

CHAPTER 3

The Human Rights of Interstate Migrant Workers in India: A Study of the Current Legal Regime

Sini John and Geethanjaly Surjith



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CHAPTER 3

The Human Rights of Interstate Migrant Workers in India: A Study of the Current Legal Regime

DR. SINI JOHN* AND GEETHANJALY SURJITH**

The systemic vulnerability of interstate migrant workers in India represents one of the most pressing human rights challenges within the nation's informal economy. Despite the foundational constitutional guarantees of equality (Article 14) and the right to life with dignity (Article 21), a significant portion of this demographic remains relegated to the margins of legal protection, routinely subjected to wage theft, occupational hazards, and systemic exclusion from social security networks. This doctrinal study critically examines the existing legal regime governing interstate migrant labour in India, evaluating its efficacy in safeguarding fundamental human rights. By tracing the legislative trajectory from the structural limitations of the Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, to the consolidation under the Occupational Safety, Health and Working Conditions (OSH) Code, 2020, the research assesses whether the modern statutory framework resolves historical enforcement failures or merely perpetuates existing vulnerabilities. The analysis specifically scrutinizes the operational realities of welfare boards, the legal friction surrounding registration requirements, and the profound access-to-justice barriers that migrant labourers face when seeking constitutional remedies. Furthermore, the study highlights the gap between legislative intent and grassroots execution, demonstrating how jurisdictional ambiguities and the transient nature of migrant work effectively dilute statutory protections. Ultimately, this paper concludes that an equitable legal framework demands more than statutory consolidation; it requires robust, accessible grievance redressal mechanisms and a fundamental shift towards rights-based enforcement to ensure that India's economic growth does not occur at the expense of its most marginalized workforce.

Keywords: Interstate Migrant Workers, Constitutional Remedies, OSH Code 2020, Labor Rights, Access to Justice

1 INTRODUCTION

Interstate migrant workers constitute one of the most vulnerable segments of India's informal economy. Driven by persistent agrarian distress, regional economic disparities, and localized unemployment, laborers from states such as Bihar, Jharkhand, Odisha, Uttar

* Associate Professor at Christ Academy Institute of Law, Bengaluru, Karnataka, India.

** Student at Christ Academy Institute of Law, Bengaluru, Karnataka, India.

Pradesh, and West Bengal migrate to urban industrial centers in search of livelihood. Predominantly employed in construction, manufacturing, domestic work, and sanitation, these workers operate within unregulated, informal frameworks. Despite driving urban infrastructure and economic growth, interstate migrant workers face systemic wage exploitation, lack of social security, and widespread exclusion from state welfare mechanisms.

The human rights situation in India has become increasingly serious because of the unsafe work and living situations which migrant workers experience when they travel between states. The migrant labor force faces multiple challenges which include wage theft and dangerous work conditions and substandard housing and their inability to receive medical treatment and social security benefits. The July 2025 Malappuram Kerala incident demonstrated that migrant workers continue to face dangerous situations when three interstate migrant laborers died after they cleaned a poultry waste treatment tank without proper safety gear because of toxic gas exposure.¹ The incidents show that the employers break not only statutory labor requirements but also the workers' constitutional rights to life and dignity which Article 21 of the Constitution of India protects.² The enduring situation of exploitation shows how the actual labor governance system in India operates differently from what lawmakers intended to achieve through their labor laws.

