She would not acquire the rank or dignity of a wife, but might obtain a separate establishment and an easy life. Buchanan, however, admitted that much of this was hearsay and speculation: 'everything concerning the women of such persons being veiled in the most profound mystery, no estimate could be procured of their number'; but he still believed these to be common practice among the Muslim elite.<sup>43</sup>

Hamilton does refer to what he calls 'proper slaves'— the men were called *golam* or *nufur* and their women *laundis*. The problem was that there were many other terms and the distinctions between these terms were not clarified by Hamilton. For instance, he writes of *dhinggar*<sup>44</sup> as slaves employed in agriculture, the *bahaiya* as domestic male slaves, or *sudin* as female slaves. In some places, *kbawas* could be agrestic or domestic slaves; in other places, they were slaves to zamindars and received land for subsistence. Slaves of inferior masters were sometimes called *sehana*, but none of these terms had uniform application and were used varyingly across the region.<sup>45</sup> In Bihar, they were commonly called *nufur*; in Bhagalpore, they were usually of dhanuk or rawani castes.<sup>46</sup> In UP, they were more or less on the same footing, the Hindus were commonly called *kamkar*, and they came in addition from the kurmi caste.<sup>47</sup> In both UP and Bihar, Muslim slaves were called *molnazadab*.<sup>48</sup> These slaves belonged to landowners on free estates, or to wealthy Brahmans, who rented land. They were usually not personal servants and were poorly paid. Some of them were employed as domestic workers and lived in the master's household, received food and raiment. Most of the men worked in agriculture and in lean seasons did some domestic work or were allowed to cut firewood, or undertake other kinds of labour for

subsistence.<sup>49</sup> They had to tend cattle, to dig and build houses, and provide general labour of all kinds.<sup>50</sup> In all these cases, the allowance paid was barely sufficient for subsistence. The master provided the slave with a 'wretched hut, where he lives almost alone'.<sup>51</sup> In Purnea, slaves worked in upper caste elite Hindu households, who had small free estates or rented land, and the slaves often worked both on the land and at domestic chores. These slaves were given separate huts with a small garden for themselves and their families, and they received an allowance of grain and coarse cloth for subsistence. The men worked for the master's household, but the children were allowed to work on their own account. If the children worked for the master, they were fed and clothed. The wife worked in the garden and her labour was crucial to the sustenance of the slave household.<sup>52</sup> In parts of Bengal and in Bihar, male slaves were allowed to marry but the wife and children lived in the master's house, and there received food and clothing. The women, when young, provided sexual services and, later, domestic services, such as sweeping, bringing fuel and water, washing and processing grain. They did all the work of the household, both domestic and agricultural. At night they were allowed to go to their husbands' hut; the young and attractive women may have found even that difficult, paying their husbands occasional visits.<sup>53</sup>

The children of these slaves were employed to tend cattle and often taken to live in the master's house and were paid a small allowance. They were married early, to slaves belonging to the same master. In such cases, their children were also slaves. In Bihar in a peculiar reversal, slavery appears to have followed matriliney. If the master allowed male slaves to marry slaves of other masters or free persons, the master had no right to the children. If, however, the master allowed a woman slave to marry another person's slave or even a free man, he retained all the children.<sup>54</sup> In Shahabad too, Buchanan found that among slaves, '[t]he children in all cases follow[ed] the mother'. In eastern UP, no inter-marriages were allowed between free persons and slaves; thus, when a master had a child by his female slaves, it remained in slavery; the father attempted to marry such a child to his own slave. As a result, the price of young women was higher than men, often as high as four times. The men usually sold for 5 rupees, while a young girl could fetch as much as 20 rupees.<sup>55</sup>

In some places it was not usual for free persons to marry with slaves; but in other places more common. In some districts, such as Purnea, a free man marrying a slave girl was personally degraded to slavery.<sup>56</sup> Such a man was called a *chutiya-gulam* (cunno servus), and could not be sold, though he was bound to work for his wife's master at the usual allowance. His male children were in some places denigrated but free and called *garbas*. In other places, the male children were slaves, and the female children in all cases were reduced to slavery. If a free

woman married a slave man, the master paid the bride's father two rupees. In such cases the male children were slaves but the female children were free, except that the father's master had to be paid two rupees at their marriage. The women in such cases lived with their kindred and received the husband's allowance from his master.<sup>57</sup>

The marriage system appears to have been rather different in some districts of Bengal. If a slave boy of one master married the slave girl of another, the master of the boy was entitled to half of the male children, and the master of the girl to the other half, with all the females. In other cases the master of the girl, at the marriage, took two rupees from the master of the boy. The male children were divided equally, but the master of the boy received two rupees for every female child when she became marriageable. In both cases the female slave continued to live with her master, who if he required her work, fed and clothed her and the children until they were marriageable and gave them a hut. In general, the male slave spent the night with his wife, gave her part of his allowance; and she had to work for the rest. These marriages were possible only between neighbors.<sup>58</sup>

Technically, these slaves could be sold in whatever manner the master pleased; but there was very little transaction in slaves. Poor peasant households often sold children into slavery, but this was not common among middle and low castes.<sup>59</sup> In UP, slaves were not as numerous as in Bihar, but they were in worse condition and were often sold; and less well-off masters instead of feeding them demanded a share of their wages.<sup>60</sup> In Purnea, adult male slaves were sold at high prices—a young man of sixteen years fetched about 12 to 20 rupees. A girl of 8 or 10 years, usually married, sold at 5 to 15 rupees. In most cases, families were not separated, husbands and wives and children below marriageable age were sold together. But such was not altogether unknown; masters could and sometimes did sell them separately if the price was higher. The practice of including slaves in the nuptial gift was common, especially among wealthy families.<sup>61</sup>

Buchanan found the practice of slavery 'abominable' but he also found that the majority of slaves were not subjected to physical abuse. They were in general hard-working; they seldom ran away or were beaten.<sup>62</sup> In some places, slaves worked harder than hired servants, and were better fed; but in some areas where slaves were more numerous, in parts of Bengal, for instance, masters complained that physical intimidation was routine and necessary. In these areas, slaves frequently ran away, and hired themselves out as servants. Since the supply of servants was insufficient, other masters knowingly employed runaway slaves.<sup>63</sup> While servants were tolerably well treated, their condition in general was poor and 'not very enviable'.<sup>64</sup> Their condition was



particularly wretched in old age; they were often turned out to beg unless looked after by their children. The Nizamat correspondence from Murshidabad, Bengal, provides an interesting counterpoint to some of Buchanan's assertions. In 1802, Superintendent of Nizamat Affairs wrote that after the death of the son of Miran, his son faced great difficulty in supporting an aged mother, numerous siblings and a large tribe of 'Slaves & Dependents', especially since the Nawab left a large debt.<sup>65</sup> Subsequently, at the death of Begum Faizul-ut-Nissa, the superintendent was 'importuned by the clamors of sundry Persons said to be her menial servants praying payment of arrears of wages due to them at the time of her death'. After investigations, it was found that 38 servants were owed Rs. 1181-14-15. As the 'deranged state of Nawaub Saidoo finances is a matter of notoriety', he concluded, that the payment would have to be made by the Company. The ground for this was thus: 'it would be very hard People [sic] of this description who live from hand to mouth should lose the wages due to them...'.<sup>66</sup> A day later he reiterated the request: 'the Parties especially the menial servants of the lower Classes plead and appear to suffer real distress and it is certain that they either want ability or inclination to employ their time otherwise than in clamorous Importunity at my Door for satisfaction and Relief' [sic].<sup>67</sup> Thirty years later, the pension of an 'aged domestic' exercised the Company's officers. They requested that the payment be made from the Deposit Fund.<sup>68</sup> Clearly also, even in such elite households, domestic authority was not wholly benign. Caulfield further wrote that the servants of members of the Nizamat family complained that they were beaten frequently and discharged without their wages being paid. The question was whether the Company should interfere and whether their wages should be paid from deductions made from the stipend paid by the Company.<sup>69</sup> These correspondences emphasise the precarious situation of domestic servants, even when in wage relationships.

Buchanan suggested a continuum between slavery and wage servants, indicating the existence debt bondage as part of the practice of domestic service. His account implied that even wage servants could be 'attached', i.e., be unfree/bonded. And households could employ a mix of different kinds of servants—slaves, bonded workers and wage workers. The sale of servants was also often induced by debts incurred by the master. Thus, debt played an important role in the system. Equally, in this mix of forms of labour, juridically free contract labour often looked the same as hereditary servitude.

On the whole, Buchanan emphasized the benign character of slavery in northern India, and he was not attempting to sustain any rigid distinction between domestic and agrestic slavery. Rather, he described a fluid system with great local variations and explicitly challenged the possibility

of categorical definitions. He did not envisage any major intervention in the system and, in line with his appreciation of the paternalist slavery practices of northern and eastern India, he recommended a capitation tax on slaves. In his estimation, slaveowners were 'mostly drones', who paid no land tax or very low rent 'on account of their supposed sanctity' and could afford to pay six rupees a head annually for every able-bodied slave. He recommended that a register be kept by the Kazi, who should collect the tax, and unless registered, slaves should be held to be free.<sup>70</sup>

### **Feminisation of Domestic Work: Employment Trends, 1872-1931**

Buchanan gives us numbers of various categories of domestic servants only in Purnea and he cautions against the accuracy of his estimation, since he was unable to gather information regarding domestic and household arrangements with any degree of precision. There are, however, very few other numbers available for the period. The first systematic set of figures can be obtained from the Census of Bengal in 1872 conducted by H. Beverley. He provides figures for several categories of workers titled 'Persons in Service or Performing Personal Offices' within which he distinguishes between 'domestic' and 'other than domestic'. In addition to the imprecision of the figures, it is indicative of the confusion of categories that while Beverley estimates about 2280 in domestic service, in contrast to Buchanan's count of 2250, Buchanan estimated another 2490 domestic slaves, taking the total to 4740. Of course, one of Buchanan's categories included agrestic slaves. Two district-wise tables (Table 2 & 3) summarise Beverley's numbers for Bengal proper and other districts in the Presidency. The total number given in the first table is 7,20,602, of which 37,664 were women under the category 'prostitutes' and 180 women, who were 'unspecified'. The number of men in the 'unspecified' category is considerably more at 2,56,466. The total number of women in categories other than the two mentioned amounted to 52,420. In the other Bengal districts, the total number is 5,18,006, of which 2613 women, considerably less than the Bengal number, were prostitutes, and 8469 women were 'unspecified'. The figure for men as 'unspecified' was higher in this table too at 1,84,129. The total for women in other categories was 31,250.<sup>71</sup> Many of these numbers were also quoted by W. W. Hunter, with minor variations. In his account of Bakarganj district, Hunter explains that the returns with respect to women was 'incomplete' because the intention had been to record the occupation of the male adult; only where there were no male adults, the occupation given in the form was assumed to employ the women in the household. The occupations of women, who possessed a husband or father (or presumably lived with them)

were not taken at all, while in the case of widows or wives of migrant husbands, the male occupation may have been counted as the woman's. Thus, there were women recorded as braziers or blacksmiths. Hunter was fully aware that women needed to be counted separately, but such an exercise was not undertaken in the late nineteenth century.<sup>72</sup> In 1891, the method followed was to divide occupation tables between earners and dependents, a practice that came under much criticism and was abandoned in the next decennial census. The Census of 1901 was more particular about counting women's occupations. The instruction was: 'Women who earn money by occupations independent of their husbands, such as spinning, selling firewood, cow-dung cakes, grass, or by rice pounding, weaving, or doing housework for wages should be shown under those occupations.'<sup>73</sup> About 31 per cent of all workers were women by this method of counting.<sup>74</sup>

In India, in 1891, there were 53,00,000 persons counted in domestic service, which was 3.91 per cent of the total population. Of this, 22.78 per cent was urban, the bulk still being rural. The category included non-domestic entertainment and sanitation, the latter including scavenging, which was primarily a rural occupation. The indoor servants were counted as numbering 24,92,544 persons, of whom cooks accounted for some quarter of a million. It was noted that Calcutta suffered a relative paucity of labour; however, a very large proportion of workers were grouped as 'indefinite', about 13.43 per cent (next highest was 1.38). The commissioners suspected a problem in the tabulation, but they also noted a very high proportion of domestic servants. The number of indoor servants was very high, almost double that of Bombay, which was far more populous.<sup>75</sup> In 1901, however, the census found 'few' people employed in domestic and sanitary services at 4 per cent of the population, which is about the same as the previous census. In the urban population, 12.5 per cent were reported as being in domestic service, clearly indicating that domestic service was a more important source of livelihood in cities than in villages.<sup>76</sup> The Census of 1901 reported a decrease in the numbers employed in domestic services and sanitation.<sup>77</sup> In 1911, in the whole of India, 15 persons per mille were supported by domestic service; in Bengal, 1.14 per cent of the total population was supported by domestic service. In Calcutta, however, domestic service accounted for 12 per cent of all occupations, in comparison with the all-India average of 1.47 per cent or corresponding figures for Bombay, Madras or Delhi, which ranged between 6 and 7 per cent. Of the actual workers, two-thirds were men.<sup>78</sup> The figure for 24 Parganas in the same period given by O'Malley is 34,000.<sup>79</sup>

In discussing the decrease in workers in domestic service in 1901, the commissioner suggested that there had been an overestimation of domestic workers in Bengal in 1891. He also suggested,

on the lines of Buchanan, that there was little accuracy in the distinction made between agricultural and domestic work and that the overlaps between these two categories led to variations in the counts under both heads from census to census.<sup>80</sup> In 1921, the Census commissioner noted also that these figures were suspect, particularly because landless labourers did not have a single perennial occupation. Their means of livelihood changed seasonally and the numbers were affected by the season in which the counting was undertaken. He did not say so, but clearly this problem had a greater bearing on the numbers for rural rather than urban domestic servants.<sup>81</sup>

In 1921, the numbers recorded under domestic service decreased further by about 6 per cent from the previous census. Domestic service accounted for a total 4,570,151 workers of which 17,10,157 were men and 8,91,709 were women. According to this census, 1.4 per cent of the total population in India and 2.7 per cent in Bengal were supported by domestic service. Men still constituted about two-third of domestic workers. Calcutta returned 69,024 actual workers and 22,032 dependents in the domestic service category. The number of domestic servants in Calcutta remained higher than in other cities.<sup>82</sup>

