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1. To provide a platform for Indian Legal Professionals including Judges, Academicians, Advocates, and Students for showcasing their research skills;
2. To build an endeavor of research and analytical altitude amongst the young legal professionals under the experience and guidance of the senior legal experts;
3. To highlight the possible developments needed in the area of law through research and analytical spirits;
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IMPACT OF LOCKDOWN ON MIGRANT WORKERS: WHETHER A HUMANITARIAN OR HUMAN RIGHTS CRISIS?

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ABSTRACT

Our aim with this paper is to provide insight into the issues and challenges of lockdown on migrants and how it impacted the migrants in the long run. We have elucidated the Political aspect, Legal aspect accompanied with concluding remarks on the whole scenario. We have analyzed various case studies regarding the impact of lockdown on migrants and its effect on the economy and employment, how the matter was rather politicized by State Government and opposition party, and also covered the various petitions filed on the pretext of it. Further, we have analyzed what all needs to be done to keep things intact and how we can safeguard the Human Rights of the Migrant Workers and provide protection to the constitutionally enshrined rights of migrants to live life with freedom and dignity.

KEYWORDS

COVID-19, Constitutionality, Human Rights, Humanitarian Rights, and Migrant Workers

INTRODUCTION

With the widespread of Covid-19 life came to halt, it has been a curse to the economy and life of every nation and not just for our Nation, thus forcing the Government to impose lockdown to contain the

spread of the pandemic. India is a country where millions of migrant workers reside in different places to earn their livelihood. With the enforcement of a nationwide lockdown, these workers had no choice but to stay and wait for the government to decide their fate. The problem arose

when the migrant workers having no jobs, no shelter, and with no money to buy food decided to move back to their home for their survival. Several people died on their way to their homes due to a lack of resources available to them, while some had to exhaust all their resources to reach their native place. This has badly impacted them for the longterm¹.

STATUS OF MIGRANT WORKERS IN INDIA AND IMPACT OF LOCKDOWN ON THEM

For a country where migrants contribute nearly 10% to the country's total GDP, it is very shameful to see them suffering and dying due to an insufficient supply of food and water. This unplanned lockdown has proven to be dreadful for them they have not just lost their livelihood but also exhausted their lifetime resources. On top of it, the migrants had not just lost their job, but also were not being able to satiate their need for food properly².

With the announcement of nationwide lock down a lot of migrants including permanent laborers, factory workers lost their jobs from various factories, shops etc. A lot of migrants living in

rented houses were forced to leave as they were unable to pay monthly rent which unfortunately made them homeless during this deadly situation³.

A massive exodus of migrant laborers back to their home town and disengagement in supply chains of essential goods articulate the troubles that have accompanied the lockdown's initial period. The sudden imposition of the lockdown and directions to citizens to stay put saw contradictory impulses surfacing. Living in cities amid precarious times, commodity scarcities and police harassment can dismay even well-heeled citizens. Wary of the outsider tag, Bereft of saving and social support nets seasonal migrant laborers start heading back to their native villages flouting the lockdown.

The Apex Court, by abdicating all responsibility trusted upon it, refused to intervene and to allay the distress of lakhs of migrants who were walking long distances on highways to go to their villages for their survival with no reliable means of transport. This decision of the Apex Court was disheartening as people had expected some kind of measures and action by the Apex Court which could have mitigated the pain of these migrants. Furthermore, many of the migrants walked for a thousand kilometers to reach their destination along with their

¹Neeta Lal, COVID-19 and India's Nowhere People, The Diplomat, (Jul. 2020, 14, 05:31 PM), <https://thediplomat.com/2020/04/covid-19-and-indias-nowhere-people/>.

² Talwar, Sanya, Hearing Of Urgent Matters In Supreme Court Via Video Conferencing – [LIVE-UPDATES], Live Law, (Jul. 2020, 15, 05:31 PM), <https://www.livelaw.in/top-stories/hearing-of-urgent-matters-in-supreme-court-via-video-conferencing-live-updates-155155?infinitemscroll=1>.

