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# THE GREAT REVERSE MIGRATION: ANALYSING LABOUR LAW AND POLICY LAPSES DURING THE COVID-19 LOCKDOWN

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## ABSTRACT

The author aims to present the legal and policy inadequacies that led to and aggravated the mass reverse migration of India's migrant labour force during the central government's COVID-19 lockdown, which are discussed. This paper aims to discuss various issues that led to reverse migration. These issues may be summarized as (i) What legal, administrative, and implementation voids left the migrant workers unprotected during the lockdown? (ii) To what extent and how have state derailments at the state and local levels, including poor inter-state coordination, led to the humanitarian crisis? (iii) What legal changes should be made to turn lessons learned from the lockdown into future protection for migrant workers? The study includes lists of statutes, Labour codes, and government orders, along with qualitative content analysis of judicial narratives, official circulars, NGO field reports, and contemporary media records. The paper by analysing various sources will find a conclusion that reverse migration was not simply a public health externality but the natural consequences of a structural invisibility and governance shortfalls, fragmented statutory mandates for interstate migrants' non-portability of welfare entitlements, weak formal access to Social Security benefits for informal sector workers, weak enforcement reforms, as well as the lack of statutory emergency migration action protocols.

**Keywords:** Migrant workers, Reverse Migration, COVID-19 Lockdown, Social Security, Portability.

## Introduction

The COVID-19 pandemic and the nationwide lockdown announced on March 24, 2020, triggered one of the largest human migrations in India's post-independence history over the following weeks. Millions of migrant labourers, largely dependent on daily wages and belonging to the informal sector of employment, begin a mass reverse migration from urban industrial areas back to their native villages. This situation, widely termed the "Great Reverse Migration", exposed deep-rooted structural deficiencies in India's labour Law framework, lapses in administrative machinery, and in the welfare Delivery system.<sup>1</sup> According to the 2011 Indian census, internal migrants comprised nearly 37% of India's total population, which translates to approximately 450 million individuals.<sup>2</sup> Significant portions of this mobile workforce are employed in informal sectors, such as construction sites, manufacturing units, domestic work, and small-scale services, which have historically been excluded from formal legal protection.<sup>3</sup> When this sudden lockdown was introduced, it paused economic activities throughout the country. These workers faced mass unemployment, eviction, and hunger with little or no access to state support mechanisms.<sup>4</sup> While the Disaster Management Act, 2005, provides the legal framework for the lockdown, its implementation overlooks the labour dimensions of disaster governance.<sup>5</sup> In contrast, the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979, was intended to secure the rights of migrant workers; however, it remains largely dormant due to poor registration, weak implementation, and jurisdictional overlaps.<sup>6</sup> The resultant governance creates a vacuum, leaving millions stranded and turning a public health emergency into a humanitarian and legal crisis. This paper identifies ways to evaluate the labour law, policy failures and lapses that exacerbated the crisis. This paper also identifies the reform pathways that have emerged in its aftermath. It pursues three interrelated research questions; (i) What statutory and administrative gaps left migrant labourers unprotected during the lockdown? (ii) How effective were judicial and policy interventions in mitigating the crisis? (iii) What reforms are necessary to ensure long-term legal and social security for migrant workers? The paper employs a doctrinal and

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<sup>1</sup> Ministry of Home Affairs, Govt. of India, Order No. 40-3/2020-DM-I(A) (Mar. 24, 2020)

<sup>2</sup> Office of the Registrar General & Censuses Commissioner, Censuses of India: Migrant Tables (2011).

<sup>3</sup> International Labour Organization (ILO), Impact of COVID-19 on Labour Migration in India (2020).

<sup>4</sup> Harsh Mander, Locked Down, Locked Out: Migrant Workers in the COVID-19 Pandemic, 55(23) Econ. & Pol. Weekly 14 (2020).

<sup>5</sup> Disaster Management Act, No. 53 of 2005, INDIA CODE.

<sup>6</sup> Inter-State Migrant Workers (Regulation of Employment and Conditions of Services) Act, No. 30 of 1979, INDIA CODE

analytical methodology to examine a statutory text, judicial decisions, and policy documents, accompanied by empirical reports from the ILO, NITI Aayog, and Civil Society Organisations. The analysis includes both Indian and International perspectives, situating India's migrant labour governance with global discourses on social protection and the rights to mobility. By critically evaluating the "Great Reverse Migration" through a legal lens, the paper argues that the tragedy was not a spontaneous byproduct of the COVID-19 pandemic, but rather a culmination of decades of policy neglect, a fragmented legal system, and the institutional invisibility of migrant workers within India's federal structure.

The social and economic conditions of migrant labourers in India, even before the onset of the COVID-19 pandemic, were unsatisfactory, largely due to informal employment arrangements and systematic exclusion from welfare schemes. Internal migration in India has historically been driven by rural distress and regional disparities in development, and political unwillingness to work for the welfare of the migrant workers.<sup>7</sup> Migrant workers, particularly those from Bihar, Uttar Pradesh, Jharkhand, Odisha, and West Bengal, form the backbone of low-wage sectors of the urban economy, including construction sites, textile industries, logistics, and domestic work.<sup>8</sup> Yet their legal and social visibility has remained marginal. The Economic Survey (2017–18) estimated that India hosts over 100 million inter-state migrant workers, although official registrations under the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979, have consistently remained below 10% of this population.<sup>9</sup> The reason for such under-registration includes very poor employer compliance, weak inter-state coordination, and the predominance of informal labour contractors who intentionally evade regulatory oversight.<sup>10</sup> Consequently, a segment of the labour force remains outside the ambit of formal employment relationships, thereby not being entitled to statutory benefits, such as minimum wages, occupational safety, and social security. Migrant labour is also characterised by circularity and informality. Workers frequently move between the rural and urban economies in search of seasonal employment.<sup>11</sup> This transient mobility pattern makes it difficult to ensure portability of welfare benefits such as Public

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<sup>7</sup> Deepak K. Mishra, Rural Labour Migration in India: Emerging Challenges and Policy Issues, in *Labour Migration in India: Trends, Patterns and Policy Issues* 11 (Ravi S. Srivastava ed. 2020).

<sup>8</sup> International Labour Organisation, *Decent Work for Migrant Workers in India* (2019).

<sup>9</sup> Ministry of Finance, *Economic Survey 2017-18, Vol. I* ch.10 (2018).

<sup>10</sup> Ravi S. Srivastava, Vulnerability, Employment and Labour Market Exclusion: The case of Migrant Workers in India, 55(34) *Ecom. & Pol Weekly* 40 (2020).

<sup>11</sup> Jan Breman, *Footloose Labour: Working in India's Informal Economy* 35-38 (Cambridge Univ. Press, 2013).

