
**Legal Protection for Migrant and Interstate Workers a Critical Analysis
of India's Evolving Labor Law Framework**

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I. INTRODUCTION

Internal migration has become a defining and enduring feature of India's labour market, shaping employment patterns across construction, agriculture, manufacturing, and services.¹ With approximately 38 crore workers engaged in the unorganised sector as of 2017-2018, a substantial portion constitutes inter-state and intra-state migrant workers.² These workers form the backbone of India's construction, agriculture, manufacturing, and service sectors, yet remain among the most vulnerable and exploited segments of the workforce. Their marginalization cannot be explained by economic inequality alone. It is reinforced by fragmented regulation, weak enforcement, and the steady erosion of labour protections that were once explicitly guaranteed.³

The transformation of India's labour law landscape through the consolidation of 29 central labour laws into four comprehensive Labour Codes (2019-2020), implemented on 21 November 2025 (the codes are now in effect, but full nationwide implementation depends on central and state governments notifying their specific rules, a process expected to continue into 2026), has rekindled critical examination of legal protections afforded to migrant workers.⁴ This development became especially consequential during the COVID-19 pandemic, which exposed the near-total invisibility of migrant workers in official data systems, their lack of portable social security, and their limited access to legal remedies.⁵ The Supreme Court's *Suo motu* cognisance in *In Re: Problems and Miseries of Migrant Labourers*

¹Ministry of Statistics and Programme Implementation, National Statistical Office, Periodic Labour Force Survey 2017–18 (Government of India, 2019).

²*Ibid*

³Centre for Policy Research, Critical Examination of India's New Labour Codes (2025).

⁴Ministry of Labour and Employment, Government of India, Statement of Objects and Reasons to the Labour Codes (2019–2020).

⁵Office of the United Nations High Commissioner for Human Rights, COVID-19: Urgent Help for India's Forgotten Migrant Workers (Press Release, 4 June 2020).

(2021) crystallized long-standing concerns regarding government failures in implementing existing welfare legislation.⁶

This paper examines the legal regime governing migrant and inter-state workers before and after the labour code reforms, with particular focus on governing migrant and interstate workers, evaluates the substantive weaknesses in the transition from the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to the Occupational Safety, Health and Working Conditions Code, 2020, and proposes practical, implementable reforms grounded in constitutional principles of equality, human dignity, and social justice.

II. THE INTER-STATE MIGRANT WORKMEN ACT, 1979: A WELFARE-ORIENTED FRAMEWORK

A. Legislative Architecture and Protective Provisions

The Inter-State Migrant Workmen Act, 1979 emerged from a carefully articulated legislative intent to combat the exploitative "Dadan" labour system prevalent in Odisha and other regions, wherein contractors recruited workers through deceptive practices and subjected them to involuntary servitude-like conditions.⁷ The Act established a distinctly welfare-oriented regime centred on four pillars: equal remuneration, displacement protection, journey security, and mandatory provision of accommodation and medical facilities.⁸

Under Section 13, inter-state migrant workers were guaranteed equal wages for similar work performed by local workers, or minimum wages under the Minimum Wages Act, 1948, whichever was more beneficial.⁹ Section 14 mandated displacement allowance at recruitment, calculated as 50 percent of monthly wages or seventy-five rupees, whichever was higher, recognizing the financial burden imposed on workers relocated far from home.¹⁰ Crucially, Section 15 provided journey allowance covering actual transportation fare for outbound and return journeys, with workers entitled to wages during transit periods as if engaged in

⁶In Re: Problems and Miseries of Migrant Labourers, Suo Motu Writ Petition (Civil) No. 6 of 2020, Supreme Court of India, Judgment dated 29 June 2021.

⁷Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; see also Ministry of Labour and Employment, Statement of Objects and Reasons (1979).

⁸Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, ss. 13–17.

⁹Id., s. 13.

¹⁰Id., s. 14.

regular duty, thereby acknowledging travel as occupational obligation rather than personal choice.¹¹

The Act's enforcement architecture imposed mandatory licensing of contractors and registration of establishments employing five or more inter-state migrant workers.¹² Critically, Section 18 established a doctrine of principal employer liability, rendering the principal employer responsible for all wage defaults and facility provision failures by contractors, thereby creating direct accountability upstream.¹³ This mechanism sought to pierce the contractor veil and prevent principal employers from claiming insulation through subcontracting arrangements.

