
INTERSECTIONAL VULNERABILITIES: HUMAN RIGHTS IMPLICATIONS OF INTERNAL, CROSS-BORDER AND FORCED MIGRATION

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ABSTRACT

Warsan Shire correctly stated, "No one leaves home unless home is the mouth of a shark." It is very painful for a person to migrate from a place where he is, born and is settled, that too if it is forced, as it becomes an arduous journey. Even so, people across the globe migrate due to several reasons namely economic (jobs, wages), social (education, family, persecution), political (conflict, instability), and environmental (disasters, climate) factors, which can be broadly classified as push factors (driving people away) and pull factors (attracting people to new places). These factors frequently combine to cause voluntary or forced movement. It is not solely a demographic phenomenon, it is a deeply socially stratified process that intersects with issues of caste, gender, class, and other forms of marginalization. People are confronted with a large number of opportunities due to migration, such as economic and social contrastingly it offers certain systematic vulnerabilities, such as discrimination, employment exploitation, housing inequality, healthcare barriers, social exclusion, and racial/ethnic profiling. Though some concerns are common in internal and cross-border migration, yet few are additional legal and humanitarian concerns namely detention, statelessness, and xenophobic discrimination. Inadequate state accountability and weak protection mechanism expose the forced migrants such as refugees and internally displaced persons to face challenges arising from protracted displacement. Protracted displacement emphasizes the long duration and ongoing nature of being forced from one's home. This paper critically analyses the overlying challenges as regards gender, caste, class and migration status through intersectional lens. It is aimed to examine the gaps in the implementation of migration laws across the world, even after enacting the stringent laws in this regard. Socioeconomic injustice and inequalities can be brought down by examining migration laws and policies through an intersectional and interdisciplinary approach. It should be ensured that migration bestows to the overall development of an individual and the state rather than perpetuating insecurity, uncertainty and ostracization.

Keywords: Migration, Discrimination, Protracted displacement, Intersectionality, Migration laws, Ostracization.

1. INTRODUCTION

Migration has traditionally been central to human advancement, but in the 21st century, it has emerged as a focal point of legal and political dispute. Currently, more than 280 million individuals reside in countries other than their birthplace, and around 59.1 million are internally displaced as a result of conflict and violence, with countless others migrating due to climate-related threats, economic hardship, or social unrest.¹ Migration is often stirred by economic inequalities, agricultural hardship, urban growth, environmental shifts, conflicts, and dislocation caused by development initiatives. Although migration can enhance livelihoods, it also subjects individuals to vulnerable conditions, exploitation, ill treatment and violations of human rights.

Globalization and unequal development have heightened mobility while also worsening the vulnerability of numerous migrants. Legal retorts to migration have not kept pace with these realities, and while human rights frameworks are strong in theory, they are frequently implemented inconsistently, especially for individuals facing multifarious discrimination in connection with gender, race, class, or other identities. Although all migrants face substantial difficulties, individuals with intersectional vulnerabilities, stemming from gender, caste, ethnicity, class, and other marginalized identities, experience multiplied risks that are inadequately tackled by modern legal systems.²

Worldwide, human rights legislation acknowledges migrants as holders of rights irrespective of their status. Global frameworks like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights safeguard civil, political, economic, social, and cultural rights without discrimination.² Regional frameworks, such as the African Charter on Human and Peoples' Rights and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, also enhance the standards regulating migrant rights.³

Regardless of these frameworks, countries frequently implement securitized and restrictive immigration policies that sideline vulnerable groups. This paper explores the convergence of Indian migration policies with global human rights commitments, highlighting vulnerabilities related to gender, caste, and intersecting identities.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1. Migration and Human Rights

Human rights are universal, inherent, and indivisible, relevant to every person regardless of citizenship or legal standing. International human rights legislation acknowledges migrants as individuals with rights deserving of dignity, equality, and safeguarding. Nevertheless, migration systems that focus on the state frequently tie rights to citizenship and legality, weakening guarantees of human rights.

2.2. Gender, Caste, and Intersecting Identities

Intersectionality, as defined by Kimberlé Crenshaw, describes how intersecting identities like gender, caste, class, and migration status combine to create multiplied disadvantages. In India, caste functions as a fundamental factor influencing job distribution, social advancement, and susceptibility.⁴ The combination of caste, gender, and migration leads to a marginalization that is both systemic and enduring.

