



Labor Rights Regulating Migrant Workers in India

Varsha Palliyil, Research Scholar, School of Law, VELS University of Science and Technology, Chennai

Article information

Received: 17th April 2024

Received in revised form: 27th May 2024

Accepted: 15th June 2024

Available online: 21st August 2024

Volume: 1

Issue: 1

DOI: <https://doi.org/10.5281/zenodo.13986668>

Abstract

According to WHO reports, the COVID-19 pandemic, which initially came to light in December 2019, left the entire world in an unprecedented state of crisis and lingering unpredictability. It resulted in numerous deaths, a generalized economic downturn, unemployment, quarantines, an inevitable lockdown, and a travel ban that was put in place internationally as a necessary measure to combat the pandemic. India was among the first nations to impose the lockdown on a trial to control the COVID-19 pandemic, but the attempt was unsuccessful, and the country soon joined the list of those most adversely affected by many pandemics. This work aims to examine the deficiencies in the Indian ministry's lockdown plans to have a look into the errors made by the government that led to the failure of the lockdown of India and further subjected the country's migrant labor force to intolerable hardships. The manuscript clears that there are serious violations of the essential and economic privileges granted to domestic migrant workers along with other laborers under labor regulations as well as the Indian constitution during on COVID lockdown period and that the state's actions during the COVID lockdown period. During the lockdown made the situation of the migrant workers worse. To move toward a labor-management architecture that can respond to an intersection of challenges that comes from informal communities, mobility, and social marginalization experienced by rural-urban migrants, it addresses fundamental tensions and deadlocks in the labor reform process. This will enable equitable and open growth in cities.

Keywords: - Migrant Laborers, COVID-19 Pandemic, Unavoidable Lockdown, Labor Reforms Process, Urban Growth, Government, Marginalization, Migrant Workers, Economic Depression, Mobility and Social Innumerable Deaths, Unemployment, Quarantine.

"I started contacting groups that opposed child labor and asked how I might be of assistance. They said that a child couldn't make a difference, so I resolved to disprove their assertions and launch a campaign to empower young people to oppose child labor"

Craig Kielburger —

I. INTRODUCTION

Human Initial strategy for combating poverty is migration, which is a major area of study in social science. However, the migratory processes of industrialized and developing nations have diverged significantly. Whereas migration in industrialized countries is more driven by attraction factors like economic growth, safety, freedom, etc., migration in India is more driven by push ones like perviousness, unemployed people, regional injustices, family motion, marriage, and natural calamities. The volume of migration within a particular territory varies with the amount of variety in the locations included in that territory, diversity of people, difficulty of interfering barriers, and fluctuation and checks in the economy. Migration and regional inequality are tightly linked.

The global epidemic of COVID-19 and the ensuing nationwide clampdown that began on March 25, 2020, brought India's migrant workers' precarity in urban areas to the forefront of public attention and generated widespread empathy for this otherwise undocumented and marginalized staff. During the period of lockdown, migrant laborers were unable to obtain necessities due to their lack of employment or pay. In reaction, the Ministry of Home Affairs, or MHA, released an advisory

on the 20th of March asking businesses not to fire staff members, mainly those who were hired on a regular contract, and a circular on March 29th demanding that businesses pay all employees during the lockdown. It recognized the socio-economic importance of protecting workers' rights and earnings the evident recognition that access to employment and income is a necessary condition for the existence of workers and their homes.

1.1 International Labor Law and Human Rights

The main development of the 20th century is the principle of universal human rights. People are not separated each other based on their country or place of residence by fundamental human rights. A foreigner (migrant) cannot be denied local consideration or protection because of or from anybody, in Locke's opinion. The governing body is not allowed to challenge fundamental rights, even when doing so is necessary to further the public interest because they include anti-utilitarian overtones.

Lockdowns and travel restrictions were implemented by authorities worldwide in tune to the pandemic as a necessary measure to halt its spread. However, the lockout disrupted everyday events, particularly for the working class, who found themselves in a dire financial situation.

The ones who suffered the most from the partial government shutdown were the daily wagers. In addition to being unemployed as a product of the lockdown, they were also irritated as their daily earnings, which allowed them to survive, had stopped.