B. Constitutional Grounding and Rights-Based Interpretation

The 1979 Act's legal validity rests upon constitutional foundations of considerable robustness. Articles 14 (equality before law), 16 (equal opportunity), 19 (freedom of movement), and 21 (right to life with dignity) buttress the legislation's core provisions.¹⁴ The Supreme Court's expansive interpretation of "forced labour" under Article 23 in *Bandhua Mukti Morcha v. Union of India* (1984)¹⁵ established that economic compulsion forcing workers below minimum wage constitutes prohibited forced labour, encompassing migrant workers subjected to substandard conditions. This jurisprudence transforms the 1979 Act from mere welfare measure into constitutional mandate.¹⁶

The rights-based architecture, however, remained consistently undermined by enforcement collapse. Successive government audits and academic research documented widespread contractor non-registration, inadequate state licensing systems, absence of mandatory workplace inspections, and near-total absence of worker grievance redressal mechanisms.¹⁷ By 2020, the gap between statutory entitlement and practical realization had widened into a chasm.

III. THE NEW LABOUR CODES (2019-2020): STRUCTURAL CONSOLIDATION AND DILUTION

A. The Consolidation Project and Its Rationale

The consolidation of 29 central labour laws into four labour codes reflected longstanding recommendations of the Second National Commission on Labour

¹¹Id., s. 15.

¹²Id., ss. 4–6.

¹³Id., s. 18.

¹⁴Constitution of India, arts. 14, 19, 21, 23.

¹⁵*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

¹⁶Id.

¹⁷Ministry of Labour and Employment; Centre for Policy Research, Implementation Gaps in Inter-State Migrant Workmen Act (various reports).

(2002), which advocated for simplification and functional reorganization to reduce fragmentation and improve administrative clarity.¹⁸ The objectives - simplification, standardization, ease of compliance, and extension of protections to informal sector workers - appeared laudable.¹⁹ Despite these stated goals, the legislative process was marked by sustained opposition from trade unions, which argued that consolidation would dilute substantive worker protections under the guise of procedural simplification.²⁰ Implementation on 21 November 2025 marked the culmination of a multi-year process involving tripartite consultation (government, employers, unions), though substantive union opposition persisted throughout.

B. The Occupational Safety, Health and Working Conditions Code, 2020: Migrant Worker Provisions

The OSH Code, 2020 subsumed the 1979 Act within Chapter VIII (Sections 106-123), ostensibly to provide unified occupational safety and health standards across all worker categories.²¹ While the Code expands coverage by including self-migrating workers, it simultaneously weakens several core protections that previously addressed the specific vulnerabilities of inter-state migrants.

Definitional Expansion: The Occupational Safety, Health and Working Conditions Code, 2020 significantly broadens²² the statutory definition of an inter-State migrant worker. Unlike the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, which confined protection exclusively to workers recruited through contractors, the OSH Code extends coverage to persons who migrate independently to another State in search of employment, as well as those recruited in one State for employment in another State, whether directly by the employer or through a contractor.²³ This expanded definition, codified under **Section 2(1)(zf)** of the OSH Code, was intended to address the exclusion of large segments of migrant labour, particularly self-mobilised workers, whose legal invisibility became starkly evident during the COVID-19 pandemic.²⁴ The wage

¹⁸Ministry of Labour and Employment, Government of India, Report of the Second National Commission on Labour (2002).

¹⁹Statement of Objects and Reasons, Code on Wages Bill, 2019; Occupational Safety, Health and Working Conditions Code Bill, 2019.

²⁰PRS Legislative Research, Labour Codes: Key Issues and Analysis (2020).

²¹Occupational Safety, Health and Working Conditions Code, 2020.

²²The inclusion of self-migrating workers marks a departure from the contractor-centric framework of the 1979 Act, which excluded workers who migrated independently or were hired directly by employers.

²³Id., s. 2(1)(zf).

²⁴Id.

ceiling, set at Rs. 18,000 monthly or higher amount as notified by central government, remains substantively identical to the 1979 Act's framework.

Critical Dilutions and Removals: A close comparison with the 1979 Act shows that several protections, previously central to migrant welfare, have either been diluted or removed altogether.²⁵

First, the displacement allowance, a provision explicitly designed to offset relocation costs under Section 14 of the 1979 Act, has been entirely removed from the OSH Code, despite featuring in the 2019 draft Bill.²⁶ This represents an unqualified diminution of worker protection unmatched by any compensatory mechanism. The removal occurred during final legislative revision without documented public justification, suggesting executive prioritization of employer interests over worker welfare.

