

---

# **A LIGHT INTO THE UNFORTUNATE PLIGHT OF MIGRANT WORKERS DURING COVID-19 PANDEMIC IN INDIA: A TSUNAMI OF HUMAN RIGHTS VIOLATION**

---

Deepsea Chakraborty & Ameesha Dhingra, Army Law College, Pune

## **ABSTRACT**

The world saw myriad visuals and images of thousands of poor migrant workers stranded in several bus and train junctions around the country hoping to reach their native villages, or a young woman carrying one child in her left arm and holding the hand of another while also tugging her tattered stuff, or hundreds of people walking miles barefoot on deserted roads, or a toddler crying alongside the dead body of his mother who died of hunger and starvation are not only heart-wrenching and distressing but also shows the inadequacy of the central and state governments which fails to handle a catastrophic situation, especially when they are needed the most.

Are migrant workers and labourers children of a lesser god? Do they not have the same fundamental rights as enjoyed by the urban elite of our society?

**Keywords:** Migrant workers, COVID-19, Human Rights, Fundamental Rights, Constitution.

## INTRODUCTION

“WILL SURVIVE ON SALT, BUT NEVER GO BACK TO THE CITIES”.

- A migrant worker who returned home by cycling 1000 km after being shunned by the big cities.

“WE ARE SEEN AS LITTLE PETTY VERMINS AND HAVE BEEN LEFT TO DIE”.

- Another crying stranded migrant worker.

As the world was facing the grapples of responding to the pandemic, to mitigate the spread of the deadly Coronavirus SARS-CoV2, also known as COVID19, the Government of India under Prime Minister Narendra Modi initiated the largest nationwide lockdown on the evening of March 24<sup>th</sup>, 2020 ordering 1.3 billion people in the country to stay inside their homes.<sup>1</sup> The sudden lockdown harshly affected the movement of people, disrupting day-to-day life and access to healthcare facilities in India.<sup>2</sup> The lockdown caused sufferings to a lot of people and excessively to the most vulnerable. The stress and doubt were certainly felt more by daily wage workers and labourers, especially when they migrated away from their villages.<sup>3</sup>

COVID19 is a tragedy that migrant workers are often stigmatized and discriminatorily blamed for the spread of the virus in the country.<sup>4</sup> But in reality, they are one of the worst affected groups in our society. The impact of the pandemic on migrant workers was severe and the poor and marginalized were the hardest hit. They died due to reasons ranging from exhaustion, hunger, suicides, road and train accidents, police brutality, and denial of timely medical assistance.<sup>5</sup> The lockdown triggered mass exodus and reverse migration of unskilled and semi-skilled migrant workers from big cities who walked back home without food and money. This had a detrimental effect on their physical, mental, and economic well-being. As per an estimate putting together the figures of short-term seasonal and long-term occupationally vulnerable labourers gives us about 128 million or 12.8 crores of labourers whose livelihoods may have

---

<sup>1</sup> Jeffery Gettleman and Kai Schultz, *Modi Orders 3-week Total Lockdown for all 1.3 billion Indians*, N.Y. Times, March 24, 2020.

<sup>2</sup> The Lancet, *India under COVID-19 lockdown*, Vol. 395, Issue 10233, P1315, April 25, 2020, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30938-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30938-7/fulltext).

<sup>3</sup> Raksha Ramaswamy, *COVID-19 exposing urban-rural healthcare disparities in India*, The Hindu, May 5, 2020, <https://www.thehindu.com/thread/reflections/covid-19-exposing-urban-rural-healthcare-disparities-in-india/article31511629.ece>.

<sup>4</sup> Lau, L.S., Samari, G., Moresky, R.T., *COVID19 in humanitarian settings and lessons learned from past epidemics*, Nat Med 26, pg. 647-648, April 8, 2020, <https://doi.org/10.1038/s41591-020-0851-2>.

<sup>5</sup> Guha, P., Islam, B., & Hussain, M.A., *COVID-19 lockdown and penalty of joblessness on income and remittances: A study of inter-state migrant labourers from Assam, India*, Journal of Public Affairs, September 18, 2020, <https://doi.org/10.1002/pa.2470>.

been severely affected by the onset of COVID19.<sup>6</sup> Apart from financial issues the workers also had to encounter various psychological problems like high degrees of anxieties and fears due to various concerns related to the pandemic. In addition, they also had to face harassment and adverse reactions from various communities.

## **RIGHTS OF MIGRANTS AMID THE PANDEMIC**

With every migrant worker, India also moves, as greater mobility is a prerequisite for upholding the country's diverse traditions. Thousands of people move from to and within India, but while dealing with this immense migration the human attribute goes missing. According to the Fundamental Rights and Directive Principles of State Policy of the Constitution of India, it is the duty of the State to grant its citizens, both men and women, the right to life,<sup>7</sup> right to adequate means of livelihood,<sup>8</sup> equal pay for equal work,<sup>9</sup> protection against abuse and exploitation of workers, economic necessity, protection of their health, to secure of children opportunities and facilities to develop in a healthy manner.

Apart from the various provisions laid down in the Constitution, there are also laws meant to protect the interest of migrant workers of which one is the Inter-state Migrant Workmen Act, 1979. The act requires the employer to register the name of every worker who is a migrant from a different state.<sup>10</sup> In addition to the payment of regular wages, the employer is also under an obligation to pay his workers' Journey allowance for moving to and from the place of his work in the state he/she is working and his/her place of residence in some other state.<sup>11</sup> The migrant labourers are also authorized to get a Displacement allowance equivalent to half of the monthly wages or 75 rupees whichever is higher.<sup>12</sup>

The other vita laws meant to protect the workers are:

- 1. Trade Union's Act, 1926** – Outlines law related to registration of trade unions and provisions related to registered trade unions;

---

<sup>6</sup> Vasudevan, G., Singh, S., Gupta, G, *MGNREGA in the times of COVID-19 and beyond: Can India do more with the less?* Indian Journal of Labour Economics, 63, pg. 799-814, September 8, 2020, <https://doi.org/10.1007/s41027-020-00247-0>.

