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Building the Evidence Base for Effective Antislavery  
Governance

# India Country Profile

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# About this report

This report was prepared by Dr Ana Valverde-Cano (Rights Lab Research Fellow in Antislavery Law and Policy), Dr Katarina Schwarz (Rights Lab Associate Director), and Dr Daniel Ogunniyi (Rights Lab Research Fellow).

The report is based primarily on research conducted from 2020-2021 and may not therefore consider more recent emerging evidence. Updates to the report to reflect new and emerging evidence are ongoing.

The authors welcome enquiries on the report and the project more broadly, which may be directed to Katarina Schwarz at [Katarina.Schwarz@nottingham.ac.uk](mailto:Katarina.Schwarz@nottingham.ac.uk)

# About the project

The report was produced to support the research project ‘Building the Evidence Base for Effective Antislavery Governance in the UK and the Top 20 UK Source Countries’, funded by the Modern Slavery and Human Rights Policy and Evidence Centre. The research team consisted of Dr Katarina Schwarz (Rights Lab, University of Nottingham), Dr Ana Valverde-Cano (Rights Lab), Dr Daniel Ogunniyi (Rights Lab), Alexandra Williams-Woods (CSIS, University of Liverpool), and Prof Jean Allain (Wilberforce Institute, University of Hull).

The **Rights Lab** is a University of Nottingham “Beacon of Excellence” and home to the world’s largest and leading group of modern slavery researchers. Through its five research programmes, impact team, and INSPIRE project, the Rights Lab is underpinning antislavery with an advanced research agenda, collaborating with civil society, business, and government, and elevating survivor-informed research as a key part of knowledge production to help end slavery.

The **Wilberforce Institute** at the University of Hull aims to advance fundamental knowledge of slavery and emancipation, informing policy, business practice and public debate at local, national and international levels. The Wilberforce Institute brings together experts in humanities, law and social sciences to help tackle this global problem head on.

# Contents

<b>1. Overview of antislavery in India.....</b>	<b>1</b>
1.1. The Walk Free Foundation’s Global Slavery Index.....	1
1.2. TIP Rankings 2001-2019.....	2
1.3. Quantitative measures on anti-trafficking governance.....	3
1.4. Statistics on children’s work and education.....	4
<b>2. Treaty commitments.....</b>	<b>5</b>
<b>3. General country context.....</b>	<b>6</b>
3.1. Constitutional structure.....	6
3.2. Political context.....	6
3.3. Migration profile.....	6
3.4. Development profile.....	7
3.5. India’s human rights record.....	8
3.6. Social support systems.....	9
<b>4. National modern slavery context.....</b>	<b>10</b>
4.1. Modern slavery profile.....	10
4.2. Causes and drivers of modern slavery and transnational trafficking.....	11
4.3. Particularly vulnerable groups.....	11
<b>5. Antislavery governance in India.....</b>	<b>13</b>
5.1. Legislative frameworks.....	13
5.2. Prosecution.....	17
5.3. National policies and plans.....	18
5.4. Victim support and assistance.....	18
5.5. Training and capacity-building for responders.....	20
5.6. Public awareness raising.....	20
5.7. Efforts to address vulnerabilities and drivers.....	21
5.8. Frameworks for international coordination.....	21
<b>6. Experiences of modern slavery of Indian nationals in the UK.....</b>	<b>23</b>
6.1. Indian nationals in the UK National Referral Mechanism.....	23
6.2. Typical journeys from India to the UK for trafficking victims.....	24
6.3. Experiences of exploitation and working conditions.....	24
6.4. Consequent effects of trafficking on survivors.....	24
6.5. Particular needs, requirements, and considerations for support and engagement.....	24
<b>7. The impact of COVID-19.....</b>	<b>26</b>
7.1. The Government’s response to COVID-19.....	26
7.2. The impact of COVID-19 on workers and modern slavery victims.....	27

# 1. Overview of antislavery in India

## 1.1. The Walk Free Foundation's Global Slavery Index<sup>1</sup>

	Vulnerability		Prevalence			Government response	
	Ranking <sup>2</sup>	Score <sup>3</sup>	Ranking <sup>4</sup>	Absolute <sup>5</sup>	/ 1000 <sup>6</sup>	Ranking <sup>7</sup>	Rating <sup>8</sup>
<b>2013</b>	<b>71</b> /162	54.42	<b>4</b> /162	13,956,010	11.3	-	-
<b>2014</b>	<b>63</b> /167	56.7	<b>5</b> /167	14,285,700	11.4	<b>59</b> /167	CCC
<b>2016</b>	<b>19</b> /167	51.35	<b>4</b> /167	18,354,700	14	<b>73</b> /161	B
<b>2018</b>	<b>56</b> /167	55.49	<b>50</b> /167	7,989,000	6.1	<b>66</b> /162	B

Although the nature of modern slavery makes measuring the phenomenon an inherently difficult task, the Walk Free Foundation's Global Slavery Index (GSI) aims to provide the 'best available data and information about the scale and regional distribution of modern slavery'.<sup>9</sup> This includes **national prevalence estimates** of the number of people experiencing modern slavery in each country, calculated on the basis of a predictive model that accounts for individual and country-level risk factors.

National prevalence estimates are analysed in the context of results of Walk Free's **Vulnerability Model**. This model uses 'statistical testing and processes to identify the factors that explain or predict the prevalence of modern slavery'.<sup>10</sup> The 2018 Vulnerability Model features five factors, made up of 23 distinct variables: governance issues, lack of basic needs, inequality, disenfranchised groups, and effects of conflict.

Walk Free also tracks **government responses** to modern slavery, tracking government efforts across five milestones: (1) survivors of slavery are identified and supported to exit and remain out of slavery; (2) criminal justice mechanisms function effectively to prevent modern slavery; (3) coordination occurs at the national and regional level, and governments are held to account for their response; (4) risk factors such as attitudes, social systems, and institutions that enable modern slavery are addressed; and (5) government and business stop sourcing goods and services produced by forced labour.<sup>11</sup>

It should be noted that the scope, methodology, and sources underpinning GSI findings has changed over the years. This means that data between different reporting years is not directly comparable.

<sup>1</sup> Walk Free Foundation, 'The Global Slavery Index 2013' (2013), available [here](#); 'The Global Slavery Index 2014' (2014), available [here](#); 'The Global Slavery Index 2016' (2016), available [here](#); 'The Global Slavery Index 2018' (2018), available [here](#) (accessed 05 June 2020).

<sup>2</sup> Note: a higher ranking (closer to 1) indicates high vulnerability relative to other countries.

<sup>3</sup> Note: a higher score indicates increased vulnerability to modern slavery, with a median country score of 47.28 in 2018.

<sup>4</sup> Note: a higher ranking (closer to 1) indicates a high number of people experiencing modern slavery per 1000 in the overall population relative to other countries.

<sup>5</sup> Note: absolute prevalence measures the estimated number of people experiencing modern slavery in the country.

<sup>6</sup> Note: prevalence /1000 measures the number of people estimated to experience modern slavery per 1000 people in the overall population.

<sup>7</sup> Note: a higher ranking (closer to 1) indicates better government responses to modern slavery relative to other countries.

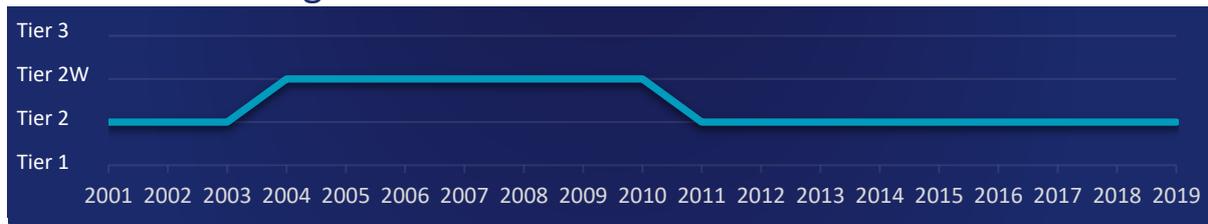
<sup>8</sup> Note: government response ratings are broken into scoring bands, with an A rating representing the strongest government response to modern slavery (with a score of 70-79.9), followed by BBB (60-69.9), BB (50-59.9), B (40-49.9), CCC (30-39.9), CC (20-29.9), C (10-19.9), and D (<0-9.9).

<sup>9</sup> Walk Free Foundation, 'Global Findings' (2018), available [here](#).

<sup>10</sup> Walk Free Foundation, 'Methodology: Vulnerability' (2018), available [here](#).

<sup>11</sup> Walk Free Foundation, 'Methodology: Government Response' (2018), available [here](#).

## 1.2. TIP Rankings 2001-2019<sup>12</sup>



The Trafficking in Persons report ranks countries into one of four tiers, as mandated by the Victims of Trafficking and Violence Protection Act 2000 (TVPA). A country's ranking is based on an assessment of the government's efforts to address trafficking in persons, rather than on the extent of trafficking within the country, and considers government action against the TVPA's minimum standards.<sup>13</sup>

**Tier 1:** Countries whose governments fully meet the TVPA's minimum standards for the elimination of trafficking. To maintain a Tier 1 ranking, the country must continue to make progress in its anti-trafficking efforts each year.

**Tier 2:** countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

**Tier 2 Watch List:** Countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and for which:

- (a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- (b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- (c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.

**Tier 3:** Countries whose governments do not fully meet the TVPA's minimum standards and are not making significant efforts to do so. Countries ranked as Tier 3 may be subjected to restrictions on non-humanitarian, non-trade foreign assistance from the US. Impositions of such restrictions are determined by the President.<sup>14</sup>

<sup>12</sup> US Department of State, 'Trafficking in Persons Report' (2019), available [here](#); (2018), available [here](#); (2017), available [here](#); (2016), available [here](#); (2015), available [here](#); (2014), available [here](#); (2013), available [here](#); (2012), available [here](#); (2011), available [here](#); (2010), available [here](#); (2009), available [here](#); (2008), available [here](#); (2007), available [here](#); (2006), available [here](#); (2005), available [here](#); (2004), available [here](#); (2003), available [here](#); (2002), available [here](#); (2001), available [here](#).

<sup>13</sup> Minimum standards for the elimination of trafficking are found in section 108, Victims of Trafficking and Violence Protection Act 2000 (United States), available [here](#).

<sup>14</sup> See further US Department of State (2019), above n 12, 37.

### 1.3. Quantitative measures on anti-trafficking governance<sup>15</sup>

Measure	Year	Qty	Source
Trafficking cases reported	2018	1,830	[5]
Trafficking prosecutions	2018	545	[5]
Trafficking convictions	2018	322	[5]
Traffickers acquitted	2018	1,124	[5]
Trafficking victims identified	2018	3,946	[5]
Estimated number of people in debt bondage	2018	18,000,000	[1]
Corruption cases reported	2017	632	[1]
Trafficking cases reported	2017	2,854	[5]
Trafficking prosecutions	2017	670	[5]
Trafficking convictions	2017	249	[5]
Traffickers acquitted	2017	1,155	[5]
Number of people trafficked	2016	15,379	[2]
Trafficking cases reported	2016	8,132	[3]
Trafficking victims rescued	2016	23,117	[3]
Trafficking cases recorded	2015	6,877	[3]
Trafficking cases investigated	2015	4,203	[4]
Trafficking prosecutions	2015	2,387	[4]
Trafficking convictions	2015	815	[4]
Trafficking convictions	2015	824	[3]
Trafficking prosecutions	2015	1,497	[3]
Human trafficking prosecutions of males	2015	1,331	[3]
Human trafficking prosecutions of females	2015	166	[3]
Immoral trafficking prosecutions	2015	7,601	[3]
Immoral trafficking prosecutions of males	2015	5,380	[3]
Immoral trafficking prosecutions of females	2015	2,221	[3]
Trafficking cases related to procurement of minor girls	2015	3,087	[3]
Trafficking cases involving importation of girls from abroad	2015	6	[3]
Trafficking cases related to selling of minors for prostitution	2015	111	[3]
Trafficking cases related to buying of minors from prostitution	2015	11	[3]

<sup>15</sup> Sources:

[1] US Department of State, '2018 Country Reports on Human Rights Practices: India' (2018), available [here](#).

