
MODERN-DAY SLAVERY: THE GLOBAL CRISIS OF MIGRANT WORKERS BY COVID-19 AND THE LAWS THAT GOVERN THEM TO GLOBALIZATION

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ABSTRACT

Law and justice are interlinked concepts but are still not the same. Justice is a broader concept which lies in the institution of equity, equality and integrity. And the law is a set of regulations regulated by governments and international bodies based upon the concept of justice. In today's world, globalization has transcended and become an integrated part of human life and societies. Thus, it is appropriate to analyze the relationship between law, justice and globalization; that is, the role of law in securing justice with the emerging globalization. Developing global societies brings fundamental, economic, societal, political and legal changes. The host countries have increasingly given migrant workers acceptance. Under the convention of the United Nations and International Labour Organization (ILO), migrant workers have the right to be protected by the host countries. Still, the implementation of these legal instruments has failed to satisfy their rights for protecting them as migrant workers because there is no national treatment for those migrants. These issues of migrant workers crisis have been witnessed more often by the time of Covid-19 across the borders. Even within the territory of India, in a worsened situation where these workers have faced no job situation, and the panic of returning to their homelands got them worried that their right to live in human conditions has been endangered. By this, it can be stated that there are many issues regarding the exploitation of rights of these workers, like facing poor living conditions, limited access to medical support services, etc. thus, this paper is to discuss the issues of migrant workers and the violation of their rights under the international migration laws and national migrant laws by the time of Covid-19 strikes the world. And how these rights of migrant workers can be so ensured to attain justice on a global aspect.

Keywords: globalization, Covid-19, migration, workers, human rights.

Research Questions:

Q1. What are the issues arising during covid-19 regarding implementing international migrant workers and the laws?

Q2. Whether the international and national legal instruments have efficiently protected the rights of migrant workers?

Q3. What are the majors to ensure globalized laws and justice for these migrant workers?

I. INTRODUCTION: RISE OF THE CRISIS

WHO reported that the first case of Covid-19 took place in December 2019; the infection was highly contagious, leading to a global health crisis. Covid-19 has left the world to face the most tragic unpredictable losses¹. And among all these, the most affected were these groups of people. These migrant workers had met the harshest of new realities, unemployment, restrictions on movement, low payments etc., as the pandemic hasn't only swept off lives, it has also swept various rights. Due to the risk of spreading the virus, the world has seen a standstill position affecting the acceleration of globalization which resulted downstream in economic, violation of human rights and social bias.

According to International Labor Organization, 4.7% of the world's Labour were these migrant workers who were putting away from their homelands. Among those, some faced unemployment which caused them to move back, and some served as front-line workers through the crisis². This issue of migrant workers returning arose due to poor social security, causing broader implications like physical, economic, political and mental disabilities³. Social security is achieved through international and national instruments as it is crucial in preventing these labourers from exploitation.

II WITHIN OUR KNOWN BOUNDARIES (INDIA)

80% of the Indian Migrant worker population belongs to a marginalised informal economy class. The structure of the country solely depends upon them⁴. Covid-19 has the worst effect

¹ Coronavirus, <https://www.who.int/health-topics/coronavirus> (last visited Nov 9, 2022).

² Tesseltje de Lange, Sandra Mantu & Paul Minderhoud, *Into the Unknown: COVID-19 and the Global Mobility of Migrant Workers*, 114 AJIL UNBOUND 332 (2020).

³ Joshy Jesline et al., *The plight of migrants during COVID-19 and the impact of circular migration in India: a systematic review*, 8 HUMANITIES AND SOCIAL SCIENCES COMMUNICATIONS 231. (2021)

⁴ Debika Banarjeel & Anshita Siddhanta, *THE IMPACT OF COVID-19 ON THE HUMAN RIGHTS AND MIGRANT LABOURERS IN INDIA*, 13.

on them, causing distress and suffering, like abandoning their residential place, moving toward their hometowns expecting better situations to tackle and hold on to their families, as they were unable to meet their daily expenses due to the work freeze. Covid-19 resulted in the government calling a complete shutdown to control the pandemic, restricting people from moving during that, which led these migrant workers and their families to walk miles and miles, starving, etc. this harms the right to a dignified life has been viciously infringed. They have also faced unfair treatment by police against them. Cause of these more than 300 deaths was reported by May 5th 2020⁵. Migration was always taken up as a solution to poverty, better health, education, income, etc. the government's decision to lockdown was very prompt that it lacked definite planning and coordination in its implementation, which has affected not only the migrant workers but also the whole nation. These migrant workers, as a result of the prompt decision, were trapped without jobs, facing problems like insecurity and hunger and having no means to survive. These migrant workers' survival depended upon their daily wages respective to the Minimum Wages Act. This caused

I.II. CRISIS ACROSS THE WORLD.

