

Chapter 4

Labour Markets: Exclusion from 'Decent Work'



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1. Introduction

The classic theories of economic production teach us that three ingredients are imperative to achieve the ideals of value addition, economic growth and profits: land, capital and labour. These ingredients are interdependent—one cannot do without the other. In reality, however, the ownership of land and capital has traditionally been concentrated in the hands of relatively few people. Vast majorities are left without land or capital and selling off their labour is the only option for survival.

The history of labour is full of stories of subservient workers forced to surrender their labour and live a life without freedom, from slaves and serfs to coolies and paupers—people at the bottom of the labour pyramid. Their daily dealings consist of nothing more than attempts at basic survival, despite the fact that they are completely immersed in performing an economic activity. Physical conditions at the bottom of the labour market are harsh. Work is tedious, dirty, dangerous, and demeaning, demanding strenuous efforts from body and mind. As a famous saying has it, slaves must be working when they are not sleeping.¹

So the worker wakes up, drags a tired body to work, drudges through the day, trying to keep the mind focussed on finding some form of relief, only to return to sleep in a state of exhaustion. Working hours are long, leaving no time for leisure and very little time for the preparation and consumption of food. Such food as is available is of insufficient quantity, without variety and lacking in nutrition. Housing and living conditions are abysmal. Personal grooming is a luxury, reserved for those rare moments in which no work is required. Only at night is there some form of a break, however short. Life is nothing but a punishment, without hope of any betterment, day after day. In this basic battle against life, small setbacks can have serious consequences, and mind and spirit are easily

broken. Bereft of any support system, the worker can only pray for overcoming an injury or an illness, as the capacity to survive is directly linked to the ability to perform labour.

It is being increasingly accepted that it is this support system that the state must provide. Labour has not always commanded the protection of the state, however. For a long time, economies were fuelled by slavery and servitude, a business conducted primarily by public powers. The state itself was responsible for trading in humans as animals, leaving the treatment of an individual worker completely dependent on the benevolence of the master. It took many years for this to change. Devoid of their freedom, workers did not remain docile. The world found it necessary to learn the hard way that labour matters can be an explosive subject. Revolutions and wars were waged to abolish slavery and other forms of labour exploitation before a framework of labour protection became established. As a result, workers today are, in theory, constitutionally and legally protected against exploitative labour arrangements.

Few subjects have therefore stirred more emotions than the relation between capital and labour, or what we have come to call the 'social question'. Without labour, land and capital do not bear fruit. But for labour to prosper, it needs to be healthy and strong. This implies a sufficiently high price to ensure its maintenance. To resolve the social question and to turn labour matters into an equitable affair, workers and employers entered into a 'social contract'. The state, then, is supposed to assume the role of the guardian of the social contract. It is expected to promote its implementation and enforce work regulations and agreements. Even where labour remains plentiful and prevailing market mechanisms of demand and supply push wages down to the cheapest possible price, the state is responsible for protecting labour from undue exploitation. In this manner, the

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state has sought to establish some balance in the power relations between the richly endowed and a workforce traditionally prone to exploitation. If this social contract model is respected, it will boost productivity too, as the social contract is ideally based on the platform of workers' dignity, deriving from the premise that a happy worker is a productive worker.

Today, this social contract is best understood through the concept of 'decent work', adopted by the members of the International Labour Organization (ILO)² in 1999. Decent work is defined as 'productive work by men and women, in conditions of freedom, equity, safety and dignity', where productive work is that which benefits people by enabling the generation of an adequate income. Decent work guarantees sufficient work, which is safe, with effective social protection in cases where work is not possible or simply not available. In times of economic slackness or in personal crises, workers should be able to rely on some form of social security, to counter a threatening slide towards poverty and ultimately destitution. In other words, decent work is a political choice in which employment, income and social protection can be achieved without compromising rights at work. These rights fundamentally confer workers with the right to freedom of expression and association, from exploitative labour conditions like child and forced labour, and from discrimination.

While there is a strong case to be made for improving access to decent work purely from a legal and social justice standpoint as an end in itself, there is also an economic case to be made. Invoking this business case of labour rights on the opinion page of *The New York Times*, Amartya Sen states that 'the case for combating debilitating inequality in India is not only a matter of social justice'. He goes on to say that, 'For India to match China in its range of manufacturing capacity . . . it needs a better-educated and healthier labor force at all levels of society.'³

The idea of 'decent work' is not a fairy tale, but a globally accepted principle. In 2010, the Ministry of Labour and Employment in New Delhi proclaimed that it is striving 'for productive employment generation with "decent work" conditions, an important concern, not only for a national employment policy, but also for the national

agenda of inclusive growth'.⁴ These objectives of the government also coincide with the objectives of ILO Convention no. 122 on Employment Policy, 1964, to which India is party. The Convention requires signatories to 'declare and pursue, as a major goal, an active policy designed to promote *full, productive and freely chosen employment*'.⁵

1.1 The Framework for State Intervention

In the context of guaranteeing 'decent work' for all citizens, the state embraces three major responsibilities towards labour: employment creation,⁶ the protection of employment rights, and the mobilization of a social security support system for people who are unable to secure employment.

1.1.1 Employment Creation

In India, there is no constitutional right or guarantee to work, Article 39 of the Directive Principles of the Constitution recognizes the need for state action to promote an adequate means of livelihood. In India, as elsewhere, the predominant view of policy makers is firmly rooted in the belief that the primary vehicle for creating decent employment opportunities is economic growth.

The relatively high economic growth in the past decade has not, however, met these 'trickle down' expectations. Very few jobs have been added, mostly of low quality, whereas employment opportunities in public enterprises, the formal private sector and agriculture have actually declined.⁷ While Gross Domestic Product (GDP) growth in the past two decades accelerated to 7.52 per cent per annum, employment growth during this period was just 1.5 per cent, below the long-term employment growth of 2 per cent per annum, over the four decades since 1972.⁸ Just 2.7 million jobs were added in the period from 2004–05 to 2009–10, compared to over 60 million during the previous five-year period.⁹ This refutes the assumption that economic growth necessarily leads to growth in employment. In fact, employment growth has been above the long run average when GDP growth has been flat or lower, for example between 2000 and 2005.¹⁰

In a country where an estimated 15 million persons enter the labour market every year,¹¹ and labour-intensive sectors like agriculture are in decline, there has been little attempt to adopt

policies that seek to accommodate this large unskilled workforce in the economy. For instance, the services sector, which has seen rapid growth since the early 1990s, accounted for 58.3 per cent of GDP in 2004–05, but its share of employment was only 29 per cent. In contrast, labour-intensive manufacturing accounted for only 17 per cent of GDP and 12 per cent of employment, which was not materially different from the scenario in 1993–94.¹²

Labour, it must be recognized, is not a commodity,¹³ and history has shown us time and time again that demand for labour of adequate quality cannot be left to market realities alone. It is dependent on active public policies that put the creation of employment at the heart of state intervention.

1.1.2 Protection of Employment Rights

People depend on having a job for their survival, but not just any job on any terms. Jobs must maintain the dignity of any working person and need to be governed by a normative system. This system cannot rely on voluntary rules, since the interests of employers and employees mostly represent opposite sides. Therefore, the state must create a minimum normative framework that guarantees this dignity.

Constitutionally, in India, labour is a concurrent subject, with public powers divided between the central government and its counterparts at the state level. The Constitution of India recognizes the right to practise any profession, or to carry on any occupation, trade or business,¹⁴ which implies freedom at work. India also has a true plethora of labour laws to protect workers from exploitation, and to effectively govern labour relations. At least 44 central labour laws have been enacted, all enforceable in court. At the state level, many laws complement these central legislations. These laws touch upon a large number of issues, aspiring to achieve the principles of decent work, and reflect the provisions of the international labour standards of the ILO, of which India is a founding member.

The average worker can form trade unions, is entitled to minimum wages paid at regular intervals, is protected against excessive working hours and can enjoy at least one day off during a working week.

In larger industrial establishments, the Factories Act, 1948 aims to maintain a regime of safety and security at work, and workers at enterprises outside its coverage get equal protection from other laws. In some sectors, workers are protected by laws specifically tailored towards the need of that industry.¹⁵ Labour excesses such as boundless contract labour and bonded labour and forms of contemporary slavery such as trafficking for labour exploitation are banned by special laws.¹⁶ Women workers are entitled to maternity benefits equal pay as men for similar work¹⁷ and are protected against sexual harassment at the workplace.¹⁸

On paper, laws for Indian workers are of a very high standard. However, the fact remains that the record for implementation has been extremely poor. Directions on providing better working conditions are hard to implement given the modern practice of sub-contracting, where the principal employer is hard to identify and accountability is difficult to assign. Exploitative forms of employment such as bonded and child labour continue to thrive.¹⁹ All of these point to the failure of the state in protecting the rights of workers.

1.1.3 Social Security

The simple belief that supply-side economics is a magic wand for the creation of decent employment opportunities has not been warranted by the state's performance in the past decade. Stagnant wages, combined with high levels of inflation, have created armies of working poor. A preliminary conclusion to be drawn from this is of a state failing its promised deliveries of more jobs embedded in rights. Where people have no work, or cannot work, universal access to minimum social security entitlements becomes a necessity to prevent them from becoming destitute. Effective state protection to the poorest of the poor must, at a minimum, contain unemployment benefits, healthcare and pensions.

Social security in India, until very recently, was offered only to a small section of formally employed workers. This changed with the introduction of the Unorganized Workers Social Security Act of 2008. Enacted to benefit the working poor and targeting people with little or no means of their

own, like the landless and land poor, this piece of legislation was aimed at reaching out to these citizens in need of public support, to secure their survival. It has, however, largely resulted in the culmination of the sum of existing pieces of social welfare schemes.²⁰ These welfare schemes do not, conversely, share the act's rights-based approach. On the contrary, getting access to the schemes presupposes an active attitude by citizens, not by the government. As discussed in Section 3 of this chapter, on Instruments of Exclusion, the schemes throw up many conditional hurdles, blocking their easy access.

One major and labour-related exception to this rule of a passive government is the revolutionary Mahatma Gandhi National Rural Employment Guarantee Act (NREGA) of 2005. The act aims to contribute to the fulfilment of the state's promise to create 'full employment' by guaranteeing 100 days of unskilled wage employment to one member of any family volunteering to be part of this public work scheme. The NREGA's strength also lies in its provision for universal access to minimum social security, providing effective state protection to the poorest of the poor. It is one of the rare occurrences where citizens of India are actually approached and invited by the state to be part of a public process, and opens new employment avenues for its beneficiaries.

This chapter seeks to examine the causes for this denial of decent work to a large section of the population, how this denial takes place and what can be done to enable access to it for the excluded. Section two looks at who is excluded from decent work and the overlap of these groups with social categories that have historically been discriminated against. Section three then goes on to highlight the instruments of exclusion from decent work, as a result of changing perceptions about the 'social contract' between labour and capital and the withdrawal of the state from its role as a guardian of this contract. Section four elaborates on the consequences of the denial of decent work for workers and also society at large. Section five, finally, puts forward recommendations to the state for guaranteeing decent work for all. The chapter ends with a short discussion about the role civil society organizations can play in this process.

2. Who is Excluded from 'Decent Work'?

In their single-minded focus on headline economic growth, policy makers have failed to adequately consider the dynamics of labour markets in India, leading to the exclusion of a large section of workers from access to decent work. A few broad categories of such groups have been identified as follows.

2.1 Informally Employed Persons

In 2009, the report of the National Commission for Enterprises in the Unorganized Sector (NCEUS) revealed shocking data about India's labour landscape. A vast majority of jobs created in recent years have been in the informal sector, outside of a legal framework for labour protection and social security. Out of every 100 workers, the report revealed, 86 work in the informal economy, producing half of India's economic output.²¹ Hence, around 400 million workers,²² a number considerably larger than the total population of the United States of America, are employed with little job security or any formal entitlement to the protection of the state. Without the availability of formal employment, the solution for workers lies either in opting for self-employment, or becoming casual labourers answerable to a labour contractor.

Informally employed workers are vulnerable to exclusion from decent work on a number of counts. Under this regime, workers no longer benefit from the protection of labour laws. For them the presumed social contract ceases to exist. Their sole responsibility in the eyes of the contractor is the completion of the assignment, which forms the basis of their remuneration. The modalities under which the assignment is completed are the responsibility of the contracted party. Whether these imply excessive working hours, lack of safety gear and hazardous working conditions, the help of children and other family members, these issues no longer concern the contractor. In the new labour market, workers have to fend for themselves, and the state is nowhere to be seen.

The disempowerment of these workers is compounded when they obtain work through an intermediary. It is this agent who determines who gets to work where, for how long and at what price.

