

Social Security and Health Rights of Migrant Workers in India

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Abstract

The COVID-19 shutdown had revealed interstate migrant workers' vulnerability in every state. It was egregious proof of migrant worker policy flaws. Migrant workers have little social security in host countries, despite the fact that they have limited economic security. It is now apparent that sufficient social protection for them has yet to be implemented. Furthermore, they have limited access to government programmes. This paper work describes the existing rules affecting interstate migrant workers are not being enforced properly, which is a source of significant concern.

Keywords: migrant workers, social security, mechanism, cross-state, privileges

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Introduction

Migrant workers refer to individuals who relocate from one location to another in pursuit of employment opportunities. There are two primary forms of migration: (i) Internal migration, occurring within a country, and (ii) International migration, which involves crossing national borders. Internal migration, often termed interstate migration, transpires within a nation's boundaries. In contrast, international migration entails movement across borders. In India, migrant workers form a substantial portion of the informal sector. It is imperative for both the national and state governments, comprehending the prevalence of interstate migrant workers in both rural and urban settings, to acknowledge and tackle their challenges. The majority of these workers is unskilled and engage in the unorganized sector. Predominantly, states such as Assam, Bihar, Chhattisgarh, Jharkhand, Odisha, and Uttar Pradesh serve as significant sources of interstate migrant workers.¹

The social security and healthcare needs of interstate migrant workers are often neglected, despite a considerable population residing in precarious living conditions, exposing them to various health risks. Many of these individuals reside in substandard labor camps and housing clusters where cleanliness and environmental conditions are poorly maintained. The majority of migrant workers, particularly those employed in construction and factories inhabit crowded quarters with minimal basic amenities. The provision of healthcare services for these workers is insufficient, leading to the potential spread of diseases.

Overtime work poses numerous health issues for a significant portion of interstate migrant workers. Given the unique life circumstances of these individuals, there is a need for tailored provisions in social security to ensure they can effectively cope with associated risks.² The various news highlighted the plight of migrants, raising questions about their identity, the reasons behind their departure from workplaces, and their return to villages. Thousands of migrants, accompanied by their families, were observed walking barefoot with swollen feet to reach their villages during the corona virus lockdown. The announcement on March 24, 2020, left tens of thousands of daily-wage migrant workers jobless, homeless, and without access to food. Faced with limited alternatives, their only recourse was to return to their hometowns to ensure their survival. Most of them were walking with their children and old parents day and night; some were carrying their children on their head and some were cycling with their old parents and pregnant wives, the saddest part was some of them even succumbed during their journey and failed to reach their homes.

This incident has thrown the light to the lack of legal mandates in the area for the protection of these daily-wage workers. This incident also showed how and why social security is an urgent issue some of them were walking with their old parents day and night, some were cycling with their pregnant wives and some were carrying their children on their head

Unprotected Right of Migrant Labourers

Numerous interstate migrant laborers still lack adequate protection, necessitating India to ensure comprehensive and accessible entry to government social programs and healthcare for this demographic. The government should reinforce social security measures both in principle and execution. Establishing a database for individuals working and residing outside their home regions, coupled with an efficient national migration information system, is crucial. Recognizing the political significance of migrant workers, India should grant them access to elected representatives. Public health organizations need to develop and implement more "migrant-friendly" services, including the expansion of outreach programs and on-site mobile health services tailored to the needs of migrant workers. Holistic measures addressing food security, education, skill development, certification, healthcare, minimum wages, and improved living conditions are imperative to meet the comprehensive needs of migrants. A minimum income guarantee programme should also be established by the government.

Since they join the labour market at an early age, a significant percentage of migrant workers find employment as unskilled labourers. They have no opportunities for advancement and spend their whole working lives in the most low-skilled, low-paying, and dangerous occupations. Regrettably, host countries lack an institutional framework for certifying migrant workers' talents and experiences gained during their stay. As a result, the majority of interstate migrant workers lack documentation attesting to their talents and experiences gained while in host countries. By assessing and certifying migrant workers' skills, there is a lot of potential for them to improve their livelihood skills. Implementing a system for assessing and certifying the skills of migrant workers acquired in the host country could enhance their employability.³

Restrictions on the Implementation Mechanism for Migrant Workers

The implementation mechanism for such programs proves unfavorable to migrant workers, hindered by the rigid bureaucracy overseeing them. Additionally, procedural obstacles and restrictions have limited the access of interstate migrant workers to various programs. Within the migrant worker population, there exists a notable lack of awareness and understanding of existing social safety programs. Many are unfamiliar with the regulations governing their industry. Issues and a lack of comprehension arise when dealing with direct cash transfers, MGNREGS payments, or the Public Distribution System, leading to faults and frictions in the system.

