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**AEGIS OF INTER-STATE MIGRANT LABOURS- A CRITICAL
STUDY**

- *Avatar Chaubey

Abstract

There are migrant labourers everywhere since migration occurs regularly. The behaviour of human migration is influenced by a number of variables, such as demographic considerations, economic factors, political factors, and so forth. There are many distinct types of migratory labourers, including interstate, intrastate, international, and so on. At the national level, it is crucial to concentrate on migratory workers who travel inside and between states. When the states and the centre announced a state-wide lock down at the end of March due to the COVID-19 pandemic outbreak, interstate migrant workers in India suffered greatly. The Inter-State Migrant Workmen (Regulation of Employment and Terms of Service) Act passed in 1979, is a crucial piece of legislation that controls interstate migrant workers in India. Since social security programmes provide information on socioeconomic status at work, national and international instruments are actually concerned with these employees. Apart from those instances where employees lack socioeconomic support, the government has a duty to protect the lives of interstate migrant workers and their families. Due to their economic needs and other circumstances in India, the majority of migrant workers are illiterate, underprivileged, vulnerable, and displaced individuals, making the increase of migrant employment unavoidable. The interstate migrant workers in India require social security support programmes that are more than enough.

Keywords: Social Security, Inter-State Migrant, Migration Policies, Inter-State Mobility, Labour Migration

* Assistant Professor, School of Law, Sangam University, Bhilwara (Rajasthan)

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Introduction

The act of one or more persons changing their place of residence by crossing the border of a predefined geographic unit is a common definition of migration. All parties participating in the modern society remain silent about workers and their rights, particularly the right to a liveable wage. The notion of migrant workers emerged in the 20th century, and workers are frequently employed in both organised and unorganised sectors.

In India, there are 56 million interstate migrants, 40 million of them reside in cities, according to the 2011 Census. 34 million of these individuals labour in the unorganised sector. About 79% of the migrants in India are employed as day labourers in industries or on construction sites. Bihar and Uttar Pradesh are the states with the most immigrants, followed by Rajasthan and Madhya Pradesh. The most migrants are drawn to the cities of Mumbai and Delhi. Women relocate because of marriage, but the majority of males do so for job. Even if the national government of India has created a unique statute for interstate migrant workers, the social security system would be more than adequate.

More employees will be at danger of losing their eligibility for social security as migrant workers take on an increasingly significant role in models of greater economic integration. In addition to ensuring that migrant workers receive equitable treatment under social security, it is crucial to maintain their entitlement to social security in order to cover previously unprotected populations. The state and federal governments declared lockdowns in response to the COVID-19 Pandemic, which cost migrant workers their jobs and severely forced many to return to their home areas. Almost 400 million employees in India's informal economy, which employs nearly 90% of the country's workforce, are at danger of experiencing worsening poverty as a result of the crisis.

Inter-State Migrant Worker: A Constitutional and Legal Perspective in India

According to Article 41 of the Directive Principles of State Policy of the Indian Constitution, the state is required to make effective provisions for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness, and disability, as well as in other cases of irrational need, within the confines of its economic capacity and development. According to Article 47 of the Constitution, the state must prioritise bettering

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citizens' access to food and housing. The Equal Remuneration Act of 1976 does not perfectly implement the equal pay for equal labour concept when setting compensation rates for male and female seasonal migrant workers employed on a contract basis. The majority of migrant labourers are uneducated, uneducated, and come from socially and economically disadvantaged groups such as restricted castes and tribes.

Many rights, such as the right to equality, workplace security, living wage and a decent standard of living, the security programme, health, to form an association, freedom, diverse cultural and educational environment, etc., have been noted as not being known by migrant workers. As migrant labourers in India, there are numerous employees in unorganised industries. Unorganized employees typically have issues with unemployment and a lack of social security. According to ILO estimates, 150 million people are totally jobless. Many more are compelled to work part-time or sometimes, engage in low-productivity self-employment, or engage in various types of unemployment in order to make ends meet.