An intersectional perspective transcends single-axis analysis and reveals how laws and policies do not reflect the actual experiences of migrants.

Internal displacement involves individuals compelled to vacate their residences while staying within their country's boundaries because of conflict, widespread violence, human rights abuses, or disasters. Internally displaced persons (IDPs) do not possess formal refugee status and frequently find themselves in legal protection voids, even though human rights laws are applicable to them on both domestic and international levels.

Cross-border migration consists of people who depart from their home country to enter a different nation's territory, either voluntarily or involuntarily, frequently in pursuit of safety or improved prospects.⁵

Forced migration encompasses a wide range of situations, including internal displacement and cross-border refugee movements, where people escape persecution, violence, or circumstances harmful to their life or freedom

Intersectional analysis discards the conception of evaluating identities in isolation. For

example, a female migrant may face gender discrimination; a Dalit (Scheduled Caste) woman may additionally endure caste-based marginalization that exacerbates her vulnerability. Intersectionality permits exploration of how structural, cultural, and symbolic violence intersect to affect migrant trajectories.

International law is based on the fundamental principle that human rights are innate to every person and are not dependent on citizenship, nationality, or legal residency. This principle of universality is most distinctly represented in the Universal Declaration of Human Rights, 1948 (UDHR), which is applicable to "everyone" without exception. Article 13 of the UDHR affirms the right to move freely and select one's residence within a nation, along with the right to depart from any country, including one's own. While this right can have reasonable limitations according to domestic law, it creates a significant normative structure acknowledging mobility as a fundamental element of human dignity, especially pertinent in the realm of migration.⁶

Moreover, Articles 6 and 7 of the UDHR reinforce the right to be acknowledged as a person in the eyes of the law and to have equality under the law without any discrimination. These regulations are important for migrants, including those who are undocumented, as they require states to guarantee access to legal safeguards, fairness in legal procedures, and solutions for arbitrary or biased treatment. Article 23 enhances this safeguard by acknowledging the right to employment, to fair and favorable working conditions, and to protection from unemployment. In the context of migration, this regulation is particularly significant in tackling exploitative labor practices, wage inequality, and hazardous working environments frequently encountered by migrant workers, especially those in informal or unregulated sectors.

At the regional scale, human rights frameworks have further put into action these universal protections. The European Convention on Human Rights (ECHR) does not explicitly mention migrants or refugees; however, the European Court of Human Rights (ECtHR) has consistently interpreted it to provide protection to everyone within a state's jurisdiction, regardless of nationality or immigration status. Article 8 of the ECHR, ensuring the right to respect for private and family life, has been cited in numerous cases to shield migrants from unjust expulsion when deportation would significantly disrupt established family connections. In the same way, Article 3 of the ECHR, which bans torture and inhuman or degrading

treatment or punishment, creates a strict requirement for states not to deport individuals to countries where they are likely to encounter such treatment, thus providing essential protection for asylum seekers and at-risk migrants.⁷

This interpretive approach to jurisprudence emphasizes that regional human rights frameworks uphold the necessity for migration control to align with human rights standards. States hold sovereign power to control entry and residency, yet these powers are not limitless and should be weighed against the basic rights and dignity of migrants. This developing legal perspective signifies a transition from perceiving migrants solely as subjects of governmental authority to acknowledging them as individuals possessing rights under international and regional human rights legislation

This intersectional reality has also been subtly acknowledged within Indian constitutional law. Article 14 of the Constitution ensures equal treatment under the law and equal safeguarding of laws, whereas Articles 15 and 16 forbid discriminations based on religion, race, caste, gender, or birthplace. Nevertheless, the Supreme Court has recognized that mere formal equality is inadequate to tackle deep-rooted structural disadvantages.⁸ In *State of Kerala v. N.M. Thomas*⁹, the Court acknowledged that equality should consider social and historical disparities, thus establishing a foundation for a substantial and contextual interpretation of discrimination.