[2] Walk Free Foundation, 'Country Studies: India' (2018), available [here](#).

[3] UNODC, 'Country Profiles: West and South Asia' (United Nations, 2018), available [here](#).

[4] US Department of State (2017), above n 12.

[5] US Department of State (2020), above n 12.

Trafficking cases registered as 'immoral trafficking'	2015	2,641	[3]
Trafficking cases registered as 'human trafficking'	2015	1,021	[3]
New child trafficking cases registered	2015	221	[3]
Cases relating to child trafficking (new and ongoing)	2015	5,003	[3]
Child trafficking trials completed	2015	384	[3]
Child trafficking cases resulting in convictions	2015	55	[3]
Persons convicted of child trafficking	2015	95	[3]
Trafficking cases investigated	2014	3,056	[1]
Trafficking prosecution	2014	2,596	[1]
Trafficking cases registered as 'immoral trafficking'	2014	2,617	[3]
Trafficking cases registered as 'human trafficking'	2014	720	[3]

#### 1.4. Statistics on children's work and education<sup>16</sup>

	Age	Percent
Working (% and population)	5 to 14	1.4 (3,253,202)
Working children by sector	5 to 14	
Agriculture		56.4
Industry		33.1
Services		10.4
Attending School (%)	5 to 14	90.7
Combining Work and School (%)	7 to 14	0.3
Primary Completion Rate (%)		94.5

A significant number of children in India enter employment before they reach the age of 14, and many are employed in the worst forms of child labour. This includes forced labour in the garment industry, stone quarries, brick kilns, and agriculture. Children are also engaged in hazardous work, including in the

production of thread and yarn. The majority of children aged 5 to 14 in employment (56%) are employed in the agriculture sector, with 33% employed in industry and 10% in services.<sup>17</sup>

<sup>16</sup> Bureau of International Labour Affairs, 'Child Labour and Forced Labour Reports: India' (2018), available [here](#).

<sup>17</sup> Ibid.

## 2. Treaty commitments<sup>18</sup>

International instruments	Ratification date
1926 Slavery Convention	N/A (signed 12 Mar 1954)
1953 Protocol to the Slavery Convention	12 Mar 1954
1930 Forced Labour Convention	30 Nov 1954
2014 Protocol to the Forced Labour Convention	N/A
1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	23 Jun 1960
1957 Abolition of Forced Labour Convention	18 May 2000
1966 International Covenant on Civil and Political Rights (ICCPR)	10 Apr 1979
1966 Optional Protocol to the ICCPR	N/A
1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	N/A
1998 Rome Statute of the International Criminal Court	N/A
1999 Worst Forms of Child Labour Convention	13 Jun 2017
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children	5 May 2011
2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	16 Aug 2005
2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	30 Nov 2005
2011 Domestic Workers Convention	N/A
<b>Regional and bilateral instruments</b>	
SAARC Convention on Preventing and Combatting Trafficking in Women and Children for Prostitution	05 Jan 2002
<b>Key International Commitments</b>	
2017 Call to Action to End Forced Labour, Modern Slavery and Human Trafficking	N/A

India is also a participant in a number of international declaratory instruments relevant to the consideration of antislavery governance, including the 1948 Universal Declaration of Human Rights, 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and 2015 United Nations Sustainable Development Goals. India is also a member of the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime.

<sup>18</sup> UN Treaty ratification info sourced from UN Treaty Collection available [here](#); ILO Convention ratifications available [here](#); Rome Statute ratification status available [here](#). Membership data on the 2017 Call to Action is found at Delta8.7, 'Call to Action' available [here](#).

## 3. General country context

### 3.1. Constitutional structure

India is common law country based on the English model.<sup>19</sup> The country operates a multiparty, federal, parliamentary democracy system with a bicameral legislature. Generally, separate personal laws apply to Hindus, Muslims, and Christians. The Prime Minister is the Head of Government, and the President, elected by an electoral college composed of the state assemblies and Parliament, is the Head of State. Under the country's constitution, the 28 states and 9 union territories have a high degree of autonomy and are primarily responsible for maintaining law and order.<sup>20</sup> The Supreme Court, consisting of 28 judges, including the Chief Justice, is the court of last resort.<sup>21</sup>

### 3.2. Political context

India's current President, Ram Nath Kovind, was elected into office in 2017 to serve a five-year term, while Narendra Modi became Prime Minister for the second time in 2019, following the victory of the National Democratic Alliance coalition led by the Bharatiya Janata Party (BJP).<sup>22</sup> The 2019 elections which included more than 600 million voters, was widely believed to be free and fair, despite isolated instances of violence. The country's Ministry of Home Affairs (MHA) controls the internal intelligence bureaus, national law enforcement agencies and most paramilitary forces. The Ministry also provides training for senior officials from state police forces.<sup>23</sup> India ranks 51<sup>st</sup> globally in the 2019 Democracy Index of the Economist Intelligence Unit.<sup>24</sup> The country dropped ten places from the preceding year, owing to suppression of civil liberties by central authorities.<sup>25</sup>

### 3.3. Migration profile

India has a total population of 1.4 billion people. As of mid-2019, the country's emigrant population was estimated to be 17.5 million, while the number of international migrants residing in the country estimated at 5.2 million.<sup>26</sup> The United States is the third most popular destination for Indian migrants worldwide (2.4 million), after the United Arab Emirates and Pakistan. Other top destinations include Saudi Arabia (1,894,000), Kuwait (1,062,000), Oman (778,000), and the United Kingdom (777,000).<sup>27</sup> In general, India has the largest diaspora population in the world, followed by Mexico, Russia and China.<sup>28</sup> A 2013 study reveals the top 5 countries of origin of immigrants to India, including: Bangladesh (3.2 million), Pakistan (1.1 million), Nepal (553,050), Sri Lanka (158,083), Myanmar (51,529).<sup>29</sup>

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<sup>19</sup> Central Intelligence Agency, 'The World Factbook', available [here](#).

<sup>20</sup> US Department of State, '2019 Country Reports on Human Rights Practices: India' (2019), available [here](#).

<sup>21</sup> Central Intelligence Agency, above n 19.

<sup>22</sup> US Department of State, above n 20.

<sup>23</sup> Ibid.

<sup>24</sup> A higher ranking indicates a more democratic society. The Economist Intelligence Unit, 'Democracy Index 2019: A year of democratic setbacks and popular protest' (The Economist Intelligence Unit Limited, 2020) 26.

<sup>25</sup> Ibid.

<sup>26</sup> Migration Data Portal (2019), available [here](#).

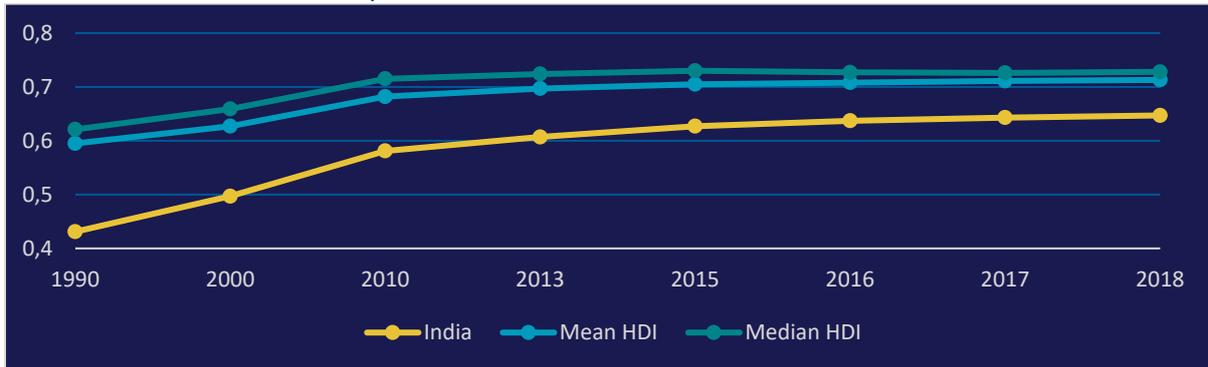
<sup>27</sup> Jie Zong and Jeanne Batalova (Migration Policy Institute), 'Indian Immigrants in the United States' (2017), available [here](#).

<sup>28</sup> UN Department of Economic and Social Affairs, 'International Migration Report' (2017) 12, available [here](#).

<sup>29</sup> UN Department of Economic and Social Affairs, 'Migration Profiles' (2014), available [here](#).

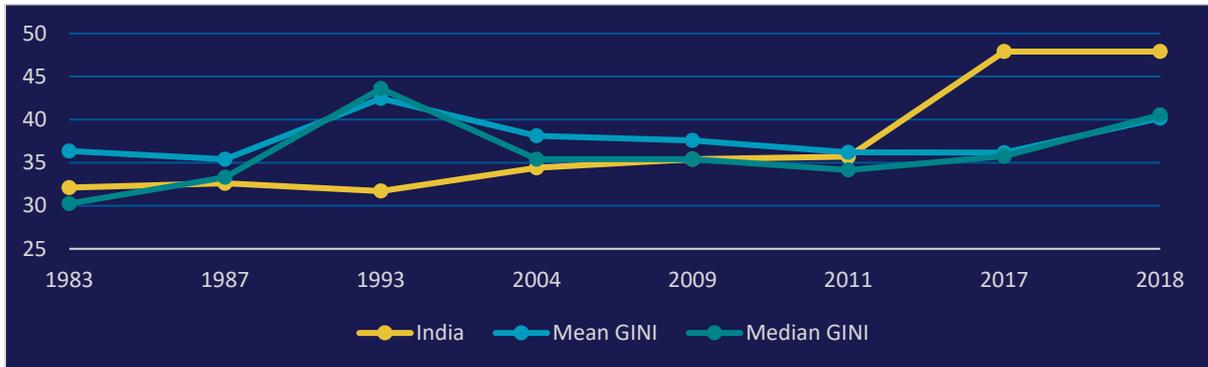
### 3.4. Development profile

#### 1. Human Development Index<sup>30</sup>



The Human Development Index (HDI) measures average life expectancy, level of education and income for each country in the world. Each country is given a score between 0 and 1 - the closer a country gets to 1, the more developed it is.<sup>31</sup> India's scores place it in the 'Medium Human Development' grouping.

#### 2. GINI Co-efficient<sup>32</sup>



Gini index measures the extent to which income distribution or consumption expenditure among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of 0 represents perfect equality, while an index of 100 implies perfect inequality.<sup>33</sup>

#### 3. UN Sustainable Development Goals<sup>34</sup>

Year	Rank	Score
2020	117	61.92
2019	115	61.1
2018	112	59.1
2017	116	58.1
2016	110	48.4

The Sustainable Development Reports assess implementation of, and progress towards, the 2015 UN Sustainable Development Goals. The SDG Index and Dashboards summarise countries' current performance and trends across the 17 SDGs. All SDGs are weighted equally in the index. Changing indicators, data, and methodology used to determine rankings and scores mean that SDG index results are not comparable over time.<sup>35</sup>

<sup>30</sup> UNDP, 'Human Development Reports 1990–2018' (2019), available [here](#).

