VOLUME 5 | ISSUE 4

INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

GAPS IN LEGAL PROTECTION FOR INTER-STATE MIGRANT WORKERS IN INDIA: A BUNDELKHAND PERSPECTIVE

- Avatar Chaubey[1] & Dr. Omprakash Somkunwar[2]

ABSTRACT

Inter-state migrant workers in India, despite their vital contribution to the economy, remain among the most vulnerable and under-protected sections of society. This research paper critically analyses the legal protections available to such workers, identifies the systemic and operational gaps, and proposes region-specific recommendations. The Bundelkhand region, known for its economic underdevelopment and high rates of out-migration, is examined in depth to understand the realities of migrant workers originating from this area. The paper argues that addressing these gaps requires a multifaceted and justice-oriented approach that considers regional disparities, the failure of legal enforcement, and the inadequacy of social protection mechanisms.

KEYWORDS

Inter-State Migrant Workers, Labour Law Enforcement, Migration and Development, Informal Sector Employment, Bundelkhand Migration, Legal Protection Gaps, Occupational Safety, Social Security for Migrants.

INTRODUCTION

The phenomenon of migration in India is both complex and compelling. It is driven not merely by economic aspirations but often by distress and compulsion, especially in regions marked by

[1] Research Scholar, School of Legal Studies, Sangam University, Bhilwara, Rajasthan
[2] Associate Professor, School of Legal Studies, Sangam University, Bhilwara, Rajasthan
For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

https://www.ijalr.in/

ecological fragility, poverty, and lack of infrastructure. One such region is Bundelkhand, comprising parts of Uttar Pradesh and Madhya Pradesh.[3] The endemic poverty, frequent droughts, and lack of livelihood opportunities have made Bundelkhand a hub of seasonal and long-term out-migration. Migrants from this region often travel to urban centres like Delhi, Mumbai, Ahmedabad, and Ludhiana, taking up employment in the informal sectors, construction, brick kilns, hospitality, and small-scale manufacturing.

Despite their mobility and economic contribution, inter-state migrant workers face serious legal, social, and economic vulnerabilities. They are often outside the ambit of formal employment contracts, deprived of basic entitlements such as minimum wages, social security, health benefits, and access to housing and education for their children. Legal frameworks intended to safeguard their rights have either become obsolete or remain poorly enforced. This paper aims to explore the deficiencies in these legal structures through the lens of Bundelkhand-origin migrant workers.

MIGRATION PROFILE OF BUNDELKHAND

Bundelkhand is characterised by chronic underdevelopment. The region suffers from agrarian distress, inadequate irrigation, and recurring droughts. These factors force a significant proportion of the population, especially able-bodied men, to migrate to distant states in search of work. Migration here is not just seasonal but often long-term, and in many cases, entire families migrate, leaving behind elderly relatives and school-aged children. The informal and unregulated nature of their employment exposes them to hazardous working conditions, wage theft, and exploitation. The socio-economic profile of migrants from Bundelkhand typically includes low literacy levels, absence of vocational skills, and lack of awareness about legal rights.[4]

CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

India's constitutional vision guarantees fundamental rights that should, in theory, protect inter-state migrant workers. Article 14 guarantees equality before the law; Article 15 prohibits

[3] Jean Drèze & Amartya Sen, *An Uncertain Glory: India and Its Contradictions* (Princeton Univ. Press 2013).
[4] Jan Breman, *Footloose Labour: Working in India's Informal Economy* (Cambridge Univ. Press 1996).

discrimination on various grounds including place of birth; Article 19(1)(d) and (e) grant the right to move freely and reside in any part of the country; and Article 21 ensures the right to life and livelihood. Moreover, the Directive Principles of State Policy (Articles 38, 39, 41, and 43) promote socio-economic justice, right to work, and humane working conditions.[5]

In terms of statutory protection, several legislations have been enacted. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 is the most significant. It mandates registration of contractors, provision of displacement and journey allowances, and assurance of wages and working conditions comparable to local workers. However, the Act applies only to establishments employing five or more inter-state migrants through a contractor, making its applicability limited. Moreover, enforcement has been negligible.

