

# Analysis of Inter-State Migrant Workmen

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## **Abstract:**

Interstate workmen's mobility is an essential and dynamic feature of India's labor environment. This research gives a succinct review of critical concerns concerning interstate migrant workers. Investigates the reasons for immigration, its job sectors, obstacles, legal safeguards, and contemporary governmental efforts. This study expands on previous research that highlights the complexities and vulnerabilities of this critical workforce. Rural poverty, restricted economic possibilities in their native country, and the promise of higher earnings and living circumstances in destination locations all encourage migrant workers in India. Construction, agriculture, industry, services, and the informal economy are all examples of these.

These workers, however, suffer a number of obstacles, including exploitation, poor earnings, job instability, insufficient living conditions, and restricted access to basic services. Despite legislative safeguards such as the Interstate Migrant Workers (Regulation of Employment and Conditions of Work) Act of 1979, enforcement was patchy, and many workers were uninformed of their rights. This analysis emphasizes the need to collect reliable data and do research to influence policy choices and enhance the lives of interstate migrant workers.

**Keywords:** Inter-State migrant workers, Inter-State Migrant Workmen Act, Employment, Labour codes.

## **Introduction:**

Interstate migration means the migration of workers from one state to another for one state to another. In India, every state has its unique features and differs in various factors like culture, geographical landscape, socio-economic factors, etc., these factors have effects on the growth of the inter-state migrants, the inter-state migration happens due to poverty, people need better income to have the better living conditions, lack of employment opportunities and sometimes it is due to socio and economic conditions the migrant may take place.

There are lots of challenges faced by interstate migrant workers, like poor working conditions, low salaries, lack of social security, poor living conditions, and job insecurity. Due to COVID-19, there were lots of challenges faced by the migrant workmen as they were not able to travel between the states as they were lockdowns. They faced huge hardships in case of living places and income for their family. This paper talks about what are the causes of migrant workers. The Interstate migrant workmen Act, the challenges faced by migrant workers, and recent initiatives regarding interstate migrant workmen. Understanding migration is very important as it helps in making the rights and welfare of the migrant workers and also says about the liabilities if those rights and welfare were not given to the migrant workmen properly.

### Who are the migrant workmen?

The term “migrant worker” refers to temporary or seasonal, skilled or nonskilled workers who move from one place to another for work.

Definition under “International Labour Organization”:

*A “migrant worker” is defined in the International Labour Organization (ILO) instruments as a person who migrates from one country to another (or who has migrated from one country to another) to be employed other than on his account, and includes any person regularly admitted as a migrant for employment<sup>1</sup>*

### Who are the Interstate migrant workmen?

#### Legal definition:

Interstate migrant workmen were defined in Section 2(e) of the Interstate migrant workmen act 1979, It defines that inter-state migrant workers “*inter-State migrant workman*” means any person who is recruited by or through a contractor in one 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 about such establishment;<sup>2</sup> in other words, we could say that the interstate migrant worker is those laborers appointed by a contractor under an establishment in another state. Article 19 of the Indian constitution provides the right for the people of India to move around the territory of India freely. This enables them to move from one state to another state for their occupation.

#### Interstate migrant workmen act:

Labor acts are enacted to protect the rights of laborers, their working hours and pay, and their overall well-being. Labor acts lay down rules and regulations that employers and contractors are required to follow. Non-compliance with these rules can lead to penalties and the formation of a labor union.

The ILWG Act aims at protecting workers whose services are required outside their state of origin in India. The ILWG Act creates a mechanism for employers or contractors to hire better-skilled workers from other states when there is a shortage of skilled workers locally available.

Interstate migrant workmen ( Regulation of Employment and Conditions of Service ) Act 1976, this act was enacted by the Government of India, regulates the employment and conditions of service of interstate migrant workers.

This act applies to every state that has 5 or more Interstate workers in their state and to those contractors who have appointed 5 or more Interstate workers in their establishment.

The key features of this act are,

- It talks about the regulation of the employment of interstate migrant workers.
- The Registration of the inter-state migrant workers under the said district magistrate before being appointed to any establishment
- The person who is appointing the inter-state migrant worker i.e., the employer must obtain the license from the appropriate authority to hire employees from other states

<sup>1</sup> <https://www.ncbi.nlm.nih.gov/books/NBK379428/>

<sup>2</sup> THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, § 2(e), No.30, Acts of Parliament, 1949 (India).

