

LEGALFOXES LAW TIMES

IMPACT OF LOCKDOWN ON MIGRANT WORKERS IN INDIA

By Arindam Mishra and Shashank Agrawal

ABSTRACT

The nationwide lockdown to halt the spread of coronavirus, announced by the government of India under the leadership of PM Modi has left millions of migrant workers without a job or a source of income. The unprepared lockdown has resulted in a mass exodus of migrant workers creating an unprecedented livelihood dislocation. They don't have food and are hardly left with money to procure it forcing them to attempt for reverse migration towards their native place by any possible means. They are being mistreated on the way back home as well as also on reaching their native state. Despite the announcement of an economic stimulus package of \$22.6 billion and various other measures taken by the Central government as well as the State governments, the problem persists and remains unaddressed. The government measures have alleviated the sufferings of migrant workers but they proved to be insufficient and migrant workers remain distressed.

I. INTRODUCTION

Coronavirus disease (Covid-19) is a highly contagious respiratory disease which is caused by the novel coronavirus or SARS- CoV-2. Wuhan city in Hubei province of China was the first epicentre of the virus. The International Labour Organisation (ILO) in its report titled 'ILO Monitor 2nd Edition: COVID-19 and the world of work' has described the coronavirus pandemic as the worst global crisis since World War II. Since at this time, there are no approved treatments for this lethal infection so prevention becomes crucial. Due to the cases increasing at an alarming rate the Government of India has announced a 21-day lockdown on 24th March, 2020 limiting the movement of over a billion population. The Government of India has followed the advice given by medical professionals and experts throughout the world, measures such as social distancing and confinement like lockdown were the only possible remedies to contain the spread of the highly lethal and infectious disease. This proved to be a nightmare for millions of migrant workers who lost their livelihood. They were left with no work, food or money to survive which led them to migrate towards their hometown throughout the country. In this article, we will put insight into who are migrant workers and how they are affected. Then we will move forward to government measures taken in India for the plight of migrant workers. At last, we would put our concluding thoughts with some suggestions.



II. MIGRANT WORKERS: THE MOST AFFECTED CLASS?

A migrant worker is a person who goes from one place to another in search of work, usually on a seasonal and temporary basis. The Inter-State Migrant Workmen Act, 1979 defines an inter-state migrant workmen/ labour as “any person who is recruited by or through a contractor in any state under an agreement or other arrangement for employment in an establishment in another state, whether with or without the knowledge of the principal employer of such establishment.”¹ The nationwide lockdown to contain the spread of coronavirus has created a massive reverse migration with millions of migrant workers trying to get back to their homes with hardly any amount in their pocket with their families and children. But since the borders between states and even the cities were sealed, millions remained trapped.² On 14th April 2020, the Prime Minister in his address to the nation barely acknowledged the hardships faced by the migrant workers and they continue to be in financial, physical and emotional distress suffering from various social, psychological and emotional trauma.³ In his speech, he stated “*Kisi kokhanekipareshani, kisikoaanejanekipareshani, koi gharparivar se durhai*” (Some are finding it difficult to eat, some are finding it difficult to move around, some are finding it difficult to be away from their families) but as per the condition, the problems of the migrant workers have gone beyond the mere word *pareshani* as the PM has mentioned.⁴ They have also faced harassment and negative reactions from the police officials and the locals. As per the Indian Census, 2011⁵ India has over 400 million migrants out of which 139 million are internal migrants despite interstate migration making up a major source of income for the low-income household, still they remain vulnerable.⁶

“OUR MISSION YOUR SUCCESS”

¹Inter-State Migrant Workmen Act 1979, s (2)(1)(e).

²BhanupriyaRao, ‘COVID-19: Intra-State Migrants Marooned Too’ (*IndiaSpend*, 8 April 2020) <<https://www.indiaspend.com/covid-19-intra-state-migrants-marooned-too/>> accessed 25 April 2020.

³ShreehariPaliath, ‘Now is The Time To Show India Cares About Its Migrants’ (*IndiaSpend*, 15 April 2020) <<https://www.indiaspend.com/now-is-the-time-to-show-india-cares-about-its-migrants/>> accessed 25 April 2020.

⁴ ‘21 Days and Counting’ (SWAN, 15 April 2020) <https://covid19socialsecurity.files.wordpress.com/2020/04/swanreport_final.pdf> accessed 25 April 2020.

⁵ ‘D-2: Migrants classified by place of last residence, sex and duration of residence in place of enumeration - 2011’ (*Office of the Registrar General & Census Commissioner, India*, 30 March 2020) <<http://censusindia.gov.in/2011census/d-series/d-2.html>> accessed 25 April 2020.