<sup>31</sup> Ibid.

<sup>32</sup> 1983 to 2011 data on India, mean and median calculations sourced from The World Bank Development World Bank, 'GINI Index (World Bank Estimate)-India' available [here](#). 2017 and 2018 data sourced from World Data Atlas, Knoema, 'India - GINI Index', available [here](#). Note: timescale reflects years for which country-specific data for India is available.

<sup>33</sup> Knoema, 'World Data Atlas', available [here](#).

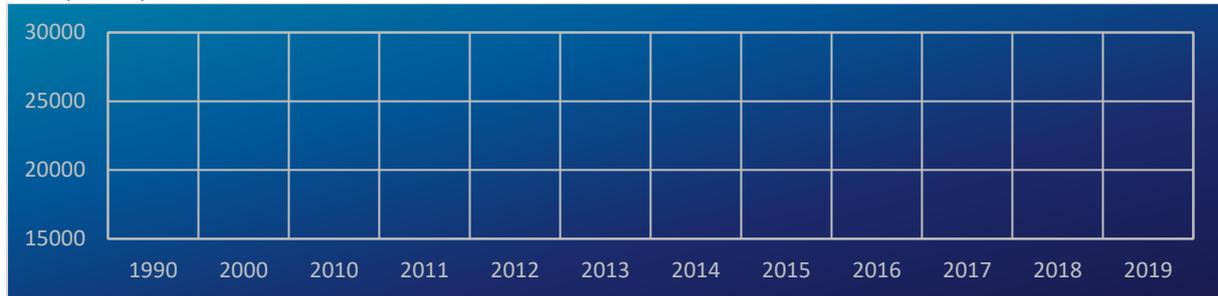
<sup>34</sup> Sustainable Development Report (2020), available [here](#).

<sup>35</sup> Bertelsmann Stiftung and Sustainable Development Solutions Network, 'Sustainable Development Report 2019' (June 2019) 19.

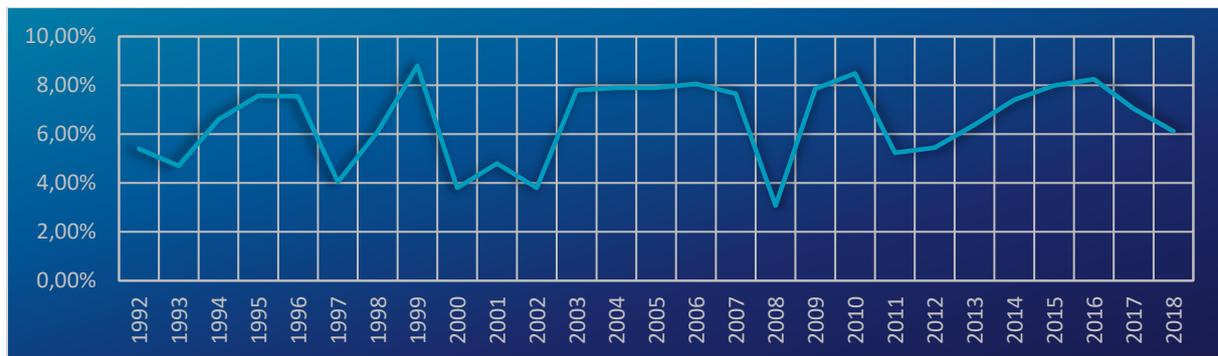
As of 2019, the unemployment rate of the total population in India was 3.5%, while the youth unemployment rate was estimated to be 10.6%.<sup>36</sup>

#### 4. India's GDP Rates

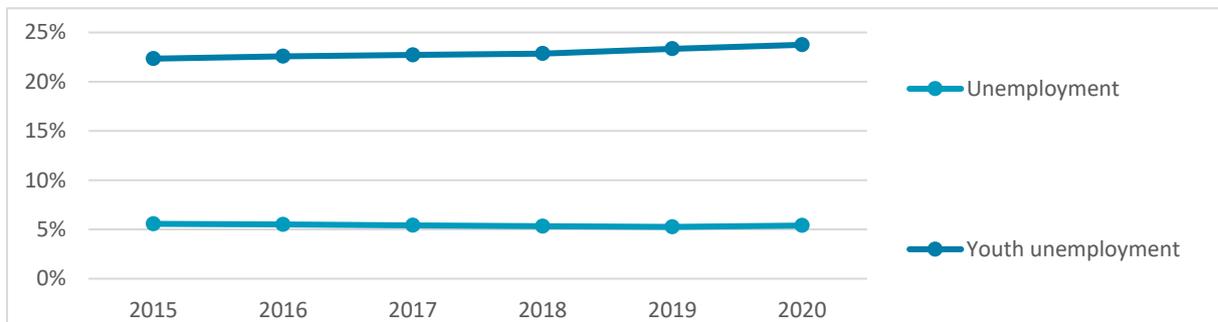
GDP per capita (current US\$)<sup>37</sup>



GDP Growth Rate<sup>38</sup>



#### 5. Other relevant indicators<sup>39</sup>



### 3.5. India's human rights record

India has been grappling with a number of human rights issues in the recent past. The 2019 US State Department Human Rights Report highlighted a range of human rights issues faced in the country, including unlawful and arbitrary killings, arbitrary arrest and detention by government authorities as well as harsh and life-threatening prison conditions. Prison officials have also reportedly used torture on inmates, while restrictions on freedom of expression and the press are widespread. Other issues include highly restrictive rules on the activities of NGOs, frequent reports of corruption at different levels of government, violence and discrimination of minority groups based on religious affiliation or social status, as well as forced and compulsory child labour, including bonded labour.<sup>40</sup>

<sup>36</sup> Migration Data Portal, above n 26.

<sup>37</sup> World Bank, 'GDP per capita (current US\$) - India', available [here](#).

<sup>38</sup> World Bank, 'GDP growth (annual %) - India', available [here](#).

<sup>39</sup> Statista, 'Unemployment rate in India 2020' (2020), available [here](#); Statista, 'Youth unemployment rate in India from 1999 to 2020' (2020), available [here](#).

<sup>40</sup> US Department of State, above n 20.

The government stripped the Jammu and Kashmir state of the special status it previously enjoyed, by repealing two key constitutional provisions, which granted it autonomous powers. Article 370 gave the State Assembly of Jammu and Kashmir powers to decide which articles of the Indian Constitution would be applicable in the state—except for matters related to defence, communication and foreign affairs. Article 35A prevented Indian residents from other states from purchasing land or property in Jammu and Kashmir. With the removal of these provisions of the Constitution, the Jammu and Kashmir Reorganisation Act of 2019 was passed into law, effectively depriving Jammu and Kashmir of the statehood status it previously enjoyed. Jammu and Kashmir is now divided into two union territories: Jammu and Kashmir, and Ladakh. The Indian government deployed a large number of troops to the state ahead of the operation. It also imposed other security measures, including restriction of internet access, and placed local leaders under house arrest.<sup>41</sup> Human Rights Watch has pointed out that despite numerous independent recommendations, including by United Nations experts, the Indian government has failed to review or repeal the Armed Forces (Special Powers) Act, which gives soldiers effective immunity from prosecution for serious human rights abuses. The legislation is in force in Kashmir and in several states in the country's north-eastern region.<sup>42</sup>

A citizenship registration exercise in Assam excluded around 1.9 million people (mostly Muslims) from the final list of the National Register of Citizens. The Indian authorities claimed that people excluded were mostly Bangladeshi immigrants. Bangladesh however denies this. Some observers believe the exercise was directed at the Muslim population and could trigger demographic changes along religious lines. The new citizenship law has enraged the Muslim population and generated largescale protests in major cities.<sup>43</sup>

### 3.6. Social support systems

Until recently, India's social security system largely catered to the formal sector of the economy. Social benefits including health insurance, old-age pension, and maternity benefits did not address the unorganised labour force, which represented the majority of the working population.<sup>44</sup> However, during the last two decades, the country has adopted more inclusive forms of social security.<sup>45</sup> The current social security programs in the country may be broadly categorised into five areas: school meals; the Integrated Child Development Services; the National Rural Employment Guarantee Act; the public distribution system; and social security pensions for widows, the elderly, and disabled persons.<sup>46</sup> With these changes, social security has shifted from the notion of risk to the idea of need – i.e. basic human needs such as shelter, health care, nutrition – and is now widely deployed as a tool to fight poverty and address economic and social inequalities.<sup>47</sup> Individuals working in the unorganised sector may be offered social protection through the Unorganised Workers Social Security Act 2008. Under the Act, the Central Government is required to provide suitable welfare schemes on matters relating to life and disability cover, health and maternity benefits, old age protection etc. to unorganised workers. State governments are further required to formulate suitable welfare schemes for unorganised workers in relation to provident fund, employment injury benefit, housing, education schemes for children, skill upgrade, funeral assistance, and old age homes.<sup>48</sup>

On 28 November 2001, following public-interest litigation on the right to food, the Supreme Court of India directed all state governments to start providing cooked meals in primary schools across the country. India's Integrated Child Development Services (ICDS) provides nutrition, health, and pre-school education services for children under the age of

<sup>41</sup> The Economist Intelligence Unit, above n 24, 26-7.

<sup>42</sup> Human Rights Watch, 'India - Events of 2019' (2020), available [here](#).

<sup>43</sup> The Economist Intelligence Unit, above n 24, 27.

<sup>44</sup> Drèze Jean and Khera Reetika, 'Recent Social Security Initiatives in India' (2017) 98, 555-572.

<sup>45</sup> See further International Social Security Association, 'India Country Profile' (2020), available [here](#).

<sup>46</sup> Ibid.

<sup>47</sup> Indira Hirway, 'Social Protection for Women Workers: With special reference to unpaid domestic workers' in Priti Darooka (ed), *Road to Rights: Women, Social Security and Protection in India* (Sage Publishers, 2016) 61.

<sup>48</sup> See sections 1-3, Unorganised Workers Social Security Act, 2008.

six years. There is evidence of slow but steady progress of the ICDS program.<sup>49</sup> Apart from this, in August 2005, the Indian Parliament passed the National Rural Employment Guarantee Act (NREGA) unanimously. The Act came into force on 2 February 2006 in 200 of India's poorest districts, and was extended to the whole country on 1 April 2008. Under the Act, any adult residing in rural areas who demands work has to be employed on local public works within 15 days. Failing that, an unemployment allowance is due. Despite its promise, delays in wage payments have plagued NREGA since 2008, when central authorities mandated payments through banks or post offices. In spite of these challenges, however, it has been observed that the NREGA has led to some major achievements, including increased female participation in the workforce. Also, more than half the workers belong to scheduled castes or scheduled tribes.<sup>50</sup>

India's public distribution system (PDS), initiated in the 1940s, is another scheme providing food at subsidised prices to eligible households. This has however been plagued by largescale corruption. The difference between market prices and PDS issue prices creates a strong incentive for intermediaries to embezzle food grains from the system and sell them on the open market above government approved prices.<sup>51</sup>

India also has a social security scheme for widows, the elderly and disabled persons. Under the Employees' Provident Funds and Miscellaneous Provisions, the employee pays 12% of basic wages into the Employees' Provident Fund and the Employer pays 12.5% of basic wages (8.33% into the Pension Fund, 3.67% to the Provident Fund and 0.51% to the Deposit-Linked Insurance Scheme). The Government contributes 1.17% of the basic wage to the Pension Scheme. The Employees' Pension Scheme (ESP) doubles as a defined contribution and defined benefit scheme. It provides pension payments for life on retirement and on disablement during employment. The scheme further provides social security cover to family members in case insured persons die. Old Age pension is paid if the member has worked for at least 10 years and has reached 58 years of age (no pension is payable for lesser periods). Twenty years of contributions is required for a full pension. Generally, one-month membership and contribution is enough to qualify for disability or survivor benefits.<sup>52</sup>

## 4. National modern slavery context

### 4.1. Modern slavery profile

India is a source, destination, and transit country for human trafficking, especially for commercial sexual exploitation and forced labour; this is in addition to widespread internal trafficking in the country. For the most part, trafficking migration flows from Nepal and Bangladesh into India, through contiguous borders which are usually porous and very long.<sup>53</sup> Border crossing is not difficult and money can easily change hands. India has an open border policy with Nepal, making cross-border trafficking difficult to identify. Even though Bangladeshis on the other hand do not have similar access, trafficking from the country to India remains widespread. The State of West Bengal, which shares boundaries with several north-eastern states as well as international boundaries with Nepal and Bangladesh, serves as a source, transit and destination point for national and international trafficking.<sup>54</sup>

Indian men, women and children are trafficked for a variety of reasons. Women and girls may be trafficked due to cultural practices or due to poverty; others willingly migrate to

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<sup>49</sup> Drèze Jean and Khera Reetika, above n 44, 559.

