

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Legislations Relating to Inter-State Migrant Labourers

ARCHITHA ASHOK¹

ABSTRACT

This article discusses the legislations implemented for the protection of Inter State migrant workers. It briefs the rights of the Inter State migrant workers, the duties imposed on the contractor employing them and also about the conditions of Inter State migrant labourers.

Keywords: *contractors, migrant workers, wages, protection.*

I. INTRODUCTION

It has been discovered that migration-related profits are primarily used on "consumption," such as social events, food, clothing, and religious pilgrimages. However, this downplays their importance in enhancing family nutrition and lowering the need to borrow money for necessities. The migration-related profits are being put into small businesses, agriculture, education, health care, and housing all of which enhance household well-being, which has been demonstrated by the recent data.

The poor Inter State immigrants are most often employed in dangerous jobs, where there is exposure to dangerous chemicals, long hours of work and unsanitary working conditions. Other chemical industries, stone crushing, brick manufacturing, steel utensil production, and loading pose particular risks. Migrant Workers are vulnerable to infectious disease because of their extremely poor, crowded, and unsanitary living conditions (migrants are graded as a high-risk category by the National Aids Control Organisation). They frequently deal with rejectionary procedures that keep them from climbing the corporate ladder and learning new skills.

(A) A brief historical overview of the laws governing migrant workers

The two significant aspects that have a significant impact on the issue of migrant workers: on a global scale, when the need for labour outstripped, Arab States' capacity to supply it, and South Asian employees taking jobs and paid pay that Arab employees refused. Adding on to it, due to income inequality and significant poverty, interstate migratory workers took positions and incomes in States, other than their home states. The Mines Act of 1952, The Employees' State Insurance Act of 1948, the Plantation Labour Act of 1951, and the Factories Act of 1948 all

¹ Author is a student at Sastra Deemed to be University, India.

expanded the definition of a worker, thereby making contract labour non-essential. The decision-makers have been pursuing a variety of actions to provide piecemeal relief to contract labour, and the judiciary discouraged the practise of using contract labour, since the Commission submitted the report.

II. ²LAWS RELATING TO INTER-STATE MIGRANT WORKERS

The "Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979," which relates to migrant workers in India, was approved by both houses of Parliament and received the assent of President of India on June 11, 1979. This Act allows contractors and establishments to use the on-site services of out-of-state workers to address a state's temporary need for skilled workers. As the primary employers would have to incur additional costs when deploying interstate workers, the act's goal is not to encourage worker migration over state lines against the interests of local workers.

(A) Meaning of inter-state migrant labourers under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

A person who is employed by or through a contractor in one State pursuant to an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment, is referred to as a "inter-State migrant workman" in section 2(1)(e) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

(B) The Indian Constitution gives workers certain rights

Article 15 states that the government should not treat its people unfairly.

Article 16 states that everyone has the same chances of getting a state job or position.

Article 43 states that workers should have the right to a reasonable wage and "working conditions that allow them to live a decent life."

Article 39(e) of the Constitution states that the State must come up with a strategy that doesn't hurt workers' strength and health

Article 21 states that everyone has the right to life which means that all migrant workers have the right to life, and States have to make sure that no migrant is denied this right for no reason.

(C) Workers' rights are the same as human rights

Article 22 of the Universal Declaration of Human Rights says that every person has the right to

² <https://www.medwinpublishers.com/JOBBD/JOBBD16000139.pdf>

social protection.

(D) The International Labour Organisation gives people their rights

India is one of the founding members of the International Labour Organisation (ILO). The Constitution requires ILO to support social security schemes and measures that give a basic income to everyone who needs protection. As per the Social Security Convention of 1952, social security systems offer nine types of benefits: family benefits, medical care, sickness and maternity, unemployment benefits, worker's compensation, disability and survivor's benefits, and benefits for the elderly.