⁶SiddharthSivaraman, ‘Is the Inter-State Workmen Act 1979, a dead letter?’ (*Observer Research Foundation*, 2 April 2020) <<https://www.orfonline.org/expert-speak/inter-state-migrant-workmen-act-1979-dead-letter-64979/>> accessed 25 April 2020.

As per a survey conducted by Jansahas (An NGO), 92.5% of workers lost one to three weeks of work.⁷ According to an affidavit filed by the government in the Hon'ble Supreme Court dated 12th April 2020, only around 14.3 lakh (1.43 million) inter-state migrants are kept in 37,978 relief camps and shelters.⁸ The sudden lockdown and the consequent closure of transportation created a chaotic situation, and the workers took the highways trying to walk hundreds of kilometres to reach their home.⁹ They are suffering from the dual burden of being poor and migrants. Also, this time of the year is the peak of Rabi season and crops are at a harvestable stage, which makes these workers panic more because they are needed back at their home to harvest the crop and secure their food for the coming year. Many migrant workers have lost their lives because of lack of shelter or food. They even could not take advantage of many government policies and measures because of the lack of identity and residential proofs.¹⁰ Not only this but migrant workers, who were on the way to their home, were ill-treated by the Government authorities and police officials. For instance, a group of migrants were sprayed with the chemical solution (chlorine mixed water) in Bareilly, Uttar Pradesh.¹¹ Around 3000 migrant workers assembled near Bandra railway station were responded with brutal lathi-charge when the lockdown was extended on 14th April 2020.¹² UN Human Rights Chief Michelle Bachelet has shown concern for migrant workers and has stated that the situation needs more attention by the

⁷ManaviKapur, 'In charts: India's migrant workers face anxiety over jobs, healthcare and food supplies' (*Scroll.in*, 8 April 2020) <<https://scroll.in/article/958471/in-charts-indias-migrant-workers-face-anxiety-over-jobs-healthcare-and-food-supplies>> accessed 26 April 2020.

⁸ 'COVID-19 situation: Nearly 38,000 relief camps set up for migrant labourers, Govt to SC' (*The Indian Express*, 27 April 2020) <<https://indianexpress.com/article/india/covid-19-situation-nearly-38000-relief-camps-set-up-for-migrant-labourers-govt-to-sc-6380652/>> accessed 27 April 2020.

⁹ Dinesh Narayan, 'Coronavirus would reset distances, labour markets: Experts' (*The Economic Times*, 4 April 2020) <<https://economictimes.indiatimes.com/news/economy/policy/coronavirus-would-reset-distances-labour-market-experts/articleshow/74965143.cms?from=mdr>> accessed 25 April 2020.

¹⁰ R B Bhagat, 'The Covid-19, Migration and Livelihood in India' (*IIPS Mumbai*, 14 April 2020) <https://iipsindia.ac.in/sites/default/files/migration-Livlihood_Coronavirus_Final_15thApril2020.pdf> accessed 26 April 2020.

¹¹ 'Coronavirus: Anger as migrants sprayed with disinfectant in India' (*BBC India*, 31 March 2020) <<https://www.bbc.com/news/world-asia-india-52093220>> accessed 26 April 2020.

¹²SukanyaShantha, "'Let us Go Home': No Sign of Relief in PM's Speech, Migrant Workers Take to Mumbai Streets' (*The wire*, 14 April 2020) <<https://thewire.in/labour/mumbai-bandra-migrant-covid-19>> accessed 26 April 2020.

Government of India.¹³ The Hon'ble Supreme Court of India has instructed the Government that the migrant workers should be treated humanely.¹⁴

III. GOVERNMENT MEASURES

The outbreak of coronavirus disease (COVID-19) and the subsequent nationwide lockdown to contain the spread of the virus has brought turmoil in the lives of many people. To mitigate the effect of the lockdown on the vulnerable people the Government of India provided the poor and the needy with Rs.1.7-Lakh crore (\$22.6 Bn) package under the PradhanMantriGareebKalyanYojana on 26th March 2020. The Government also planned to provide 5 kg rice/wheat and one kg of preferred pulses to 80 crore beneficiaries for the next three months. The government has increased per person wages in MGNREGA which means providing extra Rs.2000 to each migrant worker. The Labour ministry has directed the state governments to utilise the Building and Construction Welfare Fund of Rs.52,000crorestowards the welfare of around 3.5 construction workers through Direct Benefit Transfer (DBT).¹⁵The Reserve Bank of India has also announced a sharp cut of interest along with other measures to mitigate the negative impact of COVID-19 and preserve financial stability.¹⁶ The government of India has directed the regional labour commissioners to open temporary shelters and to address distress calls of migrant workers.¹⁷ The Ministry of Home Affairs (MHA) has asked all the

"OUR MISSION YOUR SUCCESS"

¹³ 'Covid-19: UN Human rights Chief Distressed over plight of Internal Migrants' (*Ohchr*, 2 April 2020) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25767&LangID=E>> accessed 25 April 2020.