Distribution Schemes (PDS), Employees' Provident Fund (EPF), or health insurance.<sup>12</sup> Moreover, labour laws in India have traditionally been employer- and location-specific, focusing on the interests of a particular workplace rather than the worker's identity.<sup>13</sup> Multiple scholarly studies have noted that this "invisibility" of migrant labour within administrative systems amounts to structural discrimination.<sup>14</sup> The Unorganised Workers Social Security Act, 2008, was intended to extend social protection to informal and unorganized workers, but its practical implementation remained fragmented and unrecognised.<sup>15</sup> Furthermore, data shows a disparity between the Centre and States, which prevented the creation of a unified database of migrant workers, an institutional gap that proved catastrophic during the lockdown.<sup>16</sup>

From a rights-based perspective, the vulnerabilities of migrant labour intersect with constitutional guarantees under Articles 14, 19(1)(d), and 23 of the Indian Constitution, which ensured equality, freedom of movement, the right to life, and protection against exploitation.<sup>17</sup> However, the operational reality has been one of procedural and systematic neglect, as well as policy inertia. As ILO reports highlight, India's welfare architecture for informal sector workers lacks universality, integration, and portability, which are central to international labour standards.<sup>18</sup> This background context suggests that the "Great Reverse Migration" of 2020 did not occur in a vacuum. Instead, it was the manifestation of long-standing structural inequalities, exclusionary labour governance, unevenly distributed welfare schemes, and the lack of institutional preparedness to respond to labour mobility in times of crisis. The subsequent lockdown merely magnified these pre-existing gaps within India's socio-legal framework.

### **Legal Framework Governing Migrant Labour in India**

The legal framework governing migrant labourers in India is a fragmented mosaic of Central and State-level laws enacted over several decades, reflecting piecemeal and reactive policymaking.<sup>19</sup> Although the Indian legal system has one of the most elaborate sets

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<sup>12</sup> International Labour Organisation, Portability of Social Security Benefits for Migrant Workers in South Asia (2018).

<sup>13</sup> Anuradha Nagraj, India's Labour Laws Leave Migrant Workers Exposed and Vulnerable, Reuters (July 7, 2020).

<sup>14</sup> Amrita Datta, Migrant Labour and the Invisible Workforce in India, 17(2) Indian J. Labour Econ. 145 (2021).

<sup>15</sup> Unorganised Workers Social Security Act, No. 33 of 2008, INDIA CODE.

<sup>16</sup> NITI Aayog, Report on Migrant Workers and the Economy (2021).

<sup>17</sup> INDIA CONST. arts. 14, 19(1)(d), 21, 23.

<sup>18</sup> International Labour Organisation, ILO Global Commission on the Future of Work: Work for a Brighter Future (2019).

<sup>19</sup> Babu Mathew & Ravi S. Srivastava, Labour Law and Governance Reform in India: Some Critical Perspectives, 55(2) Indian J. Labour Econ. 157 (2018).

of labour laws, i.e., over 40 central and 100 state enactments, these laws were historically designed for a factory-based, formal sector workforce, leaving informal and migrant labourers largely beyond their effective reach.<sup>20</sup>

### **A. The Inter-State Migrant Workmen Act, 1979**

The Inter-State Migrant Workmen Act, 1979, was enacted following the Odisha Dadan Labour Enquiry Committee Report 1976, which exposed severe exploitation of contract labour workers recruited across state borders.<sup>21</sup> The act sought to regulate recruitment and ensure parity of wages, displacement allowances, and journey allowances for inter-state migrants.<sup>22</sup> However, enforcement failures kept it largely ineffective. Studies show that fewer than 1% of migrant workers have ever been registered under the act, largely due to contractors evading licensing requirements and a lack of interstate coordination.<sup>23</sup> Judicial interpretation of the Act has been limited. In *People's Union for Democratic Rights v. Union of India*,<sup>24</sup> the Supreme Court recognised that the non-payment of minimum wages to migrant workers engaged in the Asian Games construction project amounted to forced labour under Article 23 of the Indian Constitution. While the judgement expanded the constitutional understanding of labour rights, its transformative potential was unrecognised by chronic administrative inertia.<sup>25</sup>

### **B. The Unorganised Workers Social Security Act, 2008**

The Unorganised Workers Social Security Act, 2008 (UWSSA) aimed to provide a minimal social safety net to unorganised workers, including migrants, through schemes related to health insurance, old-age protection, and maternity benefits.<sup>26</sup> However, the statute suffered from two core deficiencies: first, it created no enforceable entitlements, merely authorizing the government to “formulate and notify” schemes,<sup>27</sup> second, it lacked probability, a crucial element for migrant populations who move frequently across state boundaries.<sup>28</sup> As ILO studies have observed, the UWSSA institutionalised a “fragmented welfare model” by layering ad hoc

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<sup>20</sup> Kamla Sankaran, Labour Law in India, An Overview, in Labour Law and Governance Reform in India 3 (ILO,2021).

<sup>21</sup> Odisha Dadan Labour Enquiry Committee, Report on Conditions of Migrant Labourers (1976).

<sup>22</sup> Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, No. 30 of 1979. §14, INDIA CODE.

<sup>23</sup> NITI Aayog, Report on Migrant Workers and Economy (2021).

<sup>24</sup> *People's Union for Democratic Rights v. Union of India*, (1982) 3 S.C.C. 235 (India)

<sup>25</sup> *Id.* At 246.

<sup>26</sup> Unorganised Workers' Social Security Act, No. 33 of 2008, INDIA CODE.

<sup>27</sup> *Id.* § 3(1).

<sup>28</sup> ILO, Extending Social Security to Migrant Workers and Their Families 17-18 (2020).

schemes without establishing a unified social security architecture.<sup>29</sup>

### C. Disaster Management and Labour Laws

During the pandemic, the Disaster Management Act, 2005 (DMA), emerged as the primary legal instrument for enforcing lockdowns. While the Act empowers the central and state govt. to issue binding directions during disasters, it is silent on labour protection, income continuity, or social assistance.<sup>30</sup> The legal vacuum contributed significantly to the crisis, as migrant labourers were treated as incidental to administrative actions rather than as rights-bearing citizens entitled to livelihood and mobility.

### D. The New Labour Codes

In 2020, the Parliament of India passed four consolidated Labour Codes: the Code on Wages, the Code on Social Security, the Occupational Safety, Health, and Working Conditions (OSHC) Code, and the Industrial Relations Code. These codes were intended to simplify the existing modern labour regulations.<sup>31</sup> Among these, the OSHWC Code and the Code on Social Security, 2020, find direct relevance to migrant workers. The OSHWC Code and ISMW Act expand coverage to inter-state migrant labourers and provide for a migrant worker helpline, journey allowance, and access to public distribution systems in destination states.<sup>32</sup> The Code on Social Security brought the concept of a “Social Security Fund” for unorganised, gig, and platform workers, aiming for large-scale inclusion.<sup>33</sup> However, scholars argue that the Codes remain declaratory rather than transformative, as they rely heavily on employer compliance and voluntary registration through the National Database for Unorganised Workers (NDUW), a mechanism that is yet to be fully operationalized.<sup>34</sup> Moreover, by repealing the ISMW Act, the new codes risk diluting the specific identity and tailored protections that have historically been accorded to migrant workers.<sup>35</sup>

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<sup>29</sup> *Id.*

<sup>30</sup> Disaster Management Act, No. 53 of 2005, §§ 6-10, INDIA CODE.

<sup>31</sup> Ministry of Labour & Employment, Government of India, Labour Codes Simplified (2020).

<sup>32</sup> Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, §21, INDIA CODE.

<sup>33</sup> Code on Social Security, No. 36 of 2020, §114, INDIA CODE.

<sup>34</sup> Srivastava, *supra* note 19, at 18-20.

<sup>35</sup> Renana Jahabvala, The New Labour Code: Promise and Peril for Informal Workers, 55(41) *Exon. & Pol. Weekly* 9 (2020).

