

No easy answers for ending forced labour in India

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Collected activists and academics

India must attend to a long list of issues if it's to achieve 'decent work for all' by the year 2030.



Manipur, India. Jake Guild/[Flickr](#). [CC \(by\)](#)

We, the undersigned activists and academics, work on various forms of extreme exploitation in India. Endorsing the commitment of the Government of India to the achievement of the Sustainable Development Goals (SDGs), especially SDG 8 on Decent Work and SDG 8.7 on Forced Labour, Modern Slavery and Human Trafficking, the undersigned hereby submit the following 25 points for consideration.

~ 1 ~

We believe that the problems of forced labour, modern slavery and human trafficking which are sought to be addressed by SDG 8.7 must be tackled comprehensively. In other words, SDG 8 in general, and SDG 8.7 in particular, can only be achieved by interlinking with efforts to achieve other SDGs, especially SDGs 1 (against poverty), 2 (against hunger), 3 (health and well-being), 5 (gender equality), 10 (reduced inequalities) and 16 (peace, justice and strong institutions). Further, a multi-pronged strategy that responds to the needs of all affected constituencies, including bonded labourers, contract workers, domestic workers, intra and inter-state as well as international migrant workers, and sex workers is necessary in order to achieve SDG 8.7.

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We believe that dominant international discourses on modern slavery do not adequately reflect the extreme exploitation and precarious nature of employment in India today. Instead, we believe that an undue emphasis on sensationalist accounts of modern slavery deny the widespread prevalence of economic exploitation – even now based on social customs, cultural traditions and hereditary obligations – and obfuscate the continuum between extreme and ‘everyday’ forms of such exploitation.

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We believe that the criminal law, which advocates very stringent punishment of offenders, is neither the best way to address exploitation nor to achieve SDG 8.7 as it often ends up hurting the very poor and vulnerable sections of society that it is meant to protect. Correspondingly, proposing a special anti-trafficking law that addresses trafficking as defined in Section 370 of the Indian Penal Code, 1860 is not sufficient.

Instead, the problem of trafficking can only be addressed through a multi-faceted legal and economic strategy that strengthens the implementation of labour protections such as those guaranteed by the constitution, and laws such as the Contract Labour (Regulation and Abolition) Act, 1970, the Bonded Labour System (Abolition) Act, 1976, and the Inter-State Migrant Workmen Act (Regulation of Employment and Conditions of Service) Act, 1979.

Such a strategy would necessarily move the focus away from criminalisation and toward decent work. It would necessarily mandate a universal social protection floor, as well as the implementation of anti-discrimination provisions related to caste, gender, age, income level, ethnicity, disability, education and origin. It would also entail the reform of relevant laws including the Immoral Traffic Prevention Act, 1986.

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The most effective and durable way to prevent all forms of extreme exploitation lies in the self-organisation of workers.

The most effective and durable way to prevent all forms of extreme exploitation lies in the self-organisation of workers and in their efforts at collective bargaining, especially through trade unions and workers' collectives. Accordingly, we call on the government and all political actors to affirm and ensure freedom of association, safe self-organisation, self-determination and collective bargaining for workers including by ratifying the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

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A more robust labour governance system in the form of increased inspections and better resources for the labour inspectorate is essential for the realisation of SDG 8.7. The present labour administrative structure in India, by and large, in practice, is restricted to the organised sector. There should be a dedicated labour administrative structure only to monitor the implementation of minimum wages and other labour laws in the unorganised sector.

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The government must reverse the erosion of workers' rights and ensure the enforcement of labour laws relating to minimum and equal wages, the right to work, working conditions (such as the Factories Act, 1948), and other core labour laws.

The understanding of and the criteria to arrive at minimum wages must be broadened so as to make it a living wage.

The government should ensure that contract workers who perform the same or similar kind of work as permanent workers in an establishment be paid the same wages.

There is a need for the strict and effective implementation of labour and criminal laws so as to prevent forced overtime, wage theft, the use by employers of violence through bouncers and security guards, attacks on freedom of association, sexual harassment, and sexual violence.

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We believe that SDG 8.7 must also be realised by protecting the rights of all migrants to safe, dignified and

productive migration as well as ensuring the realisation of their rights as citizens and residents.

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We believe there is a direct relationship between distress migration and vulnerability to trafficking, forced labour and slavery. We oppose policies that aggravate this vulnerability caused by the agrarian and environmental crisis, the displacement of tribals, the commercialisation and mechanisation of agriculture, the militarisation of entire regions in the country, pauperisation and immiseration of the rural population, the informalisation of the employment relationship, and the effects of globalisation, privatisation, and contractualisation on the urban workforce.

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Given that inequality is at the core of the caste system, the government must acknowledge that the historically exploited castes and disadvantaged communities, especially scheduled castes, scheduled tribes, and landless backward castes, are more vulnerable to trafficking and exploitation. Toward this end, it needs to start supporting international mobilisations against caste discrimination, cooperate with global organisations working for Dalit rights, and welcome international fact-finding missions on the extent of caste discrimination in India.