Second, journey allowance has been fundamentally restructured. The 1979 Act provided actual transportation fare (both directions) plus wages during travel periods. The OSH Code mandates only "a lump sum amount of fare for to and fro journey...in a manner that takes into account the minimum service for entitlement, periodicity, and class of travel" as prescribed by appropriate government (section 61 in Part-II of OSH Code).²⁷ This conversion from actual-cost reimbursement to periodic lump sum allowance creates multiple vulnerabilities: workers receive fixed amounts regardless of actual transportation costs (particularly problematic given inflation); the state government determines periodicity and class of travel unilaterally without worker consultation; and wages during travel—previously guaranteed—have disappeared from statutory mandate.²⁸

Threshold Modifications: While applicability to establishments with 10 or more inter-state migrant workers remains unchanged, the raising of factory thresholds (10 to 20 workers with power; 20 to 40 without power) and contract labour thresholds (20 to 50 workers) effectively reduces coverage across the migrant labour population.²⁹ The stated rationale of "administrative ease" masks the practical consequence of exempting vast swathes of small and medium enterprises from compliance obligations.

C. Code on Social Security, 2020: Portability and Coverage Gaps

²⁵Centre for Policy Research, Critical Examination of India's New Labour Codes (2025).

²⁶PRS Legislative Research, Occupational Safety, Health and Working Conditions Code, Legislative Brief (2020).

²⁷Occupational Safety, Health and Working Conditions Code, 2020, s. 61.

²⁸Occupational Safety, Health and Working Conditions Code, 2020, s. 61.

²⁹Occupational Safety, Health and Working Conditions Code, 2020, ss. 2(m), 45.

The Code on Social Security, 2020 purports to extend social security benefits to unorganised workers, including inter-state migrants, covering life insurance, disability, health, maternity, and pension schemes.³⁰ However, substantive analysis reveals critical implementation deficits:

Registration Paradox: The Code mandates registration via self-declaration and Aadhaar on a central portal, yet provides no mechanism ensuring registered workers transition from mere enumeration to actual receipt of benefits.³¹ As of December 2025, while the e-Shram portal achieved 31.42 crore registrations, actual integration with social security schemes involved only 14 centrally-sponsored programmes, with minimal real-world benefit delivery to migrants.³²

Portability Failures: The theoretical portability of benefits across states remains practically unachievable due to administrative silos, inconsistent state-level implementation, and absence of unified grievance redressal infrastructure. Migrants continue facing non-recognition of registration credentials across state boundaries, inability to transfer pension contributions or insurance entitlements, and requirement to physically return to home states to access welfare benefits—imposing costs that negate scheme utility.³³

Displacement from Core Responsibility: The Code's shift from direct state responsibility to incentive-based scheme participation transfers accountability burden downward, even as states lack coordinating mechanisms and fiscal capacity for implementation.

IV. COMPARATIVE FRAMEWORK: QUANTITATIVE ASSESSMENT OF DILUTION

The transition from the 1979 Act to the OSH Code introduces measurable reductions in statutory worker protection:

³⁰Code on Social Security, 2020.

³¹*Id.*, ss. 109–114.

³²Ministry of Labour and Employment, e-Shram Portal Registration Status Report (December 2025).

³³IHD—Centre for Economic and Social Studies, *Vulnerable Migrants in India: Social Security and Entitlements* (2020).

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Dimension	1979 Act	OSH Code	Change
Displacement Allowance	50% monthly wages (mandatory) ³⁴	Removed entirely	Elimination
Journey Allowance	Actual fare + wages during travel	Lump sum (state-prescribed) ³⁵	Conversion to fixed amount
Definition	Contractor-recruited only	Includes self-migrating workers	Expansion
Wage Ceiling	Central notification	Rs. 18,000/month	Equivalent
Accommodation	Mandatory provision	Mandatory (with state qualification)	Equivalent
Factory Applicability	10+ workers	20+ workers (with power)	Raised threshold
Contract Labour Threshold	20+ workers	50+ workers ³⁶	Raised threshold
Registration Requirement	Mandatory licensing by state	Mandatory portal-based	Equivalent mechanism

³⁴ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, s. 14.

³⁵ Occupational Safety, Health and Working Conditions Code, 2020, s. 61.

³⁶ Occupational Safety, Health and Working Conditions Code, 2020, ss. 2(m), 45.