## E. Structural Limitation

Despite their ambitious consolidation, the new labour codes fail to address and solve the federal fragmentation of labour administration. Enforcement remains divided among multiple state departments, with limited capacity.<sup>36</sup> Furthermore, the codes do not sufficiently integrate disaster-response principles or emergency income support provisions, as these lessons were acutely highlighted during the 2020 lockdown.<sup>37</sup> In essence, the evolution of India's migrant workers and labour laws reveals a persistent mismatch between a statutory intent and a practical enforcement mechanism. The legislative framework remains caught between the protectionist symbolism and administrative incapacity, which collectively contributed to the situation that was visible during the pandemic.

## 2. Background and Context: Migration, Informality, and Pre-COVID Vulnerabilities.

Labour migration in India has long been characterised by its circular, seasonal, and informal nature. According to the Census of India, 2011, over 45.6 crore people were classified as internal migrants, constituting approximately 37% of India's total population.<sup>38</sup> Among them, nearly 10 crore are estimated to be part of informal labour practices, which means they are predominantly engaged in construction sites, manufacturing units, the hospitality sector, and domestic work.<sup>39</sup> The absence of formal contracts, social protection, and mobility rights renders them in shadow to both the state and the law. Migration patterns in India have been historically linked to regional economic disparities. States such as Bihar, Uttar Pradesh, Odisha, and Jharkhand have been primarily places from where workers migrate, while Maharashtra, Delhi, Gujarat, and Tamil Nadu emerged as receiving regions.<sup>40</sup> This movement, though important for industrial growth, has always been accompanied by systematic neglect in labour governance. Migrant workers belonging to the informal sector often worked without registration under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, a legislation designed to protect and safeguard their welfare,

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<sup>36</sup> ILO, India Labour Market Update (June 2021).

<sup>37</sup> International Labour Organization, ILO Policy Brief on COVID-19 and the World of Work: India Country Note (2020).

<sup>38</sup> Census of India 2011, Office of the Registrar General & Census Commissioner, Ministry of Home Affairs (India).

<sup>39</sup> ILO, Impact of COVID-19 on Labour Migration in India (2020).

<sup>40</sup> NITI Aayog, Report on Migrant Workers and the Economy (2021).

but seldom enforced.<sup>41</sup>

The National Sample Survey (2017-18) highlighted that over 90% of India's workforce remains in the informal sector, indicating a lack of written contracts, paid leave, and access to social security benefits.<sup>42</sup> The Unorganised Workers' Social Security Act, 2008, attempted to institutionalise a protection mechanism. However, its implementation was patchy due to the wide distribution of databases, overlapping jurisdictions, and the absence of employer accountability.<sup>43</sup> Consequently, when the pandemic struck in March 2020, India's migrant workers stood at the intersection of economic vulnerability and legal darkness. The informal status of migrants also intersected with constitutional concerns. Article 21, guarantee of the right to life and livelihood, and Article 23, prohibition against forced labour, were put to the test.<sup>44</sup> Migrant workers were unable to access basic transport facilities, wages, or shelter, and became victims of a structural failure in realizing the directive principle mentioned under Articles 39 and 43, which mandate just and humane working conditions.<sup>45</sup> As an economist, "Jean Dreze" observed, India's migrant workers casualties were not just a result of the virus but of decades of policy neglect.<sup>46</sup> The socio-economic background frames the legal enquiry that follows and raises a question whether India's labour policy architecture was ever equipped to handle a crisis of mobility and livelihood on such a scale. The ensuing section dissects their specific legal framework and its breakdown during the COVID-19 lockdown.

### **3. Legal Structure Governing Migrant Labour in India.**

India's legal landscape for protecting migrant workers is a fragmented mix of colonial-era statutes, post-Independence welfare legislation, and the newly consolidated labour codes. While several enactments ostensibly aim to secure decent working conditions and mobility rights. The scope and implementation reveal deep structural gaps that left lots of migrant workers unprotected during the COVID-19 lockdown.

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<sup>41</sup> The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979, No.30 of 1979 § 2(1)(b) (India).

<sup>42</sup> National Sample Survey Office, Periodic Labour Force Survey (2017-18), Ministry of Statistics and Programme Implementation (India).

<sup>43</sup> The Unorganised Workers Social Security Act, 2008, No. 33 of 2008, §3 (India).

<sup>44</sup> *Olga Tellis v Bombay Municipal Corporation*, (1985) 3SCC 545 (India).

<sup>45</sup> INDIA CONST. arts. 39,43.

<sup>46</sup> Jean Dreze, "Lockdown and the Migrant Exodus: A Policy Failure," *Economic & Political Weekly*, Vol.55, No. 23 (2020).

### **3.1. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.**

The Inter-State Migrant Workmen Act, 1979 (ISMW Act) was enacted to regulate the employment of migrant labour recruited by contractors and to ensure their welfare in the receiving state.<sup>47</sup> It mandates the registration of establishments employing interstate migrants, the licensing of contractors, Parity in wages with local workers, and the Provision of a Displacement allowance and journey allowance.<sup>48</sup> However, in practice, the act's coverage was limited to contracted migrants formerly employed or recruited through intermediaries, including the vast majority of self-motivated or informal migrants who moved independently in search of Work. <sup>49</sup>The Supreme Court decisions in *People's Union for Democratic Rights v. Union of India* emphasised the state's Obligation under Article 23 to prevent “Economic coercion” That compels workers into exploitative conditions.<sup>50</sup> Yet, despite this, the constitutional backing, the state government, and administrative functionaries largely failed to maintain the mandatory registers or enforce contractor accountability, as highlighted by the Comptroller and Auditor General in multiple reports between 2016 and 2019.<sup>51</sup> The absence of an interstate coordination mechanism proves that when the lockdown was imposed in 2020, neither the sending nor the receiving states had verified data on migrant workers.

### **3.2. The Unorganised Workers Social Security Act, 2008**

The Unorganised Workers' Social Security Act, 2008, aimed to establish a social security scheme and provide benefits covering maternity, health, and old-age care.<sup>52</sup> It envisages the creation of a National Social Security Board (NSSB) and corresponding state boards to recommend welfare mechanisms. However, the Act's design flows as non-compulsory, lacks a unified worker database, and has a weak grievance redressal mechanism, leading to near-total non-enforcement.<sup>53</sup> In 2018, the Standing Committee on Labour observed that out of 45 crore unorganized migrant workers, fewer than 10% had been registered under any social security

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<sup>47</sup> The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, No. 30 of 1979, § 3 (India).

<sup>48</sup> *Id.* §12.

<sup>49</sup> Nitin Bharti & Rakesh Basant, “Migrant Labour and COVID-19 Lockdown: Lessons for Labour Policy,” *Indian Journal of Labour Economics*, Vol. 63, No. 4 (2020).

<sup>50</sup> *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (India).

<sup>51</sup> Comptroller and Auditor General (CAG), Performance Audit Report on Implementation of Labour Welfare Schemes, Report No. 7 (2019), Ministry of Labour and Employment.

<sup>52</sup> The Unorganised Workers' Social Security Act, 2008, No. 33 of 2008, § 3 (India).

