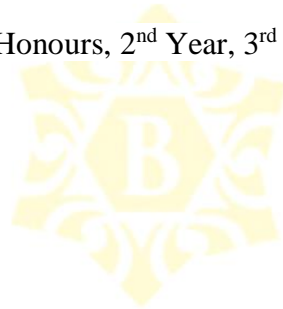


Migrant Workers vis-à-vis Human Rights during the Pandemic: An Indian and International Legal Overview with reference to the Sustainable Development Goals 2030

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ABSTRACT

As a result of the implementation of COVID-19, people from all walks of life have faced major obstacles. Despite the fact that governments around the world have tried a range of measures to contain the virus, including lockdowns, this study report claims that they have mostly failed. Although being one of the first countries to impose necessary restrictions, India was unable to prevent the virus from spreading and alleviate public suffering during the outbreak, which was especially serious among migrant workers. As a result of the pandemic, migrant workers in India suffered disproportionately. They were an abnormally large number of people who were penniless and destitute. A variety of factors contributed to the fatalities of migrant workers. Among the causes were malnutrition, self-inflicted wounds, weariness, road and train accidents, police abuse, and the refusal of professional medical attention. It also compares the pre-covid 19 scenario, demonstrating how the status of migrant workers has deteriorated from bad to worse throughout the duration of the present epidemic. Furthermore, this paper provides a summary of what international and Indian legislation exists to protect the fundamental human rights of migrant workers, but how their implementation has been inadequate since then, and how this has influenced the Sustainable Development Goals 2030. Finally, it explores how this situation is analogous to the 2014 Ebola outbreak in Africa, and how the COVID-19 pandemic could have been managed similarly, particularly in the context of migratory workers.

INTRODUCTION

Coronavirus Disease 2019 (COVID-19) is a rapidly spreading respiratory ailment caused by the most recent strain of Coronavirus 1. The health care system is strained to breaking point, resulting in an alarming number of deaths and significant diseases. COVID-19 has been classified as a pandemic by the World Health Organization (WHO), and health experts are unsure when the virus's spread will slow.¹ COVID-19 has had an impact on our daily lives, enterprises, as well as worldwide commerce and travel. The majority of countries have lowered their product output. The cause of the virus affects a wide variety of businesses and sectors, including solar energy, tourism, information and technology, and pharmaceuticals. This virus has far-reaching consequences for

¹World Health Organization, World Health Organization Director General Speech, available from: <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

both the daily lives of residents and the global economy. According to the International Labour Organization, Covid-19 resulted in a loss of 255 million full-time jobs² globally in the year 2020. Many firms, manufacturing units, and merchants cease output while governments in wealthier countries enact lockdowns to combat the virus. As a result, factories worldwide are closing, displacing millions. These are workers who earned pitiful wages previous to being laid off and could never save for a safety net. Workers have been disproportionately affected by all of the economic effects of termination and destitution. This has impacted the execution of Sustainable Development Goal 8, which focuses on decent work and economic growth, as well as target 8.8, which focuses on worker rights and fostering safe and secure working conditions for all workers.

According to the ILO's ACTRAV survey³ in context of the progress of Sustainable Development Goals, the majority of trade union leaders of migrant workers believe COVID-19 will have a beneficial effect on job creation within the framework of the Decent Work Agenda. However, some argue that governments worldwide have prioritized the survival of huge firms over safeguarding and generating jobs, particularly for vulnerable employees such as those in the informal sector and migrants. The majority believed that it will have a beneficial effect on social protection and discussion. On the other hand, respondents' expectations regarding workplace rights differ, with a negative bias.

Finally, with the exception of the Middle East and North African region, where child labour is a major concern, trade union leaders worldwide view employment and decent work as the two most critical SDG transition concerns. On the other hand, child labour was rated as the least major issue in all other locations. For responders from Europe and the Americas, the most pressing issue is excessive labour informality, but in Sub-Saharan Africa, the most pressing issue is women and youth unemployment. In all areas, wage and income disparity were ranked second or third in importance. In all regions, social protection looks to be less challenging.

For India, following a countrywide lockdown that began on March 25, 2020, the Indian government began permitting some economic activities in low-risk zones to resume on April 20, 2020, while economic activity remained low due to massive migrant labourers reversal migration.