A major change was noted in 1931. There was, first, an increase in domestic workers, more dramatic in Bengal. It appeared that the proportion of domestic workers had doubled in ten years standing at 5 per cent and fourth after agriculture, industry and trade. Within this increase, there was an exceptional increase in the share of women.<sup>83</sup> The number of women among servants had been higher than in other occupations. In the early twentieth century, Hooghly reported 7406 servants, of whom over fifty per cent were women. This was a contrast to all other occupations— only rice pounders and vegetable sellers were nearly fifty per cent and in case of fisherfolk and grain dealers, the proportion was a little over twenty-five per cent.<sup>84</sup> In Bengal, in 1931, the total number of domestic servants nearly doubled; but while the number of men increased from 3,34,349 to 3,84,043, a small increase, the number of women increased more than three-fold, from 1,15,764 to 4,19,953. From 1921 to 1931, the percentage of female workers increased from 26 to 52, while that of men workers declined from 74 to 48. In the all-India context, men still outnumbered women among those who reported domestic service as their principal occupation; out of 10,000 workers, there were 751 men and 107 women; but women were as much as 6.5 times more among those who reported domestic service as their subsidiary occupation, the numbers being 14 for men and 91 for women (among every 10,000 workers).<sup>85</sup> In the Subsidiary Table III, there are 20,94,487 men and 88,03,790 women listed under domestic service.<sup>86</sup> Women were thus four times more than men; the gender profile of domestic service was clearly changing and the 1920s should be taken as a

watershed in this regard—as the first stage of feminization of domestic service. The reasons for this has been discussed by a number of scholars; the decline in many of women’s traditional occupations, their inability to access new job opportunities in the expanding capitalist sector or the informal urban economy and the ideological push towards domesticity propelling women into low-paid and demeaning sectors of personal and domestic services (including prostitution).<sup>87</sup>

In an interesting aside, the census of 1891 noted the presence of immigrants from Gujarat across the country and mentioned *Suratis*— domestic servants— as existing in most provinces of India. The paucity of labour in Calcutta meant that there was a large proportion of immigrant labour in domestic service. Uriya palki bearers and domestic servants were found in many provinces, including Calcutta.<sup>88</sup> Anecdotal evidence supports the wide prevalence of Uriya Brahmans as well as Muslims of UP and Bihar as cooks. The employment of young men from some Bihar districts as well as from Midnapore in Bengal proper as general and menial servants was frequently recorded in fiction and in memoirs. The Census of 1911 expanded on the theme of immigrant labour in Bengal in the context of domestic workers (as well as other categories of workers such as industrial workers elsewhere in the Census). They reiterated the oft-quoted problem of Bengalis not wanting to undertake manual work; earth diggers, palki bearers, domestic servants, boatmen and general labourers tended to be migrants from Bihar and UP. These migrants were single men, who returned periodically to their village home and often after retirement. These observations uphold the supposition that the pattern of migration in domestic service followed the general pattern of urban migration across a range of unskilled occupations.<sup>89</sup> In an unusual exercise, the Census counted the occupations of 290,000 immigrants from 24 districts to Calcutta (9 districts from Bengal, 9 from Bihar & Orissa, 4 from UP and 2 from Rajasthan). The results show that domestic service accounted for the largest proportion of female workers, which was as high as 42 per cent. The next numerate category was that of prostitutes at 25 per cent. Of the men, 14 per cent were domestic servants.<sup>90</sup>

### **Contract Legislation and Domestic Workers**

The law addressed domestic workers in terms of both contract and slavery— and these were not contradictory in the way regimes of labour control evolved in British India. Regulation VII of 1819 provided for punishment by imprisonment if a workman deserted before the expiration of the agreed term. This was the precursor to the breach of contract laws that were to be worked out in subsequent decades. Regulation VII was sweeping, not tied to the payment of an advance, and it provided especially for domestic and personal servants. The draconian

nature of this provision may have followed a racial logic in the context of European households employing large numbers of servants. In a colonial context, moreover, contracts were defanged by the racial collusion of employers and magistrates. Indeed, evidence suggests that magistrates exercised enormous discretion in enforcing reciprocal obligations on employers, sanctioning violent elements of personal subordination in Anglo-Indian households. This mitigated or at least competed with notions of voluntary contract as organizing relationships between masters and servants.<sup>91</sup> In England in the early eighteenth century, domestic servants were included in the Statute of Artificers, providing a critical link between the new contract and the old servitude. By the end of the century, however, domestic servants were excluded from such laws, thus they lost their wage remedy but equally masters lost the power to legally enforce service. Despite much discussion, no new law was passed to cover domestic service thus relegating these relationships into the domain of informal control. It was feared that new laws drawing on discourses of contract might accord too much power to servants, including the ability to drag employers to the courts.<sup>92</sup>

In India in the nineteenth-century, however, the need to bring 'native' servants under the ambit of enforceable provisions of criminal law was paramount. Thus, Regulation VII was extended rather than abandoned as labour legislation began to develop from the middle of the century. The first major extension of the contract provisions of Regulation VII came with the Workmen's Breach of Contract Act (1859) [WBCA]; and its provisions were modified and incorporated into the Indian Penal Code (1862) [IPC]. The thrust of these laws was to create draconian labour regimes, which combined the juridical notion of contract with penal regulation, to enable recruitment in a market oversupplied with unskilled labour. Neither of these two legislations made any specific mention of domestic servitude, except for certain specific categories of servants. In 1834, the Imperial government had introduced forms of indenture or apprenticeship as a half-way house between slavery and contract. Indian laws drew on such interventions to apply indentureship wholesale to plantations. In case of domestic servants, however, informal regulation was preferred. The enforcement of contracts depended on proof of the existence of an 'exclusive' contract between master and servant. Such proof was rarely forthcoming, however, since well into twenty-first century, domestic service continued to depend heavily on verbal contracts and unwritten commitments. Moreover, the colonial state remained wary of the discourse of free labour and contract as a mechanism of enforcement where these might involve domestic regulation, preferring to allow the paterfamilias to maintain his authority over the household and underwrite relations of personal subordination within it. In India, thus, the

association of paid domestic work has been simultaneously with questions of wages, advances and contracts and also with servitude and/or slavery.

The Indian Penal Code in Chapter XIX included a few provisions for the regulation of the relation between masters and servants. Act of 1862, however, repealed Regulation VII of 1819, which had more draconian measures for the control of domestic and menial servants. The Penal Code provisions addressed mostly issues of cheating and it was presumed that other disputes would be settled in civil courts. Macaulay, when discussing the first draft of the Penal Code, had repudiated penal provisions for enforcement of contracts, arguing that these should be subject to civil remedy. In their report the Commissioners argued that they were not in favour of punishing 'as a criminal every menial servant who, before the expiration of the term for which he is hired, quits his employers'. According to them, good masters were not much in danger of being voluntarily deserted by their menial servants, and refused to accept that 'the loss or inconvenience occasioned by the sudden departure of a cook, or a groom, a hurkaru, or a khidmutger, would often be of a serious description'. Rather, they were apprehensive that making petty breaches of contracts penal offences would enable 'bad' masters to be more oppressive.<sup>93</sup> By the time, the second Law Commission met, the omission of a breach of contract law to regulate master-servant relations had become an irritant. Civil remedy alone, most of British officialdom felt, was insufficient to discipline unruly Indian servants. So when the draft was revisited in 1846-47, the Commissioners removed only seamen and brought back criminal breach of contract provisions for some categories of servants: such as during a journey; or to supply the wants of a helpless person; or to serve at a distant place where the servant was taken at the master's expense. The commissioners disagreed with the view that the masters and servants law should be a part of the law of persons rather than a part of the general law of contract. The relation of master and servant, 'though like marriage, it arises from contract', yet they involved rights and duties essentially different from other relations governed by contract. These were only partially amenable to strict regulation, and the peculiar relation of the parties 'specializes and limits, while it justifies, a particular sanction and jurisdiction for enforcing the reciprocal duties that arise from it'. On these grounds, they included contracts involving advances and workmen employed on public works. But they recommended the omission of sections giving Magistrates jurisdiction in disputes between masters and domestic servants. They concluded that 'breaches of contract seem proper subjects for penal legislation when committed by persons from whom it is impossible to recover damages'. Stokes and West suggested further that magistrates should have summary powers to enforce servants'

principal duties and complaints should be made promptly and by the head of the household. The punitive jurisdiction should be exercised only in extreme cases. More, a domestic servant should have a simple, cheap and speedy remedy against a Master who wrongfully discharges him or withholds his wage. Thus, following the logic of informal regulation of contract in case of domestic servants, they opposed any provision for registration of domestic servants.<sup>94</sup>

In practice, of course, the distinction between civil and criminal law in case of contracts was somewhat arbitrary. In fact, since labourers were usually unable to pay fines, they ended up getting imprisoned whether the action was civil or criminal. In 1860, the Employers and Workmen (Disputes) Act (X) [EWDA] gave magistrates summary powers to decide on wage disputes. The context for this law was an uprising among railway workers in Bombay protesting bad working conditions, but it had the contradictory effect of the passing of an Act which provided for fining and imprisoning workers. Both WBCA and EWDA were modeled on English statutory law. The British Indian laws of this period, however, omitted a critical element in the English law, which was the protection of employees. Law played a crucial and symbolic role in determining the nature of the relationship between employers and workers. The Master and Servant law emerged as central to labour relations in India, especially since the colonial state was itself the master in many cases. While, increasingly, English law was taken as the template, in case of labour legislation, the perceived peculiarities of Indian society led to some bizarre variations: in Madras, for instance, breach of contract could be punished with flogging, wage fixation laws punished both employers offering or workers demanding higher wages; refusal to work when unemployed was an offence and headmen who supplied idle coolies could be punished.<sup>95</sup> So far as workers were concerned, the colonial state took a rather ambiguous position, allowing for ‘moderate’ correction. In the second Law Commission, during the discussion on breach of contract legislation, West suggested that the power of ‘moderate chastisement’ may properly be delegated to the masters of minor servants by their parents or guardians. It would save young boys from sudden dismissal and ‘loss of character’. He qualified this by saying that physical chastisement was the only kind of ‘discipline to which young and rude natures are amenable’ and the omission of this power would be injurious ‘to many native boys by preventing masters who know what boys are, from employing them’. ‘It is’, he argued, ‘a discipline to which virtually every English boy in a like situation and under the like circumstances is subjected – and on the whole for his own good. The instances in which boys suffer any ill usage at the hands of their employers are so rare that they may be almost excluded from consideration in framing a general rule’. Other commissioners were not so willing to sanction violence by a master on any servant.<sup>96</sup> The WBCA allowed masters to enforce contracts



by severe punishment or physical chastisement—either by himself or through the magistrates. Thus, even when advances were not involved, penal measures were significant for controlling labour.

In 1863, when the Act XIII of 1859 (an Act for the Punishment of Breaches of Contract by Artificers, workmen, and Laborers in certain cases) [WBCA] was extended to the suburbs of Calcutta and some of the districts, the discussions had focused on workmen in general. WBCA was initially meant for the three Presidency Towns but by 1865 it covered most of British India through several criminal breach of contract laws. These laws provided the master with a unique legal instrument—and though tied to the payment of advances, could in fact be applied to all forms labour, including bonded servants and wage workers.<sup>97</sup> The specific case of domestic servants, however, continued to be debated and there were demands from many quarters for criminal legislation. In the nineteenth century, in the wake of a triumphalist free market ideology, master and servant laws were gaining in importance in India. These laws married the theory of contract to penal sanctions to enhance labour control as desired by employers. These laws of indenture were especially applicable to some categories of domestic servants since they established legal status, and provided the critical link between enforceable and unenforceable obligations.<sup>98</sup>

In 1864, Calcutta Trades Association wrote to the government asking for amendments to the existing law such that some of the earlier criminal provisions were re-introduced. As was usual, government wrote to various districts of the province and found opinion to be overwhelming in favour of new and more stringent legislation. Indeed, the Commissioner of Patna wrote in such strong language that C. P. Hobhouse, Superintendent & Remembrancer of Legal Affairs, compiling opinions and preparing the report, wrote that ‘it is impossible to believe otherwise than that the evil is crying, and that a remedy is required immediately’. The Penal Code only covered specific contingencies, such as servants who were contracted to guard or convey people moving from one place to another (palki-bearers in particular) or to work by contract in writing for another person as artificer, workman, labour for a period not in excess of three years if conveyed at another’s expense, or ‘domestic and menial servants’, or to attend any person helpless or incapable by reason of youth, unsoundness of mind, disease or bodily weakness. If such a servant deserted or, without reasonable cause, refused to perform their stipulated services, except in cases of illness or ill-treatment, she or he would be liable to imprisonment between one and two months, or a fine between Rupees 100 and 200 or double the expenses incurred on their account. Other than the Penal Code, there was also the Act XIII of 1859 which was in force in Calcutta and its suburbs, Howrah, Rajshahye, Moorshedabad,

Beerbhoom, Nuddea, the tea districts of Assam and North Bengal. This Act could be extended by the local government to new areas. Act of 1959 is better known in the context of the tea industry; it basically covered contracts which involved an advance and included contracts, both verbal and written. By this Act, the master could complain to a Magistrate and if able to furnish proof of advance, could compel the workman to fulfill his obligations or suffer imprisonment. There was also civil remedy for the enforcement of contract in the Small Cause Courts if the dispute involved less than Rupees 500 or in the ordinary Civil Courts.<sup>99</sup>

Government officers in the districts and the Calcutta Trades Association were, however, in favour of reinstating some of the more stringent provisions of Regulation VII. The focus was on domestic and menial servants, and the question before the government was whether to amend the law for all servants or find a way to legislate only for domestic servants. The other question was how far the Act XIII of 1859 sufficiently addressed the problems where it had already been extended. Commissioner of Assam felt that the Act was not sufficiently stringent; Commissioner of Cachar wrote that it required to be supplemented by a Registration Law since it allowed verbal contracts; Commissioner of Nuddea condemned the Act for promoting a vicious system of advances; and Commissioner of Chittagong felt that the law was based on a wrong principle, affixing penalties for breaches where there was no fraudulent intent. A new Registration Law was in the offing; but government was not in favour of insisting on written contracts since the contracts between master and workman were often of the 'pettiest description' and, moreover, since masters could and workmen could not read and write, written contracts did not constitute 'infallible proof of a bona fide agreement'. The government was also not disposed to condemn the system of advances as 'vicious', since it was 'a system universally and from all times prevalent' and even if 'vicious in theory' was not so in practice in India, where the giving and the taking of an advance was the conclusive evidence of the completion of the contract. Hobhouse further stated that advances furnished proof of contract, 'in a country where good evidence is so difficult, as a rule' a system that furnished evidence was 'not lightly to be styled vicious'. The government was satisfied that Act XIII of 1859 was a good law to meet the exigencies, except that it needed to be amended to ensure that contracts specified the duration and the work.<sup>100</sup>

The 'advance system', which came under some discussion at this time, emerged as central to labour mobilization even in the capitalist sector. Not only in factories, mines and plantations but also in construction, transport and other unskilled work across urban and rural labour markets, advances played an important role in appropriating labour and became a key element

in mobilizing and retaining labour. For labourers without income from land, advances were important for survival and often its possibility was a crucial determinant in migration decisions.<sup>101</sup> Workers sought to use advances to manipulate the labour market, especially in the context of long distance migration, but also in the case of rural-urban migration. Michael Anderson has argued that creditors exchanged small advances for large quantities of work, while workers shied away from low-wage employment without a nominal sum in advance. It is thus that advances remained a key instrument of labour control.<sup>102</sup> For instance, in mills in Bombay and Calcutta, jobbers or *sardars* used credit to control workers, who were already indebted before reaching the site of work. In many cases, workers exchanged bondage to the money lender for bondage to the jobber or the employer. These patterns were discernible across the urban economy, including in domestic work, though systems of intermediation in migration and/or recruitment in this sector were more informal and we know little about these as yet. In the context of the Assam plantations, the lethal combination of the system of advances with penal contracts spelt perpetual indenture for workers.