Moreover, in *Anuj Garg v. Hotel Association of India*¹⁰, the Supreme Court dismissed paternalistic and simplistic views on gender equality, underscoring that constitutional interpretation should carefully consider the actual experiences of marginalized communities. While not directly stated in intersectional language, these judgments indicate a growing judicial recognition that disadvantage is complex and shaped by social constructs. In a similar vein, the Court emphasized in *National Legal Services Authority v. Union of India*¹¹ that discrimination based on identity should not be considered separately, highlighting the necessity for a broader and more nuanced framework of equality.

When examining migration, these constitutional principles expose considerable shortcomings in the protection of migrant workers, especially those belonging to Scheduled Castes and Scheduled Tribes. In spite of legal protections provided by labor and social welfare regulations, access to enforcement tools and remedies is frequently influenced by caste and gender hierarchies. An intersectional examination reveals the shortcomings of current legal

structures and underscores the importance of interpreting constitutional protections in a way that addresses the overlapping vulnerabilities stemming from caste, gender, and immigration status. Intersectionality transforms equality from a theoretical commitment to an actual constitutional experience.¹²

3. Internal Migration and Intersectional Vulnerabilities

3.1. Constitutional and Statutory Protections in India

Indian constitutional law has consistently upheld that the essential rights to life, dignity, and equality apply entirely to migrant workers, regardless of their origin or residence. In the case of *People's Union for Democratic Rights v. Union of India (Asiad Workers case)*,¹³ the Supreme Court determined that failure to pay minimum wages to migrant construction workers constituted “forced labour” under Article 23, acknowledging economic coercion and structural vulnerability as factors of constitutional significance. This ruling is especially important as it connected the exploitation of migrant workers to breaches of essential rights under Articles 14, 21, and 23.

In *Bandhua Mukti Morcha v. Union of India*,¹⁴ the Court broadened the interpretation of Article 21 to encompass humane working environments, health, and dignity, highlighting that the State has a proactive duty to safeguard vulnerable workers, such as migrants, from exploitation. The Court emphasized that constitutional rights should not be mere illusions because of bureaucratic delays, particularly when marginalized workers have limited bargaining power or access to legal solutions

Recently, amidst the COVID-19 pandemic, the Supreme Court in *In Re: Problems and Miseries of Migrant Labourers (2020–21)*¹⁵ recognized on its own the humanitarian crisis confronting migrant workers. The Court recognized systemic shortcomings in welfare provision, such as the non-transferability of food security, the absence of worker registries, and residency-based restrictions that barred migrants from obtaining social security benefits. It instructed both Union and State governments to guarantee access to food, transport, and jobs, thereby affirming that the right to a dignified life under Article 21 does not end at state lines.

These judicial actions show that although legal frameworks like the Inter-State Migrant Workmen Act, the Unorganized Workers' Social Security Act, and the Code on Social

Security aim to implement constitutional guarantees, their success depends on effective execution. The ongoing presence of residence-based welfare rights and inadequate enforcement systems continues to weaken genuine equality under Article 14. When analyzed together, constitutional provisions and judicial rulings illustrate a distinct normative dedication to the protection of migrants, while also highlighting significant disparities between legal acknowledgment and actual access to rights.

Indian courts acknowledge migrants as citizens with rights, but failures in enforcement weaken constitutional protections.

3.2. Gendered Aspects

Women migrants are overrepresented in informal, low-wage sectors like domestic work, agriculture, construction, and home-based employment. They encounter wage inequality, sexual harassment, unpaid caregiving duties, and restricted access to maternity benefits and healthcare services.

Globally, the International Labour Organization (ILO) acknowledges that women migrant workers endure increased exploitation and have limited access to social protection. ILO Convention No. 189 concerning Domestic Workers aims to safeguard the rights of domestic workers, a group largely composed of migrant women. India has yet to ratify this convention, highlighting gaps in implementation.¹⁶

In *Canada (AG) v Ward*,¹⁷ the Supreme Court of Canada clarified that women, children, and sexual minorities are protected groups under the “particular social group” category in refugee law, considering immutable characteristics such as gender and sexual orientation. This landmark case illustrates expanding judicial recognition of intersectional vulnerabilities in refugee status determination.

