

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 3**

---

**2021**

© 2021 *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 International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Pandemic & Migrant Workers: The Outbreak

---

FAIZ EHSAN<sup>1</sup>

## ABSTRACT

*Inter and intra-state migrations are linked to economic efforts. Because some states do not have enough jobs to generate, individuals migrate to earn a living. However, the issue emerged as a result of a pandemic. COVID-19 caused panic and turned into a tragedy in Indian history. The emergence of the covid 19 caused alarm among migrant workers and a psychological need for them to be with their family. They had to ponder whether they would be able to earn enough to eat because of the unexpected shutdown. Migrants without a job or money have no choice but to return to their homeland in order to survive in the host city. This resulted in a rush of migrants leaving their workplaces to return home across India. This was a problem for which India was unprepared. The state administration faces a difficulty in containing the pandemic COVID-19 and reviving the economy as soon as possible due to the epidemic's rising tendency and its extended duration.*

## I. INTRODUCTION

The Corona Virus Disease (Covid-19) outbreak has become a global issue. As of September 20, 2020, it had infected 34,166,631 persons in 213 nations and two international conveyances around the world, with 1,018,871 fatality cases (5.31 percent) reported. When we look at the Indian situation, we find that there are 381320 confirmed Corona cases, with 12605 deaths (3.31 percent). Because it is a contagious disease, and the virus's nature makes it likely to spread, it may have spread by the time I finish writing this post. Fears and suspicions about the sickness are circulating among the various populations. Due to the announcement of statewide lockdown from March 25 to May 31, 2020, it has not only produced health risks and economic recession, but it has also impacted the livelihoods of many groups of people. Migrant workers, in particular, are the worst victims, as they live without a safety net, as were looked nobodies' newborns. It is worth noting that migrant workers, who make up about 80% of the overall workforce, are viewed as invisible contributors to the national economy, but the government has yet to establish a transparent database or registration obligation for inter and intra-state

---

<sup>1</sup> Author is a Student at Amity University, Patna, India.

migrants. The federal and state governments took numerous initiatives, but many of them did not operate as planned, and the virus continues to spread across the population. As a result, it is past time to focus on migratory worker issues in the context of Covid-19.

Many of us were forced to measure in tension and distress as a result of the state's lockdown decision. Economic losses at the national, state, and individual levels are unavoidable as a result of this pandemic (COVID-19), which is posing a new challenge to food security. A considerable number of migrant workers and their families, including women and children, were forced to flee cities across the country as a result of the lockdown, which left them jobless and defenceless owing to a lack of social protection. Thousands of migrants were stranded around the country, with many having to walk hundreds of kilometres between towns and their homes.

Migration is the process by which humans evolve, learn, and adapt to situations and conditions that they would not have been aware of had they not left their home state or country. Intra and intermigration within a geographic area may be a continual activity. The term migration refers to a person's temporary or permanent transfer or shift from one location to another. It is derived from the Latin word *migratus*, which means "to change one's domicile."

When tracing the history of human civilization, from the prehistoric Paleolithic era to the Neolithic era, it is discovered that humans continued to move in search of food and lived a nomadic lifestyle. Humans began investigating choices to meet their requirements after settling down in a given territory, which prompted them to move from one area to another to meet the urge. Invasions and conquests throughout history have also documented migration. As a result, when geographers map migration in terms of time and space, social scientists examine the social and economic causes that drive mobility.

Human mobility in the post-economic liberalisation age is mostly driven by improved transportation and communication systems, as a lack of livelihood opportunities in the native area forces people to seek outward mobility in quest of their livelihood possibilities. People from a given area are often forced to migrate to surrounding districts or states as a result of development projects. During our investigation, we discovered that migration has four components: economic, social, technological, and environmental, all of which are interdependent between the sending and receiving areas.

Though migration is a by-product of the socio-cultural, economic, and political arenas, it is frequently seen in terms of economic progress because it is directly linked to the migrants' improved economic standing and influences the family's spending behaviour.