<sup>50</sup> Ibid, 562.

<sup>51</sup> Ibid.

<sup>52</sup> Australian Government, 'Social Security System in India' (2021), available [here](#).

<sup>53</sup> UNODC, 'Legal and Policy Review: Responses to Human Trafficking in Bangladesh, India, Nepal and Sri Lanka' (2011) 26, available [here](#).

<sup>54</sup> Biswajit Ghosh, 'Trafficking in women and children in India: nature, dimensions and strategies for prevention', (2009) 13(5) *The International Journal of Human Rights* 728.

other countries to undertake domestic work. Trafficking for marriage is increasingly becoming popular with women and girls, given falling sex ratio.<sup>55</sup> Forced marriage is particularly prevalent in India where high numbers of women are sold off into marriage at a very young age. These women often end up enduring severe abuse and exploitation by their husbands. Traffickers also arrange sham marriages within India and Gulf states to subject females to sex trafficking.<sup>56</sup>

Bonded labour also continues to persist despite legislation to combat it. Although the phenomenon is formally abolished and criminalised, recent studies have shown that the practice is still prevalent in the country. A 2016 report has for instance revealed that in the state of Tamil Nadu, 351 of 743 spinning mills use bonded labour schemes.<sup>57</sup> The 2019 TIP report has also noted that, forced labour, including bonded labour, is the main trafficking problem in India. Most of the trafficking problems in the country are internal, with traffickers targeting individuals from disadvantaged backgrounds. In addition to bonded labour, traffickers exploit children in forced labour in different sectors, including construction, domestic service, agriculture, garment etc.<sup>58</sup> Trafficking for commercial sexual exploitation however seems to be the most common form of exploitation children are subjected to.<sup>59</sup>

Human trafficking for organ removal remains prevalent in India. Increasing rates of liver and kidney diseases have prompted trade in these organs. The 2011 Transplantation of Human Organs (Amendment) Act, which limits organ donation to an immediate relative has triggered illegal procedures. In this regard, documents forgeries to show family ties have been on the increase. In some regions in India, poorer people use their kidneys as collateral for loans.<sup>60</sup>

## 4.2. Causes and drivers of modern slavery and transnational trafficking

Modern slavery in India is caused and/or driven by a variety of factors including poverty, frequent natural disasters (e.g., floods leading to virtual destitution of some people), lack of education, dysfunctional family systems, and widespread lack of awareness about the various forms of modern slavery.<sup>61</sup> Large-scale female foeticide in the northern states of Haryana and Punjab has also prompted internal trafficking. The shortage of women in these states have made it a hub for trafficking activities.<sup>62</sup>

Apart from this, the Indian culture which considers male children as more 'valuable' than female, puts women in a vulnerable situation. The caste system induces modern slavery, especially in rural India. With the high profits associated with child trafficking, low caste families are often coerced into selling their children. Some low caste children are also kidnapped overnight. Political instability and widespread corruption in India have also contributed to the country's modern slavery profile. At the political level, disinterest in effectively engaging with the root causes is noted, while corruption has triggered poverty, inequality, and ultimately different forms of exploitation.<sup>63</sup>

## 4.3. Particularly vulnerable groups

Women and children from scheduled castes and tribes often fall victims to modern slavery. Victims, including children, are often exploited in factories, brick kilns, and the agricultural

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<sup>55</sup> UNODC, above n 53.

<sup>56</sup> US Department of State (2019), above n 12, 239-240.

<sup>57</sup> India Committee of the Netherlands, 'Fabric of Slavery: Large-scale forced (child) labour in South India's spinning mills' (2016), available [here](#).

<sup>58</sup> US Department of State (2019), above n 12, 239.

<sup>59</sup> ECPAT, 'Executive Summary: India' (2016), available [here](#).

<sup>60</sup> Walk Free Foundation, above n 15.

<sup>61</sup> Biswajit Ghosh, above n 55, 731, 732.

<sup>62</sup> Ibid, 732.

<sup>63</sup> Save the Children, 'Causes of Child Trafficking in India' available [here](#).

sector.<sup>64</sup> Girls are also sometimes trafficked for ancestral religious practices such as the *Devadasi system*, and sold at auctions to Arab and Indian men who believe that having intercourse with virgins heals certain diseases.<sup>65</sup>

Domestic workers are particularly vulnerable to exploitation, given that they work in private homes and often rely on their employers for basic needs. The majority of female domestic workers migrate from India's least developed regions, including Assam, West Bengal, and Jharkhand to more affluent urban areas where a growing middle class has created demand for domestic help.<sup>66</sup>

Children of Indian seasonal migrant workers also become vulnerable, as they face barriers accessing education due to the isolation of the work sites where their parents work.<sup>67</sup> Poor Muslims, Hindu Scheduled Castes, and Scheduled Tribe Communities are also particularly susceptible to modern slavery in West Bengal. These individuals mainly represent "landless households, agricultural labourers, tea garden workers, low paid informal sector workers, and marginal and seasonal workers."<sup>68</sup>

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<sup>64</sup> Franciscans International, 'Modern Slavery in India: Cases of Bonded Labour' (2012), available [here](#).

<sup>65</sup> Ibid.

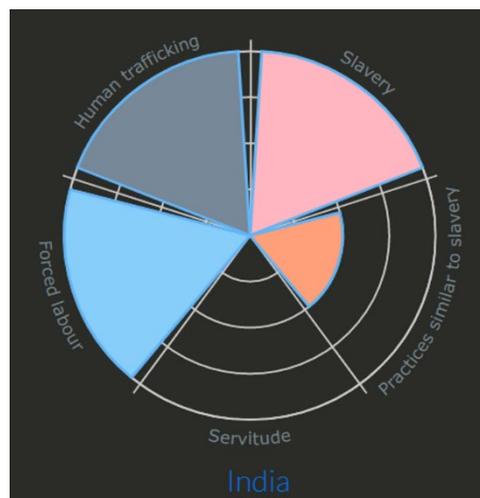
<sup>66</sup> Walk Free Foundation, '2018 Findings: India', above n 5.

<sup>67</sup> Ibid.

<sup>68</sup> Bisw Biswajit Ghosh, above n 55, 731.

## 5. Antislavery governance in India

India has enacted criminal prohibitions against several of the practices that make up modern slavery, including human trafficking, forced labour, bonded labour, kidnapping or abducting women into forced marriage, and slavery itself.<sup>69</sup> This places Bangladesh in the 51% of UN Member States that have criminalised slavery, the 42% that have criminalised forced labour, and the 96% of States that have criminalised trafficking.<sup>70</sup> It also places Bangladesh in the group of 93% of States that have failed to criminalise servitude as a distinct offence, and 88% that have not criminalised each of the four institutions and practices similar to slavery, although these practices may form elements of the offence of trafficking.<sup>71</sup>



### 5.1. Legislative frameworks

#### 6. India's Constitution<sup>72</sup>

Traffic in human beings as well as forced labour are expressly prohibited under section 23 of the Indian Constitution. The provision specifically states:

Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Section 24 further protects children from undertaking potentially hazardous works. It reads "No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment."

#### 7. Indian Penal Code<sup>73</sup>

Sex trafficking and some forms of labour trafficking are prohibited under the country's Penal Code. Section 370(1) of the Indian Penal Code (IPC) 1860 (as amended by the 2013 Criminal Law Amendment Ordinance), criminalises trafficking offenses that involve sexual exploitation, slavery or practices similar to slavery, forced labour, servitude and organ harvesting. The provision states that:

Whoever, for the purpose of exploitation, recruits, transports, harbours, transfers or receives a person or persons, by using threats, force or any other form of coercion, by abduction, by practising fraud, deception, or abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Exploitation is defined to include "prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs." The provision notes that the consent of victims is immaterial in determining the offence of trafficking.

<sup>69</sup> Katarina Schwarz and Jean Allain, 'India' (Antislavery in Domestic Legislation, 2020), available [here](#).

<sup>70</sup> Katarina Schwarz and Jean Allain, 'Antislavery in Domestic Legislation: An Empirical Analysis of National Prohibition Globally' (The Rights Lab and Castan Centre for Human Rights Law, February 2020) 11, available [here](#).

<sup>71</sup> Ibid. The institutions and practices similar to slavery are set out in the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

<sup>72</sup> The Indian Constitution is available [here](#).

<sup>73</sup> The Indian Penal Code of 1860 is available [here](#).

Section 370 further prescribes penalties ranging from seven to 10 years' imprisonment and a fine for offenses involving an adult victim, and 10 years to life imprisonment and a fine for those involving a child victim. Nevertheless, the legislation fails to indicate that the relevant means (force, fraud coercion etc.) are not required to prove the offense of child trafficking.

Section 370A criminalises the employment of trafficked children and adults in any form of labour where the employer knows or ought to have known that the victims were trafficked. The punishment is imprisonment of 5 to 7 years where children are involved and 3 to 5 years for adult victims, in addition to payment of fine in both cases.

Forced labour is prohibited under section 374 of the Penal Code, and is punishable with up to one year imprisonment, or with fine, or both.

#### 8. Immoral Traffic (Prevention) Act 1956<sup>74</sup>

The Immoral Traffic (Prevention) Act (ITPA) is the primary legislation for preventing the sexual exploitation of women and girls in India. Although the legislation does not contain a definition of trafficking, the definition found in the Indian Penal Code could offer guidance. The ITPA, *inter alia*, prohibits: procuring, inducing or taking a person for the purpose of prostitution; and detaining a person in premises where prostitution is undertaken, seducing or soliciting for purposes of prostitution. It has been pointed out that the 1956 Act does not aim at abolishing prostitution; instead, it aims at suppressing the act of traffic in women and girls for the purpose of prostitution.<sup>75</sup> As Dube, Chakraborty and Winterdyk highlight: 'mere gratification of sex without anything more was removed from the purview of prostitution and replaced with exploitation or abuse of persons for commercial purpose. However, the Act highly discouraged the practice of prostitution as an organized means of living because it is intrinsically linked with the commercialized vice of trafficking.'<sup>76</sup>

Article 2 of the ITPA prohibits the act of keeping a brothel or allowing premises to be used as a brothel, on first conviction with a prison term not less than one year and not exceeding three years. The ITPA also criminalises living on earnings of prostitution of another person. Article 4 states that any person over the age of 18 years who knowingly lives on the earnings of prostitution of another shall be punished with imprisonment for a term which may extend to two years or with up to 1,000 rupees fine, or both. The punishment is imprisonment for a term of not less than 7 years if such earnings relate to the prostitution of a child or a minor.