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It is vital to explore alternative paradigms for sustainable development – ones that create sustainable livelihoods rather than perpetuate precarious forms of labour.

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A comprehensive redistribution of resources – especially through land reform, distribution of government lands, and schemes for acquisition of lands at market value to grant them to the vulnerable landless communities – is crucial to prevent trafficking and forced labour.

Decades of evidence shows that economic vulnerability – understood as lack of access to rights and entitlements – underpins all forms of exploitation. A fairer social settlement based on the redistribution of resources and an effective, efficient, universal social protection floor is essential.

In this context, the implementation of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 must be well-resourced. Dignified, secure jobs that pay living wages must be provided under the said act. In addition to the current occupations offered under the act, waged care work must also be an occupational choice funded by the act.

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We note that sex workers' groups that have experienced the harmful effects of anti-trafficking measures for decades believe that treating all sex workers as victims of trafficking in rescue, repatriation and/or rehabilitation efforts hurt sex workers more than they help them. The term 'repatriation' as used here describes the practice of, after raid and rescue, taking individuals back to their place of origin, whether in the same state, another state in the country or another country, without providing for any rehabilitation. Hence any efforts to respond to trafficking must avoid the indiscriminate rescue, repatriation and rehabilitation of women, men and transgender persons who are in sex work of their own volition.

The raid, rescue, repatriation and rehabilitation policies of the Indian state in relation to sex work punish the very women they seek to protect.

Sex workers believe in the power of self-organisation and find decriminalisation of their work to be the most effective way of improving their ability to counter trafficking.

We believe that raid, rescue, repatriation and rehabilitation policies of the Indian state in relation to sex work have been a failure, as they end up punishing the very women they seek to protect. This is because raids by the police violate the human rights of raided communities, and rescues are forced upon all indiscriminately. Rehabilitation is in corrective homes where women and girls are brought after a raid and rescue operation; these homes are at best inefficient and at worst violate the human rights of the women and girls confined in them.

This policy of raid, rescue, repatriation and rehabilitation, however, forms the cornerstone of the proposed Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016, and must not be pursued. Further, this ineffective policy of raids, rescue, repatriation and rehabilitation must not be extended to other forms of precarious labour such as bonded labour, contract labour, and inter-state migrant work.

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The widespread culture of denial of the existence of bonded labour amongst government officials in all branches of state apparatus is a major obstacle to the realisation of SDG 8.7.

The present tendency of 'criminalising' bonded labour by emphasising only the 'criminal prosecution' component of the Bonded Labour System (Abolition) Act or having recourse just to S. 370 of IPC – which leads only to 'criminal prosecution' – must be totally discouraged. Resort to 'criminal prosecution' should only happen in cases of extreme violation of human rights. Offences in all other cases should be treated as labour law violations, especially the non-payment of minimum wages, and treated as such.

Survivors of trafficking and forced labour should play a central part of the government's efforts to counter these phenomena. Hence, for example, bonded labourers should be a part of vigilance committees appointed under the Bonded Labour System (Abolition) Act, 1976, and every mechanism set up to address forced labour and human trafficking.

The district and sub-divisional vigilance committees must be helped in carrying out their tasks extensively, effectively and speedily by allowing them to set up, under their direct supervision and monitoring, subordinate structures such as task forces at the levels of each taluk and gram panchayat. There is a greater scope for more bonded labourers to be represented in these bodies, and with their active participation, there is a greater possibility of proper and large-scale identification of bonded labourers. The comprehensive rehabilitation of trafficked, forced and bonded labourers encompassing social, psychological and economic integration is essential.

The present sketchy and non-comprehensive rules under the Bonded Labour System (Abolition) Act, 1976 must be thoroughly revised and comprehensive. Detailed rules must be notified to give specificity and scope for time-bound action for all the significant and powerful (but otherwise too general) provisions under the Bonded Labour system (Abolition) Act, 1976.

Each state and union territory in India must devise a comprehensive action plan to implement the Bonded Labour System (Abolition) Act, 1976 and an overriding policy document to guide these efforts. The central government should propose a model action plan and a model policy document.

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With the increasing migration from rural to urban areas, state policies managing urbanisation must ensure that the city is accessible to those from rural areas and migrants, and that public services are made available to rural migrants.

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The government must focus on protecting the rights of migrant women from exploitation and ensure safe mobility. Measures to prevent exploitation must not restrict women's mobility. The government must take steps to prevent the

inter-state trafficking of women through fraudulent marriage practices.

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Policy-makers must consider the unique problems of men, women, and children with a disability who are subject to trafficking and migration.