<sup>53</sup> Standing Committee on Labour, Report on Social Security for Unorganised Workers, 43rd Report (2018–19).

scheme.<sup>54</sup> They act in a voluntary manner, effectively exclude interstate migrants, and require proof of Domicile, Ration Cards, and an Aadhaar-linked identity in the destination or receiving state.<sup>55</sup>

### 3.3. Code on Social Security, 2020, and Legislative Rationalization

In an attempt to modernise and consolidate over 29 labour laws, the government enacted the Code on Social Security 2020, merging both the 1979 and 2008 acts.<sup>56</sup> The code aims to bridge the coverage gap for gig workers, platform-based workers, and the unorganized sector labour through a national registration portal.<sup>57</sup> However, despite its forward-looking provisions, the code's implementation has been overlooked on multiple occasions, and its rulemaking power has been delegated extensively to the state government, which raises serious concerns about uneven enforcement.<sup>58</sup> Crucially, the code lacks an emergency response framework for protecting migrant labourers during the pandemic or in the event of natural disasters. It does not impose justifiable obligations on employers to provide shelter, food, or transport in situations of sudden unemployment.<sup>59</sup> The ILO's general principle on the protection of migrant workers (2020) emphasizes the need for the portability of social security benefits across different jurisdictions, which implies a standard framework that applies throughout the country. However, in reality, it still falls short of meeting this goal.<sup>60</sup>

### 3.4. The Disaster Management Act, 2005, and Administrative Overreach

During the COVID-19 lockdown, the Disaster Management Act, 2005, became the principal instrument for issuing nationwide restrictions. The National Disaster Management Authority (NDMA) and the Ministry of Home Affairs issued sweeping orders suspending various economic activities without providing immediate social protection.<sup>61</sup> The migrant workers' movement was initially restricted, later inconsistently permitted through the "Shramik Special" trains, often after judicial intervention.<sup>62</sup> The act, primarily designed for environmental and

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<sup>54</sup> *Id.*

<sup>55</sup> Seema Joshi, "Legal Invisibility and Migrant Labour in India," *Economic & Political Weekly*, Vol. 55, No. 32 (2020).

<sup>56</sup> The Code on Social Security, 2020, No. 36 of 2020 (India).

<sup>57</sup> *Id.* § 109.

<sup>58</sup> Centre for Policy Research, *Labour Codes and Federalism in India: An Assessment* (2021).

<sup>59</sup> Aditi Priya, "Social Security and Emergency Labour Protection in India," *NLSIR*, Vol. 33, No. 2 (2021).

<sup>60</sup> ILO, *General Principles and Operational Guidelines for Fair Recruitment and Decent Work*, ILO Doc. ILO/GUIDE/2020/2

<sup>61</sup> The Disaster Management Act, 2005, No. 53 of 2005, § 6 (India).

<sup>62</sup> *In Re: Problems and Miseries of Migrant Labourers*, (2020) 7 SCC 333 (India).

natural disasters, fell short in providing specific provisions, leaving a gap in accountability. Thus, the legal framework, ranging from interstate migrant workmen to the Social Security code, reveals a striking pattern of overregulation on paper, yet under-enforcement in practice. Migrant labourers, despite being a critical part of India's industrial economy and a very important factor, remain legally invisible during moments of crisis, falling between the cracks of statutory Language and administrative inaction.

#### **4. The COVID-19 Lockdown and the Reverse Migration Crisis**

The imposition of a sudden nationwide lockdown on 24<sup>th</sup> March, 2020, led to an unfolding public health emergency into an acute humanitarian crisis for inter-state migrants.<sup>63</sup> The government of India issued an emergency order, which was framed under the Disaster Management Act, 2005. Effectively, it suspended ordinary economic activity and, crucially, suspended interstate mobility without establishing immediate, workable mechanisms to secure wages, food, or transportation for millions of informal workers dependent on daily earnings.<sup>64</sup> The consequence was an accelerating migration of workers to their home regions, an event that became known as the "Great Reverse Migration."<sup>65</sup>

##### **A. Chronology and Administrative Responses.**

The initial legal instrument was the Ministry of Home Affairs' order of 24 March 2020, which restricted movement and required states to enforce lockdown measures.<sup>66</sup> The order did not contain a comprehensive labour-oriented relief package or a binding directive obligation on employers to maintain wages. Nor did it create mandatory protocols for sheltering or transporting stranded migrants.<sup>67</sup> Soon after the order, a large number of workers in the informal sector began to lose their livelihoods, and in several instances, were evicted from informal worker accommodations or employer premises.<sup>68</sup> Various reports of migrant workers walking hundreds of kilometres, often with children and elderly dependents, became a

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<sup>63</sup> Ministry of Home Affairs, Government of India, Order No. 40-3/2020-DM-I(A) (Mar. 24, 2020).

<sup>64</sup> Disaster Management Act, No. 53 of 2005, INDIA CODE; see also S. Aiyar & S. Mander, *Governance Failures in Lockdown: Labour, Mobility and The Law*, 55 *Econ. & Pol. Weekly* 20 (2020)

<sup>65</sup> Jean Drèze & Reetika Khera, *The "Great Reverse Migration": Causes and Consequences*, EPW (2020).

<sup>66</sup> *Supra* note 63.

<sup>67</sup> Ministry of Home Affairs, Government of India, Consolidated Guidelines on the measures to be taken by Ministries / Departments of Government of India, State/UT Governments and State/UT authorities for containment of COVID-19 (Apr. 15, 2020).

<sup>68</sup> Harsh Mander, *Locked Down, Locked Out: Migrant Workers in the COVID-19 Pandemic*, 55(23) *Econ. & Pol. Weekly* 14 (2020).

recurrent feature of national media and NGO documentation.<sup>69</sup> By late April and early May, public pressure and judicial attention prompt the executive to act. The Ministry of Railways, in accordance with the MHA and the state governments, announced “Shramik Specials” trains from May 2020 to ferry stranded migrants to their home state.<sup>70</sup> These trains were organised after protected interstate consultation, and their rollout was initially limited and uneven. Eligibility rules, ticketing arrangements, and quarantine protocols varied across different states, resulting in confusion and delays.<sup>71</sup> Parallel state initiatives, including temporary relief camps and food distribution by municipal bodies, as well as civil society efforts, although they filled some gaps, varied widely in scale and effectiveness.<sup>72</sup>

## **B. Labour and Social Protection Failures During Lockdown**

Several interrelated policy Failures magnified the hardship experienced by the migrants:

- 1. No guarantee of income continuity:** The lockdown stopped income sources for wage-dependent migrants overnight. While the centre and state announce relief packages, their coverage was fragmented, and eligibility criteria were frequently tied to domicile or existing Ration Cards, resulting in implementation that suffered from administrative delays.<sup>73</sup> The practical effect was Immediate food insecurity and debt distress for many households.
- 2. Lack of portability and identity recognition:** The absence of welfare rights that can be transferred from one estate to another, and a reliable national register of migrants meant many workers could not access public distribution or welfare entitlements in their destination location.<sup>74</sup> Aadhaar and Ration card linkage in some states proved helpful, but many migrants lack documentation and face verification delays, which leads to exclusion from social security benefits.<sup>75</sup>

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<sup>69</sup> Apoorvanand & Amrita Bhowmick, “Walking Home: Migrants and the Lockdown,” *The Hindu* (Apr. 2020).

<sup>70</sup> Ministry of Railways, Government of India, Press Release: “Shramik Special” trains to facilitate movement of stranded migrant workers (May 1, 2020).