#### 9. Core labour standards

Labour and employment relations in India are governed by a variety of laws including the Minimum Wages Act 1948,<sup>77</sup> which empowers the government to set relevant minimum wages payable to employees (section 3), and the Factories Act 1948,<sup>78</sup> which protects the health and safety of factory workers (section 7) and empowers state governments to appoint inspectors. Other labour standards include: the Employees' Compensation Act 1923; the Employees' Provident Funds and Miscellaneous Provisions; the Limestone and Dolomite Mines Labour Welfare Fund Act 1972; the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act 1976; and the Cine-Workers Welfare Cess Act 1981.<sup>79</sup>

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<sup>74</sup> The Immoral Traffic (Prevention) Act (ITPA) 1956 is available [here](#).

<sup>75</sup> Poonam Pradhan Saxena, 'Immoral traffic in women and girls: Need for tougher laws and sincere implementation' (2002) 44(4) *Journal of Indian Law Institute*, 507.

<sup>76</sup> Dipa Dube, Ankita Chakraborty & John Winterdyk 'The Anti-Trafficking Bill, 2018: Does it Fulfil India's Commitment to the International Community?' (2019) *Journal of Human Trafficking* 3.

<sup>77</sup> The Minimum Wages Act 1948 is available [here](#).

<sup>78</sup> The Factories workers Act 1948 is available [here](#).

<sup>79</sup> The Cine-Workers Welfare Cess Act, 1981 (No. 30 of 1981) is available [here](#).

#### 10. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989<sup>80</sup>

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (SC/ST) creates various offences which may only be committed against a person who is a member of a Scheduled Caste or Scheduled Tribe by someone who is not a member of a Scheduled Caste or Scheduled Tribe. All offences under the SC/ST are non-bailable.

The SC/ST seeks to give effect to the abolition of "untouchability", and the requirement that such constitute an offence punishable by law, contained in article 17 of the Indian Constitution. The existing provisions of the Penal Code and the Protection of Civil Rights Act were considered inadequate to check atrocities committed against members of the scheduled castes and tribes. The Union Minister for Home Affairs in 2010 indicated, however, that the SC/ST has failed to live up to its expectations and ensure the social inclusion of Dalits in Indian society.

Article 3(h) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act prohibits all forms of forced or bonded labour directed against members of a Scheduled Caste or a Scheduled Tribe in India. The provision states that, whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, 'makes a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government, shall be punished with imprisonment of 6 months to 5 years and fine'.

The SC/ST also provides for a Court of Session to be a Special Court for the trial of offences under the Act in each district under section 14. Rule 13(1) of the 1995 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules mandates that the judge presiding in this court be sensitive to and understanding of the particular problems of SCs and STs, however this is rarely true as Special Courts do not deal exclusively with SC/ST matters.

#### 11. Bonded Labour System (Abolition) Act 1976<sup>81</sup>

Beginning in the 1970s, a series of statutes were introduced in India to address illegal labour concerns within the country. These included, the Bonded Labour System (Abolition) Act, 1976. The Act creates a number of offences relating to bonded labour, and voids any agreement (present or future) under which a person is required to perform bonded work. The Act requires 'Vigilance Committees' chaired by District Magistrates to be set up in every District and Sub-division by State Governments to implement and enforce the Act.

Victims of bonded labour (or others acting on their behalf) may approach the District Magistrate to lodge a claim, or bring the matter to any other member of a Vigilance Committee. The bonded labourer is immediately released from bondage, and liability to repay the bonded debt is extinguished. Further, freed labourers may not be evicted from homesteads or other residential premises that they were occupying as part of consideration for their bonded labour. An official finding of bondage through conviction under the Act also opens up compensation under the Central Sector Scheme for rehabilitation of bonded labourers.<sup>82</sup>

The Act was amended in 1985 to include contract labourers and interstate migrant workers whose working conditions amounted to debt bondage. Evidence suggests that, although the legislation was well-intended, there have been significant gaps in its enforcement.<sup>83</sup>

#### 12. Contract Labour (Regulation & Abolition) Act 1970<sup>84</sup>

The Contract Labour (Regulation & Abolition) Act of 1970, set out to enable officials abolish contract labour failing to meet the essential health and safety standards, has been largely

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<sup>80</sup> The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 is available [here](#).

<sup>81</sup> The Bonded Labour System (Abolition) Act 1976 is available [here](#).

<sup>82</sup> The Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 is available [here](#).

<sup>83</sup> Dube, Chakraborty and Winterdyk, above n 76.

<sup>84</sup> The Contract Labour (Regulation and Abolition) Act 1970 is available [here](#).

under-enforced.<sup>85</sup> For example, contracted tea pickers in Assam receive low wages and continue to work under poor conditions.<sup>86</sup>

### 13. Transplantation of Human Organs (Amendment) Act 2011<sup>87</sup>

The Transplantation of Human Organs (Amendment) Act prohibits organ donation from individuals not related to the recipient, and limits donation only to a 'near relative'. Section 5 of the 2011 amendment defines a near relative to mean 'spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson or granddaughter'. The Act applies primarily to the States of Goa, Himachal Pradesh and West Bengal and to all the Union territories. Other States may also adopt the Act in accordance with constitutional guidelines. Dealing in, or supplying human organ for payment is punishable with imprisonment of not less than one year and up to three years with a fine (section 19A).

### 14. State level laws

Apart from federal laws, there are several state-level laws criminalising human exploitation in India. For instance, in 2003, the state of Goa adopted the Children's Act, to ensure protection of children from exploitation.<sup>88</sup> The legislation explicitly prohibits child labour and commercial sexual exploitation of children. Also, the states of Andhra Pradesh and Assam possess specific Children's Act adopted in 1979 and 1970 respectively, which broadly protect children from exploitation.

### 15. Child Labour (Prohibition and Regulation) Amendment Act 2016<sup>89</sup>

The Child Labour (Prohibition and Regulation) Amendment Act introduced amendments to the 1986 Child Labour (Prohibition and Regulation) Act, including renaming the legislation to the Child and Adolescent Labour (Prohibition and Regulation) Act and extending protections to 'adolescents' between the ages of 14 and 18 years. This legislation prohibits the engagement of children (under 14 years) in all occupations and prohibits the use of adolescents in hazardous occupations and processes.

### 16. Procedural laws

At the procedural level, section 357(a) of the Indian Criminal Procedure Code<sup>90</sup> was amended in 2008 to include a provision calling on states to set up compensation schemes for crime victims. The provision specifically states that:

Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation.

### 17. Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill<sup>91</sup>

The Indian government is currently in the process of adopting new anti-trafficking legislation. The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill was passed in the lower legislative house (Lok Sabha) in July 2018.<sup>92</sup> Among other things, the Bill aims to provide care, protection and rehabilitation to victims of trafficking.

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<sup>85</sup> Ibid.

<sup>86</sup> Pamposh Raina, 'Poisoned Cup: A Life of Poverty and Illness for Tea Workers in Assam' (2017), available [here](#).

<sup>87</sup> The Transplantation of Human Organs (Amendment) Act 2011 is available [here](#).

<sup>88</sup> The Goa State Children's Act 2003 is available [here](#).

<sup>89</sup> The Child Labour (Prohibition and Regulation) Amendment Act in 2016 available [here](#).

<sup>90</sup> The Indian Criminal Procedure Code is available [here](#).

<sup>91</sup> The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill (2018), introduced (Lok Sabha) 18 July 2018, passed by Lok Sabha 26 July 2018, available [here](#).

<sup>92</sup> Lok Sabha, 'Parliamentary Bills Information System: Bills Introduced' (Parliament of India Lok Sabha), available [here](#).

Tania Cantrell Rosas-Moreno and Deepti Ganapathy, 'Has India's tripartite cooperation with Brazil and South Africa helped it combat human trafficking? A news media framing analysis spanning two decades' (2019) *Journalism* 4.

The Bill has drawn many criticisms. For instance, the UN Special Rapporteurs on trafficking in persons, and contemporary forms of slavery, jointly issued a statement noting that the Bill:<sup>93</sup>

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...over-emphasises the criminal response, including the promotion of 'rescue raids' by the police and the institutionalisation of victims in the name of rehabilitation, not giving due consideration to their rights and needs, especially in terms of protection.

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They further noted that the over-broad and vague nature of some of the Bill's provisions, could lead to blanket criminalisation of activities that are not necessarily trafficking related.<sup>94</sup> The Bill also adopts the definition of trafficking contained in the 1860 Penal Code, which contains a number of gaps when compared to international standards.

## 5.2. Prosecution

According to the 2019 TIP Report, the Indian government initiated 11 trafficking investigations involving at least 52 suspected traffickers during 2018. The government reportedly concluded 6 investigations and prosecutions from previous years, and convicted 19 traffickers. Trafficking sentences ranged from probation to life imprisonment.<sup>95</sup>

During 2015, some 6,877 trafficking related cases were recorded in India. Of these numbers, 3,087 related to trafficking of minor girls, 111 related to selling of minors for prostitution, 6 concerned the importation of girls from foreign countries, 11 concerned buying of minors from prostitution, while the rest referred to Immoral trafficking and human trafficking under sections 370 and 370A of the amended Penal Code. Further, 824 cases prosecuted under sections 370 and 370A ended in convictions in 2015. Of the 5,003 cases relating to child trafficking, 384 trials were completed in 2015. A total of 55 child trafficking cases ended in conviction, while a total of 95 persons were convicted under various crimes relating to child trafficking.<sup>96</sup>

With regard to case law, Indian courts have ruled on or made specific pronouncement on aspects of modern slavery. On the issue of victim's rights for instance, in *Prajwala v Union of India*,<sup>97</sup> the implementation of a victim protocol was demanded by the court. There have also been cases where the court ordered the payment of compensation by perpetrators. For instance, in *PUCL v Union of India*,<sup>98</sup> compensation was ordered for undertaking child trafficking and bonded labour. Similarly, in November 2014, the Indian Supreme Court ordered the state governments of Chhattisgarh, Madhya Pradesh, Bihar, and Assam to find 12,591 missing children, many of whom may have been trafficked. Implementing this case, a number of missing children were found and reunited with their families.<sup>99</sup>

Overall, while India courts are making progress in addressing modern slavery, incidents of inaction by police and prosecutors sometimes reflect inconsistent application of the law across the country. Corruption among public officials and a lack of capacity in some parts of the country also undermines effective prosecution.<sup>100</sup>

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<sup>93</sup> Maria Grazia Giammarinaro and Urmila Bhoola, 'India Must Bring its New Anti-Trafficking Bill in Line with Human Rights Law, Urge UN Experts' (23 July 2018), available [here](#).

<sup>94</sup> See also Prabha Kotiswaran and Joel Quirk, 'The devil in the details: India's anti-trafficking bill' (2018) available [here](#); Himanshu Pabreja Ankit Sharama, 'The Indian Anti-Trafficking Bill, 2018: A Misguided Attempt to Resolve the Human Trafficking Crisis in India' (2019) Oxford Human Rights Hub, available [here](#).

<sup>95</sup> US Department of State, 'Trafficking in Persons Report', above n 12, 235.

<sup>96</sup> UNODC, above n 15.

<sup>97</sup> 2006 (9) SCALE 531, cited in UNODC, above n 53.

<sup>98</sup> 1998(8) SCC 485; cited in UNODC, above n 53.

<sup>99</sup> US Department of State (2015), above n 12.

<sup>100</sup> US Department of State, (2015), 185 and (2012), 185, above n 12.