So far as domestic servants were concerned, there was general agreement in Calcutta that some of the provisions of Regulation VII 1819 needed to be re-enacted. Mr. Jennings, chairman of the Trades Association and Member of the Bengal Council, submitted a draft Act on the subject, with the support of Arthur Macpherson, Secretary to the Imperial Legislative Council. The opinions from the districts were, however, divided. Commissioner of Cuttack and Chittagong objected to any law that would be 'oppressive' for servants and argued that 'the true remedy' was 'in the conduct of masters'. The old Regulation VII of 1819 provided that if domestic servants willfully quit service before the expiration of the fixed term or before the completion of the stipulated service or without fifteen days notice, they would be liable to imprisonment, provided that there was no gross maltreatment or non-payment of wages or other sufficient cause. The same conditions applied to the master, who was liable to damages if he discharged any servant without sufficient cause, without wages or without fifteen days notice.<sup>103</sup>

Jennings proposed to re-enact these provisions with a few additions. He included clauses providing for a fine and/or whipping in case of misbehaviour or misconduct, disrespectful or insolent behavior towards the master or any member of the family. There was also a clause preventing other employers from enticing away a domestic servant by force or persuasion. The other provision prescribed fine and/or imprisonment for domestic servants who produced false certification or testimony. Additionally, servants were to be liable to a fine if they cheated

on purchases they made on behalf of the master and his family. To balance the scales, a master could be fined up to Rupees 50 for assault or chastisement or non-payment of wages.<sup>104</sup>

These were measures intended to increase control over domestic and menial servants and to further tilt the balance of the law in favour of the master. Government, however, was not quite in favour of such draconian measures in criminal law. A major question was whether the framers of the Penal Code inadvertently or deliberately repealed Regulation VII? The Code was not meant to affect 'any special or local Law' and it may therefore, have been, as some believed, 'a slip of the Legislature', especially since Act XIII of 1859 was left intact. However, Chapter XIX of the Penal Code and Section 415 (indirectly) did include some of the provisions of Regulation VII. It could then be argued that the legislature intentionally retained only some of the law affecting masters and servants, intending that other disputes be settled by civil law. In his report Hobhouse dealt summarily with most of the provisions proposed by Jennings. The behavior clauses would present difficulties not only of proof but also raise questions about applying similar conditions on masters. The clauses on fraud and false certification were already covered u/s 197, 350, 351, 415, 503, and 504 of the Penal Code. Moreover, many of the offences outlined in the draft Act were better dealt with through damages in Civil Courts. If these additions were thus either impossible or impractical or already covered in existing criminal law, Jennings's draft would be merely the re-enactment of Regulation VII of 1819. Given that the new Small Cause Court Act (by Henry Maine) would have jurisdiction over specific performance of contracts, there would have to be very strong reasons for extending criminal provisions of the penal code to include measures expressly repealed by the Act of 1862. Indeed, in such a case, the government of India rather than Bengal, it was felt, had the necessary jurisdiction. There would have to be an amendment of Section 4, XIII of 1859, and an addition to the Penal Code of the penal provisions of Regulation VII in so far as they related to domestic servants. If the Bengal government was to legislate, it would have to bring in new law altogether (since they could not amend the Penal Code) for the better regulation of the relations of masters and servants. The Advocate General agreed that the repeal of Regulation VII was intentional and deliberate, and any attempt by the local legislature to make new criminal law on this subject would be open to legal objection.<sup>105</sup>

Despite legal opinion to the contrary, the Bengal government was sympathetic to employers of domestic servants. In the middle decades of the nineteenth-century, the shortage of labour in Bengal was a bureaucratic obsession. There was unprecedented demand for labour from the expanding jute and tea industries, a rapidly expanding urban economy, transport and construction

sectors. In Bengal, the price of labour could not be driven down to the levels desired without large-scale migration. In 1868, local officers reported a hike in rate of labour in general, including coolies and palki bearers, but not out of proportion to the general enhancement of prices and the value of agriculture labour. To a set of enquiries about labour supply by the Bengal government, very different responses were elicited from the districts of Bengal and Bihar. The Commissioner of the Dacca Division reported 'complete unanimity' about a steep rise in price of coolies and bearers out of proportion with price rise and value of agricultural labour. It was always difficult to procure palki bearers in the area, he reported, and by the late 1860s, it was almost impossible. Thus, women were carried about in doolies, which were a distinct and separate service. In case of general labourers, moreover, wages had increased greatly, but even so labour supply had not increased and it would not, he argued, 'if it should be raised ten times' since 'people of these districts will only labour at unpleasant work for others when very poor indeed; as soon as they pass the stage of poverty and can find any work for themselves in which they may themselves receive the profits, they will work no more for others, they will undertake no work for contract or hire.' The price of labour had been greatly raised by the railways which employed not only men but also women and boys. Thus, a 'man with several able-bodies wives, who can work them well, soon saves money and can obtain a piece of land and become independent.' This statement is not only remarkable for suggesting that men did, and legitimately so, 'work' their wives and children, i.e., put them to work as part of family authority, but also that such work was the source of accumulation for a poor family, to make the transition from a labouring to a small peasant family. However, 'no amount of wages' would attract labour for the unpleasant jobs, which had to depend on imported labour.<sup>106</sup> In the Presidency Division, the price of bearers and coolies had risen, but in tune with prices.<sup>107</sup> The reasons cited were increasing returns from agricultural labor and demand for labour for railways by almost all officers. The most interesting response was from Jessore, cited by the Commissioner of Presidency Division and not elicited by this particular enquiry. The labouring castes, described Munro, were kaibartas, bagdis, goalas, mooches, chandals, kapali, boonas and muslims of all sects. Their wages had nearly doubled within the last twenty years and even at the high rate great difficulty was experienced in procuring labour. There was no agreement as to whether the number of labourers had actually decreased, i.e., whether the men were not in existence, or whether the number had been decreased only relatively, i.e., whether the men were there but not available. Munro concurred with the latter view, arguing that people found employment easily because of the extension of railways, of roads and public works. These not only attracted local labour but also increased the facility to leave the district for better wages elsewhere, especially

to Calcutta. Earlier, he argued, labour markets were more localized and there was considerable amounts of forced labour or *begari*, which had become extinct. All these factors had led to the diminution of local supply. The ambition of the people was to rise from 'being a *muḥdoor* to be a *gribast* (and there can be little doubt that these are the men who in time will be the *bhodrolok*)'. I quote a part of this report at some length, because the terms and images used by Munro in this report have now become commonsense:

I cannot say that the laboring class have profited by the increase of their profits to accumulate money as long as they remain as labourers, simply because no labourer who has accumulated any money remains a labourer, but promotes himself suo motu into the agricultural class. But even while a labourer he feeds better, he builds himself a better hut or house, he gives his wife and children ornaments, he is more irregular in his time of labour, he takes more holidays, all show signs of no inconsiderable prosperity in his condition as a labouring man. The upper class regard the advancement of these *chota lok* with peculiar jealousy and there can be no doubt, I think, that the labour question in District near the rail and Calcutta will soon assume serious proportions.... As for the *bhodro lok*, who consider themselves created simply to read, write and do little or nothing to earn their livelihood, they must give up their apathy and take to other means... otherwise they will find the successful coolie beat them in the race, as ought indeed to be the case (emphasis mine).<sup>108</sup>

The situation was not the same in the Bihar districts. In Bhagalpore division, the wage-rise was on the lower side and the chief problem was emigration. 'As there is an increased demand throughout India for labour, of course the labour leaves these places and migrates to where the demand is continuous and certain.'<sup>109</sup> In Cuttak, Orissa, the rise in wages had been negligible. 'There is a stereotyped idea' about charges 'and that any charge over and above this or some other imaginary and arbitrary rate is an imposition.... There is also a disposition to grumble or to drive hard bargains... which often lead to their preferring to work for Native Contractors or Mahajans at less wages...'.<sup>110</sup> A rather long and strident note came from Assam arguing in effect that the real problem was the British commitment to 'free' labour:

In fact I may as well at once state that whether for 'public' or 'private purposes' voluntary labour is not procurable... but only by making large advances beforehand. But neither Government nor private individuals can procure local coolies voluntarily.... In all such cases it is self-evident that a certain amount of

compulsion and impressment are employed, but the coolies understand this and do not object to it, as they are aware the order for their temporary services emanates from competent authority.<sup>111</sup>

Lord H. Ulick Browne, Officiating Commissioner of the Chittagong Division, also recommended fixing wages even though it meant a return to a form of forced labour.<sup>112</sup> The emergence of Atlantic slavery, it is believed, was a response to labour shortage. In the Indian case, unfree labour was produced in a contradictory context. The above discussions show that there was a general official perception of labour shortage in Bengal, an issue that was discussed at length in many fora in the nineteenth-century.<sup>113</sup> Yet, the massive mobilization of labour for indenture happened within a discourse of surplus. The beginnings of export of Indian labour to overseas plantations was justified by overpopulation and unemployment and led to a debate with landholding interests, which opposed such depredations on their labour reserves. In the case of Assam, plantations faced with shortage of labour cried for 'labour from Bengal' as the solution to their difficulties on the basis of an oversupply in that province. Indeed, the question of labour was fraught with debates over supply in the case of industry, mines and plantations for the entire period, prompting the colonial state to undertake periodic enquiry into these questions, of which the Commissions of 1896 and 1905 were major landmarks. For the urban labour market of Calcutta, Howrah and the industrial suburbs of North 24 Parganas, the solution was migrant labour from Bihar and UP. For domestic work, migrants came from different districts of Bengal, as well as Bihar, UP and Orissa, to Calcutta and its surrounding areas. Apparently, maidservants came from Bankura, cooks from Bankura, Midnapur and Orissa; servants from Bankura, Orissa, Bihar and UP, coolies from similar areas and agricultural and earthwork labourers from the same areas as well as Santhal Parganas and Chhotanagpur.<sup>114</sup> But these migrants did not go further afield within Bengal except in intermittent streams as seasonal agricultural labour. Urban centres were able to draw on migrant labour for domestic work in a way that may not have been possible elsewhere in the province. Thus, compulsion remained a key instrument of labour mobilization in the districts, the question of labour shortage being linked as much to questions of price and control as to actual quantity.

A decade after the discussion on supply of domestic workers in the late 1860s presented above, Lyall believed that only the migration from Bihar kept the wage of labour to reasonable limits in Bengal otherwise 'things would be still worse'. In Bakarganj, Bartan found that 'labour of any kind, skilled or unskilled, is both dear and scarce. The ryots stick to their fields, which afford them all they want, and are too well off and too lazy to do anything else.'<sup>115</sup> These

remarks were repeated often and on a variety of occasions, including in respect of domestic servants, which were considered unobtainable at reasonable cost in Bengal. Nevertheless, Buchanan wrote of very low wages for domestic servants in early nineteenth-century. In the 1870s, the situation was not much improved. The subdivision of Manickgunge in Dacca, for instance, witnessed migration of men, who went to Calcutta to work as *kebansamahs* (cooks). In the period, officials reported that wages remained static; not surprisingly, domestic workers were the lowest paid. The highest wages were commanded by carpenters and blacksmiths, who could earn as much as Rs. 25 per month, thatchers earned from Rs. 6 to 8, day labourers from Rs. 5 to 8, sometimes as much as 5 to 7 annas a day; bricklayers earned from Rs. 10 to 18, boatmen earned Rs. 6 to 8, and tailors could earn about Rs. 6 to 12. Domestic servants earned between Rs. 5 and 10.<sup>116</sup>

There was a double edge to the concern displayed by the British. On the one hand, there was a concern with labour supply, rates of wages and an inclination towards coercive forms of labour. In the case of domestic workers, the British as employers preferred instruments of coercive control. In the very next decade, during the Ilbert Bill agitations, the racial stereotyping of 'native men' of the lower orders, especially those in menial service, as sexually predatory and threatening came into prominence.<sup>117</sup> On the other hand, Munro was not alone in his prejudice: the British in Bengal were not sympathetic with the *bhadalok*, the expanding middle class 'native' employers of domestic servants. These ambiguities influenced their approach to questions about legislation regarding domestic workers. In Bengal, officers consulted were almost unanimous in thinking that much hardship and inconvenience had resulted from the repeal of the Regulation VII and that more draconian legal provisions relating to domestic servants should be re-enacted or a new law passed on similar lines. Bengal government was inclined towards the old law. Governor General strongly recommended the re-enactment of the essential provision of Sections 5 and 6 of Regulation VII of the Bengal Code, so far as they related to domestic servants.<sup>118</sup> The Government of India, however, rejected these recommendations or any possibility of a general alteration in the Master and Servant laws. They recommended instead that a limited penal enactment given local exigencies could be undertaken for a specific area by the Bengal government.<sup>119</sup>

Thereafter, from 1872, the judiciary began to enunciate what kinds of contract could be enforced in courts and further distinguishing between the types of credit in labour contracts, i.e., between contracts based on loans and the ones based on advances against work. The magistrates set aside contracts where the rate of repayment was not mentioned or where the advances were to



be recovered from the wages rather than work. Thus the High Court could annul orders that sought to enforce what they defined as exploitative labour contracts. Yet, of course, penal contracts continued and were most extensively used in the plantations. They were finally abolished in 1925.