For the service of matching supply and demand of labour, the agent receives a fee, further depressing the remuneration of contracted labour, and further reducing the negotiating ability of contracted workers to strive for a proper deal. This chain of command also means that work in the informal sector is more often than not conducted under inhumane conditions. Employers at each level attempt to escape direct responsibility for the health and safety of their employees, as well as the duty to provide them with the minimum remuneration that they would otherwise be legally obliged to pay. The NCEUS has estimated that in 2004–05, 836 million Indians lived on ₹20 or less per day,²³ which, in all likelihood, has a strong correlation with their conditions of employment.

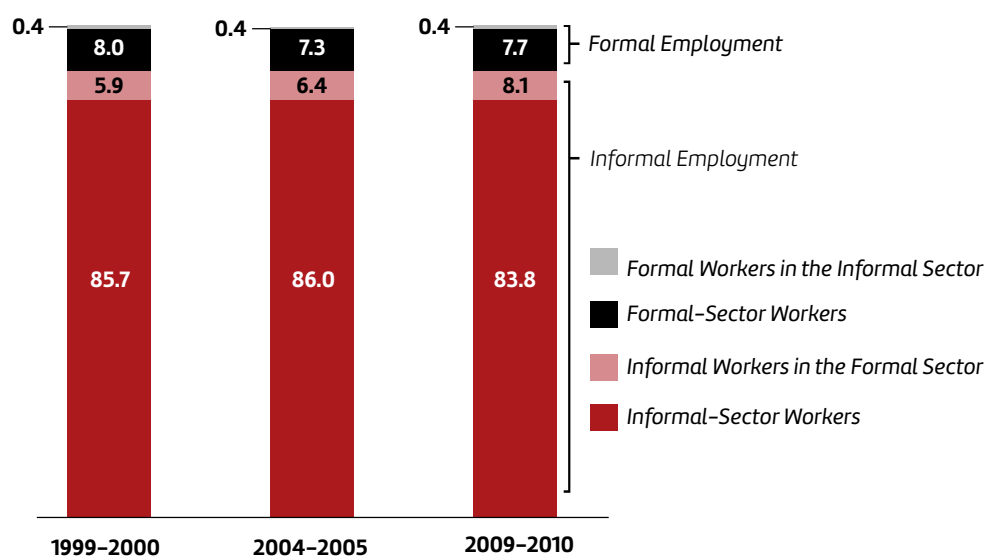
Even in the formal sector, over half the workers are informally employed. Such workers have no secured tenure of employment, social security and other protections. Trilok S. Papola and Partha P. Sahu further note that the proportion of informally employed workers in the formal sector has also risen over time, from 42 per cent of total formal sector employment in 1999–2000, to 51 per cent in 2009–10. As a result, in 2009–10, 92

per cent of all workers, in the formal and informal sectors combined, were effectively in ‘informal’ employment (see Figure 4.1).²⁴ Such trends can be explained by the increasing move towards the use of contract labour within the formal-sector, in order to increase profits and avoid adhering to labour laws.²⁵

2.2 Persons Engaged in Unseen Work

Persons engaged in unseen work are, in a sense, some of the most deprived and vulnerable categories of those denied access to decent work. The official labour force participation rate for men, which measures the proportion of the total male population in the labour force, stood at 55.6 per cent in 2011–12, unchanged from its level in 2004–05. For women, already scarcely represented in India’s labour market, the labour market participation in the same period dropped from 29.4 per cent to 22.5 per cent.²⁶ This large remaining share of the population, while not recorded as being a part of the labour force, is nonetheless involved in a range of labour activities. Some of these activities are non-remunerative—examples include the involvement

Figure 4.1 Percentage Distribution of Workers by Type of Employment



Source: K. P. Kannan (2012), cited in Trilok S. Papola and Partha P. Sahu (2012), *Growth and Structure of Employment in India: Long-Term and Post-Reform Performance and the Emerging Challenge*, New Delhi: Institute for Studies in Industrial Development; and National Commission for Enterprises in the Unorganized Sector (2009), *The Challenge of Employment in India: An Informal Economy Perspective*, New Delhi: NCEUS.

of women, children and the elderly in household tasks and care-giving—while others, like home-based work, domestic work, child labour, and work by the elderly, are remunerated but remain unseen and difficult to detect under formal labour registration systems.

The high participation of women in home-based work is discussed in detail later in this section. In the case of home-based work, other members of the family, including the elderly and children, are also often drawn into participating in the production process, and their contribution remains largely unrecognized and unremunerated. Since the home is the production shop floor and payments are made on a piece-rate basis, all available family labour is utilized to produce as many pieces as possible.

It is not only in the home that the elderly participate, however. The combination of extreme poverty and the lack of adequate social security in India makes the elderly a part of the expanded labour force in the country. The unorganized sector has no retirement age. Labour force participation rates and other conventional indicators tracked globally mostly look at persons of working age when assessing the available labour force. A large section of the elderly, usually classified as 'dependent' due to their age, are actually independent and engaged in remunerative work. In India, NSSO survey in 2007–08 revealed that 40 per cent of those aged

60 years and above were still working. The figure is much higher among men, and in rural areas. In developed countries this ratio is closer to 20 per cent.²⁷

2.3 Overlap with Historically Excluded Groups

Since the onslaught of liberalization, labour has never been cheaper than it is today. This has resulted in a labour market flooded with the working poor, who are largely unskilled and illiterate. Informally employed workers, already lacking essential labour protections, deserve special consideration when they are also excluded due to social reasons, as these can significantly magnify the already raw nature of poverty these workers experience. Tables 4.1 and 4.2 present some key employment-related statistics for these excluded groups. The specific issues and vulnerabilities faced by these groups are discussed in detail in this section.

2.3.1 Scheduled Castes (Dalits)

India's caste system is a relatively rare and peculiar remnant of longstanding practices of exclusion based on a person's birth. Bhimrao Ambedkar famously formulated that the caste system was not merely a division of labour, but also a division of

Table 4.1. Labour Force Participation Rate (LFPR) and Worker Population Ratio (WPR) for Different Groups (2009–10)

	Labour Force Participation Rate (LFPR)	Worker–Population Ratio (WPR)
Overall	40.0	39.2
Men	55.7	54.6
Women	23.3	22.8
Dalits	41.2	40.4
Adivasis	46.0	45.2
OBCs	40.0	39.3
Other social groups	37.5	36.5
Muslims	33.8	33.1

Source: National Sample Survey Organization (2012), 'Employment and Unemployment Situation among Social Groups in India', NSS 66th Round (2009–10), New Delhi: Ministry of Statistics and Programme Implementation; National Sample Survey Organization (2013), 'Employment and Unemployment Situation among Major Religious Groups in India', NSS 66th Round (2009–10), New Delhi: MoSPI.

Table 4.2 Percentage Distribution of Households by Employment Status for Different Groups (2009–10)

	Rural Areas			Urban Areas			
	Self-Employed	Agricultural/ Non-Agricultural Labourer	Others	Self-Employed	Wage/ Salaried	Casual Labourer	Others
Overall	47.4	40.4	12.2	34.7	39.7	13.4	12.1
Scheduled Castes	30.8	59.0	10.3	26.2	39.4	25.1	9.2
Scheduled Tribes	44.0	46.5	9.5	23.3	38.4	21.1	16.9
OBCs	51.3	37.3	11.4	36.8	35.0	17.1	11.1
Other Social Groups	57.5	26.2	16.3	36.2	44.1	6.0	13.6
Muslims	46.3	40.7	13.0	45.5	30.4	15.5	8.6

Source: NSSO (2012), 'Employment and Unemployment Situation among Social Groups in India'; NSSO (2013), 'Employment and Unemployment Situation among Major Religious Groups in India'.

labourers.²⁸

Historically, Dalits have either been landless or marginal landholders, and due to the lack of adequate land reforms, this trend continues even today. NSSO data for 2009–10 shows that 92.1 per cent of Scheduled Castes (SCs) in rural areas were landless or had landholdings of one hectare or less.²⁹ This has led to a preponderance of SCs in casual labour. As Table 4.2 highlights, in 2009–10, 59 per cent of SCs in rural areas were engaged as agricultural or non-agricultural labourers, compared to an overall average of 40.4 per cent; in urban areas too, 25.1 per cent of SCs worked as casual labour, as opposed to 13.4 per cent of the overall population.³⁰

Today, caste lines have somewhat blurred in the social landscape of India, but caste remains a key determinant of a person's future. This is perfectly reflected in India's labour market, which is more governed by laws of social origin than by statutory legislation.³¹ Moreover, violation of caste rules by Dalits seeking to break caste-related employment barriers is prone to severe punishment from dominant castes, including economic boycotts and even physical violence.

2.3.2 Scheduled Tribes (Adivasis)

NSSO statistics indicate that in 2009–10, 76.5 per cent of Scheduled Tribe (ST) households in rural areas were either landless or had less than 1 hectare of land.³² The share of tribal households with small

and marginal landholdings has been steadily increasing over time. Studies have also shown that land under ownership of tribals is often informally occupied by non-tribals, and is, on average of, lower quality compared to land held by other backward classes.³³ Over time, the traditional non-monetized and self-sufficient economy Adivasis has gradually crumbled. Settled agriculture has brought with it its inevitable imperatives and linkages with credit, inputs and markets. Dependency on moneylenders has driven many Adivasis to seek jobs in urban areas or trapped them into forced labour arrangements.

Along with Dalits, Adivasis make up a substantial part of the workforce engaged in casual labour, in both rural and urban areas. Even among them, tribal communities are at times the most marginalized and destitute, undertaking the hardest work and getting paid the lowest wages. In the construction industry in Ahmedabad,³⁴ for instance, there is a preference for hiring tribal labour compared to local Dalits at *nakkas*, informal street places of recruitment where both groups compete for limited work opportunities. Dalits and workers of other castes often move up the value chain. Labour contractors of masons, painters, plumbers and electricians, are increasingly Dalits themselves. Adivasi workers, however, are rarely able to make this transition.³⁵

The case of nomadic and de-notified tribes (DNTs), who number an estimated 60 million in India, is also worth highlighting here. The caste-

based Census has not identified DNTs as a separate category, and they are counted within the SC, ST and OBC communities. Finding recent and exact statistical data for this group is very difficult. However, in a survey carried out in western Maharashtra in 1990–92, it was found out that 53.75 per cent of DNT families were dependent on wage labour, 22.6 per cent on service (public and private sector), 9.59 per cent on petty trade, 9.22 per cent on so-called criminal activities like begging, pick-pocketing and distilling alcohol, and 4.81 per cent on agriculture.³⁶ DNTs are also employed as migrant bonded labourers in brick kilns, sugarcane and stone cutting industries.

2.3.3 Women

Table 4.1 highlights the extremely low participation of women in the labour force in India, compared to other groups. According to an ILO report of 2013, in terms of female labour market participation, India ranked 11th from the bottom out of 133 countries.³⁷ This dismal labour market participation number for women is subject to fierce debate, and a number of clear facilitating factors are highlighted below.³⁸

First, women carry a greater weight of unpaid economic activities, within homes or as 'volunteers'; thus very often their economic contributions are simply not counted. Second, within remunerated work, they remain concentrated in areas of 'invisible' or unseen labour activities, like domestic work and home-based activities, which fall outside the scope of formal labour registration systems. Third, employment numbers in agriculture have been coming down and women have suffered disproportionately from this decline, since they comprise a significantly larger share of the agricultural workforce. Fourth, a considerable pay gap exists between men and women, in both the formal and informal sectors.³⁹ Fifth, the overall fall in women's employment in urban areas has been steepest among Dalit and Adivasi women, an indication of the linkages between women's social status and employment. Dalit and Adivasi women are concentrated in casual jobs with low pay, and are liable to drop out of the labour force because of extremely poor wages.⁴⁰ Sixth, labour and social security laws direct their protection and benefits towards male household heads, excluding women from equal access. These factors largely coincide

with general discriminatory attitudes and practices towards women, as well as their lower social status, leaving them highly vulnerable to exploitation, abuse and violence, including sexual harassment at the workplace.

The case of women engaged in home-based work is particularly instructive in highlighting the extensive involvement of women in labour markets, despite their absence from official statistics. The 66th round of the NSSO survey in 2009–10 estimated that 79.2 per cent of the non-agricultural female workforce in urban areas was employed in home-based work.⁴¹ The rising trend in home-based work among women is also captured in a survey conducted by the Centre for Indian Trade Unions (CITU) in 2012–13, which studied the conditions of home-based workers in 49 towns of 10 states.⁴² About 82.5 per cent of the 3,000 workers surveyed in this study were women. These figures are still likely to be an underestimation because many home-based workers do not report themselves as such, or are simply not counted. Of the sample in the CITU survey, 48 per cent identified poverty and economic crises as the main reasons for engaging in this type of work, which is undertaken alongside domestic and social responsibilities. The large majority of women involved in such home-based piece rate work come from the low-income groups of the working classes, but it is difficult to point towards the exact nature of social group involvement because of the erratic and disparate nature of the work.