The Indian Constitution establishes fundamental legal protections which safeguard workers' rights and their basic human dignity. Article 14 grants all people equal legal rights whereas Article 19(1)(d) allows individuals to move freely throughout India.³ The Supreme Court has interpreted Article 21 to establish three rights, which include the right to work and decent employment conditions and a respectable standard of life.⁴ The State must create fair and decent work environments according to the Directive Principles of State Policy, which require implementation through Articles 39 and 41 and 42 and 43 of the Constitution.⁵ Parliament passed the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 to execute constitutional obligations which required the establishment of minimum employee welfare standards and the control of hiring procedures used to recruit migrant workers.⁶ The legislation faced major implementation challenges because of two factors which included weak enforcement and administrative inefficiencies

¹ *India: Three Migrant Workers Die from Exposure to Toxic Gas at Malappuram Poultry Waste Treatment Plant amid Alleged Safety Violations*, BUSINESS & HUMAN RIGHTS RESOURCE CENTRE (July 2025), <https://www.business-humanrights.org/fr/derni%C3%A8res-actualit%C3%A9s/india-three-migrant-workers-die-from-exposure-to-toxic-gas-at-malappuram-poultry-waste-treatment-plant-amid-alleged-safety-violation/>.

² INDIA CONST. art. 21.

³ *Id.* arts. 14, 19(1)(d).

⁴ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 SCC 545.

⁵ INDIA CONST. arts. 39, 41, 42, 43.

⁶ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

while informal work systems, thus remaining unregulated, restricted the legislation's effectiveness.

The Occupational Safety, Health and Working Conditions Code, 2020 established a major transformation of India's labour law system through its unification of multiple existing labour laws which included the Inter-State Migrant Workmen Act of 1979.⁷ The new labour codes which the government established to improve compliance processes and update labour regulations face ongoing doubts about their effectiveness in solving historical problems which have impacted interstate migrant workers. This research paper studies human rights aspects that affect interstate migrant workers through an analysis of India's constitutional system and the statutory safeguards which the 1979 Act provides and the new labour code reforms which have been implemented. The study demonstrates how migrant workers continue to encounter obstacles which prevent them from obtaining justice and welfare benefits while showing that effective protection needs a rights-based system to enforce laws instead of depending on basic legal framework development.

2 CONSTITUTIONAL AND HUMAN RIGHTS FRAMEWORK FOR INTERSTATE MIGRANT WORKERS

The Indian Constitution establishes a complete legal system which secures the rights of interstate migrant workers through the constitutional equality and liberty and dignity rights protected in Part III and Part IV of the Constitution. Article 14 establishes legal equality and equal protection rights for all people which stops employers from treating migrant workers differently based on their regional background and economic standing.⁸ Interstate migrant workers who hold citizenship rights to equal constitutional protection face widespread discrimination which prevents them from accessing work opportunities and housing and healthcare services and welfare benefits in their new states of residence. Citizens of India have the right to move anywhere within the country according to Article 19(1)(d) while Article 19(1)(e) protects their right to choose their permanent residence in any part of India.⁹ These legal provisions treat internal migration as a constitutional right which mandates the State to protect migrant workers from facing discrimination when they search for work across state lines.

The Constitution protects interstate migrant workers through Article 21 which grants them the fundamental right to life and personal freedom. The judicial system expanded Article 21 which guaranteed physical existence to include rights that protect human dignity

⁷ Occupational Safety, Health and Working Conditions Code, 2020.

⁸ INDIA CONST. art. 14.

⁹ *Id.* art. 19(1)(d), (e).

as well as rights to sustainable employment and safe housing and medical treatment and acceptable work environments.¹⁰ The Supreme Court established that human dignity rights arise from Directive Principles of State Policy which protect people from exploitation and unsafe work conditions.¹¹ The Court determined that employers who fail to pay their construction workers minimum wage rates commit forced labor because the Constitution's Article 23 includes this prohibition.¹² The judicial rulings show that exploitative work conditions which affect migrant workers constitute both statutory violations and constitutional violations which damage their fundamental human rights.