### **Domestic Slavery: Transactions, Marriage and Household**

The issue of domestic slavery remained central to discussions about slavery in the 1840s. The abolition of slavery in Britain in 1830 was not followed by similar legislation in India, primarily because of a hesitation to intervene in domestic slavery. Meanwhile the question of domestic work became implicated on multiple sites of law both criminal and civil, those governing master and servant relations, labour contracts as well as those dealing with slavery. It grew more complicated as abolitionist rhetoric gathered steam and opinion in Britain became divided between Indian exceptionalism and juridical opposition to slavery. The Company prosecuted European slave traders in British India from the late-eighteenth-century, but it had ignored indigenous slavery. British Parliament adopted an abolition statute in 1811 for British dominions. This was enacted as Bengal Regulation X of 1811, prohibiting the import of slaves into British India. The measure was further extended to a prohibition of girls being inducted into nautch groups and for sale and purchase of slaves in 1823. This was, however, more or less dead letter, since the Company did not seek to enforce any of its provisions. Between 1811 and 1833, there were several provincial acts to abolish slavery but they too could not be enforced with any marked degree of success. The East India Company treated slavery as a domestic and social issue since it was sanctioned in both Hindu and Muslim laws and legitimated in custom.

The Charter Bill of 1833 contained a provision for abolition of slavery by 1837. The clause was modified during the second reading of the Bill because of opposition in the parliament. Instead, the Governor-General was 'required to frame laws and regulations for the extinction of slavery, having due regard for the laws of marriage and the rights and authorities of fathers and heads of families.' In the House of Lords even this provision was resisted by some members; the Marquis of Salisbury held that slavery was a matter of caste. In 1838, to make the 1833 law more effective, the Lord Brougham and Vaux proposed a resolution, which included a clause for the abolition of praedial apprenticeship in all colonies.<sup>120</sup> By this time, the question of slavery was linked to family, caste and religion. According to C. H. Cameron, in India, slaves originated through sale of one's person or that of relatives over whom one had the right of sale

or by inter-caste reproduction, i.e., the child of a superior caste man with an inferior caste woman became a slave. The master had the power of physical chastisement and, in an extension of the familial idiom, this was compared to the right of the Englishman to use a stick to his wife!<sup>121</sup> A consensus emerged that Indian slavery was a 'domestic' matter, alleviated by frequent manumissions, not comparable to modern chattel slavery, and it remained exempt from abolitionist legislation. The Report on Slavery in India (1841) did little to dispel such notions, thus the law in 1843 that 'abolished' slavery declared the status of slavery as non-recognisable in civil or criminal courts in India. It criminalized coercive practices within slavery rather than slavery itself, by providing that what was a penal offence against a free man was to be regarded as an equal offence against any person if committed on the pretext of being in a condition of slavery. Thus, the law merely derecognized a slave holder's right to assert ownership in human property through the judicial process.

Macaulay's draft of the Penal Code (1837) contained nothing on slavery. It only offered civil equality insofar as it could be extended by means of criminal law, withdrawing magisterial support for enforcing personal subordination. Macaulay's intervention was intended to encourage masters to reconstitute their relationship with servants on the premise of contract, but it did not abolish slavery as a civil status. This provided the colonial state with a compromise formula abolishing the enforcement of the coercive enforcement of labour, without interfering directly with 'domestic' slavery. This was the route taken in the Act of 1843, which abolished slavery.<sup>122</sup> By the time the second Law Commissioners sat over the draft, the Act of 1843 had been passed. Yet, the commissioners desisted from any specific provision on slavery, only indirectly criminalizing the abuse of slaves. The provision they inserted meant in effect that no 'offence' in the IPC would be exempt because it was committed by a master on a slave. Thus, they outlawed the extra-legal powers of physical coercion of a master over a slave; some argued that this did mean the abolition of slavery in India. The commissioners argued that the problem in slavery was not that the master had the right to claim services but that they had the right to enforce the performance of these services without recourse to law. The problem was of course that such measures retained slavery as a civil status, while it diluted coercive control over servants. The WBCA was the law that filled the gap; in theory passing on the mechanism of enforcing contract (with a servant) upon the state. In yet another reversal, in Assam, the right of private arrest subverted precisely this distinction from slavery, which the WBCA was intended to achieve.

By and large, despite intermittent criticisms from the missionaries, the British approved the illiberality of Indian domesticity with its emphasis on subordination and discipline and they accepted domestic slavery as a part of this system. At the same time, they absolved it of the more extreme vices of slavery by characterizing it as mild and paternalistic. Their approach to slavery was in consonance with their policy towards domesticity. On the one hand, there was the colonial policy of non-intervention in the domestic sphere, which was reinforced by the fact that slavery especially pertained to elite households and the state was often unable or unwilling to challenge the authority of local notables, even in cases of murder of servants or slaves.<sup>123</sup> On the other hand, however, the exclusion of slavery challenged many existing forms of familial incorporation, narrowing the definition of the domestic to kinship. The two may appear contradictory, but in many ways they were not. The narrowing of the domestic was consonant with, indeed focused on, an elevation of patriarchal authority.

In the nineteenth-century, the British made a distinction between productive and unproductive labour and debates and discussions on slavery focused on Caribbean and Atlantic slavery. Even though the continuation of slave trade was embarrassing to the British government in India, the colonial state was very hesitant to infringe on the household. In their hesitation to regulate domestic slavery, the law on slavery reproduced the distinction between the public and the private. Colonial state's emphasis on domestic slavery and its characterization as benign was guided by the economic imperative of sugar competition with West Indies, argues Andrea Major. The state was attempting to show that in India, labour, however cheap, was fundamentally 'free' and thus Indian sugar would not be tainted in the abolitionist rhetoric. This dictated its ambivalent response to Indian slavery, which it was argued, was marked by caste, indebtedness, paternalism, reciprocity rather than the usual markers of slavery such as natal alienation, coercion, social death or violence.<sup>124</sup> The notion of a benign and paternalist slavery was challenged by the frequent mention of physical cruelty, which often led to escape attempts.<sup>125</sup>

The wide prevalence of slavery among elite households posed a dilemma for the colonial state. The landed elite, who played a critical role in the evolving British legal system, were mostly slave-holders. Thus, kidnapping, child stealing and slave trade became serious crimes while slavery barely figured in the legal system. Even the abolition laws desisted from any attempt at defining slavery. The paternalist and symbiotic relationship between masters and servants was emphasized, cases of torture and exploitation seen as exceptional or accidental. The perceived mildness of slavery was the cited reason the government did not take a serious stand against it and whatever measures were taken was always inflected with caution and balance. Much of the

‘moral’ argument against trafficking was subverted by its entanglement in kin networks, which provided a strong contrast to Atlantic slavery but also became a convenient alibi for the colonial state. This feature of Indian slavery will be discussed in more detail below.

The equivalence with domestic slavery allowed the state to domesticate slavery; the state argued, more or less along the lines Buchanan had, that slaves were treated with utmost compassion and that domestic slavery played a positive social function in providing a safety net for the poor and the destitute in the absence of public welfare institutions. British officers were unwilling to act against it even when there was a demand to do so and suggested a gradual approach because Indian elite households depended on the existence of slaves for social prestige as well as for their daily chores. Thus, domestic servitude proved most stubborn and resistant to intervention; indeed, the colonial state did not want to intervene in the existing system. The government tried its best to ignore disputes arising out of domestic slavery. That is to say, it was legally abolished—masters could not take recourse to the courts to protect or uphold their right but nor did the state launch any direct attack on the system. Moreover, officers who were required to enforce the law were sometimes themselves slave holders; the message was never disseminated that slaves could or should assert their right to freedom. Neither the Act of 1843 nor the IPC provided any clear definition of slavery; there was little attempt to systematically apply these provisions; and cases relating to slavery continued into the first decades of the twentieth century. Even after abolition in 1843, many slaves continued as servants or apprentices. The state did try to make a distinction between domestic slavery and domestic service, i.e., between domestic service rendered within a dependent relationship and that rendered in exchange of wages. Indeed, Buchanan too made the distinction between ‘free’ servants and domestic slaves. But throughout the nineteenth-century and well into the twentieth, domestic service remained a combination of slavery, debt bondage, forced labour and wage labour.

The characteristics of domestic slavery were kinlessness and alienation. Also, unlike in agrestic slavery, there was no reciprocal obligation. Domestic slaves were acquired mostly through kidnapping, distress sales, debt bondage, voluntary sales, marriage or cohabitation with other slaves. Within a household, the position of domestic slaves could vary considerably. Some rose to positions of significance and influence in the house, especially in elite and Muslim households, while others led lives of drudgery. In Hindu households, this may have followed caste lines but not invariably. Both high and low castes were slaves, including in Muslim households. More usually, however, higher castes owned lower caste slaves. Among some of the lower castes, such as the doms, nearly three-fourth of them were slaves of one sort or

another. In eastern UP, chamars were landless labourers who did most of the work for the Thakurs. Chamar women were domestic workers in dependent relationships and did everything except kitchen work. They were usually paid in grain, cloth and cooked food.<sup>126</sup> In elite Hindu households, slaves of higher castes could be deployed for cooking and looking after children. Indeed, slavery did not entail loss of caste. In some cases, caste rules were strictly followed in the employment of slaves—thus, very low castes were not employed as domestic slaves but as agrestic slaves, especially by Brahmans who did not till the land themselves. These slaves did some amount of heavy domestic work, but not cooking. In the British perception, the domestic service relationship, though not reciprocal was similar to that of patron-client—servants were fed and clothed and looked after in old age. The relationship was also portrayed as paternalistic: masters often arranged marriages; slaves were thought to be better off than other domestic servants because they were better cared for while they had more or less the same rights of protection as other servants in law. However, they could not sue for wages and they did not have right to property. Moreover, since slaves were hereditary property, any interference of the state was considered an interference with proprietary rights and interests.

Akanksha Singh shows that in some areas like Aligarh and Allahabad, slavery was more an urban phenomenon and restricted to families of respectability. In Bundelkhand and Kanpur, there was very little slavery among Hindus but it was common among Muslims. Slavery was most common in the hilly tracts. In Kumaon, where transactions in persons were commonplace, slaves were mostly women, who were domestic slaves employed in high caste households, with respectable families owning as much as twenty or more slaves. It was legal to execute a deed of mortgage for labour service, but the sum was paid to the father or guardian rather than to the worker. According to Singh, native judges though often ruled against slaves who were liable to render labour service even they got nothing from it. The Raja made a proclamation making it illegal for parents to sell their children in 1818. In 1824, the sale of wives and widows was prohibited; the women who were sold would be freed and the seller fined according to the price taken. In 1836, it was declared that no suit for a slave would be entertained. Nevertheless, the sale of slaves by deed continued till 1835 but only if they were signed by parents; other relatives were not allowed to sign such deeds and in the case of sons, only the father was allowed to execute deeds of sale. After the proclamation, the buying and selling of persons was severely punished but prostitutes continued to buy adopted daughters, called *dharmaputris*, for their trade and the law did not prohibit this.<sup>127</sup>

What little discussion there was in India, focused on the south where there was a prevalence of agrestic slavery. The domestic slavery of north India was left out of the frame as far as possible and it was not subject to legislation even when other forms of slavery were 'abolished'. It was generally accepted by the British that domestic slavery was customarily a component of the 'government' of families, i.e., according to law and custom, a part of the right of the head of the family. Thus, slave-holding became indistinguishable from family authority and, significantly, spoke to forms of incorporation other than marriage and gestation in the family-household, a non-kin based aspect of the constitution of family-household.<sup>128</sup> As already mentioned, in their first attempts to abolition of slavery in India in 1833, the British parliament instructed the Company to have 'due regard to the laws of marriage and rights and authorities of fathers and heads of families'. This proviso covered many concerns. At one level, the familial metaphor sanctioned the use of coercion and violence, as emanating from the 'natural' authority of the paterfamilias. This could be extended to minors, even within laws of contract, as discussed in the second law commission. It was also extended to women; thus, female slaves were included in the rights of correction male heads of households exercised over women in the family. At another level, however, slavery could be folded into family through marriage, which involved the exchange of women. The ubiquity of transactions in marriage established a strong relationship between family and slavery. It became difficult to distinguish between *sale of wives* and *sale of women as wives*. There is considerable evidence in Bengal, for instance, of trafficking in brides, in ways that render various streams of trafficking of wives, of prostitutes and of slaves virtually parts of the same process of circulation of women. The modes of control in the family, especially of women but also of children, further complicate considerations of slavery. These issues were, moreover, not unique to India in the nineteenth century. In the USA, for instance, quite apart from the slavery in the south, labouring arrangements were predicated upon tight patriarchal control of women and children beyond adulthood.<sup>129</sup> There is not a binary between the 'free' and 'unfree' operating in these relationships as much as degrees of control and autonomy, i.e., degrees of bondages.