2.3.4 Muslims

Table 4.2 shows that in 2009–10, only 30.4 per cent of the Muslim workers in urban areas were engaged in regular wage paying or salaried work, compared to 39.7 per cent of the total population.⁴³ Muslims with regular employment are mostly involved in inferior or low-end work, and as a result their job conditions are generally much worse than those of other regular workers, including Dalit and Adivasi workers. The work participation ratios of Muslim women are also very low, particularly in urban areas.

Data compiled by the Sachar Committee shows that overall only 5 per cent of employees in government departments, agencies and institutions were Muslims, which was much less than their 13.4

per cent share of the population. The proportion of Muslims was found to be only 3 per cent in the Indian Administrative Service (IAS), 1.8 per cent in the Indian Foreign Service (IFS) and 4 per cent in the Indian Police Service (IPS).⁴⁴ In urban areas, the proportion of Muslims engaged in self-employment is much higher than other groups.

Given the high concentration of Muslims in self-employment and the informal sector, access to adequate financing and credit is critical to ensuring sustainable livelihoods. For Muslims, access to bank credit remains highly inadequate. The aggregate amount lent to Muslims is generally much lower than their share of the population, and average loan sizes are also small compared with other social and religious categories. Such financial exclusion of Muslims has a major impact on their socio-economic condition.⁴⁵

2.3.5 Persons with Disabilities

Persons with disabilities see their employment opportunities structurally reduced due to incorrect perceptions about their capabilities as employees. The vast majority of disabled persons have no income from employment. There is hardly any reliable recent data on employment for persons with disabilities. Estimates from The 58th round of the NSSO, conducted in 2002, showed that only 26.3 per cent of disabled persons were engaged in economic activities,⁴⁶ saying nothing of the nature or conditions of their employment.

Even among persons with disabilities, there are those who are particularly disadvantaged. The proportion of employed among the mentally disabled was the lowest, at 5.6 per cent. The proportion of employed among disabled women was just 10.4 per cent.⁴⁷ In the absence of accessible social security, disabled persons, especially mentally disabled persons and disabled women, are often found to be totally destitute.

People with disabilities deserve better, and employers are unwittingly harming their own interests by not hiring them. A number of studies have revealed that people with disability are highly motivated and productive workers.⁴⁸ There is a strong business case for hiring people with disabilities, which sometimes requires employers

to invest in adapting workplaces to their needs. For this, subsidies are available, but the real gains come from rising productivity. This insight on potential productivity gains may finally help in the rapid filling of the 5 per cent employment quota mandated in public sector enterprises by the proposed Rights of Persons with Disabilities Bill, which the drawing of subsidies alone has thus far failed to do.⁴⁹

2.3.6 Persons Living with HIV/AIDS

An estimated 2.1 million people in India are living with HIV.⁵⁰ A job is generally associated with better quality of life, and active and productive engagement in society. The availability of effective Anti-Retroviral Therapy (ART) has had a profound impact on the ability of people with HIV to remain in employment. An ILO study estimates that adherence to ART is very high (more than 95 per cent) if a person is employed,⁵¹ emphasizing how essential jobs are for HIV positive people. Work, almost literally, can save lives. A study by the Delhi State Aids Control Society, in collaboration with the ILO, at two ART centres in Delhi, however, revealed that almost half of all people living with HIV are unemployed. With no job and no source of income, people living with HIV are treated as a burden by the family. The study showed that 12 per cent of HIV positive people in the study were daily wage labourers, and 37 per cent were either in regular salaried employment or were self-employed.⁵²

Disclosure of HIV status and fear of discrimination are major concerns for people who are employed or seeking employment. There are some fundamental legal and ethical principles guiding the employment of people living with HIV/AIDS.⁵³ One, there should be no mandatory testing for HIV, and health checks should be limited to regular fitness requirements. Two, when a person is HIV positive, the status must be kept confidential. Stigma and discrimination are the worst enemies of people living with HIV. An employer should never disclose the positive status of an employee. It is the choice and right of the individual whether or not to disclose HIV-related personal information. In practice, very few workplaces or occupations are actually touched by infection risks, although the main issue is one of behaviour, not occupation.

3. Instruments of Exclusion from 'Decent Work'

In a 1983 judgment, the Supreme Court reasoned, in strong social justice terms, that in addition to capital, workers also contributed to the amassing of national wealth:

*While the former invest only a part of their moneys the latter invest their sweat and toil; in fact, their life itself... they are not a marketable commodity to be purchased by the owners of capital. They are producers of wealth as much as capital; they supply labour without which capital would be impotent.*⁵⁴

However, with the advent of globalization, there has been a profound change in the discourse around the 'social contract', fuelled by concerns of businesses that public welfare and labour laws are harming economic growth. Production has to be cheap for companies to grow. The state has wholeheartedly sided with employers and investors to keep labour as cheap as possible and severely limit the application of labour protection laws. While employers get huge subsidies, incentives and regulatory exemptions, labour has been left to fend for itself. The exclusions in the labour market originate from this siege on the rule of law by employers. The strong social regulation of the labour market, based on caste, religion and gender, reinforces this siege.

The following instruments of exclusion, all contributing to lowering the cost of labour, are some of the ways in which labour is denied the enjoyment of decent work.

3.1 Child Labour⁵⁵

In order to survive, poor people are forced to seek refuge in working tactics that ultimately only worsen their outlook on a more hopeful future existence. Child labour is one of these tactics. Child labour is both a symptom and cause of poverty. Without education, the child's opportunity to rise on the ladder of upward social mobility is squandered. The vast majority of working children originate from socio-economically disadvantaged communities. The linkages between child labour, illiteracy and poverty are discussed in detail in the

chapter on exclusion from school education in this report.

Child labour figures in India are not reliable, and estimates vary. The government puts the number of working children in the five to 14 years age group at about 12 million,⁵⁶ but this relies on a very narrow definition of 'work', and also excludes children employed in the underground economy, thereby understating the true scale of this problem. As per unofficial estimates, the number of child labourers in India is as high as 60 million.⁵⁷ At the same time, it is known that adult under-employment is massive, underpinned, for instance, by the necessity to enact the NREGA. From an employment point of view, there is absolutely no necessity for any child to work. Each of them can be replaced by an adult worker.

Child labour is further proof of the total disdain by employers towards the law, and of a state condoning these violations on a large scale. A child in India is mandated to go to school from the age of six to 14, and a new Child Labour Bill, prohibiting child labour, has been in Parliament for two years now, an astoundingly long period.⁵⁸ Working children are not only deprived of their childhood and future, studies have also shown that in the long run, economic development of countries as a whole is substantially hindered by the persistence of child labour.⁵⁹ Socially, child labour is a disaster; economically, it is suicide.

3.2 Worsening Terms of Employment

In the new labour market of the present day, employers hire the same employees, no longer on the basis of an employment relationship for a specified period of time, but to perform and complete a certain task. Workers are no longer being attached to an enterprise, but hired as individuals who themselves are considered 'entrepreneurs'.⁶⁰ They bring their own tools and, in fact, work at their own expense. Once the assigned task is accomplished, they get their fee for delivered services and move on to the next job. Their labour inputs are no longer part of an employment relationship between an employer and an employee, but part of a business contract between two different 'enterprises'.

The working poor have plenty of reasons to protest the new terms of employment that are

increasingly becoming the norm. Arriving at their workplace, many workers, especially migrants, find that their wages and employment terms are not what they expected to receive, or that they have been lured into jobs that do not exist. This practice of deception by recruiters is tantamount to trafficking, which is prohibited by law. Many workers pay a fee to recruiters in order to obtain a job, and end up in a situation in which their remuneration is much lower than expected, and which does not cover the payment of the fee.⁶¹ As a result, workers have to work for longer periods or longer hours than foreseen. They cannot leave the workplace, as contractors will constantly remind them of their incurred debts; they become, in effect, bonded. To make sure workers do not leave their workplaces unexpectedly, recruiters and employers turn to violent practices to forcibly retain workers.⁶² The cycle of exclusion closes in on itself when workers fall sick or get injured, leaving them unable to work. The costs of not working for someone already close to starvation levels of poverty are extremely high, and many are forced to take on debts for their treatment. The objective of this exploitation is the availability of an ultra-cheap labour force that is deprived of the freedom to choose the terms of its employment.

Shortened workweeks are another characteristic of the changing terms of employment in many industries with detrimental consequences for labourers. In the case of migrant workers, for example, contractors sometimes artificially diminish working time, to keep their working days outside the purview of legislation. They deliberately shift contract workers from one workplace to another, keeping workers unemployed for some time. Many workers in agriculture and the informal sector also face similar under-employment. Work is available intermittently and, even then, for only three or four days a week.

Even for the working poor employed in many traditional occupations, the worsening terms of employment are a reflection of the new realities of mechanization and the increasing role played by middlemen. The resulting pressures to keep labour costs low have made it virtually impossible for them to leverage their traditional crafts on fair terms that will ensure a secure livelihood. Primary research undertaken by one of the authors with the Bunkar (weaver) community in Barabanki

reveals a steady pauperization of the community in recent years, with most now reduced to daily-wage labourers who are completely dependent on middlemen and local traders.⁶³ There is high wage insecurity, payments are made by piece rate and any shock (illness, emergencies in family and resultant impact on pace of work) makes an irreparable dent in the family income. Weavers find themselves in a buyer's market, where weavers are many but demand for work is limited. That ensures that the traders and middlemen call the shots, and weavers are forced to take whatever terms are offered to them. Moreover, the traditional association of some communities with the craft of their ancestors (for example, the Ansari Muslim community in Barabanki with weaving) makes it difficult for them, despite their adverse conditions, to transition to alternative forms of livelihood.

3.3 Distress Labour Circulation

Millions of workers in India are migrant workers, circulating from place to place with no intention of settling down. They return to their native villages and towns once a job is completed or a working season comes to an end. No official data exists on such workers. The most reliable numbers put the estimate at somewhere between 30 and 50 million people.⁶⁴ Their freedom of movement from one state to another is guaranteed by the Constitution,⁶⁵ and monitored under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, India's least applied labour law. Under the act, both recruiters and workers moving between states must be registered. In reality, this only happens for a fraction of all migrating workers.⁶⁶

There are several reasons why people are driven from their homes in search of work. First, in rural areas, employment in agriculture has come down significantly. Second, land redistribution was never successfully implemented in most parts of India, leaving many people from excluded groups land poor or landless. Third, there is a lack of employment opportunities in their place of residence. Employers also often prefer to hire migrant workers even where local labour is available. Migrant workers do not go home at the end of the day and can be called for work at any point in time during the day

or night. Since the vast majority of workers are hired through intermediaries, employers leave many responsibilities of managing the workforce to these intermediaries, who keep the workforce under their control.

The brick kiln sector in India is a perfect example of the employment of migrant labourers in highly exploitative labour arrangements.⁶⁷ Employing about 8 million persons, this sector complements work in the agricultural sector by providing seasonal employment in the agricultural lean season, from October to March every year. Most workers migrate from the poorer states to the relatively more developed ones.⁶⁸ States like Punjab attract about 1.4 million workers every year, and other major destinations include Andhra Pradesh, Uttar Pradesh and Gujarat. Typically, the industry works with migrant labourers, who look for assured work, as well as advances to meet the expenses at home, in the lean season. This is the gap that labour contractors fill, by providing advances varying from as little as ₹4,000 to as much as ₹40,000 per family, while employers extend these advances to the contractors directly.

The existence of the labour contractors in this arrangement ensures that the employer–employee relationship between the principal employer, in this case the brick kiln owner, and the worker, is never established. It is therefore unclear who is to be held accountable for the highly exploitative conditions under which these workers must make their living. There are no proper wage calculations, and advances are only settled by the contractor at

the end of the six-month period. In the interim, the migrant workers are completely dependent on the labour contractor, living in extremely harsh working conditions and under constant threat of violence. In most cases, children accompanying their parents also work at the kilns, which deprives them of school education.

3.4 Absence of State Protection

Labour standards in India continue to remain below internationally accepted norms, largely because they have failed to recognize changing labour market dynamics and adapt labour protection laws accordingly. There is a need for the state to recognize that modern labour markets work through a network of employment agencies and middlemen, often unregistered and unregulated. This leads to flagrant disregard for decent labour practices mandated by law, and problems with assigning accountability for offences.