²International Labour Organization, ILO Monitor: COVID-19 and the world of work. Seventh edition, available from: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_767028.pdf

³International Labour Organization, The likely impact of COVID-19 on the achievement of SDG 8, available from: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_770036.pdf

The pandemic also made it easier for the government and corporations to violate labour regulations and exploit employees. Because of a dearth of human resources as a result of the economic crisis, many Indian states changed their labour regulations and extended laborers' working hours without offering more compensation. Daily working hours were expanded from eight to twelve hours to aid the sector's recovery from the pandemic and to encourage private investment. As per the report⁴ Indian trade union representatives were especially concerned about the situation since, rather than protecting employees, the Indian government has decided to eliminate most trade union rights and attempted to adopt new legislation in the name of making changes that benefit corporations.

PRE-COVID 19 CONTEXT AND CURRENT CONTEXT: A COMPARISON

Even prior to COVID-19, employment disparities and problems existed. Only 57% of those of working age were employed (3.3 billion persons: 1.3 billion women and 2.0 billion men). There were 188 million unemployed people. The bulk of those with jobs worked in the informal economy, where they lacked basic labour rights, lacked social protection, and earned pitiful wages, trapping them in a vicious cycle of poverty. For example, more than 85% of African employees were employed informally. Skills mismatches were a major problem around the world. For example, prior to the recession, youth unemployment rates were roughly three times those of adults. Prior to the crisis, over three-quarters of all young people worldwide employed in low-wage jobs.⁵

Labor rights violations have risen to a seven-year high, placing employees in a number of countries at the epicenter of the pandemic's worst causes and repercussions. According to the International Trade Union Confederation's (ITUC) 2021 Global Rights Index, 87 percent of countries restrict strike rights.⁶ Workers in the most afflicted countries have been harassed, attacked, and even killed in the process of defending fundamental labour rights. Labor rights, in general, are both legal and human rights that apply to employee-employer relations. These rights have an impact on the working conditions that exist in employment relationships. The term "labour rights" refers to

⁴Supra, Note 3.

⁵International Labour Organization, Global Context: The world of work before COVID-19, available from: https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/genericdocument/wcms_748428.pdf

⁶International Trade Union Confederation, 2021 ITUC Global Rights Index, available from: https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN-final.pdf

entitlements that are exclusive to the worker or laborer's job. Individually or jointly, these rights may be exercised. A right to work in the employment of one's choice, a right to fair working conditions, which may include a just salary or privacy protection, a right to be protected against arbitrary and unjustified dismissal, a right to join and be represented by a trade union, and a right to strike are just a few examples. These rights can be justified on the basis of a range of values, including liberty, dignity, and capacity.

Even in India, as per the National Human Rights Commissions' research on the social and health rights of migrant workers⁷, the politically invisible segment of society; the migrant workers, lacks access to even basic services and is treated as aliens or second-class citizens in the country.

For instance, nearly 84 percent of respondents in Delhi lacked enough accommodation or were living in inadequate circumstances, according to the research. Inter-state migrants also have limited access to adequate health care, with the exception of Delhi, where the survey found that *Mohalla* clinics are useful. Female migrant workers have a higher prevalence of nutritional inadequacies and less access to reproductive health services than domestic employees. As a result of their continual exposure to filthy air, a small percentage of interstate migrant workers, particularly females, develop asthma, cancer, and reproductive health problems. According to the report, 68% of women surveyed lack access to toilets due to their residence in slums or squatter colonies. Around 62 percent of Mumbai's migrant labourers live in slums. According to the research, 43 interstate migrant workers died per month in Delhi, 35 in Gujarat, 41 in Haryana, and 38 in Maharashtra due to construction site accidents, suicide, and stomach and heart ailments.⁸

These inequalities and divides disproportionately affect the poorest and most marginalized members of society. As a result, multidimensional poverty and inequality are anticipated to soar to unprecedented levels. Lockdowns and movement restrictions, notwithstanding their need, risk the lives of self-employed and paid workers. This might result in detrimental coping mechanisms

⁷National Human Rights Commission, A Study on Social Security and Health Rights of Migrant Workers in India, available from: https://nhrc.nic.in/sites/default/files/Approved_Health%20and%20social%20security%20ISMW_KDS-NHRC.pdf

⁸Supra, Note 7.

such as asset sales, informal moneylender loans, or child labour.⁹

Small aggregators and distributors may be disadvantaged as a result of the rigorous quarantine regulation. Market closures stifle selling and buying possibilities, lowering demand for agricultural products and, consequently, agricultural labour. Where school food programmes source directly from local farmers, the negative impact on rural informal labour may be greater. They were particularly vulnerable to lockdown. Their earnings globally decreased by 60% in the first month of the crisis (around 80 percent in Africa and Latin America). Globally, the share of informal workers earning less than 50% of the median monthly income of the population increased by around 34%. Economically, the virus has had a disproportionately negative impact on migrants.¹⁰ They are concentrated in industries such as care that employ a high proportion of low-wage, unprotected workers. Many migrants may see a decline in remittances as a result of job loss, hurting their personal finances. Visas, employment or residency permits, and renewals will be revoked, making it difficult for them to reclaim their positions. The most severely injured workers are those in important industrial and service industries who continue to work despite a lack of social distance, safety equipment, and other OSH precautions.¹¹ Governments must priorities these frontline employees in order to safeguard their health and the health of others. Additionally, chronic unemployment impairs workers' ability to work, hence limiting labour supply. All of this will result in a further contraction of aggregate demand and supply, which will have a significant impact on poverty, inequality, and social cohesion.