The Inter-State Migrant Workmen (Regulation and Condition of Service) Act, 1979 was created to safeguard migrant workers in India whose services are required outside of their home states. The law permits a corporation to recruit additional qualified individuals who are accessible outside the state when it discovers a skills gap among the locally available personnel. In accordance with the Act of 1979, employers are required to perform a number of tasks, including registering the information of migrant workers with the appropriate authority, keeping records of interstate workers, and making sure that authorities in the states in question are informed in the event of an employment injury or fatal accident as well as informing the kin of the deceased directly. Regarding the issue of migrant workers, the Chief Labour Commissioner of India plays a crucial role. He is responsible for maintaining the migrant workers' state-by-state data, which has been uploaded and saved digitally in this day and age.¹It is urgently necessary to enact a governance system for internal migration in India that is a focused and dedicated system of institutions, legal framework, mechanisms, and practises aimed to support internal migration and protect their rights because the Act is outdated and there are hotspots for migrant worker rights.

Precedents as to Inter-State Migrant Workers

¹*Is the Inter-State Migrant Workmen Act 1979, a dead letter?*, Observe Research Foundation (Feb. 02, 2023; 06:09PM), <https://www.orfonline.org/expert-speak/inter-state-migrant-workmen-act-1979-dead-letter-64979/>

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In the judgment of *Bandhua Mukti Morcha vs. Union of India*,² The issue was whether or not workers engaged in stone quarries and stone crushers were covered by the inter-state migratory labourers Act. The Supreme Court emphasised that even though thekedars or jamadars send word through old hands to hire workers for stone quarries and stone crushers, those workers would still be interstate migrant workers because the old hands are acting as thekedars or jamadars' agents and fall under the definition of contractors under Section 2(1)(b) of the Act. The Supreme Court stated in its delivering of the aforementioned ruling that the Inter-State Migrant Workmen Act is a social welfare statute established to carry out the DPSP. Therefore, in order to avoid the problem and progress the solution, it must be given a broad and inclusive meaning.

In the case of *Francis Coralie Mullin vs. Administrator, Union Territory of Delhi*,³ according to the Court, the fundamental human right to live in dignity is included under Article 21. This right extends beyond the mere enjoyment of life and the use of any ability or limb through which the soul interacts with the outside world.

In light of the expanded scope of Article 21, in the judgment of *People's Union for Democratic Rights vs. Union of India*⁴, According to the Supreme Court, the Inter-State Migrant Laborers (Regulation of Employment and Terms of Service) Act, 1979 was created as a social welfare statute with the main goal of ensuring that the workers have at least a minimal sense of human dignity. If the contractors deny the workmen these rights and benefits provided under the Act, Article 2 will apply.

Conclusion

The majority of migrant labourers are uneducated, uninformed, and come from socially and economically disadvantaged groups such as scheduled castes and tribes. The rights of migrant workers, including the rights to equality, work, secure job, decent wage and an acceptable standard of life, the security system, etc., are unknown to them. In India, migrant labourers are typically found in the unorganised sector. Due to the COVID-19 pandemic crisis, which resulted from the outbreak, the government declared a lockdown, leaving thousands of migrant labourers residing in the city jobless. The fact that there was little to no guarantee

² MANU/SC/0051/1983

³ MANU/SC/0517/1981

⁴ MANU/SC/0038/1982

that they would have access to basics like food and water in the state or district where they were employed only served to make matters worse. Even though the government has given these employees enough assistance, they do not have any plans to stay in that condition and instead attempt to travel on foot on the way to their home towns.

In India, interstate migrant labour has been crucial to the growth and development of the nation. They are essential for India's growth and play a critical part in the country's economic output. However, migrant workers still frequently experience a lack of social protection, subpar housing and working circumstances, and exploitation in the form of unequal pay and insufficient access to legal employment. These problems must be resolved in order for migrant workers to have simple access to basic healthcare, education, and other necessities. Additionally, establishing laws that ease labourer access to job opportunities and promote worker mobility can aid in preventing exploitation and ensuring better working conditions. In turn, this will guarantee the general welfare of migrant workers and the country as a whole.

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