When workers approach government labour authorities or the police to seek remedy against cheating, violence or lack of adherence to labour laws, the chances of them obtaining a solution are slim. While the provision exists for government-appointed labour inspectors to monitor working conditions and employment terms, available data indicates that the number of labour inspectors is insufficient to properly scrutinize working conditions in the diverse range of workplaces across the country.⁶⁹ As a result, labour inspectors mostly get into action only when complaints have been

Table 4.3 Details on Labour Inspections and Violations of Labour Laws

Year	Number of Inspections	Number of Irregularities Detected	Number of Convictions	Conviction Rate (%)
2009–2010	48,899	3,80,184	7,300	1.92
2010–2011	43,816	4,01,151	14,433	3.60
2011–2012	41,081	3,53,813	12,736	3.60
2012–2013 (up to Dec 2012)	30,466	2,59,451	7,090	2.73

Source: 'Inspections Against Violations of Labour Laws', Lok Sabha Unstarred Question no. 4448, answered on 22 April 2013, Ministry of Labour and Employment.

filed, and largely operate in formally registered enterprises with an average workforce above a certain size. As shown in Table 4.3, in 2011–12, the office of the Chief Labour Commissioner and labour departments of the state governments conducted a total of only 41,081 labour inspections across the country, with an extremely low conviction rate for violations of labour laws.⁷⁰

Inspectors are also frustrated by a lack of clarity about the exact scope of labour laws. Their assigned authority varies considerably, depending on the state or industry concerned. For instance, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 is still not applicable in a number of states. The Business Process Outsourcing and Information Technology sectors are completely exempted from labour laws, but it is unclear why. The Micro, Small and Medium Enterprises Development Act, 2006 does not have a single section dealing with labour conditions. For workers, the difficulty in approaching labour inspection services comes on top of an employers' lobby. For workers, the difficulty in approaching external review of labour conditions in their workplaces.

Kamala Sankaran writes:

*For a fairly long time now, employers' organizations have been calling for doing away with the inspector raj; that is, the burdensome system of inspection carried out under innumerable labour and safety laws in India. For instance, it is reported that a factory in India is, on an average, subjected to 37 inspections from various inspectors representing different agencies. In line with the widespread feeling across industry that inspections are only a source of harassment and corruption, there is a consensus among employers that inspections by government departments should be rationalised and reduced.*⁷¹

As if the uncertainties surrounding the scope, meaning and enforcement of labour rights do not sufficiently work out to the advantage of employers, the state further facilitates opportunities for erosion of these rights, for example, through the creation of Special Economic Zones (SEZs). In

order to incentivize private investment, many state governments have modified labour laws in favour of employers operating units in these SEZs. These changes include the diminished likelihood of the application of labour laws, a lack of presence of trade unions and no visits by the labour inspectorate. In fact, data on working conditions in SEZs is neither available nor reliable, since employers are permitted to obtain reports from accredited agencies, rather than being subject to mandatory labour inspections by government authorities.⁷² Till October 2011, the establishment of 583 SEZs had been formally approved, of which 143 were operational.⁷³ Direct employment in SEZs jumped from 135,000 in 2006 to almost 400,000 in 2009.⁷⁴

This inability and unwillingness of the state to enforce labour laws is also mirrored in its poor record of implementing labour welfare measures. While special labour welfare boards have been created for workers in a number of industries, in practice, they exclude a large number of them. In the construction industry,⁷⁵ which employs over 30 million workers in India, only 12 per cent of construction workers were registered under the State Construction Welfare Boards, as of August 2011. There were no workers registered in 13 states and union territories, and less than 10 per cent were registered in another 11 states and UTs. Only three states did relatively well; 99 per cent, 75 per cent and 68 per cent workers are registered in Kerala, Tamil Nadu and Madhya Pradesh, respectively. Poor worker registration rates give rise to twin problems. First, workers do not receive due benefits under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and public schemes such as the Rashtriya Swasthya Bima Yojana (RSBY) that utilize the worker databases of the Welfare Boards. Second, the extent of problems among construction workers, such as injuries and accidents, is of an unknown magnitude. A large and increasing proportion of construction workers are also seasonal and/or interstate migrants, who are seldom registered by the Welfare Boards.

A preliminary conclusion of the situational analysis of India at work points to a state decreasing its services to workers, and retreating from its obligations towards enabling and protecting their access to working and public spaces. When authorities do act, it is often against the interest of

workers. Their slums are demolished in the name of public health risks or for beautification projects, and workers are resettled in faraway places where they are no longer eyesore to the middle class. These new remote places of living increase distances to labour opportunities and force workers to pay transportation costs they did not need to bear earlier. At the same time, access to other services like water, schooling and medical care further diminishes, compounding their feelings of being abandoned by society.

When workers do have the strength and opportunity to reinvent their professional lives, as street vendors, rickshaw pullers or waste pickers, they often find that public spaces are increasingly being marked as areas where it is illegal to do business. To continue their trade they pay bribes to the police, hoping they can thus enjoy their entrepreneurial 'freedom'. To them, the state is an obstacle, if not an enemy.

3.5 Sliding Judicial Scales

The government's concern has largely been directed towards the creation of a healthy operational climate for employers. Production has to be cheap for companies to grow. At present, faltering elements in a production process, like the lack of a steady electricity supply, transparent and simple investment rules and reliable infrastructure, make economic output unnecessarily expensive. To compensate for these potential losses, the government has chosen to side with business by keeping labour as cheap as possible, as seen earlier, through processes of casualization and exploitation. The government's lethargy towards labour, which is absolving employers from obligations that should otherwise be considered standard for doing business, is increasingly forcing workers to turn to the judiciary in their quest for justice.

However, judicial protection from labour law violations has been a mixed bag of accomplishments. Where workers are poor and largely illiterate, or semi-literate, access to any public body becomes problematic. Justice P. N. Bhagwati was one of the first to recognize this. He introduced an instrument called the Public Interest Litigation (PIL), which made it possible for members of the public to approach courts and seek judicial relief on behalf of persons or classes unable to do so 'by reason of

poverty or disability or socially or economically disadvantaged position'.⁷⁶ Since the introduction of PILs in 1979, the Supreme Court of India has become known for its judicial activism with famous cases like *Bandhua Mukti Morcha*,⁷⁷ *Vishaka*,⁷⁸ *Neeraja Chaudhary*,⁷⁹ or *the ASIAD Workers Case*⁸⁰ all of which saw decisions against intense and long-standing forms of labour exploitation.

In 2001, the landmark *SAIL* judgment changed all this.⁸¹ It marked the beginning of a trend of courts undermining workers' entitlements and protection. The Supreme Court ruled that the Contract Labour Act of 1970 did not require the mandatory absorption of contract workers as 'permanent workers' after employment of long periods at the same workplace, where workers were often employed under different contractors.⁸² In effect, this did not abolish contract labour, the stated aim of the act, but instead abolished entitlements protecting the secure employment of contract workers. Employers admit that the *SAIL* ruling allowed them to maintain a flexible workforce, which they attributed to constant restructuring demands caused by globalization. Contract labour also offered opportunities to duck payment of social security benefits. Since contract workers are mostly hired by employment agencies or middlemen, administrative costs related to labour management also came down.⁸³

In 2006, the Supreme Court further ruled that casual and temporary workers could not seek regularization of their services, even after employment of more than 10 years.⁸⁴ In public sector companies, many workers were dismissed without the state making any efforts to reemploy them elsewhere. In another move, the Supreme Court reduced options for workers to receive back wages after dismissal, by shifting the burden of proof from employers to employees.⁸⁵ It also lamented the indiscipline of workers at the workplace,⁸⁶ while employers were not obliged to maintain any discipline by keeping written employment records that workers could produce as proof of receipt of wages.⁸⁷ The right to strike was restricted,⁸⁸ and it was not found necessary to consult with workers when companies were privatized.⁸⁹ In one case, a worker acquitted in a criminal trial was still compelled to prove his innocence once more before another court,⁹⁰ which goes against the solid legal principle that no one can be tried twice for the

same offence. Workers were no longer considered preferential creditors in case of insolvency of their employers,⁹¹ and, most shocking of all, a worker who was illegally terminated was not entitled to reinstatement, leaving huge loopholes for employers to dismiss unwanted workers at random without fearing claims for reinstatement.⁹²

While such judgments have made labour markets more flexible, allowing companies to adjust their needs of fluctuating demand, they have also led to an incremental destruction of workers' rights. Informalization and contractualization have been accepted as the reality of the globalizing world, without the necessary move towards guaranteeing decent working conditions for all, regardless of the terms of their engagement. Many of these judgments are at odds with the international labour standards of the ILO, which are supposed to apply equally to all workers.

3.6 Depressed Wages

The pillars of law meant to protect workers, at least in the formal sector, are increasingly becoming ineffective. The enforcement of these protections is also fraught with confusion and insecurity. For informal workers, laws do not even provide the required protection. It is no longer clear which workers fall within the scope of which labour laws, nor is it clear what the law actually means. Employers meanwhile enjoy the benefits of these legal loopholes. Attempts to undermine the application of laws, which are already under pressure by a labour regime of social determinants, 'means a capitulation to those already breaking them, which de-legitimizes the state.'⁹³ The labour law regime has evolved into a regime of pseudo laws.

The Minimum Wages Act, 1948 is one such case. Many workers claim they almost never receive minimum wages. Few workers get detailed wage slips indicating all the relevant data, while the rest have no legitimate proof of payment.⁹⁴ Again, the state itself has contributed to the questioning of this right to credible and legal payments, when it started a discussion arguing that beneficiaries of NREGA were not entitled to statutory minimum wages.⁹⁵

The use of piece rate payments set at disputable 'schedules of rates' makes it difficult to calculate the value of remuneration, as opposed to if the work had been time-based. Production targets are high, and a single person cannot complete these tasks alone. Often, there are penalties for defaults and not meeting targets. As a result, family members are compelled to work as well, which further reduces the wages earned per person. Such low wages have stark consequences for the wellbeing of the families involved in this labour. Moreover, in the case of migrant workers, the culmination of assets in the hands of the same persons—meaning that employers are owners of shops and houses as well as wage providers—obliterates any wage increases, since rents and food and living expenses increase accordingly.

Other examples of wage-depressing practices include the employment of child labour or bonded labour, where payments are incomplete, insecure, irregular and late. In Tamil Nadu, young Dalit girls working in spinning mills under the 'dowry' system of *sumangali* receive no payment at all apart from some pocket money. They are only entitled to receive a lump sum payment once they complete their contract of three or five years, which varies from between ₹30,000 to 75,000. The calculation of their wages on a time-based output would result in much higher wage rates. In order to depress wages further, they are engaged as apprentices for the entire duration of the contract, though the genuine required apprenticeship period for such work is estimated to be only three months.⁹⁶ This is a general, deliberate practice by employers to save money. Workers' skills everywhere are incorrectly classified to facilitate this downward wage direction.

At *nakkas*, the first workers selected for a day job get the highest wages, because they look strong and able. The later it gets in the morning, the lower the wages offered to workers. When the worker is a migrant worker, the intermediary negotiating wages with the principal employer on behalf of workers will typically pocket part of the wage meant for the worker.

In the case of home-based work,⁹⁷ it is the home-based worker who subsidizes her employer and industry by bearing the infrastructural and attendant cost of production that would otherwise

accrue to a factory. This means that these workers bear the cost of the rented space used for production, the electricity and water needed, and the transport cost of the raw materials. However, their wages rarely reflect this additional burden on the employee. In addition, they have no access to any credit that could facilitate their work. The Janwadi Mahila Samiti survey of 2008–09 showed that most home-based workers (irrespective of the industries that they worked in) earned between ₹20–50 per day after five to eight hours of work. Payments for the work done are received intermittently, i.e., once a fortnight, or at best once a week. For this, the woman has to make several trips at her own cost. Similarly, in the research undertaken in Barabanki, Uttar Pradesh, weavers reportedly received monthly wages of as little as ₹2,500 a month for their labour.⁹⁸

3.7 Hampering of Collective Action

While employers are firmly organized at all levels, in all sectors, four out of every five workers in India have no trade union membership.⁹⁹ In light of the prevailing terms of employment for workers this seems odd; after all, trade unions are the embodiment of 'defending and furthering the interests of workers'.¹⁰⁰ The Trade Union Act of 1926 requires a minimum membership of one-third or 100 workers in a workplace, whichever is less, but on paper any seven workers can still establish a union. Such liberal legal standards make the paradox of low union membership even more puzzling.

One reason behind the poor numbers of trade union membership is that the huge number of workers drifting from one state to another makes it difficult to pin them down at one specific workplace. This labour circulation has a profound impact on the capability of trade unions to organize workers. Access to trade unions is also limited in the case of home-based work, because of definitional issues, which deny both home-based workers and domestic workers the legal status of 'employee'. Moreover, their working environment is individualized, further hampering their capacity to unite or to set up co-operatives. In other cases, for instance in SEZs and factories operating under the *sumangali* system, workers generally stay on premises that are directly or indirectly controlled by employers.