The State Policy Directive Principles create an additional constitutional obligation which requires the government to protect workers' rights and maintain social equality. The State must provide citizens with sufficient resources to support their basic needs while protecting them from all forms of worker exploitation according to Article 39.¹³ The State must provide workers with just working conditions and maternity benefits according to Article 42 whereas Article 43 requires the State to provide workers with a living wage that guarantees them a decent life.¹⁴ The Directive Principles remain non-justiciable yet they have served as a continuous basis for courts to interpret labor rights and welfare laws. The Supreme Court has established that socio-economic justice constitutes a fundamental aspect of constitutional law which specifically protects interstate migrant workers who belong to vulnerable and marginalized labor communities.¹⁵

International human rights standards establish mandatory obligations which India must fulfill according to its constitutional framework for labor protection and migrant welfare. India is a founding member of the International Labour Organization (ILO) and has ratified several conventions concerning forced labour, equal remuneration, and discrimination in employment.¹⁶ International human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognize the rights to just conditions of work, social security, and an adequate standard of living.¹⁷ The State must fulfill its constitutional duties together with its international commitments because economic progress must not jeopardize the dignity and safety and core rights of migrant workers. The ongoing exploitation and exclusion that interstate migrant

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

¹² *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.

¹³ INDIA CONST. arts. 39, 41.

¹⁴ *Id.* arts. 42, 43.

¹⁵ *Consumer Educ. & Rsch. Ctr. v. Union of India*, (1995) 3 SCC 42.

¹⁶ Int'l Labour Org., *India and the ILO*, <https://www.ilo.org>.

¹⁷ International Covenant on Economic, Social and Cultural Rights arts. 6–7, Dec. 16, 1966, 993 U.N.T.S. 3.

workers experience demonstrates how constitutional protections fail to provide them with actual benefits.

3 EVALUATION OF THE INTER-STATE MIGRANT WORKMEN ACT, 1979 AND THE NEW LABOUR CODES

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 established rules for the hiring and employment of migrant workers who move between states.¹⁸ The law emerged as a direct response to employers who used *Dadan* labor systems to exploit workers in Odisha by hiring them through middlemen and forcing them into debt bondage while paying them extremely low wages and subjecting them to dangerous work environments.¹⁹ The Act required companies that hired international migrant workers to register their businesses while companies that needed inter-state recruiting services had to obtain contractor licenses.²⁰ The law required employers to provide their workers with equal pay and specific payments for work-related travel and medical treatment and accommodations and safe work conditions that protect their health.²¹ The law created essential protections for migrant workers who face heightened risks because of their specific work conditions.

The 1979 Act had progressive legal frameworks but its implementation failed because enforcement programs were weak and migrant workers used informal labor systems. Most migrant workers continued to be recruited through unregistered contractors, leaving them outside the protection of statutory safeguards.²² Employers frequently failed to provide proper accommodation, health facilities, safety equipment, or social security benefits, particularly in high-risk sectors such as construction and sanitation work. The absence of proper insurance coverage and workplace safety standards has repeatedly exposed migrant labourers to fatal accidents and occupational hazards. The vulnerability of interstate migrant workers in India has increased through incidents of mob violence and social discrimination. Beyond statutory defaults, interstate migrant workers frequently face social marginalization and xenophobic backlash in destination states. High-profile local crimes often catalyze generalized suspicion against migrant populations, leading to incidents of vigilante violence, social exclusion, and extra-legal harassment. These instances underscore the acute lack of social security and institutional protection afforded to migrant laborers, directly undermining their constitutional guarantees of equality and human dignity under Articles 14 and 21.

¹⁸ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, pmbi.

¹⁹ S.K. CHAUBE, *THE MAKING AND WORKING OF LABOUR LAWS IN INDIA* 214–16 (1990).

²⁰ Inter-State Migrant Workmen Act §§ 4–9.

²¹ *Id.* §§ 13–18.

²² JAN BREMAN, *AT WORK IN THE INFORMAL ECONOMY OF INDIA* 112–15 (2013).