A migrant is someone who transfers from one administrative unit to another with the goal of settling down permanently in a different part of the country. Seasonal migrants, on the other hand, have unique characteristics because they migrate internally from rural to urban or industrial areas in quest of work, which is classified as labour migration. Rural people are forced to relocate to more developed areas because of economic poverty and a lack of appropriate economic opportunities or livelihood possibilities in their community.

In addition, for the youth mass, lack of interest in agriculture and investigating career opportunities in the industrial sector or trade centre that meet their aspirations are the main motivating causes for internal migration. Internal migrants make up around 37% of India's overall population, according to Census 2011, and the trend is increasing with each passing year. Inter-state, inter-district, and intra-district migration are all examples of short-term internal migration caused by unequal economic development. Internal migrants made up roughly 99 percent of migrants in both rural and urban areas, with 91 percent coming from rural areas.

Many migration studies are conducted, concentrating on push and pull variables as well as examining positive and negative aspects (Samal and Meher, 2012).

However, during the COVID-19 pandemic, difficulties of reverse migration extend beyond those reasons, necessitating an urgent need to consider migrants from a different perspective.

The Corona Virus epidemic and the government's subsequent lockdown decision as a preventive and protective measure have had a bigger impact on migrants' livelihoods as well as their socio-psychological state.

When India's honourable Prime Minister proclaimed statewide lockdown on March 24, 2020, migrants, who are primarily workers, hoped for a quick return to work. However, the announcement of the second phase lockdown on April 14, 2020, stunned them and compelled them to remain anxious. The majority of the migrants had already spent their money to cover their daily needs during the lean season at the time. For them, this was an unanticipated and unnatural disaster. They were forced to deal with the house owners' cruelty as well as a hungry stomach. Thousands of migrants attempted to return to their homeland due to unemployment, starvation, and a sense of insecurity. It was suggested that travel and other restrictions for migrant workers be removed in stages, with adequate registration and checks and balances in place.

Managing such a large influx of people during a health crisis presented a challenge for the state in terms of monitoring and screening, as well as quarantine facilities and employment security.

The difficulties were highlighted in a periphrastic approach in both print and electronic media. Different stakeholders' polemic views on migrant labour were also flowing from all corners of society. As a result, during a pandemic, inter-state migrants will return. COVID-19 is a circumstance that has been drawn up.

## **II. OVERVIEW OF COVID-19 IN INDIA**

The unique Corona virus disease was originally discovered in late December in Wuhan, China, and quickly spread throughout the world. Following that, on March 15, 2020, there were 26 confirmed cases in India. On Thursday, India confirmed its first positive case of the novel corona virus (COVID) in Kerala, with a student from Wuhan University who had travelled to India testing positive for the virus on January 30, 2020. The data suggests that, rather than lockdown and other preventive measures, the disease is rapidly spreading. After the influx of migrants who returned from Surat, Kerala, Tamil Nadu, Maharashtra, Andhra Pradesh, Telangana, and other states, the second phase of rapid rising trend of covid-19 infection cases began on May 6, 2020, and was followed by Kerala, Tamil Nadu, Maharashtra, Andhra Pradesh, Telangana, and other states. Due to the sudden lockdown announced by our honourable Prime Minister Narendra Modi, migrant workers began moving from one state to another. As a result, another cause for the rapid rise in COVID-19 cases in India is infection among return migrants, who have typically arrived in groups from high-corona contaminated countries such as China.

## **III. INFRASTRUCTURE TO HANDLE COVID-19 IN INDIA**

With the onset of COVID19, the Indian government faced a significant issue in accommodating COVID-affected people in the state, given the state's lack of health infrastructure. Prior to the COVID-19 epidemic, India had 739024 hospitals (including public and private) with only a limited number of beds. These hospitals were not equipped to care for COVID infected people because they required isolation. As a result, the state government built new COVID hospitals in all districts to house COVID confirmed individuals.