<sup>7</sup> Art. 21, The Constitution of India, 1949.

<sup>8</sup> Art. 39, The Constitution of India, 1949.

<sup>9</sup> Art. 39(d), The Constitution of India, 1949.

<sup>10</sup> Section 6, The Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, Central (Amendment), 2017.

<sup>11</sup> Section 15, The Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, Central (Amendment), 2017.

<sup>12</sup> Section 14, The Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, Central (Amendment), 2017.

2. **Payment of Wages Act, 1936** – Guarantees that the wages be paid in cash and not in kind to the employees within the set time limit;
3. **Industrial Dispute Act, 1947** – Provides for the inquiry and settlement of industrial disputes;
4. **Minimum Wages Act, 1948** – Provides for setting the minimum wage rates in certain employments;
5. **Unorganized Workers Social Security Act, 2008** – Ensures social security and welfare of unorganized labours and workers.

It is apparent that there is no dearth of laws to protect the migrant workers and labourers in India, however, unfortunately, the main issue relates to the proper implementation of these laws. Even in today's modern times, migrant workers and labourers remain poor, oppressed and entirely dependent on the mercy of their bosses.

India is a founding member of the International Labour Organization (ILO) and since 1992, it has been a permanent member of this world organization. India has also ratified six out of eight core principles of ILO but it has not ratified convention no. 87 and 98 due to governance-related issues.<sup>13</sup> It is essential to preserve vital aspects of labour standards and labour rights and aim of attaining a system where there are no barricades to the smooth process of 'Rule of Law'.

Most of the migrant workers in India are younger and fall in the age bracket of 18-30 years. As against the abovementioned legal provisions, these workers are exposed to below standard living conditions and most of them work without any proper formal contract. They are out of any convivial security net and do not enjoy the benefits of public schemes such as the publication distribution of food, free education, and medical facilities due to the absence of proper documentation.<sup>14</sup>

Moreover, the employers displayed a lack of empathy and concern for the migrant workers and labourers by resorting to vicious policies like non-payment of dues and retrenchment during the lockdown period, thus, violating their fundamental rights.

Voicing pain over the layoffs as a knee-jerk reaction by companies amid COVID19, Sir Ratan Tata said, "These are the people that have worked for you. These are the ones who served you

---

<sup>13</sup> C. Negi, *Human rights violations of migrant workers in India during COVID19*, SSRN Publications, June 18, 2020, <https://doi.org/10.2139/ssrn.3629773>.

<sup>14</sup> Ram B Bhagat, RS Reshmi, Harihar Sahoo, Archana K Roy, Dipti Govil, *The COVID19, migration and livelihood in India: Challenges and Policy issues*, IIPS Analytical Series on COVID19, No. 13054.

all their careers. You send them out to live in the rain. Is that your definition of ethics when you treat your labour that way?"<sup>15</sup>

## RELAXATION OF LABOUR LAWS

To make matters worse for the workers, states like Uttar Pradesh, Punjab, Rajasthan, Karnataka, Tamil Nadu, and Gujarat decided to suspend most of the labour laws in the garb of incentivizing economic activities. This gives more controls to the employers such as the powers of "hire and fire", making the workers work for more than twelve hours.<sup>16</sup> This attempt was an instrument of exploitation in the hands of the employers.

The Hon'ble Supreme Court held in the case of *Kharak Singh*<sup>17</sup>, that the Right to Life includes the right to live with human dignity, including shelter, clothing, and nutrition which is more than mere animal existence. The court in *Bandhua Mukti Morcha*<sup>18</sup> held that protection of health and strength of the workers.....ensuring just and humane conditions of work, etc. are the basic minimum requirements which enable a person to live with human dignity, is derived from DPSP.<sup>19</sup> Therefore, the state is barred from any action depriving a person of these essentials.<sup>20</sup>

## CONCLUSION

A lot of measures were also taken to stop the migrant workers from suffering the pangs of harsh life during the COVID19 pandemic and get employment at the places of their native homes. But, sadly, the damage to these workers had already been done. Taking a cue from other countries, the government of India needs to come out with a greater relief package than already announced for these migrants. The great migrant worker crisis of 2020 is unparalleled since the partition and will not leave politics untouched. However, a delay in resolving this situation would only lead to huge distress. The lack of support showed how deep the neglect is, and the potential costs for the labourers themselves but also the healthcare system and the Indian economy more broadly. In the long run, India should work towards declining the vulnerability of migrant workers by amending the various labour laws because every crisis provides an opportunity for 'building back better'. Let us stand strongly by our workers' side!

---

<sup>15</sup> *Layoffs during Pandemic shows India Inc's Lack of Empathy: Ratan Tata*, The Wire, July 24, 2020, <https://thewire.in/business/ratan-tata-layoffs-covid-19>.

<sup>16</sup> Ramapriya Gopalakrishnan, *Changes in Labour Laws Will Turn the Clock Back by Over a Century*, The Wire, May 20, 2020, <https://thewire.in/labour/labour-laws-changes-turning-clock-back>.

<sup>17</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295; see also, *Francis Coraline Mullin v. UT of Delhi*, [1981] AIR SC 756

<sup>18</sup> *Bandhua Mukti Morcha v. Union of India*, [1984] AIR SC 802

<sup>19</sup> The Constitution of India, 1949, Article 39 (e) (f), 40, 42

<sup>20</sup> *Vikram Deo Singh Tomar v. State of Bihar*, [1988] AIR SC 1782