### 5.3. National policies and plans

#### 18. The Integrated National Plan of Action to Prevent and Combat Trafficking in Human Beings<sup>101</sup>

The Integrated National Plan of Action to Prevent and Combat Trafficking in Human Beings with Special Focus on Women and Children adopted by the Ministry of Women and Child Development, deals with all aspects of trafficking including prevention, victim rescue, investigation, prosecution, conviction, rehabilitation, repatriation and reintegration of victims. The Plan of Action specifically notes that trafficking interventions 'should take into account the aspects of both demand and supply as a root cause. Central Government/State Governments/Union Territories should also take into account the factors that increase vulnerability of people to trafficking, including inequality, poverty and all forms of discrimination and prejudice.'<sup>102</sup>

Implementing its anti-trafficking obligations, the Indian government has taken several practical measures including establishing Integrated Anti-Human Trafficking Units (IAHTUs). This program was initiated by the UNODC in 2007, to, *inter alia*, provide a multi-disciplinary approach and a joint response by all stakeholder, such as police, prosecutors, NGOs, civil society and media. The program was further intended to bring about inter-departmental collaboration among the police and all other government agencies and department such as Women and Child Development, Labour, Health and Family Welfare. A victim-centred approach was to underpin its activities by ensuring the 'best interest of the survivors' and preventing 'secondary victimization/re-victimization' of victims.<sup>103</sup> In general, IAHTUs serve as the primary investigative force for human trafficking crimes in India.

#### 19. National Plan of Action for Children 2016<sup>104</sup>

A National Plan for Action for Children was adopted in 2016 to strengthen and monitor national, constitutional, and policy efforts consistent with the 2013 National Policy for Children. The country's flagship National Child Labour Project (NCLP) was created in 1988 to provide effective rehabilitation for children withdrawn from employment.<sup>105</sup> Guidelines relating to the NCLP were revised in 2016 with the goal of eliminating all forms of child labour. Also, the corresponding Platform for Effective Enforcement for No Child Labour was launched to support effective legislative enforcement and implementation of the NCLP.

The Indian Ministry of Women and Child Development also runs the Integrated Child Protection Scheme with a view to providing a safe and secure environment for the overall development of children who are in need of care and protection, as well as children in conflict with the law.<sup>106</sup> At the state level, Bihar state has adopted the Human Trafficking Prevention Program (2007). Other state level action plans in India include the 2016 Uttar Pradesh Plan of Action on Child Labour.<sup>107</sup>

### 5.4. Victim support and assistance

In 2016, the Indian government adopted the Central Sector Scheme for Rehabilitation of Bonded Labourers. The scheme recognises the differing needs of marginalised groups trapped in bonded labour and provides cash assistance to rescued victims of bonded

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<sup>101</sup> The Integrated National Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Women and Children is available [here](#).

<sup>102</sup> Ministry of Women and Child Development, 'The Integrated National Plan of Action to Prevent and Combat Trafficking in Human Beings Specially Women and Children', available [here](#).

<sup>103</sup> Swaniti Initiative, 'State of Human Trafficking in India and Existing Government Mechanisms' (2018), available [here](#).

<sup>104</sup> The 2016 National Plan for Action for Children is available [here](#).

<sup>105</sup> Elizabeth Donger and Jacqueline Bhabha, 'Dilemmas in Rescue and Reintegration: A critical assessment of India's policies for children trafficked for labour exploitation' (2018) 10 *Anti-trafficking Review* 3.

<sup>106</sup> The International Centre for Therapeutic Care, 'The Integrated Child Protection Scheme' (2011), available [here](#).

<sup>107</sup> The 2016 Uttar Pradesh Plan of Action on Child Labour is available [here](#).

labour. Assistance is also provided to victims of trafficking and commercial sexual exploitation. Nevertheless, bonded labour still persists in India, given the stark economic and social inequalities. The caste system continues to impoverish Dalit people in many ways, including by restricting access to resources and limiting occupational choices. To survive crippling economic situations, Dalits and other marginalised persons increasingly accept debts, and are then subjected to degrading and harsh labour conditions in the repayment of such as bonded labourers.<sup>108</sup>

The Integrated Child Protection Scheme (ICPS), adopted by the Ministry of Women and Child Development in 2009 and further revised in 2014, sets out to improve the conditions of children in difficult situations, as well as help prevent exploitation, abandonment, abuse and separation of children from their families through Government-Civil Society Partnership. In particular, it considers child protection as a primary responsibility of family, supported by community, government, and civil society. The ICPS also aims to provide preventive, care, and rehabilitation services to any vulnerable child, including children of potentially vulnerable families and families at risk, children of socially excluded groups like migrant families, extremely poor families, scheduled castes, scheduled tribes, minorities, trafficked or sexually exploited children, and street and working children.<sup>109</sup>

The Indian Ministry of Finance has established the 'Nirbhaya Fund' for women, to address broader issues related to prevention, protection and rehabilitation. Similarly, the Swadhar scheme has been set up to support trafficking victims. The Swadhar scheme focuses on the rehabilitation of trafficking victims taking into account the realities that women in difficult circumstances face.<sup>110</sup>

In March 2008, UNODC in collaboration with the Ministry of Women and Child Development, Government of India, state governments and NGO partners embarked on two projects related to anti-human trafficking and victim support in India. The project entitled 'Building the capacity of and expanding anti-human trafficking networks for improved support to victims of trafficking', sought to provide support and assistance to trafficking survivors. The second project, 'Reducing children's vulnerability to abuse and rehabilitation of survivors', set out to provide care and support services to children at risk of physical and sexual violence. It also aimed to provide comprehensive rehabilitation to trafficking survivors.<sup>111</sup>

In practice, the Ministry of Women and Child Development (MWCD) has been working in the area of child protection, including by providing a hotline for children in need of assistance. The ministry has also developed a system for identifying and rescuing missing children. Government-run shelters and government-funded shelters run by NGOs also provide services to trafficking victims. Nevertheless, NGOs continued to report that the number of state-run or funded shelters was insufficient, and overcrowding undermined victim rehabilitation.

The Ministry of Women and Child Development continued to fund government/NGO run shelters and rehabilitation services for women and children continued through the Ujjawala program for female sex trafficking victims. Although the government has a program for compensating and providing services to former victims of bonded labour, the program has yet to be fully implemented.<sup>112</sup> Further, resources to fully integrate rescued children back to their families are generally lacking. Consequently, reintegration efforts are somewhat reduced to simple return to the status quo pre-trafficking and nothing more. Alternative accommodation options are also reportedly underfunded and limited, which is creating a

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<sup>108</sup> Srujana Bej, 'India's Central Sector Scheme For Rehabilitation of Bonded Labourers: Shielding Bondage, Shackling Liberation' (Oxford Human Rights Hub, 2017), available [here](#).

<sup>109</sup> Ministry of Women and Child Development, 'Revised Integrated Child Protection Scheme' (ICPS, 2014), available [here](#).

<sup>110</sup> Sarasu Esther Thomas, 'Cooperation to Combat Cross Border Trafficking: India-Nepal-Bangladesh', available [here](#).

<sup>111</sup> UNODC, 'India: "Journey of Hope" - a UNODC compendium of anti-human trafficking and victim support initiatives' (UNODC, 2011), available [here](#).

<sup>112</sup> Walk Free Foundation, above n 15.

climate for potential neglect and re-trafficking.<sup>113</sup> Apart from this, such services as psychological counselling and medical treatment are generally scarce or of poor quality in certain facilities.<sup>114</sup>

## 5.5. Training and capacity-building for responders

During 2018, the Ministry of Home Affairs (MHA) established a new Women Safety Division and trained police and judicial officers on anti-trafficking procedures. Some police training institutes offered anti-trafficking modules as part of the program.<sup>115</sup> The 2018 TIP Report also notes that state and local government authorities joined forces with NGOs and international organisations to train border guards, police, prosecutors and other judicial actors on standard procedures. Through a pilot programme with UNODC, extensive session plans were developed and training was delivered over three days to service providers and other key actors, which included government officials.<sup>116</sup>

## 5.6. Public awareness raising

During May 2015, the Ministry of Women and Child Development and the Ministry of Railways signed a memorandum of understanding with an NGO with the goal of protecting unaccompanied children at railway stations. As a result, several railway stations have been hosting NGO staff to provide immediate support to unaccompanied children, who may be missing, abandoned, or runaways and are vulnerable to exploitation, including trafficking.

The Ministry of Women and Child Development and the Ministry of Railways further launched a project to supply posters to railway stations creating public awareness and advising the public to call the national hotlines if they encounter any unaccompanied child. Anti-trafficking awareness campaigns were also organised by some state governments. For instance, the governments of Andhra Pradesh, Odisha and Telangana have partnered with foreign donors and NGOs to provide a large-scale survivor-run awareness campaign across 53 districts.<sup>117</sup>

The Ministry of Women and Child Development initiated the *Ujjawala and Swadhar* schemes, *inter alia*, to prevent trafficking of women and children for commercial sexual exploitation through social mobilisation and involvement of local communities, awareness generation programmes through workshops/seminars.<sup>118</sup> In principle, the Ujjawala scheme focuses on trafficking and its prevention, while the Swadhar scheme provides aid to women in difficult circumstances, including victims of trafficking.<sup>119</sup>

NGOs have noted that several states show political will to address bonded labour abuses with increased awareness of the issue. During 2017, the Indian National Human Rights Commission created and published Standard Operating Procedures for combatting human trafficking. Some state governments have also conducted anti-trafficking awareness campaigns in their jurisdictions. For instance, West Bengal expanded its Swayangsiddha Initiative to all its 23 districts, reaching thousands of students in several schools to share information on human trafficking and child rights more generally.<sup>120</sup>

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<sup>113</sup>Elizabeth Donger and Jacqueline Bhabha, above n 105.

<sup>114</sup> US Department of State (2019), above n 12, 186.

<sup>115</sup> US Department of State (2019), above n 12, 236.

<sup>116</sup> Walk Free Foundation, Global Slavery Index India Country Data, above n 91.

<sup>117</sup> US Department of State (2016), above n 12, 202.

<sup>118</sup> Ministry of Women and Child Development, 'UJJAWALA: A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation' (2016), available [here](#).

<sup>119</sup> Imrana Begum, 'Getting Back to Society: Rehabilitation of Trafficking in Assam, India' (2020) 6(2) *Journal of Human Trafficking* 255.

<sup>120</sup> US Department of State (2019), above n 12, 238.