Dimension	1979 Act	OSH Code	Change
Principal Employer Liability	Direct liability for contractor failures	Continues (Section 109)	Preserved

This assessment shows a net negative shift: while definitional expansions capture previously excluded self-migrating workers, substantive protective provisions have contracted significantly. These changes indicate a legislative shift from a welfare-oriented framework grounded in substantive entitlements to a compliance-oriented regime that prioritises administrative flexibility.³⁷

V. COVID-19 CRISIS AND INSTITUTIONAL FAILURE: THE SUPREME COURT JUDGMENT

A. The Pandemic's Revelatory Function

The COVID-19 pandemic's first wave (March-June 2020) exposed the mythical nature of migrant worker protections. Official statistics revealed absence of baseline data on migrant worker numbers, locations, skills, or welfare status.³⁸ The exodus of approximately 100 million workers homeward, many walking thousands of kilometres on foot, demonstrated that neither the 1979 Act's registration provisions nor subsequent welfare schemes functioned operationally.³⁹ Subsequent analysis identified three precipitating factors: cessation of employment due to lockdown; pandemic fear amplified by misinformation; and absence of alternative social security.

B. Supreme Court Directions and Systemic Recommendations

The Supreme Court's judgment of 29 June 2021 in *In Re: Problems and Miseries of Migrant Labourers* (Suo Motu Writ Petition No. 6 of 2020) issued comprehensive directions addressing both immediate humanitarian needs and structural legal reform.⁴⁰

³⁷Centre for Policy Research, *Critical Examination of India's New Labour Codes* (2025).

³⁸Office of the United Nations High Commissioner for Human Rights, *COVID-19: Urgent Help for India's Forgotten Migrant Workers* (Press Release, 4 June 2020).

³⁹Ministry of Home Affairs, Government of India, *Guidelines on the Nationwide Lockdown* (March 2020).

⁴⁰*In Re: Problems and Miseries of Migrant Labourers*, Suo Motu Writ Petition (Civil) No. 6 of 2020, Supreme Court of India, Judgment dated 29 June 2021.

Registration and Data Infrastructure: The Court mandated operationalization of the National Database for Unorganised Workers (NDUW) portal by 31 July 2021, with complete state-level implementation by 31 December 2021.⁴¹ Critically, the judgment recognized that registration represents the foundational prerequisite for all subsequent welfare access, establishing that invisibility in databases directly causes deprivation of benefits.

Decentralized Grievance Architecture: Rather than establishing a centralized migrant worker complaint portal, the Court directed states to establish block and district-level counselling centres and help desks providing scheme information, employment guidance, and worker facilitation. This architecture, while practical for resource constraints, fragments redressal capacity and undermines inter-state coordination.

Food Security as Fundamental Right: The Court grounded food security within Article 21's guarantee of life with dignity, directing states to implement dry ration distribution schemes for all migrants by 31 July 2021, operating until pandemic conclusion. The One Nation One Ration Card (ONORC) scheme received explicit direction for universal state implementation, recognizing portability of entitlements as constitutional imperative.⁴²

Enforcement Mechanisms: The judgment impressed upon states the duty of vigilance and supervision, noting that policy documents without implementation constitute mere formality. The Court specifically criticized enforcement lapses, observing that "responsibility of the States/Union Territories is not only to referring their policy...but there has to be strict vigilance and supervision as to whether those measures, schemes, benefits reaches to those to whom they are meant." (Page 4. in *Suo Motu Writ Petition No. 6 of 2020*)⁴³

C. Post-Judgment Implementation Status (December 2025)

Tracking compliance reveals mixed outcomes: while transportation of stranded workers was substantially accomplished, registration progress stalled significantly.⁴⁴ The NDUW portal, scheduled for full state operationalization by 31 December 2021, remained incomplete across multiple states as of late 2025.⁴⁵ States filed

⁴¹ Id., directions regarding the National Database for Unorganised Workers (NDUW).

⁴² Id.; Constitution of India, art. 21.

⁴³ Id., observations on enforcement and supervision.

⁴⁴ Supreme Court Observer, COVID-19 Updates from the Supreme Court: Migrant Labourers (2020–2021).

⁴⁵ Ministry of Labour and Employment, Status Reports on NDUW and Migrant Worker Registration (2021–2025).

affidavits claiming compliance while providing minimal evidence of actual registration infrastructure or migrant database maintenance. This disjuncture between stated policy and ground reality continues characterizing implementation failure.