Furthermore, the general public experienced particularly severe mental strain as a result of the COVID-19 breakdown. The migrants were affected severely and negatively impacted by these crisis circumstances; they were forced to relocate throughout the nation in quest of employment to support their families. Almost 100 million people are working as internal migrants in India; most of them are in the form of daily wage workers who have left their home states and mainly from Uttar Pradesh, Bihar, Jharkhand state Odisha, the state of West Bengal, etc. to find menial or semi-skilled employment elsewhere.

Investigating, comprehending, and analyzing the struggles that migrants face is essential to lessening their suffering. Thorough examinations of the research on circular migration and its psychological effects in the Indian context are required to raise public awareness and recommend new policies that may be implemented to protect migrant rights.

1.2 India's Migrant Workers' Rights

India migrates with every migrant, as increased mobility is essential to preserve the nation's heterogeneous customs. Millions of people every year migrate inside and between India, but in this process, something human is sacrificed. On the other hand, India's labor and migrant rights are covered by several laws and constitutional clauses. For example, the Indian constitution's Article 14 which states Equality before Law, demonstrates the basic freedoms that are available to migrants. Article 21 guarantees safeguarding life and personal liberty as Article 21 A also ensures mandatory and free education as a fundamental right to all children in the 6–14 age groups; Article 23 prevents all instances of trafficking and labor servitude; Article 24 forbids child labor and makes it illegal to employ a child below 14 in a manufacturing plant, mine, or any other dangerous work; Article 15 forbids discrimination against citizens by the state; Article 16 provides the right to equal opportunities for work under a state; Article 19(1)(c) permits the right to make connection and unions; The Indian Constitution's Article 38(1) commands the State and its authorities to work toward promoting the wellness and development of the people by guaranteeing and upholding their rights.

Even if Article 43 of our Constitution is unenforceable, State is nevertheless obligated to live by its guiding principles. In certain Indian states, a large number of migrants are employed as front-line workers for the government; nonetheless, their circumstances are similarly unimproved. According to accounts, in certain locations during the period of lockdown, both state and local authorities said they were unable to pay the salaries of frontline workers, which prompted healthcare workers, nurses, and other staff members to organize a protest and go on strike. Because of the lack of the required Personal Protective Equipment (PPE) kit, the frontline soldiers in numerous locations objected and even quit.

Not only did the State and Municipal authorities receive complaints over unpaid salaries, but numerous public sector firms under the purview of the central government also stopped paying their employees' salaries during the Corona Economic Crisis. For instance, the national airline of India, Air India, suggested a wage reduction of between 3.5 and 60% and requested that most of the workers take Leaving Without Wage (LWP) for a duration of six months to five years.

II. LITERATURE REVIEW

(Irudaya Rajan, S., 2020) The COVID-19 pandemic's effects on migration are investigated in this essay. Countries throughout the world were unprepared for the pandemic's quick spread, which led to widespread shutdowns that restricted travel, business, and social interactions. The pandemic that struck India caused a serious "crisis of mobility," with migrant workers in several of the country's largest cities attempting to return to their hometowns. The template is used to format your paper and style the text. All margins, column widths, line spaces, and text fonts are prescribed; please do not alter them. You may note peculiarities. The measurement and others are deliberate, using specifications that anticipate your paper as one part of the entire proceedings, and not as an independent document. Please do not revise any of the current designations.

(Khanna, A. 2020) A few of the most significant topics surrounding the impact of pandemics such as COVID-19 on the migratory population were covered in this article. Low-income households are mainly concerned with these effects because they lack social security, are less equipped to handle wage losses during a recession, and have no other sources of income. The majority of these laborers barely make subsistence wages and lack other options to safeguard their income if their employment is lost. A sizable component of this disadvantaged population is made up of migrant laborers.

(Van Doorn, N., Ferrari, F., 2023) most of the of structured labor in the metropolitan gig economy worldwide is performed by migrants, only less studies were conducted on the effect and bond between labor migration and the gig economy.

Two of the research works which span six distinct towns on each of the four continents, have shown us how platform work affects migrant workers' structural vulnerabilities. This brings us to two conclusions that ought to re-evaluate the goals of gig economy research. First, we contend that platform labor gives migrants much-needed chances to accelerate their financial situation while also concurrently degrading working conditions.