From Buchanan's description, there can be little doubt that domestic slavery involved transactions; slaves were chattel and commodity to be bought and sold. Indeed, slave trade was very lucrative throughout the nineteenth century. In the pre-colonial period, the slave traders were mostly Arabs; in the colonial period, there was extensive involvement of European traders as well. There was some presence of African boys, for instance, as slaves in elite Indian households and courts. The British toleration of domestic slavery did not extend to slave

trade. The trafficking of slaves was considered a serious offence because it was an attack on the sovereignty of the colonial government. It constituted a disruption of law as well as of social order. The main focus of British Indian state was import and export of slaves rather than internal slave trade, though that too was a concern.<sup>130</sup> On the whole, however, the trade in domestic slavery because of its 'domestic' and familial character proved very difficult to address. Radhika Singha argued a close connection between thugs and slavery, exemplifying in the colonial mind the close connection between slave-trading, itinerancy and lawlessness. The existence of organised gangs, who undertook traffic in women and children, facilitated a focus on organized crime rather than individual crime, which in turn contributed to the failure of the law on kidnapping.<sup>131</sup> The IPC had made kidnapping and dealing in slaves illegal but the colonial state was often unwilling to intervene in what was perceived as a domestic issue and trafficking in respect of domestic slavery was rarely reported and difficult to prove in the courts. By and large, the state paid little attention to these forms of trafficking, but the overall failure of the laws on kidnapping led to a proposal in 1901 to amend the law, separating issues of kidnapping from British India and within it. In cases of kidnapping, for instance, recovered children were supposed either to be restored to the family or the boys sent to the navy or taught skills so they could earn a livelihood. Girls were to be sent to charitable institutions or married off or given as servants where they would be fed and clothed, but not kept as slaves.<sup>132</sup> Clearly, however, the state failed to curb trafficking in children and indeed it is not clear how much effort was made towards such an end. Rather, the debate over 'recovered' children indicates the state's acceptance of their failure in this respect.<sup>133</sup> The real difficulty was in policing the boundary between the domestic realm of the household and public trafficking. The public traffic of women and children brought the commodity market in embarrassing proximity to the domestic sphere, challenging the state's defence of slavery as benignly domestic—especially since the disruption of family was the prime argument against Atlantic slavery and fuelling the abolitionist rhetoric. In the Indian case, the constant interface with trafficking indicated a 'dangerous fluidity' at the boundaries of the household, a pressure on the productive cycle or an unsettled state of society, writes Radhika Singha.<sup>134</sup> These came into prominence again when debates over white slave trafficking was revived in the 1920s leading to the international convention on 'immoral trafficking'. Generally speaking, the connection between trafficking and domestic relations, gender and generational, was a constant theme throughout the colonial period.<sup>135</sup>

In cases pertaining to slaves, the parties were usually referred to civil courts, which usually recognised possession, right to service and even at times upheld right to buy and sell with

reference to Hindu or Muslim law, which meant, however, that only Hindus and Muslims could enforce their claim on slaves, since there was no other law in British India sanctioning slavery. The construction of the domestic through personal laws was extended to domestic slavery. For instance, the existence of ‘secondary’ wives, often synonymous with *dasis* or *bandis*, concubines or slave-women, became legitimated through the defence of polygamy in Hindu and Muslim personal laws. There was an implicit acceptance of the continuities between marriage, domestic service and trafficking, all of which operated in the context of a thriving market in slaves. In the early years of colonial rule, magistrates often restored absconding women to men who claimed them, even if they were brothel keepers or managers of dance troupes. Later, they either refused to intervene or in some cases they were set free. For instance, in one case where slave girls were accused of absconding, the court entertained the petition on the same ground as that of a servant but when it was found that the girls were detained for prostitution, they were set free. There were a number of such cases. In one case, a dancing woman claimed two girls who had been sold to her but the girls were of marriageable age and had been sold against their will and consent. The claim was disallowed. A young girl wanted to be emancipated from the control of a woman who used her as a prostitute and appropriated her earnings. In another case, a man had a favourite concubine (slave), who was turned out by his wives. She wanted to return; reconciliation was reached; and the girl restored.<sup>136</sup> Muslim men often went through a form of *nika* to retain control over female slaves, or in some cases the deed of conveyance was replaced by deeds of lease. In all these variations, marriage was a key device to cloak slavery and to retrieve runaway slaves, which speaks to the nature and understanding of marriage in Hindu and Muslim law as well.

In 1871, in Backergunge, a district of Eastern Bengal, a case was registered u/s 370 of the Indian Penal Code by the government against Meer Forman Ali. On 12 July that year, two police sub-inspectors entered the *bari* of the accused to search for some stolen property. At that time, four women came out from the northern house, the inner apartment, and complained that Forman Ali had detained them as slaves, and asked for their liberation. Sub-Inspector Durga Dass took their testimony separately and submitted four cases. Of these, Abetunnessa was a native of Calcutta, and the other three were residents of different places of the Dacca district. The cases were amalgamated and made into one compounded case. According to Forman Ali, the women had not been detained by him and not found by the police in his house. After investigation, Syed Abdollah, Deputy Magistrate, determined that the women were actually found in Forman’s house and had been detained by the Meer against their will as



slaves. No motive could be established as to why Durga Dass would get the women from elsewhere and bring a case collusively to implicate Forman Ali. It was argued that Durga Dass was related to an enemy of Forman, but the magistrate was not willing to accept such an imputation against a public servant. After hearing the evidence of the women, and that of the two sub-inspectors, the magistrate determined that Abetunnessa, her daughter, and Perijan, had been enslaved as alleged. The women's appearance was wretched and deplorable. Abetunnessa told her story in some detail: About five years ago Meer Forman Ali went to Calcutta where she lived with her mother upon the death of her husband and employed her as a cook; he then held out promises of marrying her (*nika*), inducing her to come to him accompanied by her mother and daughter; her mother and daughter both died about two or three years ago; and the three women had been subjected to ill-treatment and slavery till liberated by the police. The other three women supported her statement; all three had been detained and treated as slaves, to labour against their will, and without any salary. They called themselves *bandis*. Two were rather older than the third, and one of them admitted that she had given birth to a child by the prisoner's brother (cousin), and she could be regarded as a concubine. The other stated that she was deceitfully enticed to the prisoners' house, though her mother knew where she was and had been to see her, and had received money from the prisoner. The third girl stated that she and her family came and settled nearby and that she and a sister-in-law were left with small means by the sudden death of her husband and her parents, and that the prisoner's wife then sent for her.

According to Forman's testimony, all the women were married and were living with their husbands, who were his ryots and servants. The magistrate, however, did not accept this evidence on the ground that a wife, ill-treated by the husband, could not be detained against her will. Certainly, no husband had any legal power to make his wife, against her will, a slave of his master or landlord. Of course the law would not interfere where the husband and the wife, or the wife herself, at their or her own free will, served a man; such a man would not be accountable under section 370 or any other section of the Indian Penal Code. But if the wife was kept and detained against her will by a man, as a slave in collusion with her husband, such collusion of the husband could not be upheld. Moreover, Abetunnessa deposed that that she was not married to Shurrufolla, the man said to be her husband. The other women deposed that they were not married. In any case, their detention against their will as slaves was unlawful and an offence u/s 370 of the Indian Penal Code. Forman was committed for trial to the court of sessions.<sup>137</sup>

G. G. Morris, Session Judge of Backergunge, however, disagreed radically with the Deputy Magistrate's reading of the case. While agreeing that the evidence indicated that Abetunnesa was induced under false pretences to leave Calcutta and was detained by Forman Ali against her will and employed in a menial capacity, he argued that the ordinary *bandi* or so called slave-girl, in a Mussalman family was not a slave in legal terms. He argued that the Penal Code did not in fact define slavery. According to Blackstone, slavery is that 'civil relation in which one man possesses absolute power over the life, liberty and fortune of another'. Morris did not believe that this description fit the *bandi*. If the story as told was true, he argued, Forman Ali was guilty of wrongful restraint or confinement, but not punishable under the ground of practicing slavery. He wrote,

In India itself, although the treatments which some unfortunates receive at the hand of their masters may well entitle them to be regarded as slaves, there is no such thing as slavery proper, the said master being penally liable for any act which they may commit in violation of the liberty of the subject.<sup>138</sup>

And again in his judgment, the additional session judge, A. Maclean, repeats the same argument:

It seems hardly necessary to say that the offence with which the prisoner is charged, viz., detention as slaves of three girls is one which would hardly be brought home to any one on British territory, who has not engaged in exporting and buying or selling human beings into servitude, slavery, or in other words, that civil relations in which one man possesses absolute power over the life, liberty, and fortune of another does not and cannot subsist in India, nor had the relations between the prisoner and others girls their origin in captivity, purchase or birth.<sup>139</sup>

In his interpretation, the provisions against slavery applied only to meet the case of persons dealing with slaves in communication with a foreign country where slavery obtained. Further, he argued, that Syed Abdollah's interpretation was allowed to stand 'every Musselman in the country who possesses a "bandhi" would become liable to a criminal prosecution'. The same charges could be preferred, he argued, against 'every Mahomedan above the rank of cultivator'. *Bandis* were not slaves, argued officers. The possession of female slaves was, as Buchanan had argued, linked to rank and status. The elite Muslim household was most protective of the seclusion of the *zenana*—magisterial authority was thus helpless before arguments about cultural exceptionalism. Indeed, in the case of the third girl, who had been given a job by Forman Ali's

wife, the Judge commented, 'In some countries this would be lauded as charitable conduct'. He also found no ground for arguing a loss of personal liberty. One girl's story, he reported, showed that she lived under no sort of personal restraint within the premises since she accompanied the prisoner's wife on a visit to a friend's house. She was made to do all sorts of household work, and received her food and two pieces of apparel in the year. Their condition was simply that of 'a servant who worked for her maintenance, or, in other words, maintained for her work'. Moreover, Forman Ali lived in one of the ordinary houses of this country, with only an enclosing fence to secure family privacy. There was no visible obstacle to the women running away— though indeed one did but was caught and restored to him by Forman Ali's ryots. The Judge believed, on rather flimsy ground, that the younger woman 'conceived the idea of settling herself down as the wife (*nika*) of some man'. Since the 'master' had fed and clothed her and was not proved to have ill-used or forcibly detained her, he should not be criminally prosecuted for keeping a slave. Morris, the session judge, had recommended to the High Court that the commitment be quashed but the High Court did not agree.<sup>140</sup> Forman Ali went to trial but was acquitted by Maclean in the session court.<sup>141</sup> The Government of Bengal did not dispute the acquittal but considered that 'slavery short of the definition' given by Maclean did exist and there were incidences of penal criminal restraint of young women within elite homes. While the British Indian Government did not recognize the position of a slave, officers believed that the domestic practices of the Muslim community included relationships similar to slavery and was liable to punishment. If the women were detained against their will, in a condition which both parties considered slavery, then Forman Ali should have been held guilty.<sup>142</sup>

The case did provoke some discussion on domestic slavery. The Commissioner of the Dacca division reported that while this was an exceptional case, there were cases involving persons treated as slaves, such as *baijees* and *dassees*. Officers agreed that women were 'kept' in the houses of the wealthy and were part of the household; they were maintained but not paid wages; they may have in some cases been treated as members or servants of the family. While they found such customs to be 'objectionable', they also recognized 'certain advantages' since the 'women were generally poor, had no means of subsistence, had no relatives of their own willing to support them, and were perfectly happy and willing to remain' in the households on these conditions; most importantly, they were considered to be at liberty to leave.<sup>143</sup>

The law and practice of slavery among Muslims remained a matter of discussion in official circles. Even as the British cited slavery as a retrograde aspect of Muslim society, reformers

tried to distance themselves from the custom and argued against it on grounds both of religion and humanism. In 1808, the muftis of the Company's superior court had provided the means to liberate whole groups of slaves within the provision of Islamic law, but these were not utilized. The British used criminal law to emancipate individual slaves in case of cruelty, which was not permitted in Islamic law. At that time, the measure allowed magisterial intervention in case of injury to person while preserving slavery as a civil status. Over time, the question of female slavery in Muslim household became increasingly entangled in questions of domestic authority and was linked to the sexual and reproductive services they performed. Thus, concubinage was a significant aspect of domestic servitude in, especially, elite Muslim households. When disputes arose, as in the cases cited above, the legality of female domestic slavery and concubinage became linked. Since Muslim law did not allow concubinage, the practice had been cloaked by female domestic servitude. The British, unable to find any legal basis for the institution of concubinage, but finding it widely prevalent in practice, relegated it to a 'customary' form of domestic servitude. With the abolition of slavery, the issue of concubinage became even more fraught, in double legal jeopardy, but far too entrenched in custom for the state to wish to mount any serious challenge.