A considerable portion of migrant workers still faces challenges in receiving cash transfers or rations, often due to non-portability issues with ration cards, and encountering difficulties in participating in the MGNREGS program. Some lack genuine ration cards, and the "One Nation, One Ration Card"⁴ initiative is still in its nascent stages. The program is not fully equipped for seamless interstate mobility, preventing migrant workers from accessing

subsidized meals in states other than their own. Many migrants, particularly single males, may have left their ration cards in their hometowns, making it challenging for them to obtain subsidized food grains in their current location. The current per capita calculation for ration allotment under the National Food Security Act necessitates a more sophisticated system where each member of a migrant household possesses an individual electronic ration card.

Interstate migrant workers, who live on-site, whether at a construction site or a factory, are completely reliant on the contractor or employer for any health care, financial assistance, or emergency situations. Workers' access to essential amenities including water, sanitation, food, and cooking fuel is also the responsibility of contractors and employers. Several factory employees reported working 12-hour hours on hazardous boiler equipment without being paid overtime. It's crucial to realise that contractors and employers have extensive networks in each of the locations studied.

Condition during Covid-19 Lockdown

During the lockdown period, businesses fired a significant number of interstate migrant employees. Their lack of social protection led to their eviction from their residences by landlords, ultimately forcing them to depart from the host country. It is undeniable that both the Central and State governments have failed to provide India's interstate workforce sufficient attention and care. During the 40-day shutdown, a number of cash-strapped labourers had to overcome a number of obstacles.⁵

Interstate migrant workers were never given the attention they deserved in terms of legislation. They do not have a political constituency in the host or home countries. They are unable to negotiate. It's a part that you can't see. During the COVID-19 lockdown phase, however, it became apparent. Internal migrant workers are robbed of their health and social rights in large numbers. The vast majority of them work on the black market. They work in a variety of professions, some of which are hazardous. They are paid less than local employees in the majority of instances. Despite an escalating demand for social protection amid rising risks and vulnerabilities, interstate migrant workers lack adequate coverage under suitable social protection systems. To address this gap and provide social protection to interstate migrant workers, specific measures need to be implemented.

It is necessary to remedy a lack of understanding of rights and process. It is critical that information about different programmes and amenities be disseminated more widely among interstate migrant workers. Outreach and information distribution may be done via a variety of methods. Basic information regarding social security programmes may be transmitted via the media. Employers, government agencies, and other organisations must do more to enhance information flows. Employers must be held responsible for enrolling workers in social security. It's

time to enhance compliance. Noncompliance should result in a monetary penalty. Enhancing the awareness of interstate migrant workers could be more effectively achieved through the implementation of community outreach workers and educational programs. To guarantee that interstate migrant workers do not lose their rights and privileges, all citizens should be provided with language instruction and translation services.⁶

Need a National Policy to ensure Right of Migrants

A cohesive national policy is essential for interstate migrant workers to guarantee their access to entitlements and fundamental services. Interstate migrant workers' experiences need a legislative framework that supports them. To solve the vexing issues of migratory workers, a multi-pronged approach including the federal, state, and municipal governments, as well as community-based groups, is critical. Many of their problems are primarily policy-related at the national and state levels.⁷ Certain specific measures must be taken by the states via their different departments, including labour, social welfare, health, and home. In dealing with different elements of migration problems, each State must engage its panchayats, municipalities, and municipal corporations. Both state and central governments may develop an all-India migration strategy.

Establishing an Interstate Migration Council is imperative to ensure the safety, security, and well-being of migrant workers, resolving challenges associated with interstate migration. Reforms and improvements should be implemented in federal programs such as the Pradhan Mantri Garib Kalyan Yojna, transforming them into block grants for states. Additionally, the public healthcare system, particularly within the National Health Mission and the National Digital Health Mission, should focus on addressing the health needs of migrant workers.

Efficient interstate cooperation requires robust and responsive procedures, with the Interstate Migration Council playing a crucial role in safeguarding the welfare of migrant workers in India. Fiscal coordination is among the challenges that need attention in interstate coordination. The government of India should prioritize addressing these issues as a policy response to the challenges faced during the lockdown.