## 5.7. Efforts to address vulnerabilities and drivers

The Indian government has spearheaded a series of gender-responsive budgeting initiatives that seek to improve the results of budgets generally, and gender equality and women's empowerment in particular. Resource allocation for the advancement of women is operationalised through various ministries and departments.<sup>121</sup>

To reduce exploitation overseas, migrant workers traveling to 16 specific countries, including many in the Middle East, are required to receive emigration clearance before departure. The Ministry of External Affairs (MEA) has drafted an emigration Bill requiring all Indian nationals seeking overseas employment or education to register with the government. Enhanced pre-departure trainings are also provided, while more stringent penalties prescribed for violations by recruitment agencies.<sup>122</sup>

## 5.8. Frameworks for international coordination

In November 2019, the Indian government approved a bilateral agreement with Myanmar. The agreement specifically aims to increase bilateral cooperation in the areas of prevention, rescue, recovery, and repatriation of trafficking victims. It also aims to ensure speedy investigation and prosecution of traffickers and organised criminal groups, and to share information in a safe and confidential manner.<sup>123</sup> Similarly, earlier in 2019, the governments of India and Sri Lanka concluded an agreement to increase bilateral cooperation on issues related to drug and human trafficking.<sup>124</sup> In January 2017, India and the United Arab Emirates signed a MOU to enhance prevention of human trafficking and the recovery and repatriation of trafficking victims.<sup>125</sup> India has also entered into agreements with neighbouring countries such as Bangladesh, to prevent human trafficking between the two countries.<sup>126</sup>

In January 2015, India signed an agreement with the government of Saudi Arabia to promote the rights of Indian domestic workers in Saudi Arabia.<sup>127</sup>

At the regional level, India is an active member of the South Asia Association for Regional Cooperation (SAARC). More specifically, India is party to SAARC conventions on child welfare and the treaty dealing with human trafficking. Further, the South Asian Initiative to End violence against Children (SAIEVAC) was also formed to tackle differing exploitative issues in the region.<sup>128</sup> SAIEVAC's priority issues include human trafficking, child marriage, child labour, sexual abuse and exploitation of children.<sup>129</sup>

In 2003, the governments of India, Brazil, and South Africa (IBSA) co-founded the IBSA Dialogue Forum to address broader issues of marginalisation and social inequality. A recent study has assessed the extent to which this has helped in combatting trafficking. The authors of the study noted that, 'there is little to no indication among human trafficking reports of IBSA influence on India's domestic human trafficking practices or preventions'.<sup>130</sup> They further stated that:<sup>131</sup>

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<sup>121</sup> Devinder Singh Hooda, 'Government Budgets and Financing Gender Equality in Haryana' (2015) 55(4) *Productivity* 356-369.

<sup>122</sup> US Department of State (2019), above n 12, 239.

<sup>123</sup> PM India 'Cabinet approves MoU signed between India and Myanmar on bilateral cooperation for Prevention of Trafficking in Persons' (2019), available [here](#).

<sup>124</sup> Ankit Panda, 'India, Sri Lanka Conclude Agreement on Countering Drug and Human Trafficking' (2019), available [here](#).

<sup>125</sup> Walk Free Foundation, above n 15.

<sup>126</sup> Ibid.

<sup>127</sup> US Department of State (2015), above n 12, 186.

<sup>128</sup> ECPAT, above n 59.

<sup>129</sup> ECPAT, 'Status of action against commercial sexual exploitation of children: India' (2011), available [here](#).

<sup>130</sup> Tania Cantrell Rosas-Moreno and Deepti Ganapathy, 'Has India's tripartite cooperation with Brazil and South Africa helped it combat human trafficking? A news media framing analysis spanning two decades' (2019) *Journalism*.

<sup>131</sup> Ibid.

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...no evidence supports IBSA co-founding/membership having had a positive effect on slowing India's human trafficking seems inevitable, given India's extremely differentiated society, where caste and class systems prohibit social, economic, and political mobilities. To stop it would require aggressive policing and changing other related conditions seemingly embedded in Indian culture – maltreatment of women and the caste system. Ending these would impact its economic advantage – no more free forced labor, no more non-competitive population for upward mobility.

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This finding may offer an insight into the effectiveness of broader anti-trafficking efforts in India.

Nevertheless, research conducted by the Walk Free Foundation indicates that the Indian government has been working to improve repatriation of Bangladeshi trafficking victims, including through high-level bilateral talks. However, these processes are fraught with long delays, compounded by lack of coordination between concerned agencies.<sup>132</sup>

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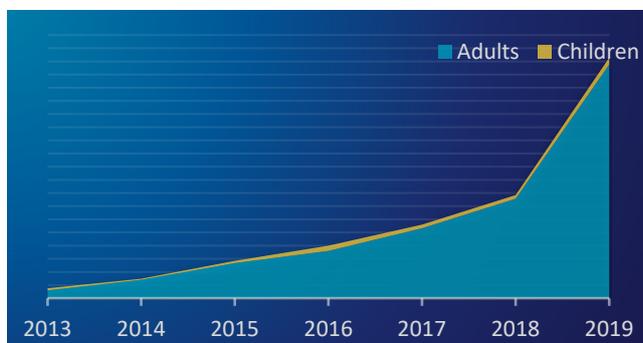
<sup>132</sup> Walk Free Foundation, above n 15.

## 6. Experiences of modern slavery of Indian nationals in the UK

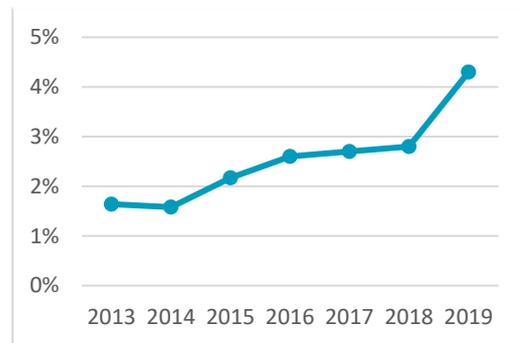
### 6.1. Indian nationals in the UK National Referral Mechanism

Indian nationals have consistently been in the top twenty nationalities represented in National Referral Mechanism referrals, although they have typically represented less than 5% of all referrals. The number of Indian nationals referred into the NRM has steadily increased since 2013, varying from 19 potential victims referred in 2013, up to 467 referrals in 2019. Adults have always made up the majority of Indian nationals referred into the NRM, with between 2 (2014) and 13 (2019) Indian nationals referred who were minors at the time of their exploitation from 2013-2019.<sup>133</sup> The proportion of Indian nationals referred, as a proportion of all referrals, has been steadily increased since 2014.

Number of Indian nationals referred into the NRM by age at time of exploitation

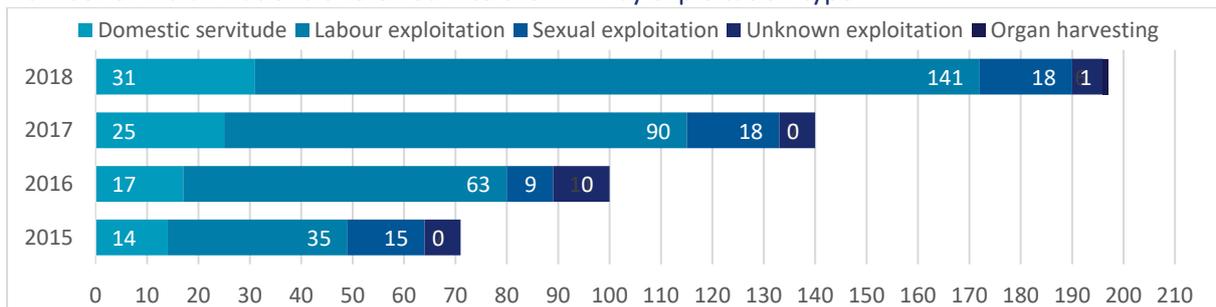


Proportion of potential victims referred into the NRM that are Indian nationals



Indian nationals referred into the NRM typically experience labour exploitation, with only a small proportion of Indian potential victims recorded as having experienced sexual exploitation. While gender data was not disaggregated by nationality from 2015-2019, NRM reports included such data in the 2013 and 2014 reports. In these years, the majority of Indian nationals referred into the UK NRM were female in 2013 (57%) and male in 2014 (51%).

Number of Indian nationals referred into the NRM by exploitation type<sup>134</sup>



<sup>133</sup> Home Office, 'National Referral Mechanism Statistics UK: End of Year Summary 2019: Data tables' 2<sup>nd</sup> edn available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2018' (2019) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2017' (2018) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2016' (2017) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2015' (2016) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2014' (2015) available [here](#); National Crime Agency, 'United Kingdom Human Trafficking Centre: National Referral Mechanism Statistics 2013' (2014) available [here](#).

<sup>134</sup> Ibid. Note that exploitation type data is not disaggregated by nationality in the 2013, 2014, or 2019 data and these years are therefore excluded.

## 6.2. Typical journeys from India to the UK for trafficking victims

The United Nations Office on Drugs and Crime (UNODC) has found several typical routes taken from South Asia to Europe, including Central Asia and Russia; via Turkey and Greece through the Western Balkans; via West Africa (less common); and direct by air.<sup>135</sup> This is supported by evidence that suggests in order to traffic Indians to West Europe, there is reliance on the cooperation of crime groups across Russia, Turkey and Western Europe.<sup>136</sup> Additionally, the UNODC reported that Indians in particular used the 2015 mass migration from Syria and Iraq to Germany to their advantage to travel to Europe by land.<sup>137</sup>

## 6.3. Experiences of exploitation and working conditions

It must first be noted that there is a serious lack of information regarding the specific experiences of exploitation among Indian nationals in the UK and so those detailed here are isolated and may not reflect the collective experiences of Indian nationals in the UK. In 2018, the UNODC reported that some smuggled Indian nationals were deceived by their smugglers and were forced to pay significant fees in order to continue their journey to their destination country, with the confiscation or destruction of passports being used by smugglers as a tactic to assert control over them.<sup>138</sup> For instance, a 2012 study reported the experience of an Indian woman who had been forced to partake in domestic labour and was subject to numerous incidences of sexual violence, including rape.<sup>139</sup> Another study found that one employer exploited their employee's visa being tied to them in order to try and pay them less.<sup>140</sup>

Economically, Indian nationals in the UK perform much worse in the labour market than their similarly qualified white British counterparts, thus suggesting there are factors at play that may hamper their ability to work and contribute to the UK economy.<sup>141</sup>

## 6.4. Consequent effects of trafficking on survivors

In general terms, human trafficking exerts psychological effects on survivors that persist after intervention, and even after community reintegration. Effects include anxiety, depression, alienation, disorientation, aggression, suicidal ideation, attention deficit, and posttraumatic stress disorder (PTSD). In this context, community support and coping mechanisms may mitigate these effects.<sup>142</sup> To date, there don't appear to have been any studies specifically interrogating particular impacts of modern slavery or consequent needs of Polish nationals exploited in the UK.

## 6.5. Particular needs, requirements, and considerations for support and engagement

As has been detailed above, there is a severe lack of information exploring the ways in which Indian nationals in the UK are exploited, and the ways in which their exploitation affects them, as such it is evident that more studies need to be conducted in this area. However, certain general recommendations have been made in regard to the forced labour

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<sup>135</sup> UNODC, 'Migrant Smuggling in Asia and the Pacific: Current trends and Challenges Volume II' (UNODC, 2018) 59, available [here](#).

<sup>136</sup> Maggy Lee, *Human Trafficking* (1<sup>st</sup> edn, Routledge 2007) 119.

<sup>137</sup> UNODC, above note 135.

<sup>138</sup> UNODC, above note 135, 64.

<sup>139</sup> Abigail Stepnitz, 'A Lie More Disastrous than the Truth: Asylum and the identification of trafficked women in the UK', (2012) 1 *Anti-Trafficking Review* 115.

<sup>140</sup> Klara Skrivankova, 'Between decent work and forced labour: examining the continuation of exploitation' (Joseph Rowntree Foundation, 2010) 24, available [here](#).

<sup>141</sup> Adina Batnitzky, Linda McDowell and Sarah Dyer, 'A middle-class global mobility? The working lives of Indian men in a west London hotel' (2008) 8(1) *Global Networks* 55.

<sup>142</sup> See generally David Okech et al, 'Social Support, Dysfunctional Coping, and Community Reintegration as Predictors of PTSD Among Human Trafficking Survivors', (2018) 44 *Behavioral Medicine*, 209-218, and Asefch Haileselassie Reda, 'An investigation into the experiences of female victims of trafficking in Ethiopia', (2018) 11 *African and Black Diaspora: An International Journal* 87.

of migrants in the UK, with the 2010 study mentioned previously suggesting that the UK government must place more emphasis on the enforcement of their laws regarding forced labour.<sup>143</sup> This study also suggested that the approach of the government to forced labour must be multi-layered, joining 'labour and criminal justice responses'.<sup>144</sup>

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<sup>143</sup> Ibid, 29.