Employers also do not shy away from intimidation, or even creating their own unions. These 'yellow unions' not only directly contravene the principles of international labour standards,¹⁰¹ which state that workers' and employers' organizations shall not interfere in each other's affairs, but also amount to 'unfair labour practices' by employers.¹⁰² In one case, an employer who had two unions in his factory, one of them a yellow union, did not shy away from diverting all union membership contributions to the union set up by the management.¹⁰³

The state is complicit again, this time in keeping trade union membership down. Labour authorities simply refuse to register unions.¹⁰⁴ Registration of unions is not a legal requirement for their establishment, but a requirement for entering into collective agreements with employers. The law, however, does not lay down any processes and rules for employers to recognize unions for purposes of collective bargaining. As a result, less than 2 per cent of all workers in India are covered by the security of collective agreements.¹⁰⁵ The state also discourages the 'voice' of the workers by branding and labelling trade union activists as Maoist or Naxalite terrorist threats, quickly opening up avenues for prosecution under stringent anti-terror laws.¹⁰⁶

3.8 Access to Government Schemes

The state has created the impression that it has taken an array of measures to alleviate employment insecurity and poverty by subsidizing workers with all kinds of welfare schemes. Scratching the surface of labour relations reveals that other state interventions are fully supportive of employers and the private sector, with the intended aim of spurring economic growth. Many of these measures go against the interest of workers.

This is also the case when potential beneficiaries try to get access to social security entitlements. One piece of social security covered by the Social Security Act, 2008 is the RSBY, which registers a maximum of five persons of any 'Below Poverty Line' (BPL) family for the purpose of hospitalization in both private and public hospitals. As of 31 March 2014, about 37 million cards have been issued, covering more than seven million hospitalization cases.¹⁰⁷ Initially, the information flow towards beneficiaries was weak, with many beneficiaries unaware of how to register or benefit from the

scheme. The BPL requirement implies that around 73 million households (out of a total of 227 million households) are entitled to benefits under the RSBY, but this does not take into account targeting errors, due to which many households are wrongly accorded BPL cards, and many households eligible for BPL status are unable to get it.

The intended beneficiaries of schemes such as the RSBY are primarily Dalits, Muslims and Adivasis.¹⁰⁸ The ability to master their own resources is already minimized for these categories of citizens. As discussed earlier, only in very few instances does the state actually actively extend support to its citizens. Instead, citizens need to reach out to the government. Migrant workers face additional obstacles, even when they have permanently settled down elsewhere, because their social security entitlements are linked to their state of origin.

Declining employment opportunities leave many without sufficient work, while for others there is no work at all. Many workers remain poor despite the fact that they are working. Had the state enforced prerogatives mandated by labour and other laws, wages would never have reached such low levels. Workers' dependency on welfare schemes would decrease. Had the decisions of the Supreme Court relating to contract labour not been so generous towards employers, workers would have enjoyed greater levels of employment security.

This means that the state itself has allowed labour to be squeezed. At the same time, the state is trying to remedy these missteps by measures aimed at improving the lives of the working and non-working poor. Instead, as a result of these measures, employers are absolved from obligations towards labour. It is the state picking up the bill of employers' exoneration. Under current conditions, these welfare schemes consist of nothing but a compensation for low wages, allowing employers to maintain these low wages. In other words, the schemes It is the state that picks up the bill instead indirect subsidies to employers. The efforts seemingly targeting income distribution towards the poor are in fact serving employers, allowing them to keep their labour costs artificially low.

4. Consequences of Exclusion

The economic laws of demand and supply are clearly not protecting workers from a downward spiral towards social Darwinism, in which only the fittest will survive. It has been seen that a number of interrelated vulnerabilities of all kinds have already resulted in various and massive forms of contemporary slavery such as distress migration, exploitative contract labour, trafficking and forced labour.

The relevant question now, it seems, is no longer the classification of the forms and origins of labour exploitation, but the determination of the extent and degree of labour exploitation. In earlier sections, arguments have been put forward suggesting that the labour market in India is inherently prone to exclusion practices that make large quantities of people extremely vulnerable to a sliding path towards destitution. The excluded almost exclusively belong to the suppressed castes, religious minorities and tribal groups. Within these categories, women are perhaps the worst off. It has also been argued that the state has been colluding with the private sector in accordance with its faith in economic growth as the engine of the economy, leaving labour behind in a state of deprivation despite a number of responsibilities towards workers, summarized as decent work obligations. Every person counts and each individual is entitled to a life of dignity, and this cannot be achieved as long as workers have no access to decent working conditions.

4.1 Poverty

As discussed earlier, the boundaries between the organized and unorganized sectors are gradually disappearing. Informal employment is rising in the formal sector, as is the informality of the economy as a whole, and the formal and informal economies are firmly intertwined. The demise of the employment relationship is not a typically Indian phenomenon; the trend is worldwide. In his work, Guy Standing deals with this phenomenon of 'precarious work' in industrialized countries.¹⁰⁹ Like their counterparts in India, workers in Europe and the United States are increasingly engaged in

jobs without employment security. Nevertheless, their predicament is still as when compared to their precarious counterparts in the developing world, India included.

Although there is some dispute over the actual numbers, the ILO estimates that globally there are 870 million workers living with their families on less than US\$2 per person per day, the internationally agreed figure for poverty line. Of these, 400 million are living in extreme poverty, on less than US\$1.50 a day. A further 660 million workers are living just above the poverty line and are, in the current scenario of hyper-economic liberalization, at high risk of falling back below the poverty line.¹¹⁰

Estimations put the number of destitute persons in India at approximately 10 per cent of the total population, more than 100 million people. The same estimation projects that these 100 million form one-third of the extremely poor.¹¹¹ On the other hand, India counts 55 billionaires, representing a total net worth of US\$194 billion.¹¹² The continuing decline in decent work opportunities, in favour of more insecure forms of labour arrangements designed to depress labour costs, is a root cause of this large-scale poverty and accumulation of wealth in the hands of a privileged few. This situation is not tenable.

4.2 Dominance of Capital

The labour market in India is more socially organized than legally, with a strong overlap between caste and class. Persons from marginalized groups, particularly Dalits and Adivasis, form the bulk of the workforce at the bottom of the informal economy, as well as in the factories of the formal sector. This imbalance is recognized in India, and job reservations for these communities in the public sector are meant to correct such imbalances.

Instead of similar reservations in the private sector, companies' efforts to positively contribute to society have taken the form of what is commonly called Corporate Social Responsibility (CSR). However, it is important to acknowledge that 'social responsibility' can only follow when 'legal responsibilities' have been fulfilled. Earlier sections of this chapter discussed how labour laws are being widely circumvented, and how the corporate private sector greatly benefits from its cheap linkages to

suppliers in the informal economy. As long as production by these companies remains unethical, or worse, illegal, this by itself directly contributes to larger corporate profits. Instead of CSR, companies could opt for paying higher wages, which would not only reduce the need for their social charity, but also expand demand for their goods.

As always, the state is meekly following this paradoxical corporate choice and ever expanding it. The new Companies Act of 2013 requires that private sector companies spend at least 2 per cent of their profits on CSR-related activities.¹¹³ For companies in the public sector, a similar rule was introduced earlier with the result that huge amount of funds are lying idle, since there are many strings attached to the utilization of these funds. From a worker's point of view, it would be more effective to abolish CSR and start respecting the legal requirements first. In this case, CSR could become a true responsibility for only those companies having the moral courage to respect rights at work.

However, workers are scarcely represented in the various political fora in which such decisions are made, which are the monopoly of the owners of capital. With the undermining of union activity and the establishment of parallel yellow unions that have been co-opted by the owners of capital, their voice is being further marginalized, even at the level of the workplace.

4.3 Alienation

Where the state has acted, it has done so at odds with the interests of workers. This happens, for instance, when street vendors, rickshaw drivers, hawkers and beggars are chased away from public spaces, and their merchandise or earnings are confiscated. This also happens when unions are not registered, or when employers are allowed to suppress and intimidate their workers. It happens when social security is refused due to the extensive discretionary powers of officials, and citizens and workers at the bottom of society start to think that they are simply not wanted as citizens. They become alienated from society.

These feelings of alienation can occur at different times in people's lives. Workers with formal jobs enjoy a certain status in life. Their jobs are secure, their payments are sufficient to maintain a family,

send their children to school, live in a decent house and keep aside time for leisure. To them it would come as a shock if they were dismissed. With no longer-term unemployment security, their income would drop drastically, suddenly making all aspects of life insecure. To the outside world it would be obvious that this person no longer belonged to a privileged class of secure workers, and the drop in status would fuel feelings of frustration and insecurity.

This alienation can also happen when slums are torn down, or when people are evicted from (semi-) public spaces for beautification or other purposes. In other instances, male migrant workers leave behind their families, with the hopes of family members in want of their remittances fixed upon them. High costs of living in towns and cities, however, reduce remittances. When they fail to live up to these expectations, workers may turn to petty criminal behaviour or run away, leaving behind broken families with reduced income. Saving some money is out of the question as every penny is invested in the hope of getting at least one square meal every few days. With no money for rent, housing conditions constantly deteriorate until one possesses nothing but some plastic sheets covering branches or abandoned pieces of wood. Fuel is expensive as well. Poor health resulting from this poverty is shortens life spans. If under these conditions the state is absent, alienation is complete. Categories of people are created who are considered a burden. People once labelled as 'paupers' are now termed 'disposable people',¹¹⁴ 'nowhere people',¹¹⁵ 'surplus people'¹¹⁶ or 'labour surplus'.¹¹⁷

4.4 Commodification of Human Relations

Humans are not humans if they have no survival strategy to overcome extreme exclusion and deep poverty. Once these factors make a person destitute, unable to survive without help from outside, new survival mechanisms kick in, which come at a heavy price. People are forced to scramble daily for every morsel of food to survive, which, at the same time, is widely and easily available to others. The will to survive is inherent in every human being, but the means to succeed in overcoming destitution become desperate. Some turn to criminal behaviour

as a last resort, while some are forced to sell their bodies. Many become addicted to alcohol or other substances.

Under these conditions of sheer survival, people no longer look at each other as fellow human beings, but as objects of income. Parents push their children into begging not because they do not love their children or are indifferent to them, but simply because they can no longer afford to admit to feelings of human compassion. The child must bring some money back and is perceived as a vehicle capable of earning an income. For the ultra-poor in India, this commodification of human relations is not a far-fetched story, but a mechanism of brute survival.¹¹⁸ The cruelty, in fact, lies with society at large and with the state, which allows this to happen.

4.5 Revival of Labour Agitation

Labour in India is not passive, however. India has a longstanding history of labour rising against injustice, a trend that has its roots in the anti-colonial freedom movement, and is praised for its contribution towards the achievement of independence. In fact, one of the main characteristics of public sector enterprises in the pre-liberalization period was their high degree of unionization, especially after the legalization of trade unions took place in 1926. Labour unrest was not confined to industries only. In Bardoli in Gujarat, landowning castes joined the freedom movement in the 1930s to fight against imposed colonial land taxes. This also reverberated towards land poor and landless Dalit and Adivasi workers, who demanded an end to demeaning forms of traditional debt bondage, which kept rural workers under virtual slavery for the entire duration of their lives.

In what is now being deplored as the 'dualist' economy of India—a small organized and formal sector, where rights are being upheld on the one hand, against a huge lawless unorganized economy on the other, one must keep in mind that the protective net of labour laws in public companies was the result of a labour struggle that lasted for many decades.

Today's labour actions must be seen in light of more localized struggles. Strategies vary, but by

making use of modern communication technology, leaders from various areas are closely in touch with each other, and regularly share information about the results of their labour actions. Localized, thus, does not mean isolated, because exploitation is everywhere.

In 2012, around 5,000 workers, mostly from Orissa, went on strike in the brick kilns of Dundigal in Andhra Pradesh.¹¹⁹ Supported by public meetings and petitioning of the Labour Department, the efforts of the small unions paid off. Wages of some categories of workers went up by 30 per cent, in some cases reaching the level of statutory minimum wages. In addition to this action at the destination area, the unions also mobilized workers at their areas of origin, from where they were recruited. Apart from higher wages, workers also demanded an end to the feudal set-up of bondage. In this respect, it is alarming to note that for many workers, bonded labour practices from the days of Bardoli' are still continuing today in parts of the country.

In the spinning mills of Tamil Nadu, trade unions have opted for an alternative strategy to fight bondage, because entry into the mills is virtually impossible. Relying on petitions filed before the Madras High Court, they have demanded investigation by the labour authorities of complaints regarding bonded and child labour in the mills.¹²⁰ However, for legal action to become effective, much depends on the willingness of bureaucrats to actually start proceedings against factory owners.

Perhaps these recent events of collective action, combined with the passive attitude of authorities towards taking action against labour exploitation, has, since 2008, resulted in an increase in trade union membership. The national trade union federations, which have their roots in the public sector, now show data that goes against the popular belief that trade unions are something of the past.¹²¹

Despite severe sanctions following labour resistance, the individualization within workplaces and a high likelihood of the state coming down heavily on workers to maintain labour discipline, workers in the unorganized economy do not remain passive. Individual workers do seek recourse against unfree employment, and as a last resort deploy what are called 'weapons of

the weak'.¹²² Breman lists the various strategies: 'covert resistance includes inertia, feigned lack of understanding, foot dragging, avoidance, withdrawal, sabotage, loitering and shirking, obstruction, and other weapons of the weak before it flares up in overt confrontation'.¹²³ Others do not hesitate to leave without proper notice. These forms of labour resistance give workers a negative reputation, but are also proof of their attempts to maintain a minimum degree of dignity.