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There is a critical need for implementing the rules under the Inter-State Migrant Workmen Act (Regulation of Employment and Conditions of Service) Act, 1979 (ISMWA), and the licensing authority must ensure that ISMWA rules are complied with. The definition of the 'inter-state migrant worker' must be changed to cover women and children; contractors must be registered by the appropriate authority, and registration of migrants must occur at the district level. An adequate number of labour inspectors must be hired to ensure compliance with the act; indeed, this is critical. Given the high number of internal migrants in India, there is a need to discuss extreme levels of exploitation in relation to internal migration.

The Indian government should facilitate MOUs between states in the country to protect the rights of migrant workers and their families. The government may look to the MOU between the states of Odisha and Andhra Pradesh, whereby hostels for children of seasonal migrant workers have been provided. State governments should devise action plans on migration. Portability of rights particularly for workers registered in the Construction Workers Welfare Board and ways to enhance the access of migrant workers to PDS, ICDS, voting rights, and other welfare benefits for inter-state migrant workers should be explored.

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The government of India needs to support the rights of Indian workers who migrate internationally. It should play an active role in international and regional initiatives on migration and migrant work, such as the Abu Dhabi Dialogue and Colombo Process, in regional mechanisms available within the SAARC, and in the debates surrounding the Global Compact to be agreed in 2018 (Global Compact on Safe and Ordinary Migration). India must ratify the relevant ILO conventions on migrant work.

MOUs and bilateral agreements entered into by the government of India must be urgently reviewed with a view to ensure that they represent the demands of migrant workers and do not further increase the vulnerability of migrant workers. The government should ensure that Indian embassies in the Middle East are accessible to workers, and that embassy staff are sensitive to the needs of migrant workers. There is a need for more effective grievance redressal.

An urgent review of the Emigration Act, 1983 is necessary.

The government must appoint labour attachés to countries, commensurate with the number of Indian migrants who work in a particular country.

There is an urgent need for the provision of shelters for Indian workers abroad who are in a precarious situation vis-à-vis their employers, notably those who leave their employer to avoid ongoing abuse.

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The skills development programme of the government, which is a significant strategy for achieving SDG 8, must be pursued but not at the expense of providing educational opportunities. Skills imparted must also be transferrable so that workers can meet the challenges of the labour market.

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The government must implement the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. The provisions of the Plantation Labour Act, 1951 must be implemented by the government. Plantation workers should be paid a living wage and be treated as semi-skilled workers.

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There is an urgent need for a national-level intervention on domestic work through the adoption of the National Draft Policy on Domestic Workers and a special legislation covering domestic work. Recognition of valuable yet economically undervalued labour such as domestic work will help increase the economic bargaining power of domestic workers. We urge the government to ratify the Domestic Workers Convention 2011 (No. 189).

The value of women's care work must be adequately recognised in the GDP.

Resident Welfare Associations must be treated as establishments for the purposes of protective labour laws including the Industrial Disputes Act, 1947, the Contract Labour (Regulation and Abolition) Act, 1970, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Resident Welfare Associations must be required to set up internal complaints committees as per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 so as to address the problem of sexual harassment of domestic workers working in gated communities.

There is an urgent need to regulate placement agencies that place domestic workers with employers.

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Industry-led initiatives on the private regulation of supply chains through the use of ethical certification and social auditing have generally been shown to be ineffective due to the selective auditing by companies of their supply chains (which often excludes contractors and subcontractors who are informal, unauthorised, where workers are home-based, or where logging and mining is undertaken in protected areas).

Efforts by businesses to stop the use of forced labour in their supply chains must include workers from the establishment concerned in the design and implementation of these initiatives.

The government must explore all legal mechanisms to ensure the accountability of corporations for decent working conditions of workers, including through corporate criminal law, tax laws, contract law, health and safety laws, and municipal laws.

Similarly, transparency and disclosure laws are inadequate; laws imposing extra-territorial liability and allowing for public sanctions are needed.

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The demands of textile and garment workers for adequate wages, mobility, welfare benefits, and safety need to be addressed. In accordance with the Madras High Court's orders, the Sumangali (Camp Labour System) scheme must be abolished; workers who continue to work in the scheme must be made regular. Government notifications of increased minimum wages for textile and garment work in the state of Karnataka must be implemented immediately and efforts made to raise them to living wages.

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The period of apprenticeship under the Apprentices Act, 1961 must be no longer than six months; the period of temporary work after such apprenticeship must be no longer than six months.

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The current targets and indicators proposed by the Ministry of Statistics and Programme Implementation as of 8 March 2017 for the realisation of SDG 8.7 are wholly inadequate. In particular, the implementation of laws should be monitored (as indicators) rather than the mere ratification of international conventions or adoption of laws. Similarly, alongside measuring the number of prosecutions of traffickers, it is essential to monitor or report on the budgetary allocation and expenditure on assistance to exploited people (bonded labourers, trafficked persons, etc.). In order to draw up an appropriate baseline, the government of India is urged to take advantage of the 70th anniversary of the Universal Declaration of Human Rights in 2018 to set out relevant data about the way in which Article 4 of the Universal Declaration of Human Rights is being respected in India.

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