The global recession has hit migrant workers hard. Countries like America and Europe were not so welcoming to migrants, and Covid-19 made it worse, as people lost their jobs and faced economic and social disparities. These all resulted in dreadful living conditions in the refugee camp, which vigorously boosted the transmission of Covid-19. Worldwide the scenario was of no difference, from India to Europe to America to Africa and middle eastern and Asian countries. Discrimination has become a common element⁶. Romanian workers were sent to Netherlands & Germany by designated flights in the spring of 2020; these workers have been kept in a vulnerable situation⁷. The conditions of detention camps in Saudi Arabia were awful⁸. Seeing such instances Geneva Council for Rights and Liberties has put forth a request open to the world legislatures to take immediate action for the protection of migrant workers, specifically for the Gulf countries and U.A.E, as the risk was similar for the migrant workers here in. Geneva council also requested WHO to protect migrant workers⁹. Disparities have also been encountered in U.S healthcare units where these migrant workers have been employed

⁵ Anamika Gupta & Neelu Nandini Khare, *Labour Laws and Migrant Workers during Covid-19*, 1 Jus Corpus L.J. 305 (2021).

⁶ Ananda Majumdari, *COVID-19 Scenario and the Human Rights of Migrant Community*, 4 14.

⁷ Tesseltje de Lange, Sandra Mantu & Paul Minderhoud, *Into the Unknown: COVID-19 and the Global Mobility of Migrant Workers*, 114 AJIL UNBOUND 332 (2020).

⁸ Ananda Majumdari, *COVID-19 Scenario and the Human Rights of Migrant Community*, 4 14.

⁹ *Ibid.*

without any employment standard like zero-hour salary¹⁰. Thus, Evaluating the laws available to protect migrant workers in emergencies is essential. However, the concerning laws are pretty complicated and vary depending on the residence of the migrant workers. The laws are crucial so these migrant workers can have a comfortable and safe working environment, as it is their human right.

II. RIGHTS OF MIGRANT WORKERS IN AN INFERIOR SITE, LAWS IN ENFORCEMENT: THE FAILURE

The world has become a smaller place, thanks to the internet and the rise of air travel, resulting people new opportunities to work abroad to seek improvement in their financial status. Working as a migrant worker comes with its unique risks. The global crisis of migrant workers in covid-19 was real. According to ILO 2020 report, 205 million international migrants are working abroad, projected to increase by as much as 50% over the coming decade,¹¹ as the free flow of wealth and people has improved through globalization. Global migration has also become a major issue as the mutating adaptability of the Covid-19 virus has posed a challenge to public health, it has also brought the issue of jeopardized human rights, as migrants have faced abusive and exploitative treatment. Due to the policy loopholes, these marginalized people faced such problems, especially regarding access to health resources and information¹². Protecting the rights of Migrant workers with labour laws, which outline the responsibilities and the rights of the employers and employees. They exist to protect all workers in every country, regardless of their immigration status, same rights for migrant workers, i.e., the national treatment lacking the most during the pandemic¹³.

II.I INTERNATIONAL LAWS AND NATIONAL LAWS FOR THE PROTECTION OF MIGRANT WORKERS:

Since the foundation of ILO in 1919, migration has been a critical issue. The preamble of the ILO constitution states, “protection of the interests of workers when employed in countries other than their own.”¹⁴ This aims at equal treatment for all migrant workers and nationals and

¹⁰ Coronavirus: Migrants workers in the UK and overseas face disproportionate risk from COVID-19. ¶ 15.

¹¹ International Labour Standards on Migrant workers, <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/migrant-workers/lang--en/index.htm> (last visited Nov 10, 2022).

¹² Mei-Chun Liu, *13 Health Governance during the COVID-19 Pandemic*, 17.

¹³ Katharine Jones, Sanushka Mudaliar & Nicola Piper, *Locked down and in limbo: The global impact of COVID-19 on migrant worker rights and recruitment*, 59.

¹⁴ Key document - ILO Constitution, https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO (last visited Nov 10, 2022).

coordination of migration policies between states. These guidelines were set to protect the rights of all migrant workers contained in the ILO Declaration on Fundamental Principles and Rights at Work. The rights include the right to a safe workplace, equal pay for equal work, and protection from discrimination¹⁵. Though these guidelines are not legally binding, many countries have adopted them to protect migrant workers as it has general applications.