5. Recommendations

Under its mandate of providing 'decent work' to all its citizens, the state has three major responsibilities: to stimulate job growth, uphold rights at work and put minimum social security in place. The government's performance in all three areas has been extremely poor. India's labour market is predominantly socially organized, in which equality is not a relevant concept. Labour laws form a regime of pseudo-laws and subsequently the poor have no power. In case the state remains absent, and does not correct the distribution of wealth, which is also generated by labour, the risk of rising social Darwinism is genuine.¹²⁴

At an international level, a movement is under way to either make unacceptable work acceptable or prohibit it completely. The idea of 'unacceptable forms of work' is the anti-thesis of decent work. It not only implies the violation of any of the fundamental principles of the Right to Work, but it comprises additionally any form of work that harms the physical integrity of a worker (related to working conditions), the dignity of a worker (related to employment terms and job security) and the degree of powerlessness of workers (related to lack of remedies and coercion).

5.1 Enacting Fresh Regulation

The need of the hour is an entirely new labour law covering all workers irrespective of their contractual nature, sector or workplace. This 'omnibus law' must protect all workers against the violation of fundamental rights at work; do away with child labour and forced labour; protect against discrimination at the workplace; and promote trade union membership and collective bargaining. It must guarantee workers' equality before the

law. Hiring and firing can be flexible, in line with today's labour market requirements, but only if lapses of employment security are compensated for by an effective system of social security accessible to all. The wording of the law should be simple and accessible. It must have clear-cut provisions for wage payment, the fixing of wage levels, working hours and working conditions.

5.2 Putting an End to Violence

Many workplaces are marred by various forms of violence. Women garment workers at a public hearing in Bangalore in November 2012 reported that there is a pattern of systematic punishment and humiliation at the work floor. It takes on gendered forms, including outright sexual harassment through frequent verbal abuse and unwanted physical touch. Men were beaten for raising questions, women had pieces of cloth thrown at them. A woman worker was made to stand for hours outside the factory gates for being five minutes late.¹²⁵ Along with high levels of exploitation and forms of under-payment, the systematic and everyday forms in which workers could be subjected to constant punishment and humiliation were starkly visible.

Other reports claim incarceration of workers, the posting of thugs at factory entries, and casteist verbal and physical abuses. In another instance, a man's hand was chopped off merely for asking for payment of back wages.¹²⁶ It is quite astonishing that such acts of violence are not prosecuted under criminal laws. It seems that workplaces provide shelter for acts of violence that would normally lead to some form of punishment by the state if committed elsewhere. Workplace-related violence is not limited to workers alone. Researchers and auditors, including prominent persons like Jean Dreze, Shantha Sinha¹²⁷ and Aruna Roy,¹²⁸ have faced officers employers and local government officers who feared the research and audit results. Workplaces are often more impregnable than prisons. The high degree of impunity for perpetrators of violence, combined with the structural inequality between the informal workforce and their bosses, forms a fatal fusion of social and economic stagnancy.

5.3 Producing Reliable Data

The lack of data is a tool of exclusion in itself. Official estimates for the unemployment rate child and bonded labour, the extent of labour circulation, home-based work, domestic workers, and manual scavengers are obtained largely through informed guesswork. It is clear that official government numbers must be taken with a pinch of salt.

In academic circles, the numbers produced by the National Commission on Enterprises in the Unorganized Sector (NCEUS) are generally considered sound and reliable. The facts revealed by the NCEUS were of such shocking nature that the state saw no other option than to shove the report into a drawer. Regressive steps initiated by the state itself, in relation to the benchmarking of BPL levels and non-payment of minimum wages for NREGA beneficiaries, show the need for accurate data produced by independent and objective research institutions.

5.4 Facilitating Organization

Employers are firmly organized at all levels, while the unionization of workers exists for small sections only. It has been demonstrated why union membership is virtually unavailable to many informally employed workers, reducing their collective bargaining power to near zero. This is particularly true of migrant workers. Co-option of trade unions by employers, by setting up yellow unions, is a clear 'unfair labour practice' and is not to be tolerated. The state has a duty to register unions objectively without invoking excessive discretionary powers. Mandatory recognition by employers of registered trade unions must be regulated. As a result, workers will know beforehand what kind of entitlements they can expect. This will reduce opportunities for employers to divide the workforce by providing different employment terms to similar categories of workers. Alternative strategies promoting forms of workers' organization, such as Self-Help Groups (SHGs), co-operatives and even production groups, must be more vigorously pursued.

5.5 Closer Monitoring of Contracting Agencies and Protection of Contract Labour

At the national level, registration of contracting agencies should be made mandatory. Better implementation, it is important to remember, does not only imply the registration of contractors, but also the registration of workers by employers. For this, written contracts are essential, signed by both workers and employers. Currently, the practice is to have no contract at all. Some sign appointment letters that are not shared with them, which makes it impossible for workers to know their terms of employment. A worker must also know beforehand whether it is the contractor or the principal employer who is responsible for respecting the terms of employment. The licensing of labour contractors is critical for ensuring that workers can migrate safely, with their movements monitored.

It is equally important to digitize the data of contractors and workers, and share it across source and destination states, to improve interstate and intrastate co-ordination. Once workers see the benefits of such co-ordination through better wages, improved working conditions and better access to government schemes, registration can increase rapidly. Unions have a large role to play in this process, and this is a unique opportunity to broaden and enlarge their membership. It may also encourage direct contracts between employers and workers, pushing out middlemen and opening avenues for a transparent tripartite mechanism for recruitment and placement of workers.

The key to ending discrimination of contract workers is assigning responsibility for maintaining decent work conditions. To accomplish this, the example of the ILO Maritime Labour Convention¹²⁹ created a clear precedent. In this Convention, it is stated that whatever the degree of sub-contracting taking place on ships, 'the employment contract should always and exclusively be signed by the ship owner on behalf of the employer, contractor or sub-contractor. In other words, for any labour violation, the ship owner is directly responsible and liable. If the ILO has been able to create tripartite consensus on a global scale, covering every seafarer in the world, it should not be difficult to apply such legislation to all working relationships in India. If capitalism wants to become more responsible, and

there are signs from various corners that many actors want to make employment relations a more equitable affair, they must accept a higher degree of shared responsibilities throughout the production chain.

5.6 Increasing Wage Levels

Jobs do not guarantee a living wage. More than a quarter of the working population earns less than the controversially defined official poverty line. At the same time, inequality in income and inequality has risen dramatically since India's liberalization in the early 1990s. Tremendous wealth has been created but has not been distributed fairly. This calls for a structural correction. For instance, the Asian Floor Wage Alliance, set up in 2005, is campaigning to correct wage levels and ensure a steady source of sufficient income for workers.¹³⁰ This campaign is limited to the garment industry, largely motivated by the buying practices of highly profitable transnational companies.

In 1948, a tripartite Committee on Fair Wages was appointed in India. The time has come to repeat this feature. It must take into account rising costs of living and expected inflation levels. More importantly, fair wages must be established through dialogue between all stakeholders, achieving consensus on wage levels. The consensus will promote long-term and peaceful relations between capital and labour, as epitomized by the idea of a 'social contract'. Respect for payment of wages should also take into account the earlier described numerous exclusory tricks regarding wage payments.

5.7 Generating More Employment

The state needs to have an active policy towards absorbing the workforce leaving agriculture into suitable alternative jobs. This involves supporting a combination of skill development and vocational training through initiatives like The National Skills Development Mission and building the requisite infrastructure that would support the creation of formal-sector jobs in rural areas. For example, employment exchanges can be created to match the jobs created with those looking for work.

Specific support is also necessary to ensure better working and living conditions for excluded

groups in occupations that are marginalized or undignified. Examples include government programmes to support self-employment of weavers, access to credit and training for home-based workers, support for SHGs and co-operatives, and the absorption of bonded labour and manual scavengers into alternative economic activities.

The reservation policy is an instrument of job security for many Dalits and Adivasis, but certainly not an instrument promoting the upward social mobility of these groups. Most jobs created under reservation are low-valued jobs, for which little skills or education are required. Downsizing of staff in the public sector has diminished employment opportunities for Dalits and Adivasis. To compensate for this loss of job opportunities, the Dalit community, in particular, is calling for similar job reservations in the private sector.¹³¹ This call for reservation in the private sector is not about numbers. The demand for reservations is more related to quality employment for Dalits. Ashwini Deshpande writes that ‘in the last two decades of liberalization and globalization of the Indian economy, there seems to be scant evidence of a break in patterns of caste inequalities’.¹³²

5.8 Providing Social Protection for All

Most unorganized sector workers are still not covered under existing social security measures. Various schemes remain under-utilized as the intended beneficiaries often lack the agency or ability to access these schemes by themselves. For example, the National Old Age Pension Scheme (NOAPS), implemented by the Ministry of Rural Development for persons above 65 years from BPL households, aims to provide at least ₹200 a month to each beneficiary. As of December 2012, this scheme was availed of by only 22.3 million beneficiaries.¹³³ As per the Census of 2011, there were about 103.9 million aged persons (60 years or above) in India.¹³⁴ The lesson here is that the state must play an active role in providing entitlements to the intended beneficiaries, enabling the process through better scheme design.

The state should also use interventions for providing other basic services to the poor. Strengthening service delivery through service

providers would help slash the conditional barriers blocking access to social security measures. Such structures already exist, for instance, in the form of Accredited Social Health Activist (ASHA) workers and *Anganwadis* that are helping the excluded get access to the national health system. Payments to service providers could be made through an NREGA-like policy.

Through the provision of universal social protection, all workers must, at the minimum, have access to pensions, unemployment insurance and health insurance. Universal coverage could imply that some people would take advantage of social security even if their level of income did not merit this access. This ‘leakage’ to undeserving beneficiaries, however, will be less expensive than the administration of a system cemented with accessibility conditions.

The non-working poor groups require special mention here, reliant as they are on social security. A perceived weakness of the decent work concept is the perception that it only defends working people. Non-working people, even when they perform some work with or without remuneration for purposes of sheer survival, must have the same entitlements to decent work as working people. This coincides largely with the demands made for universal social security systems.

5.9 Ending the Culture of Denial

Bonded labour, child labour and manual scavenging continue to thrive in many regions, despite official denial. Concurrently, there is an equally urgent need for recognizing and regulating the specific nature of particularly vulnerable occupations and protecting those engaged in these occupations. A strong labour law, while beneficial in promoting labour standards across the board, will not, for example, be able to address the need for the social and financial rehabilitation required for freed bonded labour. While new legislation—protecting, and the proposed amendments to the ‘existing legislation on child labour make one hopeful that conditions for those employed on these terms are set to improve, the fact remains that implementation has been weak, and state neglect continues to hamper any real progress on these fronts.

6. United We Stand—The Role of Civil Society

Non-Governmental Organizations (NGOs) have also greatly aided government efforts in providing services and social security to excluded workers' groups. Some examples of such initiatives are the Action for Community Organization, Rehabilitation and Development (ACCORD), the Association for Sarva Seva Farms (ASSEFA) and the Society for Promotion of Area Resource Centres (SPARC). Discussing the success of the insurance scheme run by the Self-Employed Women Association (SEWA), Sharad Singh and Meraj Ashraf observe that to, be effective, social security schemes for the unorganized sector should be locally managed and controlled, and they are only viable when they are need-based and integrated with the economic activities of local people. In the case of SEWA, they observe that if poor people are supported through capacity building and the necessary linkages are provided with their own economic activities, the chances of success of such social security efforts increase significantly. Further, they say that it is not only necessary to find new social security programmes, but also new social security organizations to run them.¹³⁵

To make a difference, NGOs must not operate in isolation and must broaden their perspectives. In February 2014, for example, representatives from 80 NGOs, trade unions, alliances of organizations and social movements working with people dependent on the informal economy drafted a Working People's Charter. Their demands for social security included:

- Old-age pension and health benefits along with employer liability; contribution towards a

provident fund; compensation for workplace-related injuries and hazards, pension and gratuity; maternity benefits and crèche facilities.

- Expansion of the Employees State Insurance scheme to all in the informal sector;
- Set aside 3 per cent of the total annual revenue of the central government to form a recurring welfare fund for unorganized sector workers who are currently not covered;
- Ensure registration and recognition of all workers under the tripartite welfare board;
- On closure of a company, first charge of a portion of its assets to be used for workers' compensation and rehabilitation;
- Host-state welfare schemes to be open to interstate migrant workers;
- Ensure compensatory allowances for disabled communities to help them function at the workspace;
- Right of protection to those unable to work, for example the very young, elderly, ill, and, those with severe disabilities;
- State to ensure employment and provide skills training to the youth of working families;
- The Right to Housing.

In addition to social security expansion, the charter addressed the right to organize, security of tenure, right to livelihood and decent work, enforcement of minimum wages, better conditions at work, stronger labour legislation and adherence to labour conventions.