The issue of concubinage draws attention to the interlinking of marriage and slavery. The legal problems of addressing concubinage inhabited not only the grey area of domestic slavery but also the fuzzy edges of marriage law and the inability of British Indian law to address questions of transaction in women and children that were embedded in family law and practice. British Indian state avoided confronting harsh realities of slavery, but they were forced to address import and export of slaves, which spoke to issues of political sovereignty. The existence of a brisk internal trade in women and children was more difficult to address since they raised contradictory issues regarding colonial policy towards the domestic sphere. Children were sold throughout the territory by *dalals* (brokers) who presented themselves as parents/relatives. Before 1833, these sales were recorded in deeds properly written and a fee was deposited with the *kotwal*. These slaves were usually inducted into aristocratic families as domestic servants and/or concubines, or in nautch troupes or as prostitutes in brothels. The close connection between trafficking of slaves and the domestic domain became problematic for the government. It was argued by many officials that an unregulated right to sell and buy slaves encouraged kidnapping and inveigling of women for sale into prostitution. The issues of kidnapping and prostitution were entangled with parental authority, marriage, concubinage and domestic slavery. The sale of children and wives were justified morally by poverty and as a safety net such as at

times of famine. If, however, the state accepted parents' right to dispose their children in times of scarcity and distress, it further complicated the legal question of transactions in persons. In his discussion of slavery and kinship, Charles Piot points out that there were cultural practices which legitimated the sale of kin to slavery. The Kabre society was based largely on giving and taking of gifts, which was done not only for economic reasons but also to establish new social relationships. A child could be sold into slavery by the mother's brother (maternal uncle) as part of his right over his sisters' children. The idea was that since the mother had been fed and taken care of by the brother till she got married, he had the right over her children until the father had fed the children long enough to compensate or return the favour. The practice of selling relatives into slavery poses a challenge to western dichotomies between persons and things—the idea that things are alienable while people are not. Thus, the understandings of slavery is itself different—people are not *like* things but saleable *as people*.<sup>144</sup>

In the 1830s, the drought in northern India raised the question of sale of women and children. In Bengal, these discussions reached a peak in the 1860s. Government of Bengal had held correspondence with district officials in which the spread and extent of concubinage had in particular been emphasized. These concerns were heightened during the Orissa Famine 1866 when the sale of children raised the possibility of new legislation. These discussions included the problems related to female slaves and *dassees*, domestic slaves and servants, usually indistinguishable. On 12 January 1870, *Abalabandhab*, a journal published by the Brahmo Samaj, highlighted the sale of women in Dacca. According to the story, pimps procured prostitutes in Calcutta and sold them in Dacca. There was no outright sale, but was 'executed under cloak of a bond for money supposed to have been advanced to the women, whose services are at the disposal of the master under the bond so long as the principal with interest is not refunded. But this is impossible, as the interest charged is exceedingly high.' The writer suggested that, if voluntary, these bonds should be registered and it should be ensured that the amount mentioned as advance was actually paid to the woman. The writer referred to the government's own concerns about the vast numbers of boys and girls sold by their parents during the Orissa Famine and discussed possible measures to check such transactions.<sup>145</sup> British officialdom corresponded to and fro as to whether such bonds should be registered. The Magistrate of Dacca replied that no such complaint had ever been made to him. Moreover, since the report did not imply that the women were taken by force or confined, he was unsure about the nature of the allegation. He further believed that it would be difficult to use force against a prostitute who had no objection to appearing in public. He admitted, however, along

with the Commissioner of Dacca, that many Calcutta prostitutes were brought to Dacca.<sup>146</sup> According to the Commissioner, there was no necessity of enticing prostitutes from Calcutta, since they came in droves of their accord when the Contagious Diseases Act (Act XIV of 1868) was first enforced in Calcutta. However, these migrant prostitutes were reported to have gradually disappeared again.<sup>147</sup> The Magistrate reported having come across many Calcutta prostitutes in Dacca, who were as a rule married by *nika* and divorced several times in the year. Such women, might, he supposed, choose to bind themselves down. But an adult woman had a right to do so and to remain in an agreement if she chose. The consideration being an immoral one, such agreements were invalid in law and unenforceable through the courts. He rejected the proposal of registering such deeds on the ground that it would be legalizing an illegal act.<sup>148</sup> Other officers supported non-interference: the concubinage that commonly prevailed was 'a perfectly free act on the part of the women', terminable at pleasure if the woman was dissatisfied with her position. They did not feel that the government could or should interfere with these matters.<sup>149</sup> The Commissioner of the Dacca division reported that '[d]eluded women are not thus sold' though the practice of concubinage was extensive. There were procurers, who were paid, but the arrangements were not made through formal bonds and agreements were not registered. The women stayed as long as paid sufficiently and if they were underpaid they left and there was no objection.<sup>150</sup>

There was extensive debate about the sale of children, especially the sale of girl children to prostitutes following the Orissa Famine. The Abalabandhab report raised this question in relation to Eastern Bengal. Since the purchase of children for the trade of prostitution was an offence under the Penal Code, local authorities had to take this charge seriously and were asked to enforce the penalties of the law whenever prosecution could be sustained.<sup>151</sup> The Commissioner reported that there was no direct link; that is to say, children from Orissa were not brought up to Dacca; they stopped at Calcutta. Indeed, 'charitable persons were on the look out to receive these unfortunates as servants', but very few were found. In one case, a woman took in a girl, but she went wrong in spite of all the lady and her husband could do soon after she reached nubile age. The sale of women was not customary, except in the case of female servants called *dassees*. At the same time, he believed that 'almost a rule without exception' every Hindu and nearly all Muslim girls of low family, who were not married when quite young, became prostitutes or something 'resembling' them. There was a large, rich and idle population at Dacca and its immediate neighbourhood and 'naturally' many such women were brought to the city.<sup>152</sup> The cases that reached magistrate courts were not so much those pertaining to domestic slaves, the Buckergunj case being an exception in this regard, but more often those of

prostitutes and dancing girls seeking emancipation. The Magistrate of Dacca agreed that the sale of children to prostitutes was common in the area. 'Every prostitute tries to have a little girl to bring up in her trade, to maintain her when she gets old', he wrote. If prostitutes did not have their own daughters, they bought them, and the custom was very common. It was, however, impossible to prove these cases unless caught at the time of purchase. The defence story was generally that the child was given by a deceased prostitute and adopted. In one case, a woman put in a petition stating she could not support her child, and asked permission to give it to a prostitute. The Magistrate did not allow it; threatened her with punishment; but the chief problem, that she could not support the child, was not solved. While poor parents were willing to sell and prostitutes willing to buy, the practice would be difficult to stop and officers were aware of this. Nevertheless, there were various suggestions regarding the registration of prostitutes with their children. Of course, the monitoring of childbirth among prostitutes would be fraught with even more difficulty.<sup>153</sup>

Not only did both indigenous law and custom sanctify the rights of the head of the family in the persons of women and children in the household, such transactions was and remained a legitimate and reasonable source of slaves in India. British officers argued that there was no point in restoring children, abducted or sold, to poverty-stricken families. In case of girls, the family might sell the restored girl into prostitution, which they believed to be worse than servitude and concubinage. The courts too often took a sympathetic view of sale of children among the poor. Shamasoondery and Lukhikant sold a minor girl to Bengee, a prostitute. Since all three knew that it was likely that the girl would be used for prostitution, they were punishable u/s 372 and 373 IPC. The judge sentenced all three of them to three years in rigorous imprisonment. The jury were unanimous in their verdict that prisoners Lukhikant and Bengee were guilty, and a majority of six of the jury found that Shama was guilty.<sup>154</sup> Similarly, Pathu was convicted unanimously by the jury for selling to a prostitute his two-year old daughter. The two prostitutes, Kumaree Peshagur and Shama Peshagur, who bought the girl were also unanimously convicted. The jury recommended that Pathu be treated with leniency because he was poor and had no wife to look after the child. Thus, Kumaree Peshagur was sentenced to three years' rigorous imprisonment, Pathu for two years, and Shama for one year.<sup>155</sup>

Singh writes that in Kumaon, where transaction in persons was commonplace, women nevertheless were more commonly enslaved. She draws the link between marriage, kinship and slavery. The sale of wives and widows was extensive in the region, she argues. Such transactions may have originated in the custom of the seducer paying a sum of compensation

to husband for injury sustained.<sup>156</sup> This transaction was always accompanied by a deed of sale by the husband. In case of widows, the new husband paid a sum to the family of the deceased husband as the discharge of debts which devolved on the widow. Sometimes even after a second marriage, the family of the second husband would not let go of the widow and would sell her to highest bidder. Indeed, transactions and slavery were so embedded in marriage practices that men, if unable to pay the price for the purchase of a bride, had to pledge a period of service. Thus, marriages were difficult to disentangle from sale and purchase. Such proliferation of transactions attending marriage, re-marriage and divorce followed from the economic logic of brideprice, but they became a means of evading the law after 1824, when the sale of wives and widows was prohibited.<sup>157</sup> Thus, new laws drew new lines between marriage and slavery, which may have been difficult for colonial courts to enforce.

Indrani Chatterjee argues that sale and purchase were not antithetical to notions of kin-constitution; thus, slavery was in fact inclusive of kinship.<sup>158</sup> In South Asia, remarks Andrea Major, slavery is not always marked by ‘social death’: ‘kinship and kinlessness were not simply biological states in pre-colonial India but were socially constructed and negotiated conditions that could be fluid and complex.’<sup>159</sup> This is particularly clear if we compare marriage with slavery. The usual markers of slavery are natal alienation, coercion, social death or violence. Clearly, marital and domestic relations partake of much of these features of slavery. In north India, the emphasis on village exogamy and the notion of incorporation into marital lineage upholds marriage as natal alienation; widows suffer social death; coercion and violence is integral to marital relationships and routine to the exercise of marital authority. These commonalities reinforce the image of slavery as domestic but also suggest its opposite—that domestic relationships were *like* slavery.<sup>160</sup> As demonstrated in the Forman Ali case, marriage was often the alibi for slavery and concubinage. British failed to understand the institutional links between marriage and domestic slavery. They complained of the laxity in the laws of marriage, especially Muslim marriage practices, but the fuzzy line between marriage and concubinage, and trafficking and marriage transactions, was an important element in constitution of households. Thus, abducted women were sold into marriage, not as the British believed in the ‘pretext of marriage’. For instance, slave holders forced women to undergo a *nika* ceremony to prevent their running away or enable their restoration if they ran away. But the British explicitly accepted ‘forced’ marriages and denied consent to women in marriage within Hindu law; there remained little thereafter to distinguish such marriages from the regular marriages upheld by the British courts.<sup>161</sup> Within the internal slave market, women and children commanded higher prices, since they



were more controllable and because women provided sexual and reproductive services along with domestic and menial labour. Prices were higher if the female children belonged to higher castes, such as Rajputs. British attempted to distinguish between male property rights over women and children in the family and the flourishing 'illegitimate' commerce in women and children, but there was no such distinction in custom. In the nineteenth century, brideprice marriages remained widely prevalent; payment of money for a bride was socially accepted while the resale of a wife by her husband or widow by her son or relatives was also widely practiced, accepted as 'tradition' in some parts of the country. The custom of a lover or a second husband paying compensation to the first was in many cases the chief ingredient of divorce and remarriage. The British tried to reinterpret or restrict such practices, but without much success. They were not willing to challenge transactions attending marriage and remarriage, but such transactions were distinguished from ordinary trafficking or sale and purchase. It often proved impossible, however, to distinguish the compensation from a collusive sale, indeed the courts could exercise no control over such transactions unless there was explicit evidence of 'immoral' purpose. The multiplicity of marriage practices defeated categorisation but the minimal attempts made towards that end may have had the opposite effect—rather than curbing trafficking, they delegitimised forms of marriage not included in the narrow range of *sashtrik* prescription such as bride price, divorce, remarriage and widow remarriage. Even so, such delgitimation had uneven effect.<sup>162</sup> The difficulty of policing the *zenana* meant that the state was unable to control trafficking in women and children, whether for marriage, domestic slavery or prostitution.

In the nineteenth century, kidnapping, stealing and sale of children was the most common source of procuring slaves. The traffic in children and women was often connected in official discourse and linked to prostitution. Even after the passing of the Act V of 1843, the sale of children remained a contentious issue, especially because the issue was so closely related to debt bondage and slave trade. In the course of the century, the extent of debt bondage increased; and it applied to the whole family, including women and children, often becoming hereditary and thus perpetual. Many suggestions were made but no official policy was enunciated and no further legislation on the subject was undertaken until the IPC, which made the possession of child slaves and trafficking in children illegal. In fact, the IPC had little teeth, trafficking in women and children was expanding and becoming more clandestine. There were network of abductors across the country, indeed labour agents active in the countryside for recruitment for overseas colonies and later for Assam plantations, became associated with the opprobrium

of child-stealers and became known as ‘man-stealers’ or ‘man-sellers’. There were overlaps between all these forms of labour mobilization, and as in case of plantation recruitment, so too in case of slave trade, government officers down to the village level charged commissions and had a share in the profits.<sup>163</sup>

As in the case of other forms of labour mobilization in the period, the increase in debt bondage and the sale of children was linked to revenue payments. Even the Awadh troops sometimes sold their women and children to pay revenue arrears. When poverty induced families to sell their children, daughters were sold more readily, partly because there was a more ready market in girls, they fetched higher prices and parents retained sons as a resource in old age.<sup>164</sup> Since daughter would in any case be transacted out of the household, i.e., in marriage, daughters were sold more readily. This again indicated the close connection between marriage and trafficking.

Indian Law Commission Report on Slavery (1841) established a strong connection between caste and servitude. Historians have affirmed these connections since different castes came to be associated with servile labour and landlessness, inequality and social hierarchy became imbricated in slavery. Dharma Kumar showed the presence of landless/agricultural labour and the close relationship between agrestic labour and caste prior to colonialism, thus challenging the orientalist notion of a self-sufficient village economy populated by peasants and artisans.<sup>165</sup> Gyan Prakash challenged the traditional binary between slavery and free labour, arguing a continuum of power relations within different labouring arrangements. In non-western societies, especially, where the prevalent idiom of power was a more personalised one, the opposite of slavery may not have been freedom.<sup>166</sup> Patterson, for instance, suggests looking at many facets of power involved in slavery. Even in the west, inherent inequalities in labour relationships ensured the survival of several forms of servitude and bondage after abolition had legally and technically freed all workers.<sup>167</sup> Thus, the understanding of slavery cannot be limited to the purely legal. In colonial India, slavery was not tethered as a legal category; it was abolished but not defined in British Indian law; it remained in Hindu and Muslim law but such legality was upheld in intermittent and uneven ways. The British in India participated in the *practices* of slavery, which remained in ambiguous interplay with its legality. The use of coercion or violence to maintain control, the use of persuasion to convince subordinates to submit, the notion that slavery was *better* for slaves, that, e.g., domestic slaves were better off than free domestic servants were ideological and pragmatic instruments of control. Such instruments worked in tandem with social legitimation of extra-economic forms of control and personal authority exacting dutiful compliance and obedience as socially appropriate behaviour.

After the abolition of slavery and with commercialization, in many parts of the world, especially in the colonies, the instrument of labour subordination ceased to be 'personal status' and was replaced with money. Thus, debt replaced 'trafficking' (sale and purchase) as the primary mode of labour control. Debt bondage helped to veil the inequality of personalized relationships and to create a different mode of structuring unequal and dependent relationships. Indeed, the logical culmination of contract within labour flows of the British imperium was in indentureship, which drew on laws and cultures of servitude. A form of labour introduced after the abolition to *replace* slave labour became in fact its equivalent. The WBCA, for instance, converted slave-holders into masters controlling their servants through contract based either on debt or on advances. The law conferred on the master, often the colonial state itself, the right to coercively extract labour from their servants.