The Occupational Safety, Health and Working Conditions Code, 2020 combined thirteen labor laws including the Inter-State Migrant Workmen Act of 1979 to create simpler labor regulations which organizations would find easier to follow.²³ The Code expanded the definition of interstate migrant workers to include self-employed migrants and introduced provisions for portability of benefits, database registration and journey allowance.²⁴ The new regime raises concerns about its capability to preserve current protections because people believe it will operate as a threat to existing safeguards.²⁵ The 1979 Act protected establishments which employed five or more interstate migrant workers while the OSH Code established a new threshold of ten or more workers which will exclude many migrant laborers from receiving legal protections.²⁶ The critics of the system claim that it depends too much on self-registration and digital compliance systems which will make it harder for workers without literacy skills and proper documents and technological access to participate.

The labour codes aim to modernize India's labour governance system through their implementation which requires proper execution at local sites for successful results. The shift from welfare-based regulations to compliance-oriented systems will decrease the ability to hold employers and contractors accountable. Migrant workers face dangerous work environments because they do not receive regular pay and work without insurance and have no way to report their problems. The ongoing occurrence of deadly worksite accidents with abusive hiring methods together with public violence shows that only passing new laws will not provide real protection for migrant workers. Essential rights-based approaches require active enforcement of labor inspections together with accessible social security systems to establish actual worker rights through statutory provisions.

4 CONTEMPORARY CHALLENGES AND ACCESS TO JUSTICE FOR INTERSTATE MIGRANT WORKERS

Interstate migrant workers in India experience extreme wage exploitation and unsafe working conditions because labour welfare legislation fails to protect their rights. Many migrant labourers are employed through informal contractual arrangements where employers frequently withhold wages, delay payments, or pay below statutory minimum wages.²⁷ Workers in construction and sanitation and mining and factory jobs must work in dangerous conditions because their employers fail to provide necessary safety equipment and medical

²³ Occupational Safety, Health and Working Conditions Code, 2020.

²⁴ *Id.* §§ 2(zm), 21, 60.

²⁵ *Id.* § 1(4).

²⁶ Aditi Haldar & Anjan Chakrabarti, *Labour Codes and Informalisation of Work in India*, 56 *ECON. & POL. WKLY.* 45, 48–49 (2021).

²⁷ JAN BREMAN, *FOOTLOOSE LABOUR: WORKING IN INDIA'S INFORMAL ECONOMY* 89–92 (1996).

support and insurance benefits. Fatal workplace accidents involving migrant workers remain common due to poor compliance with occupational safety standards. The absence of written contracts and formal employment records further weakens the ability of workers to seek compensation or legal remedies against exploitative employers and contractors.²⁸

Interstate migrant workers face their biggest obstacle because social security and welfare programs do not provide benefits that can be used across different states. Migrant workers frequently lose access to ration benefits, healthcare services, housing assistance, and welfare entitlements when they move from their home states to destination states.²⁹ The “One Nation One Ration Card” scheme was developed to enhance food security benefit distribution; however, implementation gaps together with documentation requirements continue to make it difficult for many workers to access these benefits.³⁰ The informal and temporary nature of migrant employment prevents workers from receiving provident fund benefits together with insurance coverage and maternity leave. Women migrant workers experience multiple additional vulnerabilities which include wage discrimination together with unsafe housing conditions and workplace harassment and trafficking risks and insufficient maternal healthcare services.³¹ The unorganized employment system makes female migrant laborers who work in domestic work and brick kilns and construction sectors invisible to labour regulation systems.

The COVID-19 pandemic showed all the structural problems which exist in India’s system for managing migrant workers. The nationwide lockdown which started in March 2020 left millions of interstate migrant workers stranded without access to employment and food and transportation and shelter.³² The humanitarian crisis led to mass reverse migration as workers moved back to their home villages through unsafe foot journeys which covered hundreds of kilometres. Multiple reports showed how people died because of starvation and exhaustion and road accidents and treatment refusal during the lockdown period.³³ The crisis showed two problems because of missing databases for migrant workers and the failure of states to work together and existing labor laws which lacked emergency social protection systems. The State uses judicial intervention during the pandemic to show its duty

²⁸ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, §§ 13–18.