INTER-LINKING SUSTAINABLE DEVELOPMENT GOALS AND ITS EFFECTS

Policies that affect people's migration, both within and between countries, have an effect on agricultural supply chains. Labor shortages have harmed food production, processing, and

⁹United Nations Secretary General Report, SHARED RESPONSIBILITY, GLOBAL SOLIDARITY: Responding to the socio-economic impacts of COVID-19, available from:

https://www.un.org/sites/un2.un.org/files/sg_report_socio-economic_impact_of_covid19.pdf

¹⁰United Nations Development Programme, 2020 HUMAN DEVELOPMENT PERSPECTIVES COVID-19 AND HUMAN DEVELOPMENT: Assessing the Crisis, Envisioning the Recovery,

http://hdr.undp.org/sites/default/files/covid-19_and_human_development_0.pdf

¹¹Occupational Safety and Health Administration, Protecting Workers during a Pandemic, available from:

<https://www.osha.gov/sites/default/files/publications/OSHAFS-3747.pdf>

distribution. As the virus spreads, concerns about migrant worker shortages during planting and harvesting are growing. This immediately impacted SDG 2 and its indicator 2.4, and is projected to continue to do so.¹²

Additionally, migrant workers bear a disproportionate share of the burden. Migrants have been made more vulnerable to poverty and food and nutrition insecurity as a result of business closures and travel limitations, as well as a lack of or limited access to all forms of social support. Job losses and insecurity have made it more difficult for them to obtain and afford adequate meals for themselves and their family. Physical distance measurements have an effect on the services supplied to migrants, especially food delivery to the most vulnerable (e.g. migrants in transit, rejected asylum seekers, and the homeless). Return migrants face increased hostility as COVID-19 carriers, while migrant workers in many countries struggle to reintegrate into their rural communities of origin. Children in migratory families would suffer increased risks of famine and child labour exploitation as a result of school closures and disruptions to school food programmes.¹³ As a result, work toward the goal 1 and 2 is stalled.

Numerous people labour under dubious or irregular conditions, with inadequate housing and working conditions and no access to healthcare or social safety. They were more likely to be exposed to workplace safety and health hazards, as well as to contract and spread COVID-19. Numerous agricultural migrant workers live and work in hazardous conditions, frequently in the absence of adequate sanitation, hygiene, and safety equipment. In other cases, congested migrant worker communities run the risk of becoming infection hotspots, resulting in increased death and stigma among local residents. Many employees go to work via carpools, sharing a single vehicle, or congested public transportation. Migrants also struggle to obtain information on COVID-19 preventative measures due to a lack of information from employers, language issues, illiteracy, and/or limited internet access.¹⁴ Undocumented migrants are particularly vulnerable since they typically lacked access to healthcare and social services in the event of illness or job loss. This

¹²Food and Agriculture Organization of the United Nations, Migrant workers and the COVID-19 pandemic, available from: <http://www.fao.org/3/ca8559en/CA8559EN.pdf>

¹³Shivakumar Srinivas & Satya Sivaraman, Understanding Relevant Sustainable Development Goal Targets Related to Labour Migration in the Association of Southeast Asian Nations during the Coronavirus Disease Pandemic, Economic Research Institute for ASEAN and East Asia Research Project Report 2021, No. 4

¹⁴International Organization for Migration, WHY MIGRATION MATTERS FOR “RECOVERING BETTER” FROM COVID-19,

https://www.iom.int/sites/default/files/documents/issue_brief_why_migration_matters_for_recovering_better.pdf

takes us to the obstacles associated with achieving goals 3 and 11.

The economic crisis triggered by the COVID-19 pandemic, as expected harmed not only migrant workers at their destination, but also their family members back home, as remittance transfers were cut or discontinued. As a result, SDG 8 was directly impacted. This, in turn, perpetuates a cycle of instability, creating a "paradox effect" for migrant workers, who must choose between seeking job and retaining it during such bad economic circumstances.

LEGAL ASPECTS: INTERNATIONAL PROVISIONS

International Labour Standards make specific suggestions