The state governments created a total of 35 COVID facilities, totaling 5547 beds and 342 ICUs.

## **IV. MIGRATION OF MIGRANTS: AN OVERVIEW**

Temporary migrants are typically from lower socioeconomic backgrounds and come from underdeveloped or underdeveloped parts of India. Their choice of place is also based on contacts with friends and relatives. Despite the fact that migration is a demographic component of society, its contribution to economic progress cannot be overlooked. Migrant remittances

aid in the economic advancement of the affected households. Aside from that, people's existing lifestyles and aspirations are key motivators for migration. Abraham Maslow's (1954) hierarchy of needs (psychological – safety – belongingness – esteem – self-actualization) applies for migration factor. When all of the earning opportunities in the community are closed or are insufficient to meet the people's fundamental needs, they see migration as a viable alternative source of income.

According to a commonly circulated estimate based on the 2011 census and NSSO (National Sample Survey Office) statistics, there are 65 million interstate migrants, with a third working in the informal sector. When the COVID19 outbreak took labourers' bread and butter, their continued survival in the host city became a doubt. Before declaring lockdown, the government had not considered its rehabilitative food security procedures. The dread of being infected, as well as the threat of starvation, prompted many to flee the working cities and opt for reverse migration. Thousands of migrants were trapped in various regions of the country as a result of the transport system's seizure, and some of them attempted to return home by walking or cycling.

The condition of the migrant worker encapsulates everything that is wrong with India today: egregious socioeconomic disparities, the loss of society's moral compass, political stalemate, and toxic media. When the lockdown was announced, the migrants began their frantic trip back home.

Photographs of migrants wandering on roads and railway tracks began to appear in newspapers on a daily basis. All of the television stations, as well as social media, focused on their desire to spend time with their family. It is clear from the situation that they were invisible to planners and politicians during the initial phase of lockdown. However, when they were without work, food, or a roof, they hurried to the railway stations and bus stops to return to their homeland, as they had no other option. Migrants are driven to return to their country during pandemics because they live in two worlds: urban insecure work and solid hometown.

## **V. STEPS TAKEN BY THE GOVERNMENT**

Excessive media coverage of the COVID-19 pandemic's fatalities wreaked havoc on migrant labourers. Because these employees were living far from home in big cities such as Delhi, Bombay, Surat, and others, where the risk of contracting COVID-19 was higher, as reported by the top national media, migrant labourers felt compelled to return home.

As a result, during the epidemic Covid19, the government was forced to take immediate action due to the frantic reverse migration of starving migrants on the rail tracks and highways of

"Shining India." They also urged that the government intervene and assist them in this matter. The Central Government has released the second tranche of the COVID -19 relief package, which includes a free ration of 5 kg of wheat or rice per person or 1 kg gramme per family per month for two months through state governments for migrants who do not have NFSA cards or state cards. It is expected to cost Rs. 3500 crore and will benefit 8 million migrants.

In addition, under the Pradhan Mantri Awas Yojana for migrant workers, additional financing of Rs.40000 Crore was granted for MGNREGS to absorb the return migrants' workforce, as well as rental lodging incentives to private manufacturing and industrial organisations to create affordable housing.

## **VI. JUDICIAL DECISIONS**

### **Indian Express Newspaper v State of West Bengal<sup>2</sup>**

In this case, the claimant was posted at the Calcutta office of Indian Express/Appellant and he was transferred to Bombay. He did not comply with the transfer order and subsequently, he did not join his services. A Show Cause was issued to him by the Appellant and a domestic inquiry was conducted and subsequently, his services were terminated.

An Industrial dispute was raised which was referred for adjudication by the Government of West Bengal/Respondent. The Appellant argued that the Reference was without jurisdiction since the appropriate government to refer the dispute was not the Government of West Bengal since the services of the claimant were transferred to Bombay.