United Nations standards for migrant workers have been adopted from ILO guidelines. Later in 1990 UN enacted the Migrant Workers Convention an instrument for the “epitome of international human rights”¹⁶ which defines universal human rights and protects vulnerable groups across the world like migrant workers and etc. the basic purpose of this convention is to amalgamate the statutes and rules related to migrant workers, to lessen clandestine trafficking, to accompanying other instruments, and to enhance the exclusive position of migrant workers along with their family¹⁷. The UN Migrant Workers Convention is very exhaustive in nature which inescapably overlaps the ILO convention in some aspects.

The migrant holds a right against a condition of objective regardless of whether their status isn't indistinguishably equivalent to the situation with the individuals from that state. Fundamental liberties are unmistakable from different rights as they apperceive remarkably extraordinary fundamental interests¹⁸. These rights attained eminence when Article 1 of the UDHR declaration stated, “*all human beings are born free and equal in dignity and rights.*” Various other international instruments provide similar protection to these migrant workers, like International Covenant on Economic, social and cultural rights, which Germany, Romania and Netherlands have ratified, which states that “everyone has the right to enjoy healthy and safe working conditions”¹⁹. With regard to global governance, 17 guidelines were put forth with respect to protecting the rights of migrant workers including their right to access territories and salvage activities for the individuals who are upset adrift and the global borders. International conventions for the protection of social security are comparative, being restricted to explanations of general standards instead of worrying about the complicated subtleties of the

¹⁵ The text of the Declaration and its follow-up (DECLARATION), <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm> (last visited Nov 10, 2022).

¹⁶ Ockert Dupper & Llb Llm Sjd, *MIGRANT WORKERS AND THE RIGHT TO SOCIAL SECURITY: AN INTERNATIONAL PERSPECTIVE*, 37 (2007).

¹⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers> (last visited Nov 10, 2022). See the Preamble.

¹⁸ WILLIAM A. EDMUNDSON, *AN INTRODUCTION TO RIGHTS* (2012).

¹⁹ Tesseltje de Lange, Sandra Mantu & Paul Minderhoud, *Into the Unknown: COVID-19 and the Global Mobility of Migrant Workers*, 114 AJIL UNBOUND 332 (2020).

subject. The justification is the conviction that the confirmation and upkeep of critical standards and basic rules are better guaranteed at the general multilateral level. However, the specialised issues emerging in what is ostensibly mind-boggling and various fields are best left to two-sided or explicit multilateral treaties²⁰. Keeping an edge with these treaties Indian legislature has also formulated the same for the security of migrant workers. Still, such have never been adequately enforced nationally. Internationally both ways, The Unorganized worker's Social Security Act, 2008 was enacted to ensure collective security and the National security scheme, the procedure that has been followed under the statute was quiet time taking and by the pandemic, thus govt. Came up with some modifications and provided "*Pradhan Mantri Garib Kalyan Yojna and Rashtriya Swasthya Bima Yojana*" the objective behind this was to furnish proper healthcare to the poor people. But unfortunately, not all migrant labourers are being able to avail of these²¹. By this time of covid-19 UN, in collaboration with NGOs, has also started to provide medical support by building humanitarian hubs for these migrant labours.

II.II THE FAILURE: INTERNATIONAL AND NATIONAL INSTRUMENTS

The covid-19 has revealed the finest and the worst ones amid any of the global crises in history, and the outcome was that migrant workers' human rights had been placed in danger cause of racism, lack of security, inequality and poor living conditions. Despite the aid and adherence to international/ national governments, the number of migrant workers and those who have returned from their workplaces or those trying to return have faced constant threats. As Covid-19 has passed, the thrash of cruelty across borders and people opposing each other, belonging from different countries or communities, has been witnessed. ILO and ASEAN, from the long go, even before Covid-19, have been advocating the same. For a long time, the migrant labour issue has been a distant and comprehensive implication on people, public and provincial security areas as distinguished by the mind-boggling web above, and worldwide collaboration has become much more essential to successfully deal with the framework to reduce the shock made by the Coronavirus emergency²². However, various issues still arose in preserving and ensuring their rights were violated. During this crisis, migrant workers' protection also has

²⁰ Ockert Dupper & Lib Llm Sjd, *MIGRANT WORKERS AND THE RIGHT TO SOCIAL SECURITY: AN INTERNATIONAL PERSPECTIVE*, 37 (2007).

²¹ Anamika Gupta & Neelu Nandini Khare, *Labour Laws and Migrant Workers during Covid-19*, 1 Jus Corpus L.J. 305 (2021).