3.3. Caste based discrimination

Caste remains a critical factor in organizing labor markets in India. Dalit and Adivasi migrant workers are largely found in dangerous, poorly paid, and socially marginalized jobs, including sanitation, construction, brick kilns, and various types of manual labor. These sectors are characterized by informality, occupational hazards, and restricted access to social security, perpetuating economic instability.¹⁸ Migration to cities, frequently viewed as a path to

anonymity and social advancement, fails to eradicate caste hierarchies; rather, systems of informal recruitment, contractor networks, and residential and workplace segregation reinforce caste-based occupational divisions.

Indian constitutional law has acknowledged the dignity aspects related to caste-based labor. In *Safai Karamchhari Andolan v. Union of India*,¹⁹ the Supreme Court ruled that the persistence of manual scavenging infringes upon Articles 14, 17, and 21, asserting that assigning occupations based on caste is not in line with constitutional principles. This rationale also applies to migrant workers, where caste subtly dictates job distribution and conditions.

Caste discrimination is acknowledged internationally as a type of descent-based discrimination that is forbidden by international human rights law. The UN Committee on the Elimination of Racial Discrimination (CERD),²⁰ via General Recommendation No. 29, has stated that discrimination based on descent, such as caste, contravenes the International Convention on the Elimination of All Forms of Racial Discrimination. This acknowledgment places caste-based labor division within a worldwide equality context, strengthening the duty of nations to tackle systemic discrimination in job and migration management. Labour segmentation based on caste continues to exist across different borders and job markets.

International human rights law provides extensive safeguards against discrimination (e.g., Article 2 of the Universal Declaration of Human Rights) and acknowledges the necessity of eradicating caste biases, which intersect with various other identity characteristics. Numerous states include anti-discrimination structures within their domestic legislation.²¹

In India, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 seeks to address violence rooted in caste; yet, applying it directly to situations of migration presents a challenge in interpretation.

4. Intersectionality of Caste and Gender in Migration

The convergence of caste and gender creates unique and heightened vulnerabilities for migrant women, especially for those belonging to Dalit and Adivasi groups. Migration frequently directs these women into informal and unregulated fields like domestic work, agriculture, construction, and sanitation, where they encounter increased dangers of sexual exploitation, wage discrimination, labor trafficking, and poor working conditions.²² Stigma rooted in caste

exacerbates gender-based subordination, leading to diminished negotiating power, social obscurity, and limited access to legal solutions in receiving societies.

Indian constitutional jurisprudence has recognized these overlapping harms, even if it hasn't directly embraced intersectional language. In *People's Union for Democratic Rights v. Union of India*,²³ the Supreme Court acknowledged that economic pressure and systemic weakness can constitute forced labour under Article 23, a concept particularly significant for migrant women caught in caste-related informal work. In *Bandhua Mukti Morcha v. Union of India*,²⁴ the Court broadened Article 21 to encompass dignity, health, and humane working conditions, responsibilities that gain greater importance where caste and gender overlap. Additionally, in *State of Punjab v. Gurmit Singh*, the Court highlighted the importance of gender-sensitive judgment in sexual violence cases, a safeguard especially vital for migrant women who encounter social stigma and institutional obstacles when reporting abuse

At the global level, courts and treaty bodies have established strong jurisprudence regarding gender, migration, and exploitation, while caste mostly remains unaddressed. In *Siliadin v. France* (European Court of Human Rights), the Court determined that not safeguarding a migrant domestic worker from servitude breached Article 4 of the European Convention on Human Rights, highlighting how gender, migrant status, and economic reliance enable exploitation. Likewise, in *Rantsev v. Cyprus and Russia*, the ECtHR recognized that trafficking disproportionately impacts migrant women and assigned positive duties to states to avert exploitation and safeguard victims.

In *Hacienda Brazil Verde Workers v. Brazil*,²⁵ the Inter-American Court of Human Rights acknowledged structural vulnerability and socio-economic marginalization as crucial to modern types of forced labour, an approach that closely aligns with caste-related labor exploitation, despite the absence of explicit mention of caste.