<sup>144</sup> Ibid, 30.

## 7. The impact of COVID-19

### 7.1. The Government's response to COVID-19

The government of India has adopted a variety of measures to respond to the novel coronavirus with a view to protecting the working population. Although the measures adopted are, for the most part, not anti-slavery specific, they nevertheless aim to reduce potential vulnerabilities. Similar to measures taken in other countries, the Indian government announced a nationwide lockdown on 24 March, after invoking the Disaster Management Act (DMA), 2005.<sup>145</sup> The DMA is a national law that empowers the Central government to declare the entire country, or part of it, as affected by a disaster and set up mitigation plans, as well as allowing for a centralised command-and-control approach for managing COVID-19.<sup>146</sup> Non-compliance with lockdown measures by individuals may attract a period of imprisonment of up to 1 year or a fine or both, as stipulated in section 51 of the DMA.<sup>147</sup> If non-compliance results in the loss of life or poses a danger, it may attract imprisonment of up to 2 years.

On 26 March, the country's Finance Minister announced a relief package, including a Directive that states should use funds available with their welfare boards to provide assistance and support to (mostly casual) workers to protect them from economic disruptions.<sup>148</sup> As of 19 April, the Ministry of Finance noted that over \$1.3 billion had already been deposited in the bank accounts of about 200 million women beneficiaries.<sup>149</sup> However, many individuals vulnerable to and experiencing modern slavery have no bank accounts or official registration, meaning that government relief may not easily reach them.<sup>150</sup> Similarly, the government financial aid package has failed to include migrant workers and refugees, as well as individuals working in unorganised sectors such as day labourers.<sup>151</sup>

The Payment of Wages Act 1936 (applicable to employees earning INR 24,000 or less per month) continues to apply despite COVID-19 lockdown measures.<sup>152</sup> The law aims to ensure that wages are disbursed within prescribed time limits with zero deductions (other than those authorised). Laws applicable in the states contain similar obligations.<sup>153</sup> On 29 March, the Ministry of Home Affairs issued an order, which, *inter alia*, mandated all employers to pay their workers on the due date without deduction 'for the period their establishments are under closure during the lockdown,'<sup>154</sup> although this order was later withdrawn.<sup>155</sup>

Through the 'Pradhan Mantri Garib Kalyan Package', the government is providing a 90 day insurance cover of USD 65,000 to around 2.2 million public healthcare workers fighting COVID-19. This includes cover for accidental loss of life on account of contracting the disease.<sup>156</sup> Under this scheme, the government is also making direct cash transfers of USD13 to widows, disabled and poor pensioners, as well as USD19.6 to 200 million women

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<sup>145</sup> Yamini Aiyar, 'To restart, revise national strategy' (2020), available [here](#); Ministry of Home Affairs < [https://www.mha.gov.in/sites/default/files/Guidelines\\_0.pdf](https://www.mha.gov.in/sites/default/files/Guidelines_0.pdf)> accessed 09 June 2020.

<sup>146</sup> Yamini Aiyar, above n 145.

<sup>147</sup> Legislation available [here](#).

<sup>148</sup> Financial Express, 'Institutional challenges to migrants' welfare' (2020), available [here](#).

<sup>149</sup> Mohammad Hamza Farooqui and Avantika Shrivastava, 'How Can Indians Secure 'Direct' Welfare in a Pandemic?' (2020), available [here](#).

<sup>150</sup> Council on Foreign Relations, 'COVID-19 and Modern Slavery: Challenges, Opportunities, and the Future of the Fight' (2020), available [here](#).

<sup>151</sup> Walk Free Foundation, 'Protecting People in a Pandemic' (2020), available [here](#).

<sup>152</sup> BTG Legal, available [here](#).

<sup>153</sup> BTG Legal, 'FAQs on Employment Issues During COVID-19' (22 April 2020), available [here](#).

<sup>154</sup> International Lawyers Network, 'MHA withdraws Order Requiring Compulsory Payment of Wages' (2020), available [here](#).

<sup>155</sup> Ibid.

<sup>156</sup> ILO, 'COVID-19 and the world of work: Country policy responses' (2020), available [here](#); Press Information Bureau Government of India (2020), available [here](#).

to be paid in instalments.<sup>157</sup> There are further plans to transfer USD 26.25 to farmers, a move that could benefit up to 8.69 million farmers in the country. The central authorities have also issued advisories to State governments to make adequate arrangements for food and shelter for poor and needy people including migrant workers.<sup>158</sup>

With a view to curtailing the spread of the coronavirus, the government imposed restrictions on international flights on 19 March. It also closed land borders and seaports in the country. It is worth noting that, while these measures could generally discourage transnational trafficking, they could also induce alternative forms.

The Indian authorities have also noted that while most public and private offices are closed in compliance with lockdown orders, some essential workers continue to perform their duties. These include members of the police force, home guards, civil defence etc. The Social Welfare Department also continues to operate, although with minimum staff, to cater to the needs of children, women, aged etc.<sup>159</sup> These essential workers may offer critical assistance to potential victims of modern slavery.

## 7.2. The impact of COVID-19 on workers and modern slavery victims

Although the effects of the COVID-19 pandemic are of global proportions, the impact on the Indian working population and victims of modern slavery are significant. Before the pandemic, 450 million internal migrant workers in the country already faced economic hardships, with many trapped in debt bondage through fraudulent employment contracts. With the lockdown measures imposed, many of these workers lost their jobs and their meagre earnings.<sup>160</sup>

Over 90% of the Indian working population work in the informal sector, and more than 100 million rural people work as daily wage earners, contractual labourers, casual workers as well as service providers in cities across the country.<sup>161</sup> The Centre for Monitoring the Indian Economy (CMIE) has estimated that about 140 million individuals have already lost their jobs, which pushes the unemployment rate from 8% before the crisis to around 26%.<sup>162</sup>

The construction sector in India, which makes up around 9% of the country's GDP and employs the highest number of migrant workers, has been significantly affected by COVID-19. Normally, 9 million workers move from rural areas to urban cities in search of work within construction sites and factories every year. Many of these migrant workers have been severely affected by the COVID-19 outbreak.<sup>163</sup>

While measures taken to address the Coronavirus outbreak are necessary, they have triggered a reverse exodus of migrant labourers. A rapid survey recently conducted by Jan Sahas shows that, owing to lockdown measures, migrant labourers are in desperate need of financial support. In particular, '42% of labourers mentioned that they had no ration left even for the day, let alone for the duration of the lockdown'; '31% of workers mentioned they have loans and they will find it difficult to repay it without employment.'<sup>164</sup> Although directives from the Central Ministry of Labour and Employment advised all public and private establishments to retain their employees, the survey shows that approximately

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<sup>157</sup> ILO, above n 156; International Bureau Government of India, *ibid*.

<sup>158</sup> *Ibid*.

<sup>159</sup> Ministry of Home Affairs, 'COVID-19 Status Report' (2020), available [here](#).

<sup>160</sup> Council on Foreign Relations, above n 150.

<sup>161</sup> Open Democracy, 'India's Covid-19 lockdown is failing to protect people and the planet' (2020), available [here](#).

<sup>162</sup> Financial Times, 'India: the millions of working poor exposed by pandemic' (2020), available [here](#).

<sup>163</sup> Jan Sahas, 'Voices of the Invisible Citizens: A Rapid Assessment on the Impact of COVID-19 Lockdown on Internal Migrant Workers Recommendations for the State, Industry & Philanthropies' (2020), available [here](#).

<sup>164</sup> *Ibid*.

90% of the migrant labourers have already lost their source of income.<sup>165</sup> All these might increase the risk of modern slavery.

Sahas' research further noted that:<sup>166</sup>

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...the sudden announcement of the lockdown denied migrant workers particularly the opportunity to collect their wages or make arrangements for leaving cities. During this crisis, transportation facilities have also been locked down as a result of which migrants are now trapped in destination cities with not enough resources to tide over the situation without the ability to pay rent and maintain physical distances since they typically live in very small rooms which they share with several others. Migrant households currently face the risk of hunger, poor or no access to hygiene and consequent health issues.

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COVID-19 and lockdown measures have also had a considerable impact on children. According to the India Child Protection Fund (ICPF), there has been a spike in searches for 'child porn', 'sexy child' and 'teen sex videos'.<sup>167</sup> Data from Pornhub, the largest pornography website in the world, reveals that online traffic from India increased by 95 percent between March 24 and 26, 2020, compared to a similar period before the COVID-19 outbreak.<sup>168</sup> The perpetrators are predominantly male (90%) from across age groups. The demand was prevalent across the country with Bhubaneswar and Chennai showing particularly high numbers.<sup>169</sup> A significant proportion of the pornographic content is reportedly involves victims of child trafficking.<sup>170</sup> There are also anecdotal reports that since the lockdown was announced on 24 March, child trafficking and abuse (i.e., offline) has been on the rise in India.<sup>171</sup>

During the early periods of the lockdown in late March, the Childline India helpline reported receiving more than 92,000 SOS calls asking for protection from abuse and violence, a sombre indication that the lockdown has been widely employed to abuse children.<sup>172</sup> The risks of debt bondage have also increased under this climate. For instance, a construction worker that lost his job in Delhi has narrated how he recently offered his son to a loan shark to service his rising debt.<sup>173</sup> Furthermore, brick kilns—sites of high rates of bonded labour and including children—have been temporarily closed as per government lockdown orders, forced labour seems to persist on farms.<sup>174</sup>

It is worth mentioning that, given the very strict lockdown in place India, police efforts have largely shifted from stopping modern slavery to keeping people at home.<sup>175</sup> This, in many ways, could increase modern slavery risks. Other specific risks have been noted. For instance, six Bangladeshi women rescued from years of forced prostitution in India were stuck in limbo and could not return home as a result of travel restrictions.<sup>176</sup> The coronavirus and travel restrictions add another layer of complexity to the repatriation of trafficking victims.

Despite the devastating impact of lockdown on the poor and vulnerable, an even greater risk might be imminent. Once the lockdown is eased and normal manufacturing activity resumes, employers might be looking to make up for their financial shortfalls by employing

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<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> India Child Protection Fund, 'Child Sexual Abuse Material in India Report on Demand for Child Pornography & Pilot Deterrence Using Artificial Intelligence' (2020), available [here](#).

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

<sup>170</sup> Niharika Chopra, 'The Cost Of COVID-19 Lockdown: Rise In Bonded Labour And Human Trafficking In India' (2020), available [here](#).

<sup>171</sup> Corinne Redfern, 'The Pandemic's Hidden Human Trafficking Crisis' (2020), available [here](#).

<sup>172</sup> The Hindu, 'Coronavirus lockdown: Govt. helpline receives 92,000 calls on child abuse and violence in 11 days' (2020), available [here](#).

<sup>173</sup> Anuradha Nagaraj and Roli Srivastava, 'No work, new debt: virus creates perfect storm for slavery in India' (2020), available [here](#).

<sup>174</sup> Bukeni Waruzi, 'Covid-19 Impact on Communities Plagued by Slavery' (2020), available [here](#).

<sup>175</sup> The Anti-Slavery Collective (2020), available [here](#).

<sup>176</sup> Roli Srivastava, 'Rescued from Indian sex slavery, denied home by coronavirus' (2020), available [here](#).

cheap labour. Under this climate, desperate and vulnerable populations of unorganised workers will likely present a massive pool for cheap labour.<sup>177</sup>

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<sup>177</sup> Niharika Chopra, above n 170.