## **Conclusion**

In the context of South Asia, it is difficult to speak of freedom versus unfreedom or indeed, its legal equivalent for labour, i.e., contract versus slavery. South Asian history does not support a clear binary between the two, rather there are striking examples of slave and servile characteristics within legally regulated contract labour. Indeed, the British argued that in the context of domestic labour, unfreedom was better compensated. The question of what constitutes freedom within grossly unequal labour relationships remains a question but one that constantly re-invokes the divergence between legal and social categories in the context of a predatory colonial capitalism. Questions of freedom and unfreedom are then better posed as a matter of degrees rather than as oppositional binaries. Singh argues that contract encapsulates freedom and unfreedom together. The history of contracts in labour arrangements in South Asia exemplifies and complicates the distinction of freedom and unfreedom and the contrast with slavery on which it draws its moral force. It is perhaps revealing that forms of forced labour, such as *begar* and impressments, remained widespread throughout and after colonialism.<sup>168</sup> The statement regarding forced labour compiled in 1930 indicates that, a century after its abolition, many forms of forced labour remained accepted practice. The chief problem was that the line between legal and illegal forced labour was always thin—and sometimes non-existent. In this too, juridical differences were at variance with practices on the ground. Thus, most labour was forced labour of one kind or another. Tanika Sarkar argues that in the Indian context slavery is difficult to distinguish because extra-economic coercion existed in virtually all forms of labour, including most forms of wage labour. So the British placed all forms of slavery under

one category and then differentiated between agrestic (south) and domestic (north). However, these complications in the concept of 'free labour' is not unique to South Asia alone but inherent in the widening inequality in labour relationships in the eighteenth and nineteenth centuries. Even in the Atlantic context, the concept of free labour was an incoherent concept, law continued to accommodate newly emerging forms of labour such as debt peonage, which militated against freedom. According to Breman, only those forms of labour that are rooted in non-economic coercion should be regarded as slavery. In some forms of unfree labour, workers perceived a desirable form of 'subsistence guarantee', the loss of which he calls 'depatronisation'. In his later work he argues that new and different forms of bondage are central to capitalist growth in Gujarat. Unfree labour is problem of capitalism itself and a means of accumulation because debt can become the chief instrument of proletarianisation.<sup>169</sup>

Gyan Prakash has opposed the general tendency in South Asian scholarship to dwell on debt as an instrument of unfreedom in South Asian labouring arrangements in the colonial period. The thrust of his thesis is that all sorts of unequal relationships of dependence became constituted as unfreedom during colonial period precisely because of the domination of the western discursive binary between free and unfree labour, a discourse that emerged from historically specific trajectory of early capitalism in Europe. A variety of patron-client relationships existing in South Asia were reconceptualised as debt bondage in the post-abolition period. The category of the indebted serf was juridically produced in the context of a normative understanding of 'free' workers as the only legal possibility. In colonial law, the *kamias* were innately free but enslaved by debt, their 'rights' suspended until the repayment of the debt, which could be lifelong or even heritable. The notion of debt bondage extricated the *kamias* from corporeal slavery to debt bondage, a juridical transformation that did not necessarily change the content of the relationship or their experience of it. Such a juridical category of bonded labour, indeed the very notion of it, did not derive not from customary relations in South Asia; it came into existence because it was viewed from the prism of 'freedom'. Moreover, in the colonial period, debt itself became linked to an emerging money economy.<sup>170</sup> Singh argues that debt bondage enabled the dissociation of unfreedom from caste and religion. She quotes Jacques Pouchepadass to show that the colonial state perpetuated the existence of personal servitude under a new garb. Moreover it gave dependent relationships the inflexible rigidity of modern law and a new kind of legitimacy, disassociated from the personal relation of reciprocal exchange, which had previously bound the master and the dependent within the caste system.<sup>171</sup>

The debates on slavery and unfreedom speak strongly to tradition and custom in the practices rather than the legal organisation of domestic service. Throughout the British period and after, domestic workers remained ambiguously under general laws of labour contracts, without any legal framework to address the specificity of their status and working conditions. While, formally, there was a transition from slavery to wage work, this was not a secular process. The substance and forms of slavery remained entangled in waged domestic work with the persistence of different forms of bondage and dependencies, economic and cultural. Given that the elements of different forms of labour were entangled in domestic work relationships, they did not correspond to juridical description of categories as they emerged in colonial law. Thus, slave/servile relationships inhered in wage work. The transition from slavery or dependent relationships, either through debt/advances or other instruments, did not change always the nature of the relationship since similar extra-economic elements of control continued to define these labour arrangements, as indeed was the case in many other sites of labour deployment in colonial India, including those of new emerging capitalist enterprise. One cannot thus postulate a trajectory from slavery or servitude to contract, both inhered simultaneously in many forms of labour and in domestic service perhaps more persistently than in many other sectors. While on the one hand, as Singha argues, the conceptual space of the domestic narrowed in relation to the state and the market, there was also constant flows between the domestic and the market in the form of trafficking and an extension of the laws of household regulation, such as— Master-Servant laws to wider markets and underwritten by the state. We see three convergences — the preservation of slavery as a consequence of its characterization as ‘domestic’; criminal breach of contract being deemed unsuitable for domestic servants, thereby distancing the domestic from the regulation of contract; and, from the 1930s a feminization of domestic work. Thus, within the domestic sphere, the subordination of kinswomen extended to female servants, while men were released increasingly into the realms of labour governed by ‘contract’. During the colonial period, however, such differences were complicated by the highly unfree character of some of the contracts that helped mobilize labour for imperial commerce. The domestic too harboured a simultaneity of labour forms, slaves and wage labour, which looked very similar in everyday practice because of the continuing emphasis on household authority.

These hybrid labour regimes have shown great persistence. So much so that nearly two centuries after legal processes were set in motion, there is still ‘slavery in middle class homes’ splashing headlines every other day. Moreover, they occur in all the metro cities and some of these at least make it to the headlines; we know nothing of the quieter tyranny of domestic slavery in

provincial India. A specific law for domestic workers has hung fire since the 1950s, mooted soon after independence. While there have been new laws for construction and beedi workers, vendors and transport workers, in the last couple of decades, there is a curious reluctance to legislate on domestic workers. Even the central government's circular to bring these workers under the net of some existing laws is being ignored by state governments. Repeated directions by the courts have been ignored. In West Bengal, agricultural labourers and even the police were unionized under the previous Left Front regime, but there remain doubts over the legality of unionising domestic workers. The only legislative intervention to cover domestic workers has been the one to prevent sexual harassment in the workplace. It cannot be argued that this is due to a reluctance to legislate on the domestic—there have been bold interventions in criminal and penal law against wife murder and domestic violence. Yet, domestic workers remain suspended between the 'domestic' and the 'worker' in the eyes of the state. And the state's forbearance allows a brutal subjugation of workers to domestic discipline, reminiscent of slavery. Moreover, the 'great continuity' of domestic work has also meant continuity in recruitment practices. The trafficking networks the British had found so difficult to break or indeed, had desisted from breaking, have also persisted in different sectors. If cyber coolies are trafficked from India across the globe by networks reminiscent of the Assam tea coolie traffic, domestic workers are sold and bought by means not dissimilar to those that exercised the British after the Orissa Famine of 1866. The ambiguity of law and weak measures of enforcement remain; and slavery and trafficking continues to constitute a segment of the domestic labour market, as exemplified by the maid traffic from Jharkhand to Delhi.

## NOTES

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<sup>8</sup> *The Telegraph*, 10 January 2014.

<sup>9</sup> *The Telegraph*, 16 April 2015.

<sup>10</sup> *The Telegraph*, 19 April 2015.

<sup>11</sup> Asit Jolly and Asmita Bakshi (with Sonali Acharjee), 'Maid To Order: Cruelties on domestic workers highlight the plight of people caught between dubious placement agencies and homeowners with medieval mindset', 29 November 2013, <http://indiatoday.intoday.in/story/cruelties-on-domestic-workers-dubious-placement-agencies-medieval-mindset/1/327100.html>

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<sup>16</sup> *The Telegraph*, 13 June 2013.

<sup>17</sup> *The Telegraph*, 13 April 2015.

<sup>18</sup> *The Telegraph*, 24 June 2015.

<sup>19</sup> *The Telegraph*, 24 June 2015.

<sup>20</sup> *The Telegraph*, 5 August 2013.

<sup>21</sup> *The Telegraph*, 3 April 2015.

<sup>22</sup> *The Telegraph*, 24 June 2015.

<sup>23</sup> *The Telegraph*, 29 June 2015.

<sup>24</sup> *The Telegraph*, 17 July 2015.

<sup>25</sup> Dasgupta, 'Inside Slave City'.

<sup>26</sup> Swapna M. Banerjee, *Men, Women and Domesticity: Articulating middle-class identity in colonial Bengal*, Oxford University Press, New Delhi, 2004.

<sup>27</sup> Raka Ray and Seemin Qayum, *Cultures of Servitude. Modernity, Domesticity, and Class in India*, Stanford University Press, Stanford, 2009.

<sup>28</sup> The narration of the case is compiled from reports in *The Telegraph*, *Ananda Bazar Patrika* and *Ei Samay*, 17-19 July 2015, with some inputs from TV reports of Star Ananda and 24 Ghanta channels on the same dates.

<sup>29</sup> Banerjee, *Men, Women and Domesticity*.

<sup>30</sup> *Ibid.*, p. 34.

<sup>31</sup> Uma Chakravarti, 'Whatever happened to the Vedic Dasi? Orientalism, Nationalism, and a Script for the Past' in Kumkum Sangari and Sudesh Vaid (eds) *Recasting Women*, Kali for Women, New Delhi, 1989.

<sup>32</sup> W. H. Moreland, *India at the Death of Akbar: An Economic Study*, Atmaram, Delhi, 1962, p. 89.

<sup>33</sup> Banerjee, *Men, Women and Domestics*, Chapter 2.

<sup>34</sup> Francis Buchanan Hamilton, *An Account of the District of Purnea in 1809-10*, printed from the Buchanan MSS in the India Office Library, with the permission of the Secretary of State for India in Council, Patna: Bihar & Orissa Research Society, 1978, 160-164. Francis Buchanan Hamilton, *An Account of the District of Bhagalpore in 1810-11*, printed from the Buchanan MSS in the India Office Library, with the permission of the Secretary of State for India in Council, Patna: Bihar & Orissa Research Society, 1939, 192-195.

<sup>35</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.

<sup>36</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 159-160.

<sup>37</sup> Francis Buchanan Hamilton, *An Account of the District of Shahabad in 1812-13*, printed from the Buchanan MSS in the India Office Library, with the permission of the Secretary of State for India in Council, Patna: Bihar & Orissa Research Society, 1939, pp. 165-166.

<sup>38</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 159-160.

<sup>39</sup> Buchanan Hamilton, *Shahabad in 1812-13*, pp. 165-166.

<sup>40</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.

<sup>41</sup> Ibid.

<sup>42</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 159-160.

<sup>43</sup> Ibid.

<sup>44</sup> It is not clear whether this is the *dhargar* of later fame.

<sup>45</sup> Ibid.

<sup>46</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.

<sup>47</sup> Buchanan Hamilton, *Shahabad in 1812-13*, pp. 165-166.

<sup>48</sup> Ibid.

<sup>49</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.

<sup>50</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 160-164.

<sup>51</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.

<sup>52</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 160-164.

<sup>53</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195; *Purnea in 1809-10*, pp. 160-164.

<sup>54</sup> Ibid.

<sup>55</sup> Buchanan Hamilton, *Shahabad in 1812-13*, pp. 165-166.



- <sup>56</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 160-164.
- <sup>57</sup> Ibid.
- <sup>58</sup> Ibid.
- <sup>59</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.
- <sup>60</sup> Buchanan Hamilton, *Shahabad in 1812-13*, pp. 165-166.
- <sup>61</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 160-164.
- <sup>62</sup> Buchanan Hamilton, *Bhagalpore in 1810-11*, pp. 192-195.
- <sup>63</sup> Buchanan Hamilton, *Purnea in 1809-10*, pp. 160-164.
- <sup>64</sup> Ibid.
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- <sup>66</sup> Ibid., 23 September 1802.
- <sup>67</sup> Ibid., 24 September 1802.
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- <sup>73</sup> Census of India, 1901, p. 185.
- <sup>74</sup> Ibid., p. 201.
- <sup>75</sup> Census of India, 1891, pp. 101,112-113.
- <sup>76</sup> Census of India, 1901, pp. 221, 226, 230, 235.
- <sup>77</sup> Census of India, 1901, p. 211.
- <sup>78</sup> Census of India, 1911, quoted in Banerjee, *Men, Women and Domesticity*, p. 35-36.
- <sup>79</sup> L.S.S. O'Malley, *Bengal District Gazetteers, 24 Parganas*, The Bengal Secretariat Book Depot, Calcutta, 1914, p. 146.
- <sup>80</sup> Census of India, 1901, p. 211.
- <sup>81</sup> Census of India, 1921, p. 276-278.
- <sup>82</sup> Census of India, 1921, 208, 244, 350.
- <sup>83</sup> Census of India 1931, p. 274.
- <sup>84</sup> L.S.S. O'Malley and Monmohan Chakravarti, *Bengal District Gazetteers, Hooghly*, The Bengal Secretariat Book Depot, Calcutta, 1912, p. 176.
- <sup>85</sup> Census of India 1931, p. 274.
- <sup>86</sup> Census of India 1931, p. 312.

<sup>87</sup> Nirmala Banerjee, 'Working Women in Colonial Bengal: Modernization and Marginalization' in Kumkum Sangari and Sudesh Vaid, eds. *Recasting Women*, Kali for Women, New Delhi, 1989, 269-301. Samita Sen, *Women and Labour in Late Colonial India. The Case of the Bengal Jute Industry*, Cambridge University Press, Cambridge, 1999, Chapter 2. These discussions have been very well summarized in Banerjee, *Men, Women and Domesticity*, pp. 80-95.

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<sup>89</sup> Census of India, 1911, p. 183.

<sup>90</sup> Census of India, 1911, p. 185.

<sup>91</sup> Radhika Singha, "'Making the domestic more domestic": Criminal law and the "Head of the Household", 1772-1843', *The Indian Economic and Social History Review*, 33, 3, 1996, p. 331.

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<sup>94</sup> IOL V/26/100/7 First Report of the Indian Penal Code by Indian Law Commission, 1846, C. H. Cameron and D. Elliott, Calcutta, W. Ridsdale Military Orphan Press, 1846.