VI. ENFORCEMENT DEFICITS AND INSTITUTIONAL FRAGMENTATION

A. Registration and Documentation Barriers

The e-Shram portal, launched in 2021 to create a national database of informal workers⁴⁶, encountered substantial access barriers preventing migrant workers from meaningful participation:

Digital Divide: Migrant workers, predominantly from rural backgrounds with limited educational attainment, lack devices and internet connectivity necessary for online registration.⁴⁷ Documentation requirements—Aadhaar linked to mobile number with active bank account—exclude substantial migrant populations without completed KYC formalities or updated Aadhaar-mobile linkages.

Intermediary Dependence: Rather than reducing friction, the digital-first approach forced migrants to depend on Common Service Centres (CSCs) and intermediaries for registration⁴⁸, introducing transaction costs, time delays, and vulnerability to exploitation. This outcome contradicts the efficiency objective.⁴⁹

Coverage Limitations: Many forms of migrant employment—particularly home-based work, waste segregation, domestic service—are either absent from occupation classifications or dispersed across multiple categories, making worker self-identification difficult.

B. State-Level Implementation Fragmentation

Labour administration in India reflects constitutional division between central and state governments, with states bearing implementation responsibility for labour laws.⁵⁰ This federal architecture, while respecting subsidiarity principles, has generated catastrophic fragmentation when applied to inter-state migrant populations:

⁴⁶Ministry of Labour and Employment, Government of India, e-Shram Portal: Objectives and Implementation Notes (2021).

⁴⁷International Labour Organization & WIEGO, Registering Informal Workers in India: e-Shram Portal Implementation Analysis (2025).

⁴⁸Ministry of Labour and Employment, e-Shram Portal Registration Guidelines.

⁴⁹ILO & WIEGO, *supra* note 2.

⁵⁰Constitution of India, Seventh Schedule, List III (Concurrent List).

Migrant workers face different registration requirements, eligibility criteria, documentation standards, and benefit structures in each state.⁵¹ The absence of national coordination mechanisms - beyond the formal Inter-State Council structure, which meets infrequently and lacks enforcement authority - means states operate in administrative silos. A worker registered in Uttar Pradesh (her home state) cannot automatically access schemes in Rajasthan (her work state), requiring dual registration with separate documentation and repeated compliance cycles.⁵²

C. Contractor Accountability Failure

Despite the 1979 Act's principal employer liability provisions, contractors continue recruiting and deploying migrant workers with minimal regulatory oversight. Analysis of Supreme Court affidavits (2021) revealed that most states lacked functional contractor licensing systems: licenses were issued without substantive verification of working conditions; inspection frequencies fell far below statutory requirements; and penalties for violations remained nominal enough to constitute mere business costs.

Unregistered contractors proliferated, particularly in labour-intensive sectors (construction, brick kilns, agriculture), deliberately evading regulatory capture through informal arrangements with workers, resulting in pervasive wage theft, safety violations, and bonded labour conditions.⁵³

VII. VULNERABILITY DIMENSIONS: EXPLOITATION, TRAFFICKING, AND DISCRIMINATION

A. Wage Theft and Substandard Conditions

Migrant workers experience systemic wage theft through multiple mechanisms: contractors delaying salary disbursements; false deductions for "damage" or "absence"; non-payment of overtime despite extended working hours (typically 12-

⁵¹ RGICS, *Federalism in India: Inter-State Coordination and Dispute Resolution Mechanisms* (2025).

⁵² IHD—Centre for Economic and Social Studies, *Vulnerable Migrants in India: Social Security and Entitlements* (2020).

⁵³ Centre for Policy Research; Ministry of Labour and Employment, *Inspection and Enforcement Reports*.

16 hours daily)⁵⁴; and calculated underpayment justified by claiming "adjustment" against recruitment advances or living expenses.⁵⁵

The absence of transparent wage documentation, weak inspection capacity, and migrant workers' limited awareness of minimum wage entitlements perpetuate this exploitation.⁵⁶ Workers frequently accept substandard wages due to poverty-driven desperation, fear of displacement, and social isolation from local communities.