Treaty bodies have gradually progressed toward intersectional reasoning. In cases like *A.T. v. Hungary*,²⁶ the CEDAW Committee has acknowledged that women's susceptibility to violence is influenced by social and economic exclusion, whereas the UN Committee on the Elimination of Racial Discrimination has classified caste discrimination as a type of descent-based discrimination according to international law. Nonetheless, these advancements remain disjointed, and no enforceable international ruling has directly tackled caste-based discrimination against migrant women as a unified human rights infringement.²⁷

This lack highlights a notable normative deficiency in international migration and human rights legislation. Although courts are increasingly acknowledging gender and migratory vulnerability, the lack of explicit engagement with caste conceals the systemic exploitation experienced by Dalit migrant women.²⁸ An intersectional perspective is crucial to close this gap, ensuring that international human rights law addresses compounded discrimination as a unified, real experience instead of treating it as separate legal classifications. International law acknowledges the vulnerability of migrants based on gender but is mostly mute regarding caste issues.

5. Cross-Border Migration, Refugees, and Statelessness

5.1. Indian Legal Position

India has not signed the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, meaning it does not hold treaty-based responsibilities within the international refugee protection framework. India has traditionally accommodated significant refugee populations from bordering nations, such as Tibet, Sri Lanka, Afghanistan, Myanmar, and Bangladesh, demonstrating a commitment to humanitarian protection based on constitutional principles and established international law.²⁹

Even without ratification, fundamental tenets of international refugee law—especially the principle of non-refoulement—are broadly acknowledged as components of customary international law, making them obligatory for all nations. The principle of non-refoulement forbids the deportation or return of refugees to areas where their life or freedom could be endangered due to race, religion, nationality, affiliation with a specific social group, or political beliefs. Indian courts have recognized this principle by incorporating it into Article 21 of the Constitution, thus providing safeguards against arbitrary detention, deportation, and involuntary return.

Global refugee standards also mandate that refugees and asylum seekers receive access to essential socio-economic rights needed for a dignified life. These encompass the right to education, the right to work in legal conditions, access to essential healthcare, and safeguards against discrimination. Although states have the authority to control entry and residency, they must exercise this power in a way that respects human dignity and upholds the ban on inhuman or degrading treatment.

In India, the lack of a thorough domestic refugee law has caused inconsistent and government-driven measures for refugee protection, resulting in unequal treatment among various refugee categories. Nonetheless, constitutional protections found in Articles 14 and 21, when interpreted alongside customary international law duties, establish a vital normative structure for safeguarding refugees.³⁰ This method highlights that, even without formal treaty obligations, international refugee law still imposes a limiting effect on state actions via customary norms and human rights standards. Non-refoulement obligates states regardless of whether treaties have been ratified.

Indian courts have been pivotal in implementing international refugee law principles even in the lack of formal treaty commitments. In *National Human Rights Commission v. State of Arunachal Pradesh*,³¹ the Supreme Court ruled that the State had a constitutional duty to safeguard the life and liberty of Chakma refugees and was prohibited from forcibly evicting or deporting them. The Court specifically confirmed that Article 21 pertains to all individuals, including non-citizens, thus implicitly acknowledging the principle of non-refoulement in domestic constitutional law.

In *Ktaer Abbas Habib Al Qutaifi v. Union of India*,³² the Gujarat High Court similarly prevented the deportation of Iraqi refugees, stating that non-refoulement is included in Article 21 and that refugees cannot be sent to areas where their life or liberty is endangered. The Court explicitly referenced international human rights standards and customary international law, strengthening India's responsibilities beyond ratifying treaties. In *Dongh Lian Kham v. Union of India*,³³ the Delhi High Court granted comparable protection to Myanmarese refugees, acknowledging that the principle of non-refoulement is fundamental to the right to life and dignity.

When considered collectively, both domestic and international jurisprudence show that executive discretion is not the only factor in refugee protection in India. When interpreted in accordance with customary international law, the constitutional guarantees found in Articles 14 and 21 place enforceable duties on the State to avoid forced return and guarantee access to fundamental rights like healthcare, education, and humane treatment. A growing convergence between international refugee law and constitutional human rights norms is reflected in this judicial synthesis. Non-refoulement is constitutionalized by Indian courts under Article 21.

5.2. Comparative Analysis

The legal structure regulating cross-border migrants in India is mainly based on the Foreigners Act of 1946, the Citizenship Act of 1955, and the Passports Act of 1967. These laws were established primarily to manage the entry, residence, and departure of non-citizens, embodying a sovereignty focused perspective that emphasizes national security, territorial integrity, and immigration oversight. Under this system, significant discretionary authority is granted to the executive to detain, limit movement, or deport foreign nationals, frequently with minimal procedural protections.