<sup>95</sup> Akanksha Narayan Singh, *Forms of Labour Servitude in Colonial North India, c. 1800 to 1920s*, Ph.D, Diss. [Unpublished], Delhi University, 2015, p. 195.

<sup>96</sup> IOL V/26/100/7 First Report of the Indian Penal Code by Indian Law Commission, 1846, C.H. Cameron and D. Elliott, Calcutta, W. Ridsdale Military Orphan Press, 1846.

<sup>97</sup> Letter no. 792 from F. R. Cockrell, Officiating Secretary to the Government of Bengal to the Secretary to the Government of India, 3 February 1864. WBSA, Judicial Judicial, February 1864, A20-21.

<sup>98</sup> Douglas Hay, 'England: the Law and its Uses' in Hay and Craven (eds.) *Masters, Servants and Magistrates in Britain and the Empire*, (59-116), p. 114.

<sup>99</sup> Letter no. 80 from C.P. Hobhouse, Esq, Superintendent & Remembrancer of Legal Affairs, to the Officiating Secretary to the Government of Bengal, 15 January 1864. Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> R. S. Chandavarkar, *The Origins of Industrial Capitalism in India. Business Strategies and the Working Classes in Bombay, 1900-1940*, Cambridge University Press, Cambridge, 1994.

<sup>102</sup> Michael Anderson, 'India, 1858-1930: The Illusion of Free Labour' in Hay and Craven (eds.) *Masters, Servants and Magistrates in Britain and the Empire, 1562-1955*, 2004.

<sup>103</sup> Letter no. 80 from C. P. Hobhouse, Superintendent & Remembrancer of Legal Affairs, to the Officiating Secretary to the Government of Bengal, 15 January 1864. WBSA, Judicial Judicial, February 1864, A20-21.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Letter no. 2417 from F. B. Simson, Officiating Commissioner of the Dacca Division, to the Secretary to the Government of Bengal, 16 March 1868. WBSA, Judicial Department, March 1871, B122-137.

<sup>107</sup> Letter no. 28 from R. B. Chapman, Officiating Commissioner of the Presidency Division, to the Secretary to the Government of Bengal, 27 March 1868. Ibid.

<sup>108</sup> Letter no. 101 from R. B. Chapman, Officiating Commissioner of the Presidency Division, to the Secretary to the Government of Bengal, 15 May 1868. Ibid. Quoting from Annual report of Monro, Magistrate of Jessore.

<sup>109</sup> Letter no. 17 from A. Money, Commissioner of the Bhagalpore Division, to the Secretary to the Government of Bengal, 14 March 1868. WBSA, Judicial Department, March 1871, B122-137.

<sup>110</sup> Letter no. 89 from T. E. Ravenshaw, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Government of Bengal, 30 April 1868. Ibid.

<sup>111</sup> Letter no. 114 from Colonel H. Hopkinson, Commissioner of Assam, and Governor General's Agent, North-East Frontier, to the Secretary to the Government of Bengal, 8 May 1868. Ibid.

<sup>112</sup> Letter no. 517 from Lord H. Ulick Browne, Officiating Commissioner of the Chittagong Division, to the Secretary to the Government of Bengal, 25 May 1868. Ibid.

<sup>113</sup> L.S.S. O' Malley and Monmohan Chakravarti, *Bengal District Gazetteers, Hooghly*, The Bengal Secretariat Book Depot, Calcutta, 1912, p. 170.

<sup>114</sup> Ibid.

<sup>115</sup> WBSA, General Emigration, September 1877, A1-2.

<sup>116</sup> WBSA, General Emigration, September 1877, A1-2. For a more detailed discussion on wages of domestic servants, see Banerjee, *Men, Women and Domesticity*, pp. 47-53.

<sup>117</sup> Mrinalini Sinha, "Chatham, Pitts and Gladstones in Pettycoats". 'The Politics of Gender and Race in the Ilbert Bill Controversy, 1883-1884' in Nupur Chudhuri and Margaret Strobel, *Western Women and Imperialism: Complicity and Resistance*, Indiana University Press, Bloomington and Indianapolis, 1992. Samita Sen, "Honour and Resistance: Gender, Community and Class in Bengal, 1920-40" in Sekhar Bandopadhyay, Abhijit Dasgupta and Willem van Schendel (eds.), *Bengal: Communities, Development and States*, Manohar Publications, New Delhi, 1994.

<sup>118</sup> Letter no. 792 from F. R. Cockrell, Officiating Secretary to the Government of Bengal to the Secretary to the Government of India, 3 February 1864. WBSA, Judicial Judicial, February 1864, A20-21.

- <sup>119</sup> WBSA, Judicial Judicial, 29 March 1864, No. 208.
- <sup>120</sup> OIOC BL BP 32/2 (23) August 1838, Slavery.
- <sup>121</sup> Singh, *Forms of Servitude*, p. 86. Corporal punishment was first restricted in 1825, it was deemed to have been abolished in 1834, but there were some exceptions.
- <sup>122</sup> Singha, “‘Making the domestic more domestic’: Criminal law and the “Head of the Household”, 1772-1843’, p. 339.
- <sup>123</sup> Lakshmi Subramanian, ‘A trial in transition: Courts, merchants and identities in western India, circa 1800’, *Indian Economic and Social History Review*, 41, 3, 2004, pp. 269-292.
- <sup>124</sup> Andrea Major, ‘Enslaving spaces: Domestic slavery and the spatial, ideological and practical limits of colonial control in the nineteenth-century Rajput and Maratha states’, *IESHR*, 46, 3 (2009), pp. 315-342.
- <sup>125</sup> Singh, *Forms of Servitude*. In the 1830s, it was proposed that a law be promulgated to prevent flogging or any other corporal punishment of women by masters. If a master did perpetrate such punishment, the woman would be set free. Such cases were to be heard by the stipendiary District Magistrate. OIOC BL BP 32/2 (23) August 1838, Slavery.
- <sup>126</sup> Singh, *Forms of Servitude*.
- <sup>127</sup> *Ibid*, pp. 75-78.
- <sup>128</sup> Indrani Chatterjee, *Gender, Slavery and Law in Colonial India*, Oxford University Press, New Delhi, 1999. Singh, *Forms of Servitude*, p. 57.
- <sup>129</sup> Christopher Tomlins, ‘Early British America: Freedom Bound’ in Douglas Hay and Paul Craven (eds.) *Masters, Servants and Magistrates in Britain and the Empire*, (117-152), p. 134.
- <sup>130</sup> Andrea Major, *Slavery, Abolitionism and Empire in India 1772-1843*, Liverpool University Press, Liverpool, 2012.
- <sup>131</sup> Radhika Singha, *The Despotism of Law: Crime and Justice in Early Colonial India*, Oxford University Press, Delhi, 1998; “‘Making the domestic more domestic’: Criminal law and the “Head of the Household”, 1772-1843’, pp. 309-343.
- <sup>132</sup> Singh, *Forms of Servitude*, p. 70.
- <sup>133</sup> *Ibid*, pp. 47-48.
- <sup>134</sup> Singha, “‘Making the domestic more domestic’: Criminal law and the “Head of the Household”, 1772-1843’, p. 316.
- <sup>135</sup> Sen, *Women and Labour in Late Colonial India*, Ch. 5.
- <sup>136</sup> Singh, *Forms of Servitude*, p. 147.
- <sup>137</sup> Memorandum by Syed Abdoollah, Deputy Magistrate, 10 September 1871. WBSA, Judicial Department, Judicial Branch, February 1872, A 185-187.

<sup>138</sup> Letter no. 61 from G. G. Morris, Session Judge of Backergunge, to the Registrar of the High Court Judicature, Fort William in Bengal, 14 November 1871. Ibid.

<sup>139</sup> Judgment by A. Maclean, Officiating Additional Session Judge, dated 1 January 1872. Ibid.

<sup>140</sup> Ibid., 2 December 1871.

<sup>141</sup> Judgment by A. Maclean, Officiating Additional Session Judge, dated 1 January 1872. WBSA, Judicial Department, Judicial Branch, February 1872, A 185-187.

<sup>142</sup> Letter No. 185 from F. B. Simson, ESQ., Commissioner of this Dacca Division, to the Officiating Secretary to the Government of Bengal, Judicial Department, 29 November 1871. Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> Charles Piot, 'Of Slaves and the Gift: Kabre Sale of Kin during the Era of the Slave Trade', *Journal of African History*, 37, 1, 1996, pp. 31-49.

<sup>145</sup> Letter no. 1379 from C. A. Bayley, Secretary to the Government of India, Home Department, to the Secretary to the Government of Bengal, General Department, 14 March 1870, WBSA, General Miscellaneous, March 1870, A80-81.

<sup>146</sup> Letter no 859 from D. R. Lyall, Officiating magistrate of Dacca, to the Commissioner of Dacca, 16 May 1870, WBSA, General Miscellaneous, June 1870, A 14-16.

<sup>147</sup> Letter no. 126 from F. B. Simson, Commissioner of the Dacca Division, to the Secretary to the Government of Bengal, 20 May 1870, Ibid.

<sup>148</sup> Letter no 859 from D.R. Lyall, Officiating magistrate of Dacca, to the Commissioner of Dacca, 16 May 1870, Ibid.

<sup>149</sup> Letter from Rivers Thompson, Officiating Secretary to the Government of Bengal, General Department, to the Secretary to the Government of India, Home Department, 21 July 1870. WBSA, General Miscellaneous, August 1870, A2-3.

<sup>150</sup> Letter no. 126 from F. B. Simson, Commissioner of the Dacca Division, to the Secretary to the Government of Bengal, 20 May 1870, WBSA, General Miscellaneous, June 1870, A 14-16.

<sup>151</sup> Letter from Rivers Thompson, Officiating Secretary to the Government of Bengal, General Department, to the Secretary to the Government of India, Home Department, 21 July 1870. WBSA, General Miscellaneous, August 1870, A2-3.

<sup>152</sup> Letter no. 126 from F. B. Simson, Commissioner of the Dacca Division, to the Secretary to the Government of Bengal, 20 May 1870, WBSA, General Miscellaneous, June 1870, A 14-16.

<sup>153</sup> Letter from Rivers Thompson, Officiating Secretary to the Government of Bengal, General Department, to the Secretary to the Government of India, Home Department, 21 July 1870. WBSA, General Miscellaneous, August 1870, A2-3.

<sup>154</sup> Copy of sentence passed by A. Abercrombie, Sessions Judge, Zillah Dacca on the prisoners Shamasoondery and two others on 9 May 1870. Letter no 859 from D.R. Lyall, Officiating magistrate of Dacca, to the Commissioner of Dacca, 16 May 1870, WBSA, General Miscellaneous, June 1870, A 14-16.

<sup>155</sup> Copy of sentence passed by A. Abercrombie, Sessions Judge, Zillah Dacca on the prisoners Pathu and two others on 6 May 1870. Letter no 859 from D.R. Lyall, Officiating magistrate of Dacca, to the Commissioner of Dacca, 16 May 1870, Ibid.

<sup>156</sup> Sen, *Women and Labour in Late Colonial India*; Samita Sen, “‘Kidnapping in Chotanagpur’: Recruitment for Assam Tea Plantations in a ‘Tribal’ Area” in Sanjukta Dasgupta and Rajsekhar Basu (eds.) *Narratives from the Margins: Aspects of Adivasi History and Culture in Colonial and Post-Colonial India*, Primus Books, New Delhi, 2011.

<sup>157</sup> Singh, *Forms of Servitude*, p. 78.

<sup>158</sup> Chatterjee, *Gender, Slavery and Law in Colonial India*.

<sup>159</sup> Andrea Major, ‘Enslaving spaces: Domestic slavery and the spatial, ideological and practical limits of colonial control in the nineteenth-century Rajput and Maratha states’, *IJESHR*, 46, 3 (2009), pp. 315-342.

<sup>160</sup> This has been offered as a general argument in the context of Europe as well. *Famulus* does mean slave.

<sup>161</sup> Samita Sen, ‘Crossing Communities: Religious conversion, Rights in Marriage, and Personal Law’ in Flavia Agnes and Shoba Venkatesh Ghosh (eds.) *Negotiating Spaces: Legal Domains, Gender Concerns and Community Constructs*, Oxford University Press, New Delhi, 2012.

<sup>162</sup> Indrani Chatterjee argues that the colonial perception of slaves as unfree beings also constituted a major shift in the understanding of the slave in relation to family and ancestry. Thus, the status of slave marriages and children born of concubinage also suffered. Indrani Chatterjee, ‘Gossip, Taboo and Writing Family History’ in Indrani Chatterjee (ed.) *Unfamiliar Relations: Family and History in South Asia*, Permanent Black, New Delhi, 2004.

<sup>163</sup> Singh, *Forms of Servitude*, p. 47-48. Also see Sen, “‘Kidnapping in Chotanagpur’: Recruitment for Assam Tea Plantations in a ‘Tribal’ Area”.

<sup>164</sup> Singha, “‘Making the domestic more domestic’: Criminal law and the “Head of the Household”, 1772-1843’, p. 332-334.

<sup>165</sup> Dharma Kumar, *Land and Caste in South India*, Cambridge University Press, Cambridge, 1965.

<sup>166</sup> Gyan Prakash, *Bonded Histories: Genealogies of Labour Servitude in Colonial India*, Cambridge University Press, Cambridge, 1990.

<sup>167</sup> Orlando Patterson, *Slavery and Social Death. A Comparative Study*, Harvard University Press, Massachusetts, 1982.

<sup>168</sup> Even though forced labour was declared illegal as early as 1820, certain exceptions were retained which allowed the system to continue to have wide prevalence. K. P. Mitra, 'Begar of Forced labour in Historical Records', Indian Historical Records Commission—Proceedings of Meetings, XXIV, p. 26. Cited in Tapas Kumar Banerjee, *Background to Indian Criminal Law*, R. Cambay and Co. Pvt Ltd, Calcutta, 1990. Also see Singh, *Forms of Servitude*, Chapter 4.

<sup>169</sup> Jan Breman, *Footloose Labour: Working in India's Informal Economy*, Cambridge University Press, 1996

<sup>170</sup> Prakash, *Bonded Histories*.

<sup>171</sup> Singh, *Forms of Servitude*, p. 100.

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