- The act says about the minimum wages that should be given to the workers and the conditions under which they can be employed.
- The act also provides the establishment of Tribunals to deal with any disputes between the inter-state migrant workers.

This act safeguards interstate migrant workmen from any exploitation and abuse from the employer. It provides the workers their rights, and fair and equal treatment in the workplace.

*The Act has been subsumed into four broader labor codes, which are:*

- ***The Code on Wages,2018***
- ***The Industrial Relations Code,2020***
- ***The Code on Social Security,2020***
- ***The Occupational Safety, Health, and Working Conditions Code,2020<sup>3</sup>***

### **Background of inter-state migrant workers Act : (History of the Act)**

Inter-state migratory labor employment was an exploitative practice that was popular across India. In reality, in Orissa and many other Indian states, this approach has become largely institutionalized. In states similar to Orissa, migratory labor( known locally as dadan labor) was dispatched for work outside the state through contractors or agents( known as Sardars/ Khatedars) in huge structure systems. During the reclamation process, the Sardar would claim that the sloggers would be paid on a piece-rate base. still, because this system was prone to multiple exemplifications of exploitation, it meant that Sardar's pledges were broken, and the migratory sloggers weren't paid every month as promised.

It was on 21st October 1976 that the 28th State Labor Ministers Conference recommended the setting up of a compact and small commission to examine all the issues regarding inter-state migrant workers. Post this, they had to suggest measures for reducing and barring the abuses current in the interstate workers' deployment. The compact commission, which was constituted in February 1977, recommended the enactment of separate central legislation to regulate the employment of interstate migrant workers. This was recommended because it was observed that the vittles of the Contract Labour( Regulation and nullification) Act of 1970, indeed after necessary amendments, were shy in taking care of the wide range of malpractices that were indulged in by the top employers, contractors, Sardars, Khatedars, etc. thus after the examination of the recommendations of the compact commission in discussion with the state governments and the applicable central ministries, the Inter-State Migrant Workmen( Regulation of Employment and Conditions of Service) Act was passed by both the houses of the Parliament and the President of India gave his assent on 11th June 1979.

The two main characteristics of this Act are,

- Making provision for the onsite services of the inter-state workers by the establishments or contractors to overcome only the temporary deficiency of demanded professed workers in a state.
- Not encouraging interstate migration of workers against the interests of the original workers as the top employers would have to dodge further costs in planting interstate workers.

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<sup>3</sup> <https://www.drishtias.com/daily-updates/daily-news-analysis/migrant-issues-and-safeguards>

**The rights that are conferred on the inter state migrant workers: (contents)**

In addition to the normal labor regulations that apply to all workers, inter-state workers have the following extra rights,

- Equal or superior salaries for same kind and duration of labor as applicable for local workers, or as stated by the Minimum salaries Act, 1948; whichever is greater among them both.
- Displacement allowance shall be paid at the time of recruitment, and should be equivalent to 50% of his monthly compensation, or Rs.75, whichever is greater. This allowance shall not be refundable and shall be in addition to his earnings and any payments due to him.
- Travel allowance, which should not be lower than the chow from the place of roof of the inter-state migrant workmen to his or her place of work in the other state.
- This should be paid for both- outside and return trip. also, the inter-state migrant worker must admit his paycheck during his trip period, analogous as if he were on duty.
- Suitable conditions of work Suitable domestic accommodation and medical installations free of charge on a obligatory base. termination of the employment after the contract period, without any liability.
- The right to lodge complaints with the authorities within three months of an accident, incident, etc.
- They should get regular payments of their paycheck.
- They should get equal pay for equal work, irrespective of their gender.
- They should get the specified protective vesture. in case of serious fleshly injury or the fatal accident of any inter-state migrant worker, it should be reported to the specified authorities of both the states and also to the coming of kin of the workman.

**Background of inter-state migration:**

Why do people migrate from one state to another state for work? There are several reasons for the people to migrate. Migration is the movement of people from their own place i.e., from their birthplace to another place in order to survive. India a developing country has an increasing population and Urbanisation. As we know India is known for its Unity in diversity, but we still lack certain things , the development that is taking place in India indeed has some effects, like the rich becoming more rich and the poor people becoming poorer. That enable them to move to other states to find jobs.