The Unorganised Workers' Social Security Act, 2008 aimed to provide social welfare schemes to unorganised workers, including migrants, but lacked a strong enforcement mechanism. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 also applies to a large section of migrants, but the rate of worker registration remains abysmally low. The new Code on Occupational Safety, Health and Working Conditions, 2020 consolidates previous laws including the 1979 Act, but it has also diluted some welfare provisions and raised the threshold of applicability.[6]

Recent initiatives like the e-SHRAM portal (2021) aim to create a national database for unorganised workers. While well-intentioned, the portal suffers from limited outreach, technical issues, and poor linkage to welfare schemes such as health insurance, ration cards, and legal aid.

CRITICAL GAPS IN LEGAL PROTECTION

[5] Ravi Srivastava, *Labour Migration in India: Recent Trends, Patterns and Policy Issues*, 50(9) Indian J. Labour Econ. 223 (2007).

[6] K.P. Kannan & Jan Breman, *The Long Road to Social Security: Assessing the Implementation of National Social Security Initiatives for the Working Poor in India* (Oxford Univ. Press 2013).

One of the most significant issues is the enforcement deficit. Labour laws protecting migrant workers are rarely implemented effectively. Labour departments in both source and destination states are understaffed and lack proper monitoring mechanisms. There is also an acute lack of coordination between states. Migrant workers are frequently employed through informal channels without any contracts, rendering statutory protections meaningless. The role of contractors, often unregistered and unscrupulous, further complicates the enforcement of labour rights.[7]

The non-portability of welfare benefits remains another serious issue. Migrants lose access to subsidised food, healthcare, and educational benefits once they move out of their home state. Although the One Nation One Ration Card (ONORC) scheme has been rolled out, technical glitches, language barriers, and lack of awareness impede its effective implementation. The absence of identity documentation in destination states further isolates migrant workers from the social welfare net.

Women migrant workers suffer from compounded vulnerabilities. They are often engaged in domestic work or low-paid manufacturing jobs with no access to maternity benefits, childcare facilities, or legal redress against sexual harassment. Their issues are rarely addressed in labour policies or legal frameworks.

Jurisdictional ambiguity is another area of concern. When a migrant worker is injured, exploited, or dies, it is often unclear whether the state of origin or destination is responsible for investigation, compensation, and legal redress. This leads to a denial of justice, especially in cases of workplace fatalities or bonded labour.[8]

BUNDELKHAND: STRUCTURAL PUSH FACTORS AND REGIONAL NEGLECT

Bundelkhand's high rate of migration is not incidental but symptomatic of deeper structural issues. The region faces acute water scarcity, poor soil fertility, and minimal industrial

[7] Nitya Rao, *Migrant Women Workers and the Politics of Rights*, 54(6) Econ. & Pol. Wkly. 23 (2019).
[8] Nandita Sharma, *Home Economics: Nationalism and the Making of 'Migrant Workers' in Canada* (Univ. of Toronto Press 2006).

development. Government employment schemes like MGNREGA are either underutilised or poorly implemented. Vocational training centres are sparse, and skill development programmes have not penetrated remote villages. This lack of regional development reinforces the cycle of distress migration, with workers entering exploitative labour markets without any bargaining power.[9]

COVID-19 AND THE MIGRANT CRISIS: A LEGAL WAKE-UP CALL

The COVID-19 lockdown in 2020 exposed the precarious lives of migrant workers. Hundreds of thousands of them, including many from Bundelkhand, were forced to return to their native villages on foot, facing hunger, exhaustion, and even death. The crisis revealed the absence of any real-time data on migrant workers, inadequate healthcare provisions, and a complete lack of income support mechanisms. Government responses were reactive, with most relief efforts lacking coordination and legal grounding. While the crisis did push the government to launch the e-SHRAM portal and accelerate ONORC, the reforms were not sufficient to address the structural problems.