B. Human Trafficking and Bonded Labour

Research indicates that approximately 90 percent of human trafficking in India constitutes internal/inter-state trafficking, with migrants representing primary victim populations.⁵⁷ Recruiters employ systematic deception: promising specific wages and working conditions, then imposing radically different terms upon arrival; charging excessive recruitment fees exceeding legal limits; and confiscating identity documents, thereby trapping workers in debt bondage.⁵⁸

The UN estimates 150,000+ persons trafficked annually in South Asia, with women and children representing 44 percent and 21 percent respectively. Within India's context, women migrant workers face compounded vulnerability to sexual harassment, exploitation, and trafficking for sexual services, reflecting intersectional marginalization.⁵⁹

C. Caste, Religion, and Regional Discrimination

Migrant workers from lower castes, religious minorities, and peripheral states encounter explicit discrimination in wages, accommodation quality, and social treatment.⁶⁰ Local workers and communities often view migrants with xenophobic suspicion, particularly during economic downturns, contributing to social exclusion and vulnerability to communal violence.⁶¹

The COVID-19 pandemic amplified this discrimination, with migrants stigmatized as "virus carriers" and subjected to police brutality despite Supreme Court directives

⁵⁴Centre for Policy Research; Ministry of Labour and Employment, Sectoral Studies on Migrant Labour Conditions.

⁵⁵ International Labour Organization, Global Estimates on Wage Theft and Labour Exploitation (2023).

⁵⁶IHD–Centre for Economic and Social Studies, Vulnerable Migrants in India: Social Security and Entitlements (2020).

⁵⁷ Centre for Women Development Studies, Trafficking and Migration in India: Legal Challenges and Institutional Gaps (2025).

⁵⁸ Walk Free Foundation, Global Slavery Index: India Country Study (2023).

⁵⁹ United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons (2022).

⁶⁰ National Human Rights Commission, Reports on Discrimination against Migrant Workers.

⁶¹ Centre for Policy Research, Migrant Labour and Social Exclusion in India.

requiring humane treatment. This discrimination extends beyond individual prejudice to institutional practices: some states imposed special restrictions on migrant movement; housing societies refused accommodations to inter-state workers; and employers demanded inflated deposits from migrant workforces.⁶²

VIII. CONSTITUTIONAL FOUNDATIONS FOR RIGHTS-BASED REFORM

A. Article 14: Equality Before Law

Article 14 guarantees equality before law and equal protection of laws to all persons. Interpreted expansively by constitutional jurisprudence, this guarantee encompasses substantive equality—requiring states to remove structural barriers preventing disadvantaged groups from accessing equal treatment. Migrant workers' systematic exclusion from welfare schemes, unequal wage compensation, and differential legal treatment constitute Article 14 violations demanding remedial state action.⁶³

B. Article 21: Right to Life with Dignity

The Supreme Court has established that Article 21 encompasses not merely biological survival but life with human dignity, encompassing access to healthcare, food security, shelter, education, and freedom from exploitation. The judgment in *In Re: Migrant Labourers* explicitly grounded food security within Article 21, establishing dignity-based constitutional obligations that cannot be delegated to discretionary welfare schemes.⁶⁴

C. Article 23: Prohibition of Forced Labour

While Article 23 explicitly prohibits trafficking and "begar" (forced unpaid labour), the Supreme Court's expansive interpretation extends the prohibition to situations where economic compulsion forces individuals to accept sub-minimum wages or exploitative conditions. This constitutional framework establishes that migrant

⁶² Office of the United Nations High Commissioner for Human Rights, *COVID-19 and Human Rights of Migrant Workers* (2020).

⁶³ Constitution of India, art. 14; see also *National Textile Workers' Union v. P.R. Ramakrishnan*, (1983) 1 SCC 228 (India) (substantive equality and stakeholder participation).

⁶⁴ Constitution of India, art. 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India); *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545 (India); *In Re: Problems and Miseries of Migrant Labourers*, *Suo Motu Writ Petition (Civil) No. 6 of 2020*, Supreme Court of India, Judgment dated 29 June 2021.

workers subjected to wage theft, safety violations, or bonded labour conditions suffer direct Article 23 violations.⁶⁵

D. Articles 39 and 43: Directive Principles of State Policy

Articles 39 and 43 of the Constitution establish Directive Principles requiring the state to secure, through legislation and administrative action: adequate livelihood, prohibition of economic exploitation, fair wages, humane working conditions, and protection of workers' interests in industrial establishments. These provisions, though non-justiciable, impose substantive obligations binding policy design and legislative reform.⁶⁶

IX. INTERNATIONAL LABOUR STANDARDS AND COMPARATIVE FRAMEWORKS

A. ILO Conventions and India's Commitments

The International Labour Organization's Convention concerning Migration for Employment (No. 97) and Convention concerning Migrations in Abusive Conditions (No. 143) establish international standards for migrant worker protection, emphasizing equality of treatment, freedom of movement, protection from discrimination, and access to social security. Additionally, the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 1990, entered force 2003) establishes comprehensive protections, though India remains non-signatory, limiting its binding effect.