<sup>71</sup> NITI Aayog, Report on Migrant Workers and the Economy 13–18 (2021).

<sup>72</sup> National Human Rights Commission, Advisory on Migrant Workers and State Response (2020).

<sup>73</sup> Ministry of Finance, Government of India, Economic Response to COVID-19 (2020); see also S. Srivastava, Social Protection Measures and Their Limitations, *Indian J. Labour Econ.* (2020).

<sup>74</sup> International Labour Organization, Portability of Social Protection: Lessons from COVID-19 (2020).

<sup>75</sup> Seema Joshi, “Legal Invisibility and Migrant Labour in India,” *Economic & Political Weekly*, Vol. 55, No. 32 (2020).

3. **Fragmented administrative responsibility:** The federal distribution of labour and social welfare functions across state and local institutions produced coordination failures. Sending states reported being overwhelmed by returnees, whereas receiving states insisted they had no obligation once migrants left their territory.<sup>76</sup> This jurisdictional friction led to delays in transportation and mismanagement of quarantine, which in turn led to disputes over who bore the cost of relief and testing.<sup>77</sup>
4. **Employee evasion and informality:** Employers in informal sectors frequently either fail to pay wages or terminate informal workers without statutory consequences, because many migrant workers work through informal contractors or on verbal contracts beyond the immediate ambit of strong Enforcement.<sup>78</sup>

### C. Judicial Intervention and Remedies

The Supreme Court of India took cognizance of the crisis through a *Suo motu* proceeding titled "In Re: Problems and Miseries of Migrant Labourers."<sup>79</sup> The court pressed the centre and states to produce an Action plan for transportation, shelter testing, and quarantine, and to ensure that social security measures were effective.<sup>80</sup> Although judicial scrutiny prompted remedial action, including the scaling up of "Shramik Trains" and clearer directions on relief distribution. Jurisprudential remedies could not, by themselves, instantly manufacture logistical capacity or create portable entitlements for millions overnight.<sup>81</sup>

### D. Empirical and International Assessment

International agencies and various research institutions have documented the scale and nature of such a crisis. The ILO noted that the pandemic exposed the vulnerability of migrant workers worldwide and emphasised the urgency of portable social protection and decent work agendas.<sup>82</sup> National research bodies and civil society reports mapped patterns of return migration. Mental health impacts and differential outcomes by gender and caste underscore

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<sup>76</sup> Centre for Policy Research, Labour Codes and Federal Coordination (2021).

<sup>77</sup> In Re: Problems and Miseries of Migrant Labourers, (2020) 7 S.C.C. 333 (India).

<sup>78</sup> Comptroller & Auditor General of India, Performance Audit on Labour Welfare Schemes (2019).

<sup>79</sup> In Re: Problems and Miseries of Migrant Labourers, (2020) 7 S.C.C. 333 (India).

<sup>80</sup> Id. (orders passed directing states to arrange transport and relief for migrant workers).

<sup>81</sup> A. K. Sharma, "Judicial Remedies in the Pandemic: Scope and Limits," NLSIR (2021).

<sup>82</sup> ILO, COVID-19 and the World of Work: Addressing the Crisis and Accelerating Recovery — India Country Brief (2020).

how pre-existing social fault lines limited migrants' capacity to cope.<sup>83</sup>

## **E. Consequences and Short Run Outcomes**

In the immediate term, the “Great Reverse Migration” led to multiple adverse outcomes, including the disruption of urban production chains, a reduction in remittance flows to rural households, increased pressure on the rural labour market, and an upsurge in insecurity related to livelihoods in both origin and destination areas.<sup>84</sup> Politically, the crisis generated policy debates about the need for a national migrant register, a portable welfare mechanism, and clear crisis management protocols that must integrate labour consideration into disaster planning.<sup>85</sup>

## **5. Identifying the Legal and Policy Gaps**

This section synthesizes the legal and policy failures that transformed a time-bound public health disaster into a widespread humanitarian and labour rights crisis. The gaps identified below are grouped into five interrelated areas: a statutory blind spot, administrative and federal coordination failures, data and registration deficits, enforcement and employer accountability lacunae, and deficiencies in grievance redress mechanisms and social protection delivery. Each subsection pair’s doctrinal critique is accompanied by empirical illustrations and case studies drawn from prominent origin and destination corridors, illustrating how these lacunae played out on the ground.

### **A. Statutory Blind Spots: Rights Without Remedies**

Although Indian laws contain provisions Nominally Relevant to migrant labourers, however, these laws suffer from two structural defects: (i) Absence of justiciable, portable entitlement, and (ii) reliance on administrative rule-making rather than express enforceable duties. First, many welfare regimes created by UWSSA and subsequent schemes remained discretionary; Power is vested in the state to formulate schemes rather than to guarantee enforceable benefits.<sup>86</sup> The legal consequences are predictable when administrative discretion substitutes for a right, and in crisis conditions, discretionary schemes often collapse into selective relief. Second, the day after the Disaster Management Act (DMA) is invoked to manage the

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<sup>83</sup> UNICEF & UN-Habitat, *Migrant Workers and COVID-19: Evidence and Policy Responses* (2020), Reports by Centre for Equity Studies (2020).

<sup>84</sup> R. Basant, *Reverse Migration and Rural Employment* (2021).

<sup>85</sup> Renana Jhabvala, *After the Exodus: Policy Priorities for Migrant Workers* (2021).

<sup>86</sup> Unorganised Workers’ Social Security Act, 2008, No. 33 of 2008 (India).

pandemic, the DMA becomes a public order instrument with little or no labour protection content. It confers sweeping powers to restrict movement without simultaneously imposing duties to secure livelihood Continuity Or transport for Migrant workers.<sup>87</sup>

The new Code on Social Security 2020, while progressive in concept, leaves various crucial elements, such as the portability mechanism, mandatory employee contributions in the informal Sector, and Emergency income support, unaddressed.<sup>88</sup> By revealing or subsuming the older sector-specific safeguards, without a clear transitional enforcement mechanism, the code risks creating statutory ambiguity in the midst of a crisis.<sup>89</sup>

## **B. Administrative and Federal Coordination Failures**

The COVID-19 lockdown revealed the acute failure in coordination between the central and state governments. Labour is on the concurrent list, but operational administration, retaining, housing, and health rest largely with the state and local bodies. Sending and receiving states blamed one another for responsibility, leading to temporary arrangements for transport quarantine and relief.<sup>90</sup> The absence of a pre-existing intergovernmental protocol for the mass movement of migrant labour meant that the coordination that did not occur during May 2020 was reactive, negotiated under stress rather than pre-planned.<sup>91</sup> The case of the “Shramik Special” trains illustrates this fragmentation. The trains were announced after weeks of delay and proceeded under a mosaic of eligibility and ticketing rules, Quarantine requirements, and inter-state clearances, which led to confusion and avoidable delays for migrants seeking to return home.<sup>92</sup> This highlighted that Executive capacity, Logistics, Interstate liaison, and migration management were neither rehearsed nor legally structured to handle large-scale labour migration.

## **C. Data, Registration, and Portability Deficits**

A significant recruiting deficit was the lack of a reliable national database for migrant workers

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<sup>87</sup> Disaster Management Act, 2005, No. 53 of 2005 (India); see also Ministry of Home Affairs, Order No. 40-3/2020-DM-I(A) (Mar. 24, 2020).