JUDICIAL INTERVENTIONS AND THEIR LIMITS

The Indian judiciary has attempted to intervene in matters concerning migrant labour. In Bandhua Mukti Morcha v. Union of India (1984),[10] the Supreme Court recognised the rights of bonded labourers and reinforced the state's duty to uphold fundamental rights. In National Campaign Committee for Central Legislation on Construction Labour v. Union of India (2018),[11] the Court directed the effective implementation of welfare boards under the BOCW Act. However, judicial pronouncements have not translated into robust field-level changes, especially in rural hinterlands like Bundelkhand. Implementation remains inconsistent and sporadic.

RECOMMENDATIONS

[9] S. Irudaya Rajan, *India Migration Report 2020: Vulnerable Groups* (Routledge India 2020).
[10] (1984) 3 S.C.C. 161.
[11] (2018) S.C.C. OnLine SC 1117.

There is a pressing need to reframe migrant worker legislation in a rights-based, inclusive, and enforceable manner. The Inter-State Migrant Workmen Act must be revitalised with stricter registration protocols, better penalties for non-compliance, and improved coverage. States must enter into formal Memorandums of Understanding (MoUs) to facilitate data-sharing and coordination.[12]

Welfare schemes must be made portable and linked with Aadhaar and e-SHRAM databases. Legal aid clinics and grievance redressal mechanisms should be established in both source and destination areas. Civil society instigation must be empowered to assist in awareness campaigns and litigation support.

Most importantly, regional development initiatives in Bundelkhand should focus on creating local employment, enhancing agricultural resilience, improving irrigation, and expanding vocational training. Without addressing these root causes, migration will remain a compulsion rather than a choice.

CONCLUSION

The plight of inter-state migrant workers from Bundelkhand encapsulates the failures of India's legal and policy frameworks to uphold the dignity of labour. Despite the constitutional promise of equality and justice, these workers remain legally invisible and socially marginalised. Bridging the gap between law and reality requires a multipronged strategy rooted in regional equity, legal reform, administrative accountability, and social justice. Only then can we hope to transform migration from a tale of distress into a narrative of empowerment.

REFERENCES

1. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
2. Code on Occupational Safety, Health and Working Conditions, 2020

[12] K.C. Sivaramakrishnan, *Governance of Megacities: Fractured Thinking*, Fragmented Setup (Oxford Univ. Press 2011).

3. Unorganised Workers' Social Security Act, 2008
4. Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
5. Supreme Court Judgments: Bandhua Mukti Morcha v. Union of India (1984); National Campaign Committee v. Union of India (2018)
6. Ministry of Housing and Urban Affairs, Report of the Working Group on Migration (2017)
7. Census of India; NSSO Surveys on Migration
8. PRS Legislative Research: Labour Codes Summary
9. Economic and Political Weekly; Indian Journal of Labour Economics
10. e-SHRAM Portal and related Government Reports
11. Jean Drèze & Amartya Sen, *An Uncertain Glory: India and Its Contradictions* (Princeton Univ. Press 2013).
12. Jan Breman, *Footloose Labour: Working in India's Informal Economy* (Cambridge Univ. Press 1996).
13. Ravi Srivastava, *Labour Migration in India: Recent Trends, Patterns and Policy Issues*, 50(9) Indian J. Labour Econ. 223 (2007).
14. K.P. Kannan & Jan Breman, *The Long Road to Social Security: Assessing the Implementation of National Social Security Initiatives for the Working Poor in India* (Oxford Univ. Press 2013).
15. Nitya Rao, *Migrant Women Workers and the Politics of Rights*, 54(6) Econ. & Pol. Wkly. 23 (2019).
16. Nandita Sharma, *Home Economics: Nationalism and the Making of 'Migrant Workers' in Canada* (Univ. of Toronto Press 2006).
17. S. Irudaya Rajan, *India Migration Report 2020: Vulnerable Groups* (Routledge India 2020).
18. K.C. Sivaramakrishnan, *Governance of Megacities: Fractured Thinking*, Fragmented Setup (Oxford Univ. Press 2011).