Introduced on August 15, 2020, by India's Prime Minister, the National Digital Health Mission (NDHM) envisions providing every Indian with an ID card containing comprehensive information about their medical conditions. This card aims to facilitate access to healthcare and pharmaceutical services. Part of the Ayushman Bharat Pradhan

Mantri Jan Arogya Yojana (AB PM-JAY), the NDHM seeks to enhance the efficiency, efficacy, and transparency of the country's health services

Conclusion

COVID-19 issue lead the authority to address the problem faced by migrant workers and to make scheme and changes in the current system for the up gradation of migrant workers. After the darkness, there is always a first way of sun which bring light in the 'migrant workers' life. Every recommendation of National Human Rights Commission is commendable but its success lies on executing it. The Indian government, alongside certain state governments, has undertaken additional measures to facilitate the portability of the public distribution system, introduce a portable social security number, and establish a national migrant information system. To ensure justice and uphold the human rights of all interstate migrant workers in India, it is crucial to expedite and effectively implement these initiatives. In conclusion, recognizing the imperative to prioritize internal migration in Indian society, there is an added necessity to change the negative perception towards internal migrants.

References:

- [1] S.N. Tripathi and C.R. Dash, *Migrant Labour in India*. New Delhi: Discovery Publishing Pvt. Ltd.
- [2] S. Irudaya Rajan and Sumeetha, *Handbook of Internal Migration in India*, 1st ed. New Delhi: Sage Publication Pvt. Ltd.
- [3] J. John, N. Joseph, T. Megha, and N. Jacob, "A study on social security and health rights of migrant workers in India," [Online]. Available: https://nhrc.nic.in/sites/default/files/Approved_Health%20and%20social%20security%20ISMW_KDS-NHRC.pdf
- [4] P.L. Malik, *Handbook of Labour and Industrial Laws*, 16th ed. Lucknow: Eastern Book Company.
- [5] Ministry of Labour and Employment, "Social Security for International Migrant Workers," [Online]. Available: https://labour.gov.in/sites/default/files/Addendum_to_Agenda_Item-2.pdf
- [6] S. Pandey, "Social security for migrant workers during COVID-19," *Econ. Polit. Wkly.*, vol. 55, no. 26–27, 2020. [Online]. Available: <https://www.epw.in/journal/2020/26-27/commentary/social-security-migrant-workers-during-covid-19.html>



- [7] S. Kumar and S. Choudhury, "Migrant workers and human rights: A critical study on India's COVID-19 lockdown policy," *J. Migration Health*, vol. 1–2, 2021. [Online]. Available: <https://www.sciencedirect.com/science/article/pii/S2590291121000267>
- [8] C. Negi, "Human rights violations of migrant workers in India during COVID-19," *SSRN*, 2020. doi:10.2139/ssrn.3629773
- [9] K.C. Das and S.S. Saha, "Inter-state migration and regional disparities in India," [Online]. Available: https://iussp.org/sites/default/files/event_call_for_papers/Inter-state%20migration_IUSSP13.pdf
- [10] United Nations, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. General Assembly resolution 45/158, 18 Dec. 1990. [Online]. Available: <https://www.ohchr.org/Documents/ProfessionalInterest/cmw.pdf>
- [11] United Nations Human Rights, "UN statement over plight of Indian migrants during lockdown," Jun. 2021. [Online]. Available: <https://twitter.com/UNHumanRights/status/1245740115730796550>
- [12] "Migrant workers reporting harassment by landlords," *Times Now News and Newslick*, May 2021. [Online]. Available: <https://www.timesnownews.com/mirror-now/crime/article/harassed-by-landlord-for-rent-migrant-worker-commits-suicide-in-gurugram/593810>
and
<https://www.newsclick.in/COVID-19-rift-between-tenants-landlords-grows-extended-lockdown-compounds-students-woes-delhi>
- [13] "Film star Sonu Sood ran rescue operations in individual capacity for the stranded workers," *The Hindu*, Jul. 2020. [Online]. Available: <https://www.thehindu.com/entertainment/movies/sonu-sood-migrant-workers-built-our-homes-i-couldnt-watch-them-being-homeless/article31685826.ece>
- [14] "Incidents of police atrocities over migrants during lockdown were also reported in media," *Latest Laws*, Jul. 2021. [Online]. Available: <https://www.latestlaws.com/latest-news/save-them-from-police-atrocities-plea-in-sc-seeks-compensation-for-migrant-workers-killed-injured-during-lockdown/>
- [15] National Human Rights Commission of India, "2582 cases of human rights violation in April 2020 during lockdown," *Livemint*, Apr. 2021. [Online]. Available: <https://www.livemint.com/news/india/how-coronavirus-turned-into-humanitarian-crisis-for-migrant-workers-11590401718622.html>



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