(Siddiqui, A. A., 2024) Both the sending and receiving governments benefit both economically and developmentally from international labor mobility. But migrant women workers in particular encounter numerous challenges at various stages of their journey. They experience discriminatory treatment when working in the destination state, and they come across exploitative tactics throughout the recruitment procedure in the origin states

2.1 Objectives of the study

- Examining the national and international laws, regulations, and treaties that now regulate migrant workers' labor rights in India.
- Determining the main obstacles to migrant workers' access to their rights, such as exploitation, ignorance, and prejudice

2.2 The Scope of the Study

Given the intricacy and depth of the subject, research on the migrant workers and their labor rights in India may have a rather extensive scope. Below is a summary of some possible areas to think about:

- **Legal Framework:** Start by looking at India's current legal system regarding immigration and labor rights. Constitutional clauses, labor legislation, and laws specifically relating to migrant employees, such as the State-to-state Migrant Workers (The Regulation of Work and Conditions of Service) Act, 1979, will come under this category.
- **Migration Patterns:** Examine the migration trends and patterns that exist inside India. This could entail comprehending the reasons of migration, such as social, economic, or employment-related variables, and the role of states or regions from which migrants mostly originate and depart.
- **Working Conditions:** Examine the working circumstances of migrant laborers in a variety of industries, including manufacturing, construction, agricultural, and domestic work.
- **Vulnerabilities and Challenges:** Examine the vulnerabilities and difficulties encountered by migrant workers, such as social isolation, language obstacles, discrimination, exploitation, and the missing of access to legal remedies.
- **Social Protection Mechanisms:** Evaluate the efficacy of current migrant workers social protection programs, mainly the Building Contractors and Other Construction-related Workers (Regulation of Employment and Terms of Service) Act, 1996, and also Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

You can contribute to the conversation on bettering the living conditions for migrant workers around India and give a thorough grasp of the labor rights challenges these workers confront by addressing these areas outside the parameters of your study.

III.METHODOLOGY

Researching about migrant laborers rights, laborers in India necessitates an all-encompassing approach that comes in connection with the different facets of their working environments, legal structures, socioeconomic variables, and obstacles they encounter.

3.1 An Evaluation of India's Lockdown Tactics

The way the government treats migrants reflects ethics and morals of our Country. Most significant migration crisis India has seen since the country's 1947 division resulted from the government's abrupt and impromptu lockdown, which is justified by blaming the COVID-19 pandemic. The following factors contributed to India's lockdown's failure:

- **Sudden lockdown:** The Indian government imposed a lockdown with only four hours' warning. In a democracy, it's a sought-after and surprising phenomenon. The general public does not provide with any cause for concern by any of this. On January 30, 2020, the first reported COVID case was recorded in Indians. By mid-March, the total amount of cases continued to rise.
- **Forsaking stranded migrants and workers:** The government's failure to provide migrant laborers with substantial assistance during the lockdown left them in a position of despair, which was their second mistake. In India, the main reason people migrate is to survive, and the main causes of migration is poverty. As a result, the migrant workers' supplies ran out shortly after the lockdown was implemented, as was to be expected.
- **Apathy towards migrants ambulating home:** without proper public transportation, the migrants chose to return to their place of residence by foot, bicycle, auto-rickshaw, hitchhiking, or by any other means possible, frequently with an empty or partially filled stomach. Several people passed away while walking, while others perished in car crashes, starvation, and even one suicide.
- **Convoluting convey policy:** On April 29, 2020, the federal government ordered the migrants to come back home via buses and trains under strong pressure from all over the sides and, likely realizing that the war against the coronavirus would take a while. The Indian government committed the mistake of deciding to operate special trains called Shramik (Labor) Special Trains among the various states.
- **Charging exorbitant fares from destitute workers:** The Central Government made another callous and misguided preference when it decided to charge those who were stranded migrant laborers on Shramik (Labor) Special Trains. The government said that the running costs of the Special Train would be shared by the Centre and the states in an 85–15 % formula, or a 17:3 ratio when it chose to start separate trains for migrant laborers.

- Exploitative amendments in labor laws: Following the implementation of the nationwide shutdown on March 25, 2020, the Indian government began to permit the return to normal of certain economic activities in low-risk zones on April 20, 2020.

Nevertheless, due to the widespread reversal of migrant laborers, the status of business activity remained low. The epidemic made it easier for employers and the government to violate labor laws and take advantage of employees.