The Foreigners Act, 1946 shifts the responsibility of proof onto the individual to demonstrate legal presence in India and empowers the State to issue orders for detention and deportation. This framework provides limited opportunity for humanitarian evaluation, especially in situations concerning refugees, asylum seekers, or individuals escaping persecution.³⁴ The Citizenship Act of 1955 regulates how citizenship is acquired, established, and revoked, yet it lacks a rights-based framework to protect non-citizens not categorized as refugees or citizens. The Passports Act of 1967 strengthens a document-focused policy, making irregular entry or residence a crime, disproportionately affecting at-risk migrants without valid travel documents.³⁵

Together, these laws view migrants mainly as objects of regulation instead of as individuals with rights. The lack of a specific refugee or asylum law leads to inconsistent and varying treatment of cross-border migrants, placing humanitarian considerations in the hands of the executive branch. This legal void generates ambiguity and variability in protection, frequently compromising constitutional assurances under Articles 14 and 21, as well as India's commitments under customary international law. Consequently, the Indian legal framework exhibits an ongoing conflict between state authority and the demands of human rights and refugee safeguarding

5.3. Intersectional Vulnerabilities

Women refugees and migrants marginalized by caste or ethnicity are more likely to be trafficked, sexually assaulted, and detained. International jurisprudence highlights the need for intersectional and gender-sensitive thinking in refugee protection.³⁶

6. Internal Displacement and Intersectional Harm

6.1. Legal Framework for IDPs

Internally Displaced Persons (IDPs) hold a unique and frequently vulnerable status in international law since they have not crossed an international boundary and are thus not covered by the 1951 Refugee Convention. In contrast to refugees, IDPs do not have a unified global agreement specifically focused on their protection.³⁷ Rather, their safeguarding comes from a combination of soft law tools, overarching international human rights regulations, and, in certain areas, enforceable regional agreements.

The UN Guiding Principles on Internal Displacement serve as the main normative framework for the protection of IDPs.³⁸ Although not legally enforceable, the principles unify and reiterate current responsibilities under international human rights law and international humanitarian law, reinforcing the rights of IDPs to safeguard against unlawful displacement, obtain essential needs, enjoy freedom of movement, and ensure safe return or resettlement. Significantly, the Principles highlight that national authorities hold the main responsibility for preventing displacement and for safeguarding and aiding IDPs within their area of control.

Even with this normative acknowledgment, the protection of IDPs still largely relies on domestic execution. The lack of a binding international treaty means that adherence depends heavily on political determination, institutional capability, and domestic legal systems. In several states, such as India, the absence of a specialized legal framework for IDPs leads to inconsistent and opportunistic reactions, putting displaced groups at risk of rights abuses. As a result, although global and local frameworks recognize state accountability, the actual protection of IDPs is inconsistent and legally unstable.³⁹

6.2. Gendered and Caste-Based Impacts

Women experiencing internal displacement encounter increased and gender-related vulnerabilities throughout all phases of the displacement process. In temporary shelters and displacement camps, women and girls face a heightened risk of sexual violence, exploitation, and harassment because of overcrowding, insufficient security, and absence of privacy.⁴⁰ Ineffective complaint systems and the fear of stigma frequently hinder survivors from reporting abuse, leading to pervasive impunity. These dangers become even worse during emergencies

like armed conflicts, communal violence, or natural disasters, when institutional protections are limited.

Displacement significantly limits access to reproductive and maternal health services. Interfered health services, shortage of qualified medical staff, and inadequate sanitary facilities undermine women's sexual and reproductive rights, resulting in increased risks of maternal death, unsafe pregnancies, and unresolved health issues. Displaced women disproportionately bear the weight of unpaid care work, which further restricts their opportunities to pursue jobs or benefit from welfare programs.

Caste-based discrimination exacerbates these difficulties for women from lower castes. Because of ingrained social hierarchies, biased local government practices, and a lack of documentation, lower-caste IDPs are frequently left out of aid distribution, land restitution, and rehabilitation programs.⁴¹ Inequalities are sometimes reproduced by relief measures that seem neutral, allowing dominant groups to seize resources while marginalized people are left out. This convergence of caste, gender, and displacement highlights the need for intersectional approaches in IDP protection and rehabilitation policy and perpetuates structural disadvantage.