India's ratification of ILO Forced Labour Convention (No. 29) and Abolition of Forced Labour Convention (No. 105) creates binding obligations to eliminate forced labour in all forms, encompassing economic coercion targeting migrant workers. The failure to enforce these commitments constitutes treaty violation.

B. Comparative Jurisdictional Approaches

Several jurisdictions provide instructive models: The Philippines' "Magna Carta for Migrant Filipino Workers" (1995, amended 2010)⁶⁷ establishes unified protections for both overseas and internal migrants, with dedicated migrant worker courts and specialized arbitration procedures. Thailand's recent expansion of labour protections to migrant workers, while imperfect, recognizes portability of social security as mandatory rather than discretionary.

⁶⁵Constitution of India, art. 23; *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

⁶⁶Constitution of India, arts. 39, 43.

⁶⁷Republic of the Philippines, "Magna Carta for Migrant Filipino Workers (Republic Act No. 8042, 1995; Amended by Republic Act No. 10022, 2010)."

The European Union's freedom of movement regime, while distinguishing between citizens and migrants, establishes portable social security entitlements and unified grievance redressal standards across member states, preventing the administrative fragmentation characterizing India's approach.

X. IMPLEMENTABLE REFORM RECOMMENDATIONS

Any reform strategy must begin with a realistic acknowledgement that migration is a permanent feature of India's labour market. Legal and administrative institutions therefore need to adapt to migration, rather than treating it as an anomaly to be controlled or discouraged. Recommended reforms address three dimensions: legislative amendment, administrative coordination, and enforcement strengthening.

A. Legislative Reforms: Restoration of Protections

Displacement Allowance Restoration: Reinstate mandatory displacement allowance at recruitment, calculated as 50 percent of monthly wages, reflecting actual relocation costs. This provision addresses a fundamental inequity wherein employer profit from worker relocation while workers bear costs.

Journey Allowance Rectification: Replace OSH Code's lump-sum provision with actual-cost reimbursement model of the 1979 Act, ensuring workers receive full transportation expenses (both directions) plus wages during travel periods. Periodicity should be worker-determined, with workers entitled to claim journey allowance whenever seeking to return home, not merely at state-prescribed intervals.

Contract Labour in Core Activities: Strengthen prohibition of contract labour in core establishment activities, reserving exceptions narrowly for situations genuinely involving intermittent work. Prohibit employers from systematically reclassifying perennial core activities as "intermittent" to evade contract labour regulations. Establish independent machinery (composed of worker representatives, employer representatives, and neutral experts) to adjudicate disputed categorizations.

Principal Employer Accountability Strengthening: Amend OSH Code Section 109 to impose strict liability on principal employers for all contractor violations, eliminating doctrines of "reasonable diligence" that permit principals to claim insulation through negligent contractor selection. Establish that principal employers are insurers of contractor compliance.

B. Administrative and Institutional Reforms: Centralization and Coordination

National Migrant Worker Registry with Unified Portal: Establish a centralized, digitally-enabled national registry accessible across states, with unified formatting, reciprocal recognition, and interoperable data architecture. The current fragmented state-level systems must yield to unified infrastructure enabling worker portability.

Investment in offline registration infrastructure (CSCs, block offices, labour bureaus) is essential to bridge digital divides.

Dedicated Grievance Redressal Mechanism: Create specialized migrant worker dispute resolution cells at state labour department level, staffed with bilingual officers familiar with inter-state legal frameworks, equipped to handle wage disputes, safety violations, and trafficking complaints. Establish explicit jurisdiction allowing complaints to be filed in either home state or work state, with auto-transfer mechanisms ensuring responsive processing.

Inter-State Labour Coordination Committee: Establish mandatory inter-state coordination structure (distinct from general Inter-State Council) specifically addressing migrant labour issues, meeting quarterly, with powers to: (i) harmonize registration standards; (ii) coordinate welfare scheme delivery; (iii) address inter-state disputes regarding migrant rights; and (iv) recommend uniform enforcement approaches. Include worker representative participation alongside government officials.

Portable Social Security Framework: Mandate that all social security contributions (provident fund, insurance, pension) accumulate in portable accounts following workers across state boundaries. Design unified entitlement recognition system ensuring state-level benefit schemes recognize contributions made elsewhere. Implement through dynamic data linkages between NDUW portal and Ministry of Labour's central database.