²² Miemie Winn Byrd, *SECURITY IMPLICATIONS OF MASS RETURNING MIGRANT WORKERS DUE TO COVID-19 CRISIS*, 6.

been covered by the IOM (International organisation of Migration)²³. Though there were some notable successes in providing security to migrant workers, international laws have generally failed to do so due to insufficiency in providing specific legal protection or not being legally binding in nature and the inability of many national govt. To enforce the standards effectively. For example, the provisions of ILO²⁴ and the Domestic Workers Convention, 2011(No. 189) provide protection to domestic workers. However, these rights are not legally binding, and the only consequence of non-compliance is an appeal to the “moral conscience” of the states. Similarly, the UN Guiding Principles on Business and Human Rights explicitly aim to supplement the existing framework of international law, and implementation of these is voluntary and has no strict provisions for holding the non-complying states into account²⁵. As per Nugraha " *the relevance of international organizations has been increased by the time of Covid-19. As because countries frequently lacked proper resources to address the problems particularly related to labour migration.*"²⁶

Similarly, the failure has been witnessed in the Provinces of Indian Sovereign, where Central Legislations and labour laws have failed to adequately impart protection and enough resources to the migrant labours. Article 21 of the Indian Constitution provides the right to life with dignity and liberty; due to Covid-19, these rights were being infringed. Though it's the duty of the state to protect its citizens under an emergency, such as covid-19 got, the labour laws got suspended, which resulted in these infringements of fundamental rights²⁷ as there has been no proper implementation and application of the enactments²⁸.

III. MAJORS TAKEN: TO ATTAIN GLOBALIZED LAWS

In order to protect the rights of migrant workers in a better way, forwards are essential to take them into account. The majors should be taken to make these existing international instruments strengthen the laws, make them binding upon the states, and make implementing such laws more effective. A similar observation can be made in the steps taken by the Indonesian government, and they took initiatives and new policies to keep them in line with ILO

²³ Migrant Protection and Assistance, INTERNATIONAL ORGANIZATION FOR MIGRATION, <https://www.iom.int/migrant-protection-and-assistance> (last visited Nov 10, 2022).

²⁴ Labour law (international) (ILO Library), <https://www.ilo.org/inform/online-information-resources/research-guides/labour-law/lang--en/index.htm> (last visited Nov 11, 2022).

²⁵ United Nations, *Universal Declaration of Human Rights*, UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Nov 12, 2022).

²⁶ Sylvia Yazid, *15 Indonesia's Response to Global Recommendations on Labour*, 15.

²⁷ Anamika Gupta & Neelu Nandini Khare, *Labour Laws and Migrant Workers during Covid-19*, 1 Jus Corpus L.J. 305 (2021).

²⁸ Deepa Shrishai, *Migrant Crisis and Economic Reforms during Covid-19 in India: A Critical Analysis*, 4 12.

recommendations. The government of Indonesia has come up with economic and social policies treating the migrants' labours like nationals and giving them access to services and information²⁹. Thus, strengthening the existing laws and instruments will make the states legally binding by way of amendments making them more specific and better implementation of the same will, providing protection and rights to migrant workers. Thus, by way of revisions, these laws can be made more globalised, which is much needed in this modern globalized world as globalized forms of rules will have better implementation throughout the states.

IV. CONCLUSION:

The pandemic of Coronavirus has seriously affected individuals' lives in each aspect. Every emergency seriously affects poor and oppressed individuals. The global recession has hit migrant workers hardest. The International Labour Organization estimates that by 2020, 205 million international migrants will be working outside their home countries—a figure projected to increase by as much as 50% over the coming decade. Given the scope of this crisis, it's more important than ever that we understand what protections are available to migrant workers and the laws that help them in times of hardship. Globalization, frequently seen as a danger to migrant specialists and the acknowledgement of their freedoms plays likewise had an impact in uniting different and geologically far-off voices to their guard, and may yet assist with achieving significant changes at the public and worldwide levels that will at last help migrant labourers.

The shortcoming of the statutes has been examined, and it can be stated that international and national laws have attempted to address these issues by creating various rights-based instruments and institutions. However, these legal “schemes” are not sufficiently specific or legally binding to ensure consistency with each other or practical implementation at the national level. In order to better protect the rights of migrant workers, the international and national legislatures need to go through the existing laws and overcome the shortcomings by way of amendments and better implementations so that these laws can work effectively to protect the rights of migrant workers in the global crisis.

²⁹ Sylvia Yazid, *15 Indonesia's Response to Global Recommendations on Labour*, 15.