³Indulekha Aravind, Covid-19 will have unprecedented effect on migrant economy, Economic Times, (Jul. 2020, 18, 02:35 PM), <https://m.economictimes.com/opinion/interviews/covid-19-will-have-unprecedented-effect-on-migrant-economy-dilip-ratha-world-bank/articleshow/75648695.cms>.

small children without any means of transport and supply of food.

It is important to note that the State Governments had a bigger role to play over here. Proper assistance and supply of food, healthcare, and transportation services should have been provided from receiver states. All receiver State Governments should have increased the patrolling along the state and national highways to make sure that no migrant has to walk back to their homes. Another major issue faced by the migrants during this lockdown period was the allotment of ration cards.

The migrant workers keep migrating from one State to another for earning their livelihood; on account of it, they don't have their ration card with them. Consequently buying rations from the public distribution system is not possible. Unfortunately, they don't have enough amount of money to buy rations for their bare minimum requirement. Though later the Central Government had to decide that from now ration will be distributed based on Aadhar.

Amidst the severe lockdown in the country National Human Rights Commission (NHRC) recorded over 2582 cases of human rights violations, indicating rampant violation of human rights. Since the country facing a socio-economic crisis in this pandemic time, migrant laborers held to fight and

survive over human rights to life and dignity. Blaming it to the Central and State Government, the Commission said that *"continuing suffering of the migrants is not coming to halt, it is heart-wrenching to know the plight of the migrants particularly children, old aged ones and pregnant women are falling prey to States apathy and politics."* The Commission has sought from the State Government in most inhuman cases of starvation and death of migrant workers.

While attempting to reach their native places many migrant workers stranded in government shelter homes are facing a violation of their fundamental right to life and dignity and India must respond to this violation of constitutionally guaranteed human rights of the workers, said Maitreyi Gupta, India International Legal Advisor at International Commission of Jurists(ICJ). Besides lack of resources, the migrants are at stake in contracting coronavirus, and taking it to areas they are moving to could lead India into the stage of Community Transmission. According to a report of Stranded Workers Action Network published in April, which surveyed 11,000 migrant workers, revealed that 50% of the migrants have no ration for a single day, while 96% had not received rations and to add to the struggle 78% had less than Rs 400 left.

A Huge amount of migrant workers(approx. 400 million) are impacted amidst this lockdown. Loss of

employment, fear of the unknown, and lack of social support were major reasons for unrest in this huge segment of the population. *“The migrants are now being transported back but states are reporting COVID cases among migrants from Mumbai, Ahmedabad, Delhi, and other metros,”* said Dr Suneela Garg, Director at Community Medicine Maulana Azad Medical College, Delhi University.

The lockdown was meant to avoid hospitals getting in a precarious condition and get time to bolster the healthcare system before COVID-19 takes over. The visuals of ill-fated migrant workers walking towards inter-state borders undermine the collective resolve evident during the one day Janta Curfew. To add to this the mismanagement is producing huge humanitarian fallout. In hindsight, limited-period migration could have been allowed before the lockdown was imposed.

The impact of this prolonged lockdown will be witnessed by the migrant workers even after the pandemic will be over. The migrants will keep on suffering due to various economic reasons. Firstly, after the restarting of economic activities and opening of factories, markets and shops there will be surplus labor available for the same work, as a result of which employers of the migrant workers will compel them to work for low wages. In such conditions, the employers might even economically as well as physically exploit the migrant laborers.

The Government at the administrative level needs to make sure that migrant workers across the country will not get exploited by their employers⁴.

A high level empowered committee at the Central level should be constituted for preparing a blueprint to deal with the present situation. Small loans should be easily available to migrant workers so that they can start new work and revive their economical loss.

Finally, on the 63rd day of nationwide lockdown, the miserable condition of migrant workers managed to draw empathy from the Apex Court of the country. In a major observation, the court has noted that the measures were taken by State and Central Government were inadequate and unable to provide safeguard to the migrant workers as guaranteed by the Constitution of India to its citizens.

In a Writ petition No. 468/2020 *Alok Srivastava V. UOI*,⁵ The Supreme Court ordered Government to update daily bulletins clarifying the latest information and developments on COVID-19. In the same order, the news media were directed to publish the latest information about every event. These directions were given to handle the panic triggered

⁴ Press Trust of India, Lockdown in India has impacted 40 million internal migrants: World Bank, Economic Times, (Jul. 2020, 15, 01:00 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/lockdown-in-india-has-impacted-40-million-internal-migrants-world-bank/articleshow/75311966.cms>.