**Employment opportunities:**

The lack of employment is one of the main causes for the migration of the workers. There may be enough people to be employed and cause unemployment to others. and in some cases the specific industry from a state may require lot labour in some industries, so these unemployed people would move from their state to those state were such industries are situated. Sometimes, Some people with good skills want to develop more and earn more so they shift from one state to another for better opportunities that were provided to them.

**Economic Conditions:**

The economic conditions of the state may differ, these economic differences may lead to the migration of individuals for the better living conditions and working opportunities, the people from the state which has the high cost of living and being unemployed would like to move to the state which is favourable to improve his living condition.

Example: We can see lot of North Indians working in the Southern part of India like in Tamilnadu, Kerala. It is due to their poor economic conditions they were to work in places like hotels and construction site etc.,

### **Infrastructural Projects:**

The large-scale projects for constructing the National highways , buildings and others require quite a lot number of workers, which attracts the workers all over the state , thus causing interstate migration for working in those projects.

### **Urbanization:**

People move from rural areas to urban centers, often accompanied by international migration. Cities can offer a wider range of jobs, training opportunities and services.

### **Social conditions:**

Family conditions may cause the individual to move from one place to other, the opportunity to get into the better educational institutions likes collages or universitites may force the person to move from on state to other, the people wanted to improve their standard of living , so they seek for good social environment, good working place and adequate salary to their living.

### **Challenges faced by the Interstate migrant workers:**

The interstate migrant workers as they migrate from their own state to other state face many issues and hardships. they are,

- **Lack of Job Security:**  
Migrant workers are frequently employed in low-skilled, informal professions that lack the stability of regular employment. Their work may be insecure since they lack formal contracts or job guarantees.
- **Workplace Exploitation:**  
Migrant workers are subject to exploitation due to factors such as low earnings, long working hours, and bad working conditions. Employers may exploit their temporary position and lack of awareness of local labor rules.
- **Housing and living conditions are deplorable:**  
Finding inexpensive and appropriate accommodation for migrant workers is usually difficult. They may wind up living in overcrowded and inadequate conditions, which can have a negative impact on their health and well-being.
- **Access to Social Services is Limited:**  
Because of their transient and transitory status, migrants may have difficulty obtaining social services such as healthcare, education, and other public facilities. This lack of access has long-term consequences for their families.
- **Discrimination and Social Isolation:**  
In their host communities, migrant laborers may face social isolation and prejudice. Cultural differences, linguistic hurdles, and a sense of being 'outsiders' can all contribute to feelings of isolation.

- **Inadequate Legal Defense:**

Migrant workers may be unaware of their rights or lack the resources to exercise them. Due to their temporary position and unfamiliarity with local legal systems, they may experience difficulties in pursuing legal remedies for job issues.

- **Risks to one's health and safety:**

Migrant workers may face employment dangers if sufficient safety precautions are not in place. They may not have access to healthcare, and job injuries or illnesses may go untreated.

- **Dependence on intermediaries and contractors:**

Many migrant workers rely on intermediaries or contractors for job placement, transportation, and lodging. This reliance may result in exploitative tactics, debt bondage, and a lack of negotiating power.

- **Children's Educational Disruptions:**

Children of migrant workers frequently experience educational interruptions as a result of numerous relocations. Their long-term potential may be hampered by a lack of access to high-quality education.

- **Social Security and Benefits are Limited:**

Migrant workers may be denied access to social security benefits and welfare programs, which are frequently linked to permanent residency. In times of crisis, their lack of social safety might leave them vulnerable.

Apart from these there are various issues that are faced by the inter state migrant workers,

- **Social and psychological aspects:** Many migrants are not easily welcomed by their host country, and they are always seen as second-class citizens.

Anyone who moves to a new culture encounters a variety of obstacles, ranging from cultural adaptation and language barriers to homesickness and loneliness.

- **Exclusion from Political Rights and Social Benefits:** Migrant workers are denied several possibilities to exercise political rights, such as the ability to vote.

Furthermore, because of the fluidity of their lives, the requirement to present evidence of residency, voter IDs, and Aadhaar cards prevents them from accessing assistance systems and policies.

- **Issues Facing marginalized Groups:** People who are impoverished or belong to a marginalized group find it difficult to mingle.

To address these issues, governments, companies, and civil society must work together to defend the rights and well-being of interstate migrant workers. Policymakers must take steps to ensure social security, enhance working conditions, and encourage inclusion and integration in host communities.

### **What are the Problems with Migrant Workers' Legal Framework?**

The Inter-State Migrant Worker Act of 1979 has yet to be completely implemented by states.