²⁹ Ravi Srivastava, *Internal Migration in India: Integrating Migration with Development and Urbanization Policies* 14–16 (UNESCO 2020).

³⁰ Ministry of Consumer Aff., Food & Pub. Distrib., *One Nation One Ration Card Plan*, GOV’T OF INDIA, <https://dfpd.gov.in>.

³¹ KUNTALA LAHIRI-DUTT & GOPA SAMANTA, *DANCING WITH THE RIVER: PEOPLE AND LIFE ON THE CHARS OF SOUTH ASIA* 167–69 (2013).

³² Alakh N. Sharma, *Impact of COVID-19 on India’s Migrant Workers*, 55 *ECON. & POL. WKLY.* 18, 19–21 (2020).

³³ Rukmini S., *Tracking the Human Cost of India’s Lockdown*, SCROLL.IN (May 2020), <https://scroll.in>.

under Article 21 to protect migrant workers' rights which include their right to life and their right to dignity.³⁴

The ability of interstate migrant workers in India to access justice services stands as their most considerable obstacle. Workers do not understand their legal rights and the grievance mechanisms established by labour laws.³⁵ Migrant workers face multiple obstacles which prevent them from seeking help at labour authorities and courts. Access to justice remains a fundamental hurdle for interstate migrant workers. Entrenched informational asymmetry prevents laborers from navigating statutory grievance redressal mechanisms or asserting their legal rights. Moreover, state enforcement mechanisms remain severely constrained by institutional understaffing, administrative delays, and inadequate labor inspection regimes. When legal disputes arise, the absence of written employment contracts and the transient nature of informal work enable employers to evade accountability, rendering statutory guarantees largely ineffective.³⁶ Workers face legal barriers because their work contracts remain undocumented and their employers vanish once disputes emerge. Interstate migrant workers face systemic barriers which prevent them from accessing their rights as mandated by constitutional and statutory protections within the Indian justice system.

5 RECOMMENDATIONS FOR STRENGTHENING THE PROTECTION OF INTER-STATE MIGRANT WORKERS

5.1 Strengthening Labour Law Enforcement

- Labour inspection mechanisms under central and state governments must be strengthened through regular workplace inspections, particularly in sectors which depend heavily on migrant workers like construction and sanitation and mining and manufacturing.³⁷
- Employers and contractors who breach wage and occupational safety and accommodation regulations should face strict penalties.
- Authorities should enforce safety requirements and protective equipment standards and workplace insurance regulations which apply to migrant workers.

³⁴ *In re Problems & Miseries of Migrant Labourers*, Suo Motu Writ Petition (C) No. 6 of 2020.

³⁵ Asha Hans, *Labour Migration and Human Rights in India*, 47 INDIAN J. LAB. ECON. 113, 118–20 (2004).

³⁶ INT'L LABOUR ORG., INDIA WAGE REPORT: WAGE POLICIES FOR DECENT WORK AND INCLUSIVE GROWTH 62–64 (2018).

³⁷ Occupational Safety, Health and Working Conditions Code, 2020, §§ 35–38.

5.2 Creation of a Comprehensive Migrant Worker Database

- The government should establish a centralized national database for interstate migrant workers to facilitate identification and welfare distribution and legal protection.
- The Occupational Safety, Health and Working Conditions Code, 2020 registration systems should be simplified to enable users to access registration through online and offline methods.³⁸
- Multilingual registration centres and assistance mechanisms should be introduced to ensure inclusion of illiterate and technologically disadvantaged workers.

5.3 Ensuring Portability of Social Security Benefits

- People need to maintain their welfare benefits which include ration entitlements and healthcare access and insurance and pensions and maternity benefits across different states.
- The “One Nation One Ration Card” program requires full implementation together with expansion to cover additional welfare benefits.³⁹
- Social security benefits should extend to both informal and temporary migrant workers who have no fixed employment contracts.