(E)³ Workers' rights are protected by different laws

- The Employee's Compensation Act, 1923
- Payment of Wages Act, 1936
- Equal Remuneration Act, 1976
- Minimum Wage Act, 1948
- The unorganised workers 2008's Social Security Act

III. INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT OTHER IMPLIED RIGHTS

- No favouritism, equal rights has to be provided
- Protection against detention and arrest without a reason
- Protection from being treated badly or tortured
- Family privileges
- Social security is a right
- The right to move around
- Right to elementary school
- Right to enjoy culture with other people

(A) Applicability of this Act

THIS ACT APPLIES TO,

Every place of business that employs or has employed five or more Interstate migrant workers

³ A case of pott's disease under the occipital area (1970) *Journal of Orthopedics and Bone Disorders*. Available at: https://inis.iaea.org/search/search.aspx?orig_q=RN%3A50029341 (Accessed: 30 May 2023).

(whether or not in addition to other workers) on any day during the previous 12 months. Every contractor that employs or has employed five or more Interstate migrant workers (whether or not in addition to other workers) on any day during the previous 12 months.

(B)⁴Duties of Contractors employing inter-state migrant workers

EVERY CONTRACTOR USING INTERSTATE MIGRANT WORKERS SHALL HAVE THE RESPONSIBILITY TO:

The interstate migrant worker must provide the particulars in the prescribed form to the prescribed authority in the State from which they were recruited, within 15 days of employment. If there is any change in the particular, the change must be reported to the specified authorities of both the State.

To provide each such employee with a passbook that is attached with a passport-sized photo of the employee and has the following information in Hindi, English, as well as the employee's native tongue:

- The name and location of the business where the employee works
- how much the pay will be and how it would be paid, the duration of work.
- The suggested payment methods and wage rates
- The payment for the moving fee;
- The return fare that the worker has to pay at the end of his job and in other situations that may be mentioned in the contract.
- Deductions made, and any other information that may be asked for;
- To give the State where the interstate migrant worker is hired and the state where he stops working,
- Wages and other conditions of service of inter-state migrant workers: (section 13, 14, 15, 16)

(C)⁵THE WAGE RATES, HOLIDAY, HOURS OF WORK AND OTHER CONDITIONS OF SERVICE SHALL BE:

- The migrant workers must have same rights as other workers, if the interstate foreign

⁴ Jha, S. (2020) *Exodus of migrant workers' in India: Law, accountability and Blind Spots*, SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3688375 (Accessed: 30 May 2023).

⁵ *Chief labour commissioner (central)* (no date) *INTER-STATE MIGRANT WORKMEN* | Chief Labour Commissioner. Available at: <https://clc.gov.in/clc/acts-rules/inter-state-migrant-workmen> (Accessed: 30 May 2023).

worker works in a place where the same or similar work is done.

- In any other case, according to what the government says to do.
- The rules in the listed parts
- The person who moves from one State to another will be paid in cash.
- "Displacement Allowance" must be paid when the contractor hires an inter-state migrant worker, which is equal to 50% of the worker's monthly wages or Rs. 75, whichever is higher. This amount is not refundable and It is paid on top of the worker's wages and other payments and is non-refundable.
- The contractor must pay the inter-state migrant worker a "journey allowance" that is at least equal to the cost of getting from his home in one state to his place of work in another state and back again. The worker is also entitled to pay for the time he is travelling as if he were on duty.

It is the job of every contractor who hires an interstate migrant worker to do the following:

- Regular payment of wages to such worker must be ensured
- Ensuring equal pay for equal work irrespective of sex;
- To ensure suitable work conditions to such workers having regard to the fact that they are required to work in a State different from their own State;
- During the period of employment, the contractor must provide suitable residential accommodation to the workers;
- Medical facilities must be provided to the workers at free of cost;
- Protective clothing must be provided to the workers as prescribed;

IV. CONDITION OF MIGRANT LABORERS IN KERALA: (CASE STUDY: KERALA)

Workers from Assam, West Bengal, Bihar, Orissa, and the north-eastern states of India move to Kerala to work. Due to the low daily pay, poverty, debt and unemployment people left their home country. Farming is the main job of these migrant workers, but they end up working in the building industry. This makes them unskilled and unprofessional on the job site. They get paid more than they did in their home state, but not as much as daily workers in Kerala. Business owners of Kerala made a lot of money out of this. The foreign workers also send money home to their families, which leaves them with very little money and makes it hard for them to survive.