Notes and References

1. Quote commonly attributed to Cato the Elder, a Roman statesman (234–149 B.C).
2. The ILO is the specialized labour agency of the United Nations promoting social justice in the world of work. It currently has 185 member countries. Within the ILO, trade unions and employers' organizations operate on equal footing with governments. The organization was founded in 1919.
3. Amartya Sen (2013), 'Why India Trails China', *The New York Times*, 19 June 2013, <http://www.nytimes.com/2013/06/20/opinion/why-india-trails-china.html> (accessed 11 May 2014).
4. Government of India (2010), *Annual Report to the People on Employment*, New Delhi: Ministry of

- Labour and Employment, p. 1.
5. Emphasis added. International Labour Organization, Article 1.1, *Employment Policy Convention*, 1964, no. 122. While a National Employment Policy in India has been stuck in draft form for many years now, the obligation arising from the ILO Employment Policy Convention will require the declaration of an employment policy sooner rather than later.
 6. For the purpose of this chapter, the term 'employment' should be considered in the broadest sense of its meaning. It includes any form of livelihood whether in agriculture, rural areas or the unorganized sector. It also includes anyone looking for remuneration in return for work, irrespective of gender or age.
 7. Brajesh Jha (2006), *Employment, Wages and Productivity in Indian Agriculture*, New Delhi: Institute of Economic Growth.
 8. Trilok S. Papola and Partha P. Sahu (2012), *Growth and Structure of Employment in India: Long-Term and Post-Reform Performance and the Emerging Challenge*, New Delhi: Institute for Studies in Industrial Development.
 9. International Labour Organization (2013), *Global Employment Trends 2013: Recovering from a Second Jobs Dip*, Geneva: ILO: (Henceforth shortened reference to International Labour Organization is ILO.)
 10. Papola and Sahu (2012), *Growth and Structure of Employment in India*.
 11. 'India Needs to Create 15 million Jobs Annually: Pitroda', *The Indian Express*, 23 March 2013, <http://archive.indianexpress.com/news/india-needs-to-create-15-million-jobs-annually-pitroda/1092411> (accessed 11 May 2014).
 12. Ashok Kotwal, Bharat Ramaswami and Wilima Wadhwa (2010), *Economic Liberalization and Indian Economic Growth: What's the Evidence?*, New Delhi: Indian Statistical Institute.
 13. Declaration concerning the aims and purposes of the International Labour Organization (Declaration of Philadelphia), adopted at the 26th session of the ILO, Philadelphia, 10 May 1944. The Declaration of Philadelphia was subsequently annexed to the ILO Constitution in 1946.
 14. Article 19, *The Constitution of India*, 1950.
 15. Some of these separate laws, without being exhaustive, exist for *bidi* workers, nurses, construction workers, people working in mining, sewage workers and manual scavengers, the last being an economic activity that is prohibited.
 16. The practice of bonded labour was outlawed under the Bonded Labour System (Abolition) Act, 1976. The Criminal Law (Amendment) Act, 2013 amended the India Penal Code (IPC) to prohibit the trafficking of persons for exploitation, under sections 370 and 370A of the IPC. For a detailed review of anti-trafficking provisions in India, see Prabha Kotiswaran (2013), 'A Battle Half-Won', *Economic and Political Weekly*, vol. 47, no. 17.
 17. The Equal Remuneration Act, 1976 is one of the least applied laws in the country, despite a huge pay gap between men and women for work of similar nature.
 18. The Sexual Harassment of Women at Workplace Act, 2013.
 19. A bill to amend the Child Labour (Prohibition and Regulation) Act, 1986 was introduced in the Indian Parliament on 4 December 2012, but is yet to be passed. The amended law respects the ILO child labour conventions, which have not been ratified by India, one of the very few countries to not do so. It entails a blanket prohibition of child labour for children younger than 14, and prohibits hazardous work by children younger than 18 years of age. The Bonded Labour System (Abolition) Act, 1976 has been subject to many revision attempts to cover other forms of forced labour, most recently by the National Advisory Council, without result.
 20. An estimated 2,700 welfare schemes are currently operational in India.
 21. National Commission for Enterprises in the Unorganized Sector (2009), *The Challenge of Employment in India: An Informal Economy Perspective*, New Delhi: NCEUS.
 22. National Sample Survey Organization (2013), 'Key Indicators of Employment and Unemployment in India 2011-12', *NSS 68th Round (2011-12)*, New Delhi: Ministry of Statistics and Programme Implementation (MoSPI). As per the report, the total labour force of India is 483.7 million. (Henceforth shortened reference for National Sample Survey Organization is NSSO; shortened reference for Ministry of Statistics and Programme Implementation is MoSPI)
 23. National Commission for Enterprises in the Unorganized Sector (2007), *Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector*, New Delhi: NCEUS.
 24. Papola and Sahu (2012), *Growth and Structure of Employment in India*.
 25. For instance, the percentage of contract work in organized manufacturing industries rose from 13.5 per cent in 1990 to 34 per cent in 2011. See Institute for Human Development (2014), *India Labour and Employment Report 2014*, New Delhi: Academic Foundation, p. 58.

26. NSSO (2013), 'Key Indicators of Employment and Unemployment in India 2011–12'; and NSSO (2012), 'Employment and Unemployment Situation among Social Groups in India', *NSS 66th Round (2009–10)*, New Delhi: MoSPI.
27. Government of India (2011), *Situation Analysis of the Elderly in India*, New Delhi: MoSPI.
28. Bhimrao Ramji Ambedkar (1891–1956), was a jurist, thinker, writer and social revolutionary, and the main drafter of the Constitution of India. He is widely revered for his political stature and leadership of the Dalit movement in India. See B. R. Ambedkar ([1936] 2014), *Annihilation of Caste*, New Delhi: Navayana.
29. NSSO (2012), 'Employment and Unemployment Situation among Social Groups in India'.
30. Ibid.
31. For an excellent portrayal of the labour market's organization along caste lines, see Kaveri Gill (2009), *Of Poverty and Plastic*, New Delhi: Oxford University Press.
32. NSSO (2012), 'Employment and Unemployment Situation among Social Groups in India'.
33. T. Haque (2010), 'Improving the Rural Poor's Access to Land in India', *Working Paper for the Governance Knowledge Centre*, Department of Administrative Reforms and Public Grievances, Government of India, <http://indiagovernance.gov.in/files/improving-rural-poor-access-to-land-t-haque.pdf> (accessed 15 May 2014).
34. Inputs from the case study on the Construction Sector prepared for this chapter.
35. India has ratified ILO Convention no. 107 on Tribal and Indigenous Populations, 1957. Although outdated and subsequently replaced by ILO Convention no. 169 on Tribal and Indigenous Peoples, 1989, the Convention of 1957 remains in force in India. Both conventions promote equal opportunities and non-discrimination of indigenous peoples, but Convention no. 107 is worded in archaic integrationist parlance.
36. Laxman Mane (1997), quoted in Milind Bokil (2002), 'De-notified and Nomadic Tribes', *Economic and Political Weekly*, vol. 37, no. 2.
37. ILO (2013), *Global Employment Trends 2013*.
38. The following paragraph is based on inputs from Santosh Mehrotra, Partha Saha, Ankita Gandhi, Kamala Devi and Sharmistha Sinha (2013), *Low Female Employment in a Period of High Growth: Insights from Primary Survey in Uttar Pradesh and Gujarat*, New Delhi: Institute of Applied Manpower Research.
39. According to calculations on the broader household survey data for 2004–05, male casual workers employed in the formal sector earned on average Rs 73 per day, whereas male casual workers employed in the informal sector earned on average Rs 51.3 per day. For female casual workers, these amounts were Rs 47.4 and Rs 32.4, respectively, indicating a gender pay gap of 35 per cent and 37 per cent, respectively. See NCEUS (2009), *The Challenge of Employment in India*.
40. In 2009–10, just 5.8 per cent of women from dominant castes were engaged in casual labour in urban areas, while the corresponding figures for Dalit and Adivasi women were 31.5 per cent and 35.5 per cent, respectively. See Neetha N. (2013), 'Inequalities Reinforced? Social Groups, Gender and Employment', *Occasional Papers*, no. 59, New Delhi: Centre for Women's Development Studies.
41. NSSO (2012), 'Home-Based Workers in India', *NSS 66th Round (2009–10)*, New Delhi: MoSPI.
42. Inputs from the case study on home-based workers prepared for this chapter.
43. NSSO (2013), 'Employment and Unemployment Situation among Major Religious Groups in India', *NSS 66th Round (2009–10)*, New Delhi: MoSPI.
44. Government of India (2006), *Social, Economic and Educational Status of the Muslim Community of India*, New Delhi: Prime Minister's High Level Committee, Cabinet Secretariat, also referred to as the Sachar Committee Report.
45. Government of India (2012), 'Annexure IX – Dissent Note by Harsh Mander', *Report of the Expert Group to Recommend the Detailed Methodology for Identification of Families Living Below Poverty Line in Urban Areas*, New Delhi: Planning Commission of India.
46. NSSO(2003), 'Disabled Persons in India', *NSS 58th Round (2002)*, New Delhi: MoSPI.
47. Ibid.
48. For an overview of literature, visit 'Enable India' at http://enable-india.org/new/index.php?option=com_content&view=article&id=10&Itemid=18 (accessed 26 April 2014).
49. The bill, introduced in parliament on 7 February 2013, is currently pending. Activists and lawyers however allege the bill does not meet the standards prescribed under the UN Convention on the Rights of Persons with Disabilities (UNCRPD).
50. Government of India (2013), *Annual Report 2012–13*, New Delhi: Department of AIDS Control, Ministry of Health and Family Welfare.

51. ILO (2013), *The Impact of Employment on HIV Treatment Adherence*, Geneva: ILO.
52. 'Basics of HIV', presentation by Dr A. K. Gupta, Additional Project Director, Delhi State AIDS Control Society, http://delhisacs.org/training_material/TOTFILES/BHAE/basics_hivr_revised.ppt (accessed 14 May 2014).
53. Also see the Recommendation concerning HIV and AIDS and the World of Work—International Labour Organization, *HIV and AIDS Recommendation*, 2010, no. 200, and the ILO Code of Practice on HIV/AIDS and the World of Work. In 2009, India adopted a 'National Policy on HIV/AIDS in the World of Work' based on the principle of the ILO Code of Practice on HIV/AIDS and the World of Work. It provides guidelines for implementing workplace interventions applicable in both the formal and informal economy.
54. *National Textile Workers v. P. R. Ramakrishnan and Ors.* (1983), 1 SCC 228, pp. 926–27.
55. Bonded labour originates from the same exclusion practices and is discussed in a separate chapter of this report.
56. 'State-wise Distribution of Working Children According to 1971, 1981, 1991 and 2001 Census in the Age Group 5–14 Years', <http://labour.gov.in/upload/uploadfiles/files/Divisions/childlabour/Census1971to2001.pdf> (accessed 15 May 2014).
57. 'Children in India—The Statistics', www.friendsfbt.org/statistics (accessed 15 May 2014).
58. The current Child Labour (Prohibition and Regulation) Act of 1986 allows any child to work, unless the work is hazardous, which is prohibited for children under 14 years of age.
59. ILO (2004), *Investing in Every Child: An Economic Study of the Costs and Benefits of Eliminating Child Labour*, Geneva: ILO.
60. The ILO's recommendations concerning the employment relationship contains a 'control test', by which the degree of an employment relationship can be measured through factors like work carried out under the control of another party; the integration of the worker into the organization of the enterprise; work performed solely or mainly for the benefit of another person; work carried out within specific working hours or at a workplace specified or agreed to by the party requesting the work; periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income, etc. See ILO, Article 13, *Employment Relationship Recommendation*, 2006, no. 198.
61. The ILO conventions on migration (ILO, *Migration for Employment Convention [Revised]*, 1949, no. 97) and employment agencies (ILO, *Private Employment Agencies Convention*, 1997, no. 181) prohibit fee charging by agents. Instead, employers are liable to pay this fee.
62. See for example, Lakshmidhar Mishra (2011), *Human Bondage: Tracing its Roots in India*, New Delhi: Sage, pp. 12–13, for a narrative on violence against workers in the fish processing industries in Gujarat.
63. Inputs from the case study on the Bunkar (weaver) community in Barabanki, Uttar Pradesh, prepared for this chapter.
64. Ravi Srivastava (2011), 'Labour Migration, Inequality and Development Dynamics in India: An Introduction', *India Journal of Labour Economics*, vol. 54, no. 3.
65. Article 19 (1) (d), *The Constitution of India*, 1950.
66. Odisha and Andhra Pradesh, in collaboration with the ILO, have recently been working on facilitating the registration of migrant workers moving from Odisha to Andhra Pradesh. This is considered a breakthrough in interstate migration practices. For more details, see Satyasundar Barik (2011), 'Orissa, AP to Sign Agreement on Welfare of Migrant Labour', *The Hindu*, 18 October 2011, <http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/orissa-ap-to-sign-agreement-on-welfare-of-migrant-labour/article2547662.ece> (accessed 11 May 2014).
67. Inputs from the case study on brick kiln workers prepared for this chapter.
68. Building and Woodworkers International (2012), 'Brick Kiln Industry in India: Joint Advocacy Efforts Reap Benefits', <http://www.bwint.org/default.asp?index=4562> (accessed 21 April 2014).
69. At the central level, 660 inspectors monitor central Public Sector Undertakings. Different sections within the inspectorate have different tasks. Factory inspectors monitor working conditions and aspects of occupational safety and health. Labour inspectors monitor employment terms such as wages and, working hours, and also engage in conciliation activities. Their duties also involve monitoring the functioning of welfare boards, registration of trade unions and the implementation of the Shops and Establishments Acts in various states. In Maharashtra, 725 factory inspectors monitor 45,789 factories covering a workforce of 2,432,000. Out of 725 inspectors, 607 are in position. There are 145 labour inspectors, of which 29 positions are vacant. There are inspectors who enforce the Shops and Establishments Acts, with 100 vacancies. These figures are based on information provided by labour inspectors to one of the authors.
70. 'Inspections Against Violations of Labour Laws',