7. Indian Judicial Approach to Migration and Human Rights

Indian courts have consistently understood fundamental rights broadly to encompass migrants within the protective scope of the Constitution. In the case of *People's Union for Democratic Rights*

v. *Union of India*, the Supreme Court acknowledged that migrant construction workers facing exploitative circumstances had the right to constitutional safeguards under Article 21. The Court determined that failing to pay minimum wages to migrant workers constituted forced labor forbidden by Article 23, reinforcing that the economic vulnerability of migrants—many from marginalized caste backgrounds—could not excuse the denial of dignity and humane labor conditions. This ruling established the basis for identifying the exploitation of internal migrant workers as a violation of human rights instead of just a contractual matter.

The humanitarian emergency encountered by migrant workers amidst the COVID-19 pandemic increased the need for judicial involvement. In *In Re: Problems and Miseries of Migrant Labourers*,⁴² the Supreme Court recognized the severe hardship caused by abrupt

lockdowns, such as loss of income, food scarcity, and involuntary relocation. The Court underscored that the right to life within Article 21 includes the rights to food, shelter, and dignity, instructing state authorities to guarantee transport, access to welfare, and safety for migrant workers. While the ruling demonstrated a lag in judicial response, it bolstered the state's constitutional duty to safeguard migrants in emergencies, especially those engaged in informal and unstable jobs.

In the realm of cross-border migration and refugees, the Supreme Court has drawn upon constitutional morality and international human rights standards even in the lack of a designated refugee law. In *National Human Rights Commission v. State of Arunachal Pradesh*,⁴³ the Court took action to safeguard the Chakma refugees against forced eviction and violence, affirming that every individual—whether a citizen or non-citizen—has the right to equality before the law and the safeguarding of life and personal liberty as per Articles 14 and 21. The ruling is important for confirming that refugee status does not negate fundamental human rights and that the government has an obligation to prevent xenophobic and exclusionary behaviors.

Compelled relocation resulting from development initiatives has likewise been discussed, albeit with legal uncertainty. In *Narmada Bachao Andolan v. Union of India*,⁴⁴ the Supreme Court assessed dislocation caused by extensive infrastructure projects. Although the Court recognized the negative effects of displacement on tribal and rural communities, such as the loss of income and cultural identity, it ultimately approved the project for development purposes, contingent on rehabilitation efforts. The situation illustrates the ongoing conflict between economic development and human rights, especially for Adivasi communities facing overlapping vulnerabilities related to caste, location, and financial standing.

8. International and Comparative Judicial Perspectives

International human rights law has significantly contributed to acknowledging migrants as individuals with rights regardless of their nationality or legal situation. A significant ruling in this context is *Hirsi Jamaa and Others v. Italy*,⁴⁵ as determined by the European Court of Human Rights. The Court found that Italy's method of capturing migrants at sea and sending them back to Libya without personal review breached the ban on collective expulsion and the non-refoulement principle. Significantly, the Court confirmed that human rights obligations extend beyond a state's territorial limits, thus enhancing safeguards for cross-border migrants

and asylum seekers affected by border security measures.

In *Saadi v. Italy*,⁴⁶ the European Court firmly determined that deporting someone to a nation where there is a genuine risk of torture or inhumane treatment is forbidden, irrespective of national security factors. This ruling highlights the unconditional nature of safeguards against torture and emphasizes the centrality of human dignity in managing migration.

The Inter-American Court of Human Rights has embraced a robust rights-centered perspective on migration. In Advisory Opinion OC-18/03 regarding the Juridical Condition and Rights of Undocumented Migrants, the Court stated that undocumented migrants have rights to equality, non-discrimination, and labor protections. It stressed that migration status should not be a basis for denying essential human rights, thus providing a strong normative foundation for combating the exploitation of migrant workers, including women and racial minorities.

Judicial acknowledgment has also been given to gender-specific vulnerabilities in migration. In *Rantsev v. Cyprus and Russia*,⁴⁷ the European Court of Human Rights identified the trafficking of migrant women as a human rights violation and established positive duties for states to avert exploitation, probe trafficking networks, and safeguard victims. This case is especially important for comprehending migration from a gendered and intersectional perspective, connecting migration status, gender-based violence, and systemic exploitation.