<sup>88</sup> Code on Social Security, 2020, No. 36 of 2020, §§ 101–116 (India); Renana Jhabvala, *The New Labour Codes: Promise and Peril for Informal Workers*, 55 *Econ. & Pol. Weekly* 9 (2020).

<sup>89</sup> Centre for Policy Research, *Labour Codes and Federalism in India: An Assessment* (2021).

<sup>90</sup> NITI Aayog, *Report on Migrant Workers and the Economy* (2021).

<sup>91</sup> Centre for Policy Research, *supra* note 89.

<sup>92</sup> Ministry of Railways, Government of India, Press Release: “Shramik Special” trains (May 1, 2020); see also NITI Aayog, *Report on Migrant Workers and the Economy* (2021).

and the poor portability of their entitlements. India lacks a comprehensive, interoperable registry that can identify a worker irrespective of their place of residence, welfare entitlements, such as healthcare entitlements.<sup>93</sup> Consequently, Migrant labourers without local documentation were excluded from relief in destination states. Therefore, when they returned home, Rural PDS and employment schemes were often ill-equipped to absorb a sudden surge in demand.<sup>94</sup> Empirical research and studies by Azim Premji University and other research centres have documented how migrants from Bihar and Uttar Pradesh, who work in Delhi and Maharashtra, are effectively stateless for welfare purposes in destination cities. They are unable to access free rations or cash transfers due to domicile-linked eligibility criteria.<sup>95</sup> The absence of portability meant that, in effect, a worker's state of employment provided no predictable safety net in the event of an emergency.

#### **D. Enforcement, Employer Accountability and Informality**

Many migrants work through informal contractors or other types of engagements that escape employer-centric statutory obligations, such as wage continuity, provident fund contributions, and workplace centers. Legislative and enforcement regimes assume the existence of registered employers and auditable payrolls. However, the reality is that it is rampant in formality, with in-kind payments and contractor intermediation that dilute legal responsibilities.<sup>96</sup> During the lockdown, employees in the informal sector either refused to pay wages for abruptly terminated engagements without statutory compliance because the Labour Code could not function at scale, and because enforcement mechanisms require time and political will. The Comptroller and Auditor General's pre-pandemic audit had already flagged enforcement weaknesses in several states, a warning that went unheeded when mass job losses occurred.<sup>97</sup> A very striking illustration was the construction sector in the major cities, where a large number of interstate migrants were employed. Various temporary centres, run by contractors, were suddenly closed, and contractors dispersed their workforces without arranging transport or relief.<sup>98</sup> The ISMW Act's registration and contractor licensing provisions were of little

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<sup>93</sup> International Labour Organization, *Portability of Social Protection: Lessons from COVID-19* (2020).

<sup>94</sup> Azim Premji University, Centre for Sustainable Employment, *Impact of COVID-19 on Livelihoods in India: Evidence from a survey of return migrants* (2020)

<sup>95</sup> Id; Centre for Equity Studies, *Field Reports on Migrant Workers* (2020).

<sup>96</sup> Comptroller & Auditor General, *Performance Audit on Implementation of Labour Welfare Schemes* (2019).

<sup>97</sup> Id.

<sup>98</sup> Harsh Mander, *Locked Down, Locked Out: Migrant Workers in the COVID-19 Pandemic*, 55 *Econ. & Pol. Weekly* 14 (2020).

practical avail where the nexus of informal subcontracting prevailed.

### **E. Grievance Redressal, Health, and Quarantine Logistics.**

Finally, grievance's redressal system was either non-existent or overwhelmed. Local municipal helpline, civil society relief networks, and trade unions filled gaps, but their assistance was uneven and dependent on local civic activism. Different public health measures, such as testing, quarantine, and isolation, were often improvised in origin districts with little planning for the arrival of returnees in large numbers, which led to the production of community tension and social stigma in their home villages.<sup>99</sup> The mental health and gendered impacts of the migration were also under-addressed. Women migrants, who travel with a burden, and often serve as primary carers, experienced a high risk of exploitation, loss of access to maternal health, and increased domestic burdens during the return and reintegration phase.<sup>100</sup>

### **F. Short Case Studies: How Gaps Played Out**

- 1. Delhi - Bihar Corridor:** Surveys conducted in 2020 showed a large number of daily wage workers in Delhi, working in the construction and informal service sectors, attempting to return to Bihar with wages stopped. The lack of local Ration Cards and the absence of portable EPFO access meant that many could not access relief in Delhi and faced long delays on "Shramik Trains". On return, rural economies face sudden pressure on PDS and MNREGA absorption.<sup>101</sup>
- 2. Mumbai (Maharashtra) – Uttar Pradesh Corridor:** Maharashtra's large informal manufacturing units and construction sector employed thousands of UP Migrant labourers. Reports documented employer non-payment of wages, eviction from informal settlements, and crowded railway stations as migrants tried to leave. This was the result of poor enforcement and a lack of statutory obligation for employers to fund or arrange safe repatriation.<sup>102</sup>

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<sup>99</sup> National Human Rights Commission, Advisory on Migrant Workers and State Response (2020).

<sup>100</sup> UNICEF, The Impact of COVID-19 on Women and Children in India (2020); see also ILO, COVID-19 and the World of Work: Addressing the Crisis and Accelerating Recovery — India Country Brief (2020)

<sup>101</sup> Supra note 94.

<sup>102</sup> Centre for Policy Research, Migrant Workers in India during COVID-19: Patterns, Issues and Policy Options (2020).

## **G. Synthesis: Why the Legal Framework Failed**

The legal Framework failed because it combined declaratory protection with weak enforceability, a fragmented federal administration, and no pre-arranged emergency migration protocol, as well as a lack of data interoperability to identify and assist mobile workers. Together, these deficits produce a system that can issue compassionate rhetoric and ad hoc orders but cannot sustain consistent, rights-based relief and logistical support for migrants and informal workers.

The next section will examine judicial and administrative responses in greater detail, evaluating whether the remedies directed by the court and the executive circular address these structural caps, which are merely Papered Over, and whether a deeper need exists for statutory reform and institutional Redesign.

### **Judicial and Administrative Responses**

The outbreak of the COVID-19 pandemic and the subsequent nationwide lockdown in March 2020 precipitated an unprecedented humanitarian crisis. Millions of migrant workers suddenly found themselves unemployed and were left without food, shelter, or transportation. They were beginning to walk hundreds of kilometres to their home estates in the vacuum of administrative preparedness. The judiciary, particularly the Hon'ble Supreme Court of India, was expected to intervene. Yet the trajectory of judicial and administrative responses revealed both the potential and the limits of constitutional oversight in labour governance.

#### **A. Initial Judicial Reluctance.**

In the early stages of the crisis, the judiciary exhibited considerable restraint in *Alakh Alok Shrivastava vs Union of India*. The Supreme Court declined to intervene on behalf of standard migrant workers, accepting the central government's submission that adequate relief measures were in place.<sup>103</sup> The difference was widely criticised for failing to uphold Article 21 right of migrants to livelihood and dignity.<sup>104</sup> Scholars such as Gautam Bhatia have noted that this period marked the “retreat of the constitutional court” in the face of state indifference.<sup>105</sup> Lower

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<sup>103</sup> *Alakh Alok Srivastava v. Union of India*, W.P. (C) No. 468/2020 (Supreme Court of India, Mar. 31, 2020).