- Lok Sabha Unstarred Question, no. 4448, answered on 22 April 2013, Ministry of Labour and Employment.
71. Kamala Sankaran (2011), 'Fundamental Principles and Rights at Work: India and the ILO', *Economic and Political Weekly*, vol. 46, no. 10, p. 73.
 72. See Pallavi Mansingh, Suneetha Eluri and Sreejesh N. P. (2012), 'Trade Unions and Special Economic Zones in India', *Working Document, ILO Bureau for Workers' Activities*, Geneva: ILO, for a detailed discussion around modification of labour laws in SEZs. The use of non-governmental agencies for inspections also violates Article 6 of the ILO Convention Concerning Labour Inspection in Industry and Commerce (ILO, *Labour Inspection Convention*, 1947, no. 81), which India has ratified. This states: 'The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences'.
 73. Mansingh, Eluri and Sreejesh N. P. (2012), 'Trade Unions and Special Economic Zones in India'.
 74. Ibid.
 75. Inputs from the case study on the construction sector prepared for this chapter.
 76. P. N. Bhagwati (2013), *My Tryst with Justice*, New Delhi: Universal Law Publishers, p. 76.
 77. In 1984, on tackling the bonded labour system. *Bandhua Mukti Morcha v. Union of India and Ors.* (1984), AIR SC 802.
 78. In 1997, relating to the protection of women against sexual harassment. *Vishaka and Ors. v. State of Rajasthan and Ors.* (1997), 6 SCC 241.
 79. In 1984, on the inclusion of social activists as members of Vigilance Committees for bonded labour identification. *Neeraja Chaudhary v. State of Madhya Pradesh* (1984), 3 SCC 243.
 80. In 1983, ruling that working for less than minimum wages falls within the scope of forced labour (begar) prohibited under Article 23(1) of the Indian Constitution. See *People's Union For Democratic Rights and Ors. v. Union of India and Ors.* (1982), AIR 1473.
 81. *Steel Authority of India Ltd and Ors. v. National Union Waterfront Workers and Ors.* (2001), 7 SCC 1.
 82. In its 1997 judgment in *Air India Statutory Corporation v. United Labour Union* (1997), 9 SCC 377, the Supreme Court still took the view that on the abolition of the contract labour system, the workers were to be absorbed on a permanent basis.
 83. See Rajen Malhotra (undated), 'Engaging Contract Labour in Enterprises', Unpublished Research Paper.
 84. *Secretary, State of Karnataka v. Umadevi* (2006), 4 SCC 1.
 85. *U. P. State Brassware Corporation Ltd v. Udai Narain Pandey* (2006), 1 SCC 479.
 86. *L. K. Verma v. HMT Ltd. and Anr.* (2006), 2 SCC 269.
 87. *Rajasthan State Ganganagar S. Mills Ltd v. State of Rajasthan and Ors.* (2004), 8 SCC 161.
 88. *T. K. Rangarajan v. Government of Tamil Nadu and Ors.* (2003), 6 SCC 581.
 89. *BALCO Employees Union v. Union of India* (2002), 2 SCC 333.
 90. *Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh and Anr.* (2004), 8 SCC 200.
 91. *Central Bank of India v. Sirrigupa Sugars and Chemicals Ltd* (2007), 8 SCC 353.
 92. *Haryana State Co-op Land Development Bank v. Neelam* (2005), 5 SCC 91.
 93. Barbara Harris-White (2004), *India Working: Essays on Society and Economy*, Cambridge: Cambridge University Press, p. 246.
 94. National People's Tribunal on 'Living Wage as a Fundamental Right of Indian Garment Workers' Bangalore, 22–25 November, 2012. See the report from the tribunal at http://www.evb.ch/cm_data/Jury_statement_and_verdict.pdf (accessed 8 May 2014).
 95. India has ratified the ILO Convention on Minimum Wage Fixing (ILO, *Minimum Wage-Fixing Machinery Convention*, 1928, no. 26). Article 4-2 of the Convention says: 'A worker to whom the minimum rates are applicable and who has been paid wages at less than these rates shall be entitled to recover, by judicial or other legalized proceedings, the amount by which he has been underpaid'.
 96. Expert testimony by Dr Vijay Bhaskar, Madras Institute for Development Studies, at the National People's Tribunal on 'Living Wage as a Fundamental Right of Indian Garment Workers'.
 97. Inputs from the case study on home-based workers prepared for this chapter.
 98. Inputs from the case study on the Bunkar (weaver) community in Barabanki, Uttar Pradesh, prepared for this chapter
 99. NSSO (2012), 'Informal Sector and Conditions of Employment in India', *NSS 66th Round (2009–10)*, New Delhi: MoSPI.

100. See ILO, Article 10, *Freedom of Association and the Protection of the Right to Organize Convention*, 1948, no. 87. This ILO Convention is considered 'fundamental', but has not been ratified by India.
101. In particular, the other fundamental convention, ILO, *Freedom of Association, the Right to Organize and Collective Bargaining Convention*, 1949, no. 98, has also not been ratified by India.
102. For example, see Schedules II, III and IV of the *Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act*, 1971.
103. For details, see the judgment in the *MRF United Workers Union v. Government of Tamil Nadu*, CWP 17991 of 2008.
104. See, for instance, the case filed by the Garment and Allied Workers' Union before the ILO Committee on Freedom of Association, case no. 2991 (India), 11 October 2012.
105. Lars Thomann (2011), *Steps to Compliance with International Labour Standards: The International Labour Organization (ILO) and the Abolition of Forced Labour*, Wiesbaden: VS Verlag für Sozialwissenschaften.
106. This Maoist angle was also insinuated in the aftermath of the violence at the Maruti Suzuki factory in Manesar, Haryana on 18 July 2012. See Anand Teltumde (2012), 'The "Maoists" of Manesar', *Countercurrents*, 29 August 2012, <http://www.countercurrents.org/teltumbde290812.htm> (accessed 11 May 2014). In this case, a contract labour conflict handled badly by the management was allowed to simmer on, and labour authorities made no attempt either to intervene, or to offer some mediation in the conflict. When emotions took over, it resulted in the death of a member of the management. The police arrested a large number of workers, but never charged jailed workers with direct accusations. While the investigation did not reveal any Maoist angle, about 150 workers still languish in jail.
107. <http://www.rsby.gov.in> (accessed 26 April 2014).
108. K. P. Kannan and Jan Breman, eds (2013), *The Long Road to Social Security: Assessing the Implementation of National Social Security Initiatives for the Working Poor in India*, New Delhi: Oxford University Press.
109. Guy Standing (2011), *The Precariat: the New Dangerous Class*, London: Bloomsbury Academic.
110. Statement by ILO director-general Guy Ryder, issued on International Day for the Eradication of Poverty, 17 October 2013. See www.ilo.org/global/about-the-ilo/who-we-are/ilo-director-general/statements-and-speeches/WCMS_224589 (accessed 11 May 2014).
111. Jan Breman (2013), *At Work in the Informal Economy of India: A Perspective from the Bottom Up*, New Delhi: Oxford University Press, p. 96.
112. Shravan Bhat and Nilofer D'Souza (2013), 'Forbes Billionaires 2013: Where India Inc Stands', *Forbes India*, 2 April 2013, <http://forbesindia.com/article/special/forbes-billionaires-2013-where-india-inc-stands/34947/1> (accessed 26 April 2014).
113. Clause 135 of the *Companies Bill*, 2012 (the 'CSR Clause') requires targeted companies to spend the prescribed amount on CSR for the applicable fiscal year, and report on these activities or explain why they failed to spend in the annual board report. Specifically, the CSR Clause applies to any company, during any fiscal year, with (a) a net worth of Rs 5 billion (about US\$90 million) or more; (b) a turnover of Rs 10 billion (about US\$180 million) or more or (c) a net profit of Rs 50 million (about US\$900,000) or more. The CSR Clause will only apply to some of the over 800,000 companies in India, including over 8,000 publicly listed companies and multi-national companies. The accounting firm Ernst & Young estimates that the law would cover over 2,500 companies in India and generate over US\$2 billion of CSR spending in local communities. See Kordant Philanthropy Advisors (2013), 'The 2% CSR Clause: New Requirements for Companies in India', *Kordant Report Series*, <http://www.kordant.com/assets/2-Percent-India-CSR-Report.pdf> (accessed 26 April 2014).
114. Kevin Bales (1999), *Disposable People: New Slavery in the Global Economy*, Los Angeles: University of California Press.
115. Rahul Pandita (2012), 'The Nowhere People', *Open Magazine*, 13 October 2012, <http://www.openthemagazine.com/article/nation/the-nowhere-people> (accessed 26 April 2014).
116. Jim Rees (2014), *Surplus People: From Wicklow to Canada*, Cork: The Collins Press.
117. Jan Breman (2009), 'The Myth of the Glocal Safety Net', *New Left Review*, no. 59.
118. Katherine Boo was widely hailed for her description of destitution in a slum in Mumbai. She did not, however, recognize the commodification of human relations as a direct consequence of deprivation. See Jan Breman (2012), 'Life and Death in Annawadi', *New Left Review*, no. 78.
119. A. Krishna and Sudhir Katiyar (2012), 'India: Historic Strike of Brick Kiln Workers in Ranga Reddy District of Andhra Pradesh', <https://usilive.org>.

- org/historic-strike-of-brick-kiln-workers-in-ranga-reddy-district-of-andhra-pradesh (accessed 26 April 2014).
120. Solidaridad – South and Southeast Asia (2012), 'Understanding the Characteristics of the Sumangali Scheme in Tamil Nadu Textile & Garment Industry and Supply Chain Linkages', http://www.solidaridadnetwork.org/sites/solidaridadnetwork.org/files/understanding_sumangali_tamil_nadu.pdf (accessed 11 May 2014).
 121. Unions attribute their rising membership to increasing contract labour; their increasing activities in the informal economy; more members in agriculture as well as NREGA beneficiaries; and more women members, such as domestic workers. As of 2013, total membership in unions was estimated to be 90–100 million, roughly one-fifth of the total workforce. This data, provided by trade unions, is yet to be verified by the Ministry of Labour and Employment. See Sreelatha Menon (2013), 'Indian Trade Unions are Getting Bigger, Coinciding With Slowdown', *Business Standard*, 6 April 2013, http://www.business-standard.com/article/economy-policy/indian-trade-unions-are-getting-bigger-coinciding-with-slowdown-113040600392_1.html (accessed 11 May 2014).
 122. Term introduced by James C. Scott (1985), in his book *Weapons of the Weak: Every Day Forms of Peasant Resistance*, New Haven: Yale University Press.
 123. Breman (2013), *At Work in the Informal Economy of India*, pp. 134–35.
 124. Teltumde (2012), 'The "Maoists" of Manesar'.
 125. National People's Tribunal on 'Living Wage as a Fundamental Right of Indian Garment Workers'.
 126. 'Aliyar, Indian Laborer, Gets His Hand Chopped Off Over \$3 in Wages', *The Huffington Post*, 11 September 2012, http://www.huffingtonpost.com/2012/09/11/aliyarr-indian-laborer-hand-chopped-off_n_1874426.html (accessed 26 April 2014).
 127. In her capacity of Chairperson of the National Commission for the Protection of Child Rights.
 128. In her capacity of President of Mazdoor Kisan Shakti Sangathana (Workers and Peasants Strength Union).
 129. The ILO Maritime Labour Convention was adopted by the International Labour Conference in 2006, and entered into force in August 2013. Seafarers are the only category of workers who are directly governed by international law.
 130. 'Why an Asia Floor Wage?', <http://www.cleanclothes.org/livingwage/what-is-the-asia-floor-wage> (accessed 26 April 2014)
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