¹⁴*AlakhAlokShrivastav v Union of India* [2020] WP 468 (SC).

¹⁵'Labour Ministry Issues Advisory to all States/UTs to use Cess fund for Welfare of Construction Workers' PRESS INFORMATION BUREAU (Mar 24 2020, 3:32 PM) <<https://pib.gov.in/PressReleasePage.aspx?PRID=1607911>> accessed 26 April 2020.

¹⁶ 'Seventh Bi-monthly Monetary Policy Statement, 2019-20 Resolution of the Monetary Policy Committee (MPC) Reserve Bank of India' (*RBI*, 27 March 2020) <https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=49581> accessed 26 April 2020.

¹⁷ 'Arrangements of temporary shelters/provision of food to be made by Regional Labour Commissioners' (*Covid-India.in*, 30 March 2020) <<https://covid-india.in/#>> accessed 26 April 2020.

landlords/landladies not to take any rent for the next three months¹⁸ and under the Disaster Management Act 2005, employers should make the payment of wages of their workers with no deduction for the closure.¹⁹ MHA has set up a control room to monitor and ensure the accessibility of essential commodities to anyone.²⁰

The Union Home secretary wrote to all states /UTs and advised them to make adequate arrangements for all the migrant workers stranded in their territories.²¹ The Bihar government transferred Rs.1000 each for 2,84,000 migrant workers as a relief package.²² It ordered the conversion of the existing schools into relief camps for returning migrants.²³ It also made a Rs.100 crore relief fund to construct shelter homes for migrants.²⁴ The West Bengal government has ensured wage payment of stranded migrant labours.²⁵ The Chhattisgarh Government has transferred Rs.19 lakhs (1.9 million) in accounts of approximately 65,000 migrant workers stranded in other states.²⁶ The Manipur Government disbursed an amount of Rs.2000 to each

¹⁸Sharad Vyas, 'Do not collect rent for three months, government tells landlords' (*The Hindu*, 18 April 2020) <<https://www.thehindu.com/news/states/do-not-collect-rent-for-three-months-govt-tells-landlords/article31371418.ece>> accessed 26 April 2020.

¹⁹ 'Have Set Up 37,978 Relief Camps For Migrant Workers' (*The Logical Indian*, 27 April 2020) <<https://thelogicalindian.com/news/migrant-workers-relief-camps-lockdown-covid-19-20790>> accessed 27 April 2020.

²⁰ 'DPIIT sets up a Control Room to monitor the status of transportation and delivery of goods, manufacturing, and delivery of essential commodities' PRESS INFORMATION BUREAU (Mar 26 2020, 10.24 AM) <<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1608240>> accessed 26 April 2020.

²¹ 'MHA Issues advisory to all states and UTs' PRESS INFORMATION BUREAU (Mar 27 2020, 3.16 PM) <<https://pib.gov.in/PressReleaseFramePage.aspx?PRID=1608518>> accessed 24 April 2020.

²² Utpal Bhaskar, 'Bihar transfers Rs.1000 each to 2,84,000 migrant workers' (*Livemint*, 8 April 2020) <<https://www.livemint.com/news/india/bihar-transfers-rs1-000-each-to-284-000-migrant-workers-11586340128376.html>> accessed 24 April 2020.

²³ 'Letter to convert existing schools in villages into relief camps' (*Covid-India.in*, 22 March 2020) <<https://covid-india.in/#>> accessed on 26 April 2020.

²⁴ '₹100 crore fund for relief, shelters and healthcare for stranded migrants. Helpline has also been set up' (*Covid-India.in*, 26 March 2020) <<https://covid-india.in/#>> accessed on 26 April 2020.

²⁵ 'Taking care of stranded workers' (*Covid-India.in*, 27 March 2020) <<https://covid-india.in/#>> accessed 26 April 2020.

²⁶ 'Chhattisgarh Moves out relief for its 65,000 labourers Stuck in Other states' (*Indian Express*, 19 April 2020) <<https://www.newindianexpress.com/nation/2020/apr/19/chhattisgarh-moves-on-relief-for-its-65000-labourers-stuck-in-other-states-2132264.html>> accessed 24 April 2020.

worker stranded in different parts of the country.²⁷ whereas the Jharkhand government has opened community kitchens in all police stations for migrant labourers.²⁸ On the other hand, the Karnataka Government brought back its 2000 workers stuck in Maharashtra.²⁹ The State Governments have also set up various relief camps within their territory.