<sup>104</sup> Anuj Bhawania, “Judicial Evaporation of Rights During the Pandemic,” *EPW*, Vol. 55, No. 32 (2020).

<sup>105</sup> Gautam Bhatia, “Constitutional Silence and Executive Overreach,” *Indian Constitutional Law and Philosophy Blog* (Apr. 2020).

quotes, however, displayed greater sensitivity. The Andhra Pradesh High Court, in the case of *In Re: Problems of Migrant Workers* (2020), took suo motu cognizance of the distress faced by migrant workers and directed the state to ensure the provision of food, shelter, and transportation facilities.<sup>106</sup> Similarly, the Madras High Court in *S. Dhanasekaran v. The State of Tamil Nadu* underscored that the lockdown could not “suspend the constitutional guarantee of dignified existence.”<sup>107</sup>

## **B. The Supreme Court’s Course Correction**

Public outcry and mounting evidence of policy failures eventually led to the doctrinal shift. In *Re: Problems and Miseries of Migrant Labourers* (2020), the Supreme Court finally took suo motu cognizance and acknowledged the estate slabs in ensuing migrant welfare.<sup>108</sup> The court directed all states and union territories to identify a standard migrant. Provide free transportation and ensure food supply, and set up relief camps. It also mandated that no migrant workers should be charged train or bus fare, a direct rebuke to earlier administrative practices.<sup>109</sup> While this intervention was significant, commentators have observed that it came “too late and too softly.”<sup>110</sup> The court refrained from adjudicating the structural violation of the interstate migrant workmen act of 1979 and ordering compensation for loss of life and livelihood. Instead, it confined itself to remedial supervision, highlighting the judiciary’s preference for managerial rather than right-based enforcement.<sup>111</sup>

## **C. Administrative Measures and Their Shortcoming.**

On the executive side, the Ministry of Labour and Employment and the National Disaster Management Authority issued a series of guidelines to manage the crisis. The National Disaster Management Authority guidelines of March 24, 2020, invoke powers under the Disaster Management Act 2005 to impose a national lockdown.<sup>112</sup> Yet these orders fail to account for the logistical needs of interstate migrants. The advisory on the movement of migrant workers

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<sup>106</sup> *In Re: Problems of Migrant Workers*, Suo Motu W.P. No. 9404/2020 (Andhra Pradesh High Court).

<sup>107</sup> *S. Dhanasekaran v. State of Tamil Nadu*, W.P. No. 8120/2020 (Madras High Court).

<sup>108</sup> *In Re: Problems and Miseries of Migrant Labourers*, Suo Motu W.P. (C) No. 6/2020 (Supreme Court of India, May 26, 2020)

<sup>109</sup> *Id.*

<sup>110</sup> Karan Lahiri, “Too Little, Too Late: Supreme Court’s Response to Migrant Workers’ Plight,” *Bar & Bench* (June 2020).

<sup>111</sup> M.P. Singh, “Judicial Review and Welfare Rights in Pandemic Times,” *Indian Journal of Constitutional Law*, Vol. 9 (2021).

<sup>112</sup> National Disaster Management Authority, Order under Section 6(2)(i), Disaster Management Act, 2005 (Mar. 24, 2020).

called for coordination between states but lacked in foreseeability.<sup>113</sup> The announcement of the PM Garib Kalyan Yojana and the Aatmanirbhar Bharat package in May 2020 aimed to provide food grain and employment guarantees under the MGNREGA.<sup>114</sup> However, reports by the Centre for Monitoring Indian Economy and Niti Aayog Sort have a limited reach due to an outdated worker database and poor interstate coordination.<sup>115</sup> The lack of a uniform migrant register, an issue that was later addressed through the e-SHRAM Portal, exposed how policy fragmentation amplified human suffering.

#### **D. International and Comparative Perspectives**

Looking from an international perspective, India's response fell short of an obligation under ILO Convention No. 97 (Migration for Employment) and No. 143 (Migrant Workers), which emphasize equality of treatment and emergency protection.<sup>116</sup> The UN special rapporteur on extreme poverty and Human Rights 2020 also criticised India for "criminalising movement rather than protecting mobility."<sup>117</sup> In contrast, countries like Vietnam and South Africa adopted targeted benefits, subsidies, and transport guarantees for migrant workers, which illustrates that proactive state action was possible within similar resource constraints.<sup>118</sup>

#### **E. Post-Pandemic Judicial Follow-Up**

In subsequent hearings during 2021 and 2022, the Supreme Court monitored the implementation of its earlier directions, including the creation of integrated migrant worker Portals and the one nation, one ration card scheme.<sup>119</sup> Yet even by late 2022, compliance reports revealed uneven progress. The court's insistence that "a welfare state cannot abdicate its duty in times of crisis" underscored the continuing judicial expectation of policy reform but also reflected the reactive nature of such oversight.<sup>120</sup> In sum, the judiciary played a remedial rather than transformative role during the migrant crisis while the court eventually recognise the humanitarian dimensions of the lockdown it stopped sort of imposing structural accountability

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<sup>113</sup> Ministry of Labour and Employment, Advisory on Movement of Migrant Workers (Apr. 19, 2020).

<sup>114</sup> Government of India, Atmanirbhar Bharat Package: Press Note, Ministry of Finance (May 13, 2020).

<sup>115</sup> Centre for Monitoring Indian Economy, State of Working India Report (2021); NITI Aayog, Labour Mobility in India (2022).

<sup>116</sup> International Labour Organization, Conventions No. 97 & 143 (Geneva, 1949 & 1975).

<sup>117</sup> UN Special Rapporteur on Extreme Poverty and Human Rights, COVID-19 and Human Rights of Migrants (June 2020).

<sup>118</sup> ILO, Protecting Migrant Workers in the COVID-19 Pandemic: Lessons from Asia and Africa (2021)

<sup>119</sup> In Re: Problems and Miseries of Migrant Labourers, Order dated June 29, 2021.

<sup>120</sup> Id.

or declaring enforceable socio economic rights for migrant workers the administrative machinery meanwhile are oscillated between temporary reliefs and bureaucratic inertia which demonstrate how constitutional promises of dignity and equality remained aspirational without institutional preparedness.

## **Lessons Learned and Policy Reforms**

The “Great Reverse Migration” exposed the persistent weakness of India’s labour governance while also catalysing a limited but significant policy reform. The section synthesises the principal lesson from the lockdown and sets out a coherent set of legal and administrative reforms, both incremental and structural, that are needed to convert episodic relief into durable protection for migrant workers. The recommendation that follows are guided by principles of portability, universality, enforceability, and crisis readiness, and draw on an Indian policy innovation introduced after 2020, alongside international best practices recommended by the ILO and the UN.