An important societal issue is the fear that migrants have of losing their jobs, homes, and money. Because they can act impartially in cases of labor complaints or exploitation about a worker's capacity to continue being employed, ministries can also assist in these areas. Assisting the migrants in creating cooperative groups and societies will also help maintain the standard of living for those who have returned to their birth countries. Since the insalubrious living conditions that migrants currently endure provide a home for numerous diseases, special attention must be paid to the accommodation options for migrants to effectively handle their health issues.

Government programs like the Aatma Nirbhar Bharat Abhiyaan must be executed successfully. Additionally, charities and relief groups should be encouraged to raise funds for the development of fairly affordable housing that immigrants might subsequently rent at minimum prices. Those individuals who cannot accommodate these modest minimum-rental dwellings, the aid centres have to keep them open for a longer period and provide improved amenities.

IV. CONCLUSION

Drawing from existing research articles, the essay seeks to assess the economic, social, as well as health conditions of the migrants throughout the COVID-19 epidemic. In India, migration is typically viewed detrimentally, and migrants often face barriers to obtaining fundamental necessities like ration cards and healthcare. The unexpected lockdown enforced by the Indian government under the disaster management legislation of 2005 exacerbated the already-present language, social to cultural, regulatory, legal, and day-to-day issues that faced the migrants. There is a unique opportunity to reconsider India's labor reformation approach in light of the Covid-19 epidemic and the lockdown-related migration crisis. However, the opportunity has been hampered by the legislative reactions of both national and regional governments to the disintegration of the labor protection framework, which has strengthened the distinction drawn between economic expansion and labor rights. This has made it possible for an economic model that depends on abusing weak migrant workers and denying them access to even the most basic labor norms to continue. States and enterprises treated them like a helpless neighbourhood when it came to growing their economy, yet they entirely abandoned individuals when a disaster struck.

REFERENCES

- Bhagat, R. B., Reshmi, R. S., Sahoo, H., Roy, A. K., & Govil, D. (2020). The COVID-19, migration and livelihood in India. *A Background Paper for Policy Makers, IIPS Analytical Series on COVID, 19*, No.13054.
- Dutta, Prabhash. (2020, June 10). Covid spill over: Firms shifting from China to Vietnam has a lesson for India. *India Today*.
- Ghosh, P. (2019). In search of a better workplace: A report on blue-collar workers in India. *People Matters*.
- Henssler, J., Brandt, L., & Müller, M. (2019). Migration and schizophrenia: Meta-analysis and explanatory framework. *European Archives of Psychiatry and Clinical Neuroscience*, 1–11.
- Irudaya Rajan, S., Sivakumar, P., & Srinivasan, A. (2020). The COVID-19 pandemic and internal labor migration in India: A 'crisis of mobility'. *The Indian Journal of Labor Economics*, 63(4), 1021–1039.
- Khanna, A. (2020). Impact of migration of labor force due to global COVID-19 pandemic concerning India. *Journal of Health Management*, 22(2), 181–191.
- Mishra, A., & Sayeed, N. (2020). Covid-19 and migrant workers: Clinical psychologists' viewpoints. In L. S. S. Manickam (Ed.), *COVID-19 pandemic: Challenges and responses of psychologists from India* (pp. 43–56). The Editor, Thiruvananthapuram.
- Negi, C. (2020). Human rights violations of migrant workers in India during COVID-19. *SSRN Publications*.
- Shahare, B. (2020). Covid-19 lockdown and fate of migrant laborers in Delhi. *Journal of Advanced Research in Humanities and Social Sciences*, 7(1), 9–13.
- Shastri, P. (2020). A migrant worker has a nervous breakdown in Ahmedabad. *The Times of India*.
- Siddiqui, A. A., & Mansoor, F. Z. (2024). The protection of human rights of women migrant workers under the international legal framework. *Journal of Development and Social Sciences*, 5(1), 159–166.
- Tandon, R. (2020). COVID-19 and mental health: Preserving humanity, maintaining sanity, and promoting health. *Asian Journal of Psychiatry*, 51, 102256.
- Van Doorn, N., Ferrari, F., & Graham, M. (2023). Migration and migrant labor in the gig economy: An intervention. *Work, Employment and Society*, 37(4), 1099–1111