5.4 Gender-Sensitive Protection Measures

- Special safeguards must be introduced for women migrant workers against workplace harassment, trafficking, wage discrimination, and unsafe living conditions.
- Employers must establish secure housing arrangements that include sanitation facilities and maternity leave and medical services for their female migrant workers.⁴⁰
- Labour welfare policies should incorporate gender-sensitive monitoring and complaint mechanisms.

5.5 Improving Access to Justice and Legal Awareness

- States need to create migrant worker grievance resolution centers and multilingual legal support centers at both their source locations and their destination locations.
- Dispute resolution systems need to be developed as fast-track procedures which will handle cases involving wage theft and workplace injuries and labor exploitation.⁴¹

³⁸ *Id.* §§ 21, 60.

³⁹ Ministry of Consumer Aff., Food & Pub. Distrib., *One Nation One Ration Card Plan*, GOV^T OF INDIA, <https://dfpd.gov.in>.

⁴⁰ INDIA CONST. art. 42.

⁴¹ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, § 22.

- Trade unions and civil society organizations together with local authorities should run educational programs which will teach migrant workers about their rights under both the Constitution and existing laws.

5.6 Strengthening Interstate Coordination and Policy Implementation

- States need to improve their coordination with one another because they need to track both recruitment procedures and their distribution of worker benefits.
- States need to implement systems which will handle two tasks: they need to track migrant worker information and they need to work together on resolving labor disputes and providing emergency support.
- The implementation of labor welfare regulations and programs needs to undergo assessment through both periodic audits and social accountability programs.

5.7 Adopting a Rights-Based Labour Governance Framework

- The primary objective of labour reforms should be to establish human dignity and equality rights together with social justice principles which should not be implemented through business operation and compliance evaluation methods.
- Interstate migrant workers must be recognized as rights-bearing citizens entitled to safe working conditions, fair wages, healthcare access, and social security under Articles 14 and 21 of the Constitution.⁴²
- The rights-based approach needs to establish effective enforcement mechanisms together with welfare accessibility programs so economic growth will not harm vulnerable migrant labour communities.

6 CONCLUSION

The interstate migrant workforce in India exists as a highly vulnerable group which faces extreme social exclusion despite their crucial role in driving economic development and urban expansion throughout the nation. The Constitution provides equal rights and personal dignity together with freedom of movement through Articles 14, 19 and 21 yet migrant workers experience different realities which show they face exploitation and dangerous working environments and unstable pay and social bias and loss of access to government benefits.⁴³ The Inter-State Migrant Workmen Act of 1979 introduced a major legal framework for managing migrant workforce activities while protecting employee rights

⁴² INDIA CONST. arts. 14, 21.

⁴³ *Id.* arts. 14, 19, 21.

yet its implementation faced challenges because of weak enforcement and administrative shortcomings and the prevalent use of informal workforce systems. The statutory protections which should protect migrant laborers prove to be ineffective because of the various incidents that demonstrate workplace deaths and the lack of safety equipment and the attacks against these workers.

The Occupational Safety, Health and Working Conditions Code, 2020 establishes a unified set of labour regulations which aims to update India's labour management system, but implementation defects and protection reductions still create implementation problems. The COVID-19 migrant crisis further exposed the structural weaknesses of the existing system and highlighted the urgent need for a rights-based approach to labour governance grounded in social justice and human dignity.⁴⁴ The protection of rights requires both legislative changes and operational enforcement systems which include complaint resolution mechanisms, benefit transfer options and improved coordination between states. The State must maintain dignity for workers while protecting their rights because the treatment of interstate migrant workers involves both labour regulations and constitutional human rights obligations.

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⁴⁴ *In re* Problems & Miseries of Migrant Labourers, Suo Motu Writ Petition (C) No. 6 of 2020.