The measures taken by the government may provide some relief to the migrants, but considering the huge numbers of migrant workers, the number of services seems insignificant and highly inadequate. The non-availability of food is the violation of the Fundamental Right to Life³⁰ by state. The CEO of NITI Aayog has said that the issue of migrant workers was handled poorly and the states could have done much better in handling the migrant crisis.³¹ From a survey conducted of 55 million workers, it was found that 94% of construction workers don't have building and other construction workers cards and hence are ineligible for the fund transfer by the government.³² 40% of the migrant workers were left with no food.³³ Stranded Workers Action Network (SWAN) conducted a survey of 11,159 migrant workers and found that 96% of them did not get food supplies (ration) and around 90% of them did not receive wages during the period of lockdown.³⁴ These surveys show that government measures have not reduced the

²⁷Manmathnayak, 'This is what these states are doing' (*India.com*, 7 April 2020) <<https://www.india.com/news/india/this-is-what-these-state-governments-are-doing-for-their-people-who-are-stranded-in-other-states-during-lockdown-3993461/>> accessed 25 April 2020.

²⁸ 'Community kitchens (Dal Bhaat) kendras to be opened at all thanas in the districts to serve migrants, homeless, and disabled persons until May 2020' (*Covid-India.in*, 29 March 2020) <<https://covid-india.in/#>> accessed on 26 April 2020.

²⁹'Karnataka Brought back over 2000 labourers' (*India Today*, 30 March 2020) <<https://www.indiatoday.in/india/story/karnataka-brought-back-over-2000-labourers-working-in-maharashtra-amid-lockdown-1661179-2020-03-30>> accessed 24 April 2020.

³⁰The Constitution of India 1950, Art. 21.

³¹Divyanshu Dutta Roy, 'Responsibility Of States To Take Care Of Migrants, Says NITI Aayog CEO' (*NDTV*, 23 May 2020) <<https://www.ndtv.com/india-news/coronavirus-lockdown-amitabh-kant-on-migrants-we-could-have-done-much-much-better-2233658>> accessed 25 May 2020.

³²Divya Trivedi, 'Survey finds 94 per cent of construction workers ineligible for funds transfer' (*Frontline*, 8 April 2020) <<https://frontline.thehindu.com/dispatches/article31286921.ece>> accessed 26 April 2020.

³³Manavi Kapur, 'In charts: India's migrant workers face anxiety over jobs, healthcare and food supplies' (*Scroll.in*, 8 April 2020) <<https://scroll.in/article/958471/in-charts-indias-migrant-workers-face-anxiety-over-jobs-healthcare-and-food-supplies>> accessed 26 April 2020.

suffering of the workers considering the magnitude of the crises, there is a requirement of a significant increase in financial support to them. Although Indian railways have transported around 40 lakhs migrant workers through 3060 Shramik special trains³⁵ and many states have operated numerous buses, still a huge number of migrant workers remain trapped. Since many migrant workers are still stranded in different states, operating few trains is inadequate.



³⁴ '96% migrant workers did not get rations from the government, 90% did not receive wages during lockdown: Survey' (*The Hindu*, 20 April 2020) <<https://www.thehindu.com/data/data-96-migrant-workers-did-not-get-rations-from-the-government-90-did-not-receive-wages-during-lockdown-survey/article31384413.ece>> accessed 27 April 2020.

³⁵ 'Indian Railways operationalises 3060 "Shramik Special" trains till 25th May' PRESS INFORMATION BUREAU (May 25 2020, 7.13 PM) <<https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1626773>> accessed 25 May 2020.

IV. CONCLUSION

In this situation, India has taken the most obligatory and the only step of lockdown to contain the spread of the virus, limiting the movement of over a billion population but lack of planning has created havoc in the lives of many people especially the vulnerable. Although the government has taken some measures to extenuate the hardships of poor migrant workers, still many remain in distress, trapped in other states and frenzied to go back to their hometown. The government should increase the number of shelter homes and relief camps throughout the country on war-footing. The availability of food should be ensured and the public distribution system (PDS) should be bolstered. Following the social distancing norms, the Government should further increase the number of special trains and buses to transport migrant workers back to their homes. The government should mandatorily circulate the information about all the relief measures through all the possible mediums. As rightly stated by UN Human Rights Chief Michelle Bachelet, COVID-19 is a “Colossal Test Of Leadership” and the handling of this situation will largely determine the effectiveness of governments’ preparedness. The hardships will only intensify unless India reaches out to the most vulnerable classes of the society and ensure that no one is left behind in this time of crisis.

The logo for LEGAL FOXES features the company name in a bold, serif font. The word 'LEGAL' is in a smaller size than 'FOXES'. The text is centered between two stylized arrowheads pointing towards each other, with a small green dot at the tip of each arrowhead.

"OUR MISSION YOUR SUCCESS"