Strengthen ONORC Implementation: Accelerate full implementation of One Nation One Ration Card scheme, ensuring all states complete Aadhaar-seeding, biometric authentication, and e-POS installation by specified deadline. Penalize states failing to meet implementation timelines through reduction in centrally-sponsored scheme funds. Extend ONORC logic to other essential schemes (health insurance, pensions) ensuring comprehensive portability.

C. Enforcement and Accountability Strengthening

Enhanced Inspection and Monitoring: Establish minimum labour inspection frequencies (quarterly for large establishments, biannually for medium establishments) explicitly targeting migrant worker worksites. Develop digitized inspection reporting systems enabling real-time tracking, with transparent public dashboards displaying compliance status by establishment. Link inspector performance evaluation directly to identification and prosecution of violations.

Criminalization of Contractor Non-Registration: Transform contractor non-registration from administrative violation (subject to fines often paid as routine business expense) to criminal offence prosecutable as fraud or human trafficking

ancillary activity. Impose mandatory imprisonment for repeat offenders and those operating trafficking-facilitative unregistered networks.

Worker-Centric Complaints Database: Create public complaints portal enabling migrant workers to file allegations of wage theft, safety violations, accommodation failures, and discrimination. Mandate rapid triaging (response within 48 hours), preliminary investigation (preliminary report within 2 weeks), and substantive investigation completion within 8 weeks. Publish aggregate complaint data identifying serial violator establishments.

Prosecutorial Capacity Building: Expand dedicated migrant labour cells within state labour departments and attorney general offices, staffed with specialists trained in migrant labour law, inter-state jurisdiction issues, and trafficking prosecution. Establish technical resource centers providing prosecutors with historical data on trafficking patterns, contractor networks, and labour brokers.

Strengthen Bonded Labour Rehabilitation: Mandate comprehensive identification drives in bonded labour vulnerability sectors (brick kilns, agriculture, construction), with state governments accountable for year-on-year progression toward zero bonded labour. Fund rehabilitation programs providing skills development, income support during transition, and community reintegration assistance.

D. Rights-Based Policy Integration

Human Dignity Framework in Policy Design: Require all labour policy formulation to explicitly assess alignment with constitutional dignity guarantees (Articles 14, 21, 23, 43). Subject new labour codes or significant amendments to rights-impact assessment review before implementation, with public disclosure of identified gaps.

Constitutional Court Monitoring: Establish specialized labour courts with explicit constitutional jurisdiction to adjudicate migrant worker claims based on dignity and equality guarantees. Empower these courts to issue structural reform orders compelling systemic changes in enforcement, registration, and grievance redressal.

State-Mandated Minimum Standards: Recognize that while labour administration falls within state domain, inter-state migration requires nationally-uniform minimum standards. Establish that central government may impose binding minimums on: displacement allowance, journey benefits, accommodation standards, registration requirements, and grievance redressal timelines, with states prohibited from further dilution.

These recommendations assume a baseline level of administrative capacity and political coordination that many states currently lack. Without sustained fiscal

commitment and inter-state cooperation, even well-designed reforms may face implementation bottlenecks.

XI. CONCLUSION

India's legal transformation of migrant worker protections through the 2019-2020 Labour Codes represents both promise and potential dangers. The expansion of coverage to self-migrating workers and inclusion of previously excluded unorganised sector categories reflects important legislative progress. Yet this expansion has been purchased at the price of substantive dilution: removal of displacement allowances, conversion of journey benefits to fixed lump sums, raised thresholds exempting vast populations, and absence of enforceable portability guarantees.⁶⁸

The Supreme Court's 2021 judgment noted that legal protections mean nothing without administrative infrastructure enabling access. Registration without benefit integration; schemes without inter-state coordination; codes without enforcement capacity—these represent the lived reality of contemporary migrant labour regulation in India. The central problem is not the absence of law, but the persistent failure to translate statutory guarantees into functioning institutions on the ground.

Reform cannot be confined to statutory amendment alone. Without parallel changes in administrative coordination and enforcement capacity, legislative reform will remain largely symbolic. Restoration of protective provisions removed through code consolidation must accompany institutional investment in centralized registry systems, inter-state coordination mechanisms, and dedicated enforcement capacity. International labour standards and constitutional commitments to human dignity and equality provide the normative framework. What remains is political will to translate legal commitment into material protection.

For the millions of internal migrants whose labour sustains India's economic growth while their own lives remain precarious, labour law reform is not a technical exercise. It determines whether constitutional promises of equality and dignity have any meaning in everyday working life. They represent whether India's constitutional promises of equality and dignity extend to those whose marginalization enables others' prosperity.

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