The Labor Court held that the appropriate government was the government of West Bengal. Thus, aggrieved by the order the Appellant filed an appeal before the High Court of Calcutta. While hearing the appeal the High Court held that the situs of employment needs to be seen and it also needs to be kept in mind as to where the dispute arose. It was held that the order of transfer was made to Bombay and just because the order of termination was presented at Calcutta cannot give a cause of action to the state of West Bengal to refer the dispute for adjudication. The control over the employee does not matter solely but the last suits of employment is important before referring a dispute to the Industrial Tribunal.

### **Aral Govind Raja V. Ciba Geigy Of India Ltd.<sup>3</sup>**

In this case the Appellant was working as a stenographer and an accountant with the Respondent Company. He was later promoted as an assistant and subsequently his services

---

<sup>2</sup> (2005) ILLJ 333 Cal.

<sup>3</sup> (1985) 3 SCC 371.

were terminated. He filed a dispute and it was referred to the Labor Court for adjudication. The Labor Court dismissed the reference on the grounds that the claimant was not a workman since he was doing administrative and supervisory work along with clerical work and therefore, he was employed in an officer cadre.

The Supreme Court while hearing the appeal filed by the Appellant held that the appellant was indeed a workman as per the definition enshrined in Sec 2(s) of the Industrial Disputes Act, 1947. It was further held that person would not to be a workman if he is having certain supervisory duties.

The Supreme Court observed that while adjudication on such a question court has to keep in mind as to what are the primary and basic functions of the person. It has to be further observed as to what are the additional duties since the additional duties cannot change the nature and character of the employee. The Supreme Court held that the basic duties have to be considered first and the additional duties will have no bearing on the nature and character of the duties of a person.

#### **Excel Wear V. Union of India.<sup>4</sup>**

In this case, the relation between the Management/Appellant and its employees deteriorated severely. The workman working under the management became very aggressive and started indulging in unjustifiable or illegal strikes.

It became impossible for the petitioners to carry out the business and they duly applied to the Government/Respondent for the closure of the undertaking. The government refused to allow the closure of the undertaking. Aggrieved by the order passed by the Government/Respondent, the Appellant's challenged it.

It was held by the Supreme Court that the right to business is not the same to start or carry on a business; it would be not justified to place these two at the same footing. If a person does not start a business, then he cannot be compelled to begin it full stop that the right to close down a business is not an absolute one can be restricted and regulated by way of the law.

The constitutional validity of section 25 'O' of the Industrial Disputes Act, 1947 was scrutinized and it was found to be unconstitutional it did not require the Giving of reasons by the government for refusing close down a business it was held that it would not be practical to carry out business even when the employer cannot manage the same and it was not safe for him to do so. They cannot be put to risk at the cost of their life and property.

---

<sup>4</sup> AIR 1979 SC 25.



## **VII. WAY FORWARD**

Because migration incorporates economic difficulties, it is impossible to control. Migrants must register with their details at the panchayat level, which will aid the labour department and district administration in dealing with any unforeseen problems such as COVID-19. A pro-migrant policy and a strict procedure to assess the working conditions of migrants at regular intervals are required. Migrants should also be aware of their rights, obligations, and demands. Public Distribution Services (PDS) can be expanded by using e transactions using AADHAR cards and adopting one nation, one card.

Those who do not wish to return to their previous place of employment must be provided with employment possibilities. To accommodate the repatriated migrants, more MGNREGA working days should be included. Aside from recognising information and skills, skill development trainings must be established in order for them to be absorbed by local industries. Agri-allied operations, as well as related infrastructure development, should be pursued in tandem with agricultural-product storage and value addition. It is necessary to boost the public health system by providing better diagnostic services. The establishment of a district-level health strategy may be prioritized because the geophysical situation of one district differs from that of another, separate models must be developed for distinct districts.

\*\*\*\*\*