Comparative constitutional law additionally reinforces the rights of migrants. In *Khosa v. Minister of Social Development*,⁴⁸ the Constitutional Court of South Africa granted social security benefits to permanent residents, determining that exclusion based solely on citizenship breached the principle of substantive equality. The Court acknowledged that migrants, frequently marginalized both economically and socially, need increased protection from the state instead of exclusion.

9. Recommendations

An intersectional approach to law necessitates that courts and adjudicators transcend mere formal neutrality and examine how migration laws and policies affect individuals variably due to intersecting identities like gender, caste, and socio-economic status. Judicial reasoning that includes considerations of caste and gender can more accurately reflect the actual experiences of vulnerability, ensuring that guarantees of equality and dignity are implemented in a

meaningful way rather than in a theoretical manner. This method corresponds with constitutional equality law and global human rights standards that acknowledge systemic discrimination.

Asylum procedures that respond to gender are crucial for providing women migrants and refugees with genuine access to protection. Trauma-sensitive methods—including private interviews, access to female decision-makers and translators, and awareness of cultural and social contexts—assist in overcoming challenges encountered by victims of sexual violence, trafficking, and exploitation. Establishing such procedures minimizes re-traumatization and enhances the precision and equity of credibility evaluations. There is an urgent requirement for the legal acknowledgment of caste-based discrimination within national and global protection systems. Recognizing descent-based discrimination as a basis for persecution would fill an important normative void in refugee and human rights law, enabling caste-related harm to be evaluated alongside race, religion, or ethnicity. This acknowledgment would enhance safeguarding for people escaping deep-rooted caste systems and institutional violence.

Enhancing IDP protection necessitates that countries implement thorough national laws consistent with the UN Guiding Principles on Internal Displacement. These laws must explicitly outline state duties, create institutional accountability, and guarantee access to housing, livelihoods, healthcare, and sustainable solutions for displaced individuals. Establishing these standards would transform IDP protection from optional relief to enforceable rights.

Ultimately, data disaggregation is essential for governance of migration based on evidence. Gathering and examining migration data broken down by gender, caste, and socio-economic status allows policymakers to recognize patterns of marginalization, create focused interventions, and assess the success of legal and welfare initiatives. In the absence of such data, intersectional vulnerabilities stay hidden, reinforcing systemic inequalities in migration and displacement responses.

10. Conclusion

Migration is not a uniform or neutral process; it is deeply influenced by established social hierarchies and existing structural inequalities. Gender and caste serve as crucial elements that determine who migrates, the circumstances under which migration takes place, the kinds of

jobs available to migrants, and the level of vulnerability they encounter at their destination. For women and migrants from lower castes, movement frequently heightens rather than diminishes disadvantage, subjecting them to multiple levels of discrimination, exploitation, and a lack of legal recognition. These facts illustrate that migratory experiences cannot be fully grasped using single- category legal frameworks that classify migrants as a uniform group.

Notwithstanding constitutional assurances and international human rights obligations, legislation and policy have primarily neglected to tackle the intersectional aspects of migrant vulnerability. Gender is often recognized independently, whereas caste-based discrimination tends to be overlooked or marginalized in migration governance and international law. Consequently, legal safeguards frequently stay symbolic, providing formal equality while failing to eliminate the structural obstacles that hinder marginalized migrants from obtaining rights, remedies, and social protection. This disparity between accepted standards and actual experiences highlights the shortcomings of traditional, status-centered methods of managing migration.

A transformative alternative is provided by an intersectional approach to human rights. By acknowledging how various dimensions of identity—like gender, caste, class, and migration status—intersect to create unique types of harm, this framework allows for a deeper comprehension of equality and dignity. It urges states, courts, and institutions to create laws, judicial processes, and welfare systems that address combined disadvantages rather than theoretical legal classifications.

Reconceiving migration governance through an intersectional perspective is thus not just a legal issue but a moral necessity grounded in human dignity. It asserts that the genuine gauge of justice is found not in the official declaration of rights, but in their practical availability to the most marginalized individuals. Focusing solely on the lived experiences of migrants affected by gender and caste oppression is essential for migration systems to advance toward authentic human rights protection and social justice.

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