⁵ Alok Srivastava v. Union of India Writ Petition No. 468/2020.

among the migrant workers from the misinformation and fake news, resulting in a mass migration of laborers. Consequently with the mass movement during a pandemic, the health and safety of migrant workers were put in a very dangerous position.

Additionally, to the above, the government provided 1.7 crore rupees through Pradhan Mantri Jan Dhan Yojna which envisaged the essential services to the migrants and providing them with financial assistance through welfare fund for building and other construction workers including 5 kg food grains (rice and wheat), 1 kg pulses, and 1 gas cylinder, all free of cost for the next 3 months. Furthermore, for providing relief to the migrant workers the Central Government by exercising its power under the Disaster Management Act, 2005⁶ directed State to pay all the migrants their dues in lockdown and further, migrants staying on rent should not be compelled to pay in lockdown.

Advisory issued dated 27/03/2020, 28/03/2020 and 29/03/2020 by the Ministry of Home Affairs directed State to show compassion and adopt a humane approach in dealing with migrant workers. Furthermore, in an advisory issued on 24/03/2020, the Ministry directed the State Government to deal effectively with rumor-mongering and fake news strictly.

⁶ Disaster Management Act 2005, Sec. 54.

The Apex court in order⁷ expressed its satisfaction at the steps taken by the Central Government and implementation by State Governments, to curb the spread of COVID-19 as well as to provide basic amenities to the migrants. Concerning about reporting of fake news, taking note of Section 54⁸ of the Disaster Management Act, 2005 and Section 188⁹ of the Indian Penal Code, the Court indicated that-

1. *“All concerned shall comply with the directions, advisories, and orders passed by the Union of India in the interest of public safety,*
2. *Stressed on the duty of the media to be more vigilant and responsible and ensure that unverified news capable of causing panic is not disseminated;*
3. *Union of India directed to start issuing daily bulletin through all media avenues including social media and forums to clear the doubts of people.”*

In a suo-moto cognizance case, the Supreme Court observed: the Government should ensure that all the

⁷ Chaudhary, Nilashish. Plea In SC For Rehabilitation Measures For Migrant Workers After Lockdown, Live Law, (Jul. 2020, 19, 02:30 PM), https://www.livelaw.in/top-stories/plea-in-sc-for-rehabilitation-measures-for-migrant-workers-after-lockdown-154866?infinite_scroll=1.

⁸ Provides for punishment to a person who circulated false alarm.

⁹ Prescribes punishment for disobedience to an order promulgated by a Public Servant.

migrant workers who are willing to go back to their home states will return within a fortnight and the Government should inform about the same to the court within the fixed deadline.

Additionally, the court asked State Governments and Union Territories to prepare a District and Block-level inventory identifying the migrant workers who have returned to their homes. Based on their employment history vocational courses should be provided to them. The Apex court asks the State Governments and Union Territories for setting up a counseling Centre at Block and District level. The Centre will provide information to the migrant workers about the welfare schemes and employment avenues that will be open for them. The Centre will also provide advice to workers who want to go back to work where they were employed before the lockdown.

Furthermore, the Apex court asked the State Governments and Union Territories to consider withdrawing all the prosecution proceedings and the complaints lodged against the migrant workers for the violations of norms of the Social Distancing and Lockdown restrictions while returning to their home.¹⁰

The worst affected by the nationwide lockdown if any has been the migrants they were haunted with scarce resources and stranded without the window of time given to reach their native places before the imposition of lockdown which created havoc among the labor fraternity with scarce resources to survive and poor facilities provided at the quarantine Centre which created a lot of anxieties and psychological and social problem apart from the economical problems. The worst was the rumor-mongering and fake news related to them which created the further problem of large mobilizations at different stations of cities such as Bandra station in Mumbai.