V. **MIGRANT WORKERS IN INDIA HAVE RIGHTS AT WORK AND HAVE TO FOLLOW CERTAIN RULES**

The idea of "**One Nation, One Yojana**" and other related ideas is too late for a country like India, where the rapid growth of the population has been a major concern. The Indian government and ruling or privileged classes don't think much about work in terms of citizenship. Voting is a fixed action, having the meaning that it loses its meaning for many people who move around looking for work. The employment of labour is connected with questions of labour by Urban Governance, and there are no ways for workers to have a voice in the day-to-day life of the city, its neighbourhoods, or residential places where workers live. When it comes to treating workers like citizens, the government structure is missing. In addition to the real framework of labour law, the ideas of work in the last few months were such that the middle class would have been expected to show solidarity with migrant workers during their hard times.

Taking too long for the National Investigation Agency to look into trafficking crimes in which young foreign workers are killed is against the best interests of the child. In this way, the Draught Bill is different from the Juvenile Justice (Care and Protection of Children) Act of 2015, which has provisions for child welfare panels, special juvenile police units, and child welfare police officers to make the system more child-friendly.

⁷Since 1979, the **Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act (ISMWA)** has been India's main work law for people who move between states. It tended to show worker-driven movement, in which, as a rule, enrollment fees are paid in advance. It didn't cover people from the same state and did not take into account the weak situations of these foreign workers, who may have left their homes alone because of trouble. The ISMWA gives the Bonded work System (Abolition) Act, 1976 (BLSAA) a good reason to stop the use of forced work in migration.

The BSLAA is well-known because it made it illegal for people to be held in slavery because of customary relationships and debt, as well as because of their appearance in landmark laws about agreement work and interstate migrants. It then talks about how people were made to work because they owed money or because of their caste. It includes repairs paid for by the central government, and the area authority or judge is in charge of making them happen. In the

⁶ *Temporary Labor Migration Programs: Governance, migrant worker rights, and recommendations for the U.N. Global Compact for migration* (no date) Economic Policy Institute. Available at: <https://www.epi.org/publication/temporary-labor-migration-programs-governance-migrant-worker-rights-and-recommendations-for-the-u-n-global-compact-for-migration/> (Accessed: 30 May 2023).

⁷ -, R.G. (2021) *Labour rights and standards of migrant workers*, *iPleaders*. Available at: <https://blog.ipleaders.in/labour-rights-and-standards-of-migrant-workers/> (Accessed: 30 May 2023).

Ninth Schedule, it was given a place in the law. In contrast to other labour laws, the rule against bonded work fit all of the most impressive managerial structures and assets right into it.

VI. CONCLUSION

The socio-legal study of Inter-State Migrant Workmen Legislation shows that ⁸industry has helped move society forward, but it also has problems that are built into it. This law was made to fight against poor migrant workers who leave their home state to go to a migrant state in search of a job that pays well. In addition to wages, the law gives protections to migrant workers, such as job stability, protection from exploitation by employers or contractors, safe working conditions, etc. All of this was about the rules in India that affect workers who come and go. What do you think about the rules in India that affect workers who come and go? Leave a comment below and tell us.

⁸ Peter, B., Sanghvi, S. and Narendran, V. (2020) *Inclusion of Interstate Migrant Workers in Kerala and lessons for India, The Indian journal of labour economics : the quarterly journal of the Indian Society of Labour Economics*. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7659401/> (Accessed: 30 May 2023).