### **A. Lessons from the Crisis**

Three normative lessons stand out: first, mobility must be built into social protection design; welfare schemes that are territory-bound or domicile-linked will systematically exclude mobile workers in times of crisis.<sup>121</sup> Second, data and identity infrastructures matter. The lack of interoperable registries and poor data sharing protocols between sending and receiving states hinders rapid assistance and creates administrative bottlenecks.<sup>122</sup> Third, Legal duties must be paired with operational capacity. Judicial directions and statutory promises are ineffective unless matched by logistic financing and clear institutional roles.<sup>123</sup>

### **B. Post-Pandemic Policy Innovations**

Following the crisis, several government measures attempted to address these deficits. The e-SHRAM Portal (2021) created a national database for unorganised workers, intended to improve identification, targeting of benefits, and portability of entitlements.<sup>124</sup> The One Nation,

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<sup>121</sup> International Labour Organization, Portability of Social Protection: Lessons from COVID-19 (2020).

<sup>122</sup> Azim Premji University, Centre for Sustainable Employment, Impact of COVID-19 on Livelihoods in India: Evidence from a Survey of Return Migrants (2020).

<sup>123</sup> In Re: Problems and Miseries of Migrant Labourers, (2020) 7 S.C.C. 333.

<sup>124</sup> Ministry of Labour & Employment, Government of India, e-SHRAM Portal: National Database of Unorganised Workers (launched Aug. 2021).

One Ration Card scheme expanded the portability of food security by enabling beneficiaries to claim subsidised ration from any participating state using biometric Aadhaar-based authentication.<sup>125</sup> The 2020 Social Security code, although not fully operationalized, provides a statutory template to include gig and platform workers and contemplates national-level registries and funds for unorganized workers.<sup>126</sup> These measures are important but partial, their effectiveness depends on inclusive registration drives, effective grievance mechanisms, and harmonized interstate data.<sup>127</sup>

### C. Recommended Legal and Institutional Reforms

#### 1. Statutory Portability clause and entitlement harmonisation

Amend the code on Social Security and related rules to create a clear, justifiable right to portable Social Security entitlements that follow the worker rather than the place of residence. The ILO's portability framework provides practical templates for benefit coordination across jurisdictions.<sup>128</sup>

#### 2. National Migrant Register with Privacy Safeguards.

A scale of the e-SHRAM Portal into a fully interoperable national migrant register that uniquely identifies migrants through Aadhar-linked facilities and enables rapid interstate verification for emergency relief.<sup>129</sup>

#### 3. Emergency Migration Protocols and Institutional Roles.

Enact a statutory emergency migration protocol under the Disaster Management Act that predefines the responsibilities of central, state, and municipal authorities during mass movements. To promote and provide transport facilities financing, as well as facilities, quarantine standards, employer obligations, and interstate cost-sharing arrangements, such protocols should be periodically tabled and rehearsed through

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<sup>125</sup> Ministry of Consumer Affairs, Food & Public Distribution, Government of India, One Nation One Ration Card (ONORC) Mission (2020–21)

<sup>126</sup> Code on Social Security, 2020, No. 36 of 2020, INDIA CODE.

<sup>127</sup> Centre for Policy Research, Assessing e-SHRAM and ONORC: Coverage and Gaps (2022).

<sup>128</sup> Centre for Policy Research, Assessing e-SHRAM and ONORC: Coverage and Gaps (2022).

<sup>129</sup> Priti Ranjan & N. K. Singh, "Data Protection and the Migrant Worker: Legal Safeguards for e-SHRAM," *Indian J. L. & Tech.* (2022).

simulation exercises.<sup>130</sup>

#### **4. Employer Accountability in Supply Chains.**

Introduce a statutory obligation within the statutory Social Security code or separate legislation, placing due diligence and contributory responsibilities on the principal employer and contractors in informal supply chains. To maintain wage continuity, shelter and repatriation costs in emergencies.<sup>131</sup>

#### **5. Portable Grievance-Redress Architecture.**

Create a national, multilingual grievance and reclamation platform linked to the migrant register, supported by a mobile helpline and local nodal officers in both the origin and destination districts. The platform should enable rapid claims for unpaid wages, missing rations, healthcare access, and transportation.<sup>132</sup>

#### **6. Urban Employment Guarantee and Affordable Housing.**

Extend a pilot urban employment guarantee in high-migration metropolitan areas to provide short-term income continuity during periods of unemployment and a scale-up affordable rental housing scheme, such as worker hostels that are registered and inspected for safety and occupancy. These measures reduce immediate compulsion to migrate and provide dignified interim accommodation.<sup>133</sup>

#### **7. Intergovernmental Funding Mechanism.**

Establish a migrant contingency fund jointly financed by the central government and state governments to underwrite emergency transport, quarantine logistics, and temporary food assistance, which helps to prevent wrangling over costs. Bureaucrats' Rules for activation, disbursement, and audit should be statutorily specified.<sup>134</sup>

### **D. Integrating International Standards.**

India should more comprehensively adopt ILO standards on the protection of migrant

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<sup>130</sup> A. K. Verma, "Emergency Migration Protocols: Legal Design for Crisis Mobility," NLSIR Vol. 34 (2022).

<sup>131</sup> Renana Jhabvala et al., *Protecting Informal Workers in Supply Chains* (ILO Asia-Pacific, 2021).

<sup>132</sup> National Human Rights Commission, *Recommendations on Migrant Worker Grievance Redressal* (2020).

<sup>133</sup> Ministry of Housing & Urban Affairs, Government of India, *Affordable Rental Housing Complexes (ARHC) Scheme* (2020); see also Jean Drèze, "Urban Employment Guarantees: Design Options," EPW (2021).

<sup>134</sup> NITI Aayog, *Report on Migrant Workers and the Economy* (2021).

workers, particularly those addressing equal treatment, non-discrimination, emergency assistance, and the portability of benefits. Also, the state can incorporate UN guidance on the human rights obligations of states during the pandemic.<sup>135</sup>

### **Conclusion:**

The migrant labour crisis during India's COVID-19 lockdown was not merely a humanitarian emergency; it was a constitutional movement exposing the structural breakdown of India's labour law regime. The image of millions of workers walking back to their hometowns Shoes Profound failure of governance policy and the law, despite decades of legislative instruments such as the Interstate Migrant Workmen Act, 1979 and the Unorganised Workers Social Security Act 2008, the state had no real-time understanding of who its workers were where they were employed, and how to protect them in the time of distress.

The lockdown Paralysis revealed the gap between the statutory ideals and administrative realities of India's fragmented Legal system related to labour laws. Divided between sending and receiving states, it collapsed under the weight of uncertainty and judicial intervention. While remaining emphatic, it remains remedial and episodic, offering palliative care rather than structural cures. The code on Social Security Twenty-Twenty and innovations like e-SHRAM Portal and One Nation One Ration Card Mark important steps forward, but do not substitute for a coherent migrant labour policy anchored in constitutional values and International Labour standards. The lesson, therefore, is both institutional and philosophical. India must reimagine its social compact around mobility, dignity, and universality of rights. Legal reform must translate the constitutional promise of equality and livelihood into enforceable entitlements. Administrative reform must be complemented by interoperable databases, a transparent funding mechanism, and empowered local governments. Finally, India's experience must inform global discourse on crisis governance and Labour Mobility, as the ILO rightly observed, "The pandemic has shown that social protection is not charity, it is infrastructure." The reconstruction of the infrastructure grounded in human rights and social justice remains the enduring obligation of the Indian state. Only then can the spectre of the Great Reverse migration stand as a historical lesson, not a recurring tragedy.

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<sup>135</sup> ILO Conventions No. 97 & 143; UN Office of the High Commissioner for Human Rights, COVID-19 Guidance on Human Rights and Migrants (2020).