The decision of the Apex Court of the country refusing to interfere on the issue of migrants walking home due to lack of transportation arrangements was heart-wrenching as some kind of measures and action if taken by the Apex Court could have mitigated the pain of these migrants. In the reports submitted by the Centre, there has been no mention of sanitization or social distancing in the shelters. Further, Al Jazeera reported migrant workers in UP being doused in disinfectants used for sanitizations of buses which is a clear-cut violation of the human rights of the laborers¹¹.

¹⁰ Abraham Thomas, Migrant workers must be sent home in 15 days, says Supreme Court, Hindustan Times, (Jul. 2020, 16, 06:30 PM), <https://www.hindustantimes.com/india-news/migrant-workers-must-be-sent-home-in-15-days-says-supreme-court/story-YQsRZroVIJFzUdw2GaTgCL.html>.

¹¹ Hassan Ghani, Indian Migrant Workers Sprayed with Disinfectant Chemical, Al Jazeera, (July 19, 2020, 1:30 PM), <https://www.aljazeera.com/programmes/newsfeed/2020/04/indian-migrant-workers-sprayed-disinfectant-chemical-200406104936658.html>.

Instead of coming to conclusive solutions and resolving the situation, there was a lot of politics done on the labor issue¹² like the opposition government started dissembling the issue by faking to provide the transportation services to migrants in which they listed scooters, three-wheelers and tried to criticize the government on the pretext of not providing adequate services without actually seeking to know that India is a Federal-State and States can also use their power to politicize the cause.

The central government permitted the Indian Railways to launch "Shramik Special" trains for the migrant workers and others stranded on May,01. Furthermore, the State Government was reprimanded by the Ministry of Home Affairs for requesting trains to transport migrants, stating that the trains were mainly meant for those who were stranded due to the abrupt lockdown, and not for the migrants.

Additionally, this service was not free, there were additional charges over the normal fares which accompanied a lot of criticism for the Central Government from the opposition, with the congress party resorting to it by promising to sponsor tickets of migrants. The Central Government then announced that it would offer an 85% subsidy on the

¹²Jay Ramasubramanyam, Indias-treatment-of-muslims-and-migrants-puts-lives-at-risk-during-covid-19, The Conversation, (Jul. 2020, 19,27, 04:50 PM), <https://theconversation.com/indias-treatment-of-muslims-and-migrants-puts-lives-at-risk-during-covid-19-136940>.

train fares, with the state governments funding the remaining 15%. However, the migrants were still forced to pay a disguised amount in some cases. The Government initially declined to share the details regarding this with the Supreme Court, but later confirmed that it was not paying for anyone's fare. There was a controversy after the Shramik Special trains were introduced by Government, the Karnataka State Government and the Bihar Government canceled the trains and refused to provide a No-Objection Certificate.

Additionally, disagreement also arose between Maharashtra and other States the Central Government directives regarding which States should pay for the migrants travel. Furthermore, there were a few arbitrary changes made in Labour Laws. The Government after facing a lot of criticism over the recent changes in the Labour Law finally decided to call back its decision.

At such times the need of the hour also calls in for a Ministry of Migrant Labourers which would work to reduce the unwanted suffering of the migrant laborers and provide assistance as per the need of the migrants. Such a type of Ministry will not just be useful during this precarious and dreadful period but will further keep on working even in the future to solve the problems of the migrants.

With their return to hometowns and villages, they were doused down with disinfectants or soap solution

in some cases and treated with either fear or a "class bias". Since many of them belonged to the lower castes, they had to face caste slurs and harassment from the people of their hometowns. Some even started having property disputes. Amidst the massive exodus, some migrants who decided to stay back started facing an assault from their native people and police brutality, who accused them of being infected with the Coronavirus. They thus, could not venture out of their homes in search of food.

CONCLUSION

Despite employment schemes generated in rural areas by Central Government, many Migrant workers began returning to cities instead of lack of jobs in their hometowns, as lockdown restrictions were reduced as part of Unlock 1.0 in June, reopening railway services helped facilitate this cause. Few employers sponsored the travel of migrants back to their workplaces. This included taxis, trains, and even flights. There was a shortage of laborers in cities too, especially in the industrial sector. Studies conducted in April-May portrayed that 77% of migrants will return to cities for work. It is expected that the severely impacted economy will start reviving after the migrants return to the cities.