Small businesses and the informal sector are excluded from Social Security coverage. There are no special provisions for the social security of employees in tiny startups, Micro, tiny, and Medium Enterprises, or workers in small firms with less than 300 people.

Migrant workers, self-employed workers, home-based workers, and other disadvantaged rural populations are not protected by social security. This would allow businesses to impose arbitrary service terms on their employees.



## What steps has the government made to help migrants?

### **Steps taken by the Central government:**

The proposal to continue the seven current sub-schemes under the "Relief and Rehabilitation of Migrants and Repatriates" scheme has been approved by the Union Government.

In 2021, NITI Aayog, in collaboration with a working subgroup of officials and civil society participants, will produce a National Migrant Labour Policy.

The expansion of the One Nation, One Ration Card (ONORC) initiative, as well as the launch of the Affordable Rental Housing Complexes (ARHC), the PM Garib Kalyan Yojna program, and the e-Shram site, provided migrants with a light of hope.

### **Steps taken by state governments:**

In 2012, an MoU was struck between Odisha and Andhra Pradesh with the assistance of the International Labour Organization to track laborers traveling from 11 districts in Odisha to work in brick kilns in then-merged Andhra Pradesh.

Kerala has established migrant worker facilitation centers to maintain statistics on migrant workers coming in Kerala and to assist migrant workers in navigating any obstacles they may encounter.

In 2021, Jharkhand launched the Safe and Responsible Migration Initiative (SRMI), which intends to provide systemic registration of migrant workers for monitoring and analysis in both the source and destination areas. In several states, the Jharkhand government will create support desks known as "labor consulates."

### **Amendments to the Inter-State Migrant Workers Act:**

It was recommended in the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Amendment Bill of 2011 that this Act be made more gender-neutral by changing the title and replacing the words 'workman and workmen' with the words 'worker and workers'. Aside from that, lawmakers have not contemplated introducing additional measures to ensure the rigorous implementation of this Act, as well as increased responsibility and penalties for infractions. Considering the limits of the current Act in this respect, the potential modifications are as follows:

- Inter-state migrant labor should be required to register with the gram panchayat, municipality, or corporation.
- Inter-state migrant workers should be given with Public Distribution System (PDS) Cards, which would spare them from having to pay higher costs for food grains and fuel.
- Inter-state workers should be required to get Aadhar cards.
- Inter-state migrant workers' wages should be put directly into their bank accounts rather than being paid in cash by contractors.
- Every state government should be required to run an online site that lists the registered major employers, contractors, establishments, and interstate workers' details, including their Aadhar card numbers, for broad public knowledge and verification. Contractors and major employers should input these data of interstate migrant workers as soon as possible. Noncompliance by the major employers or contractors is considered a breach of the Act and is punishable.
- No contractor should be allowed to deploy workers outside of the state unless they are first registered in that state. Furthermore, all facts about interstate migrant workers' deployment outside the state must be made accessible to state authorities as soon as possible.

- The state government should perform an annual audit of all contractors or employers in the state on the deployment of interstate workers. These businesses and contractors should also be compelled to provide the state assembly with compliance status or implementation reports for review. If noncompliance is discovered, harsh sanctions or punishments should be enforced in order to guarantee that the Act and its provisions are followed.
- Given that states that employ more inter-state migrant workers are ahead in demographic transition, the finance commission should give these states priority in the devolution of central government money.

**Conclusion:**

Inter-state migrant laborers in India are the country's most vulnerable group, frequently subjected to exploitation in the form of underpayment, improper working circumstances, unsuitable housing arrangements, inadequate health care, and overall worse living standards. It had thus become critical to preserve this part of the population, which was also critical for the overall growth and development of the country.

This prompted the Indian Parliament to establish the Inter-State Migrant Workmen Act in 1976, the main goal of which was to govern the employment of inter-state migrant workers, as well as to provide for their working conditions and other related topics. While the Act had some flaws, particularly in guaranteeing compliance with its terms by contractors, establishments, and major employers, it did have several advantages that improved the general well-being of migrant workers. Another significant disadvantage of this Act was the lack of a complete database of all migrant workers at the Centre level, as well as the lack of portability of public services. Following changes as well as new labor regulations, especially the Occupational Safety, Health, and Working Conditions Code, 2020 (OSHC) and the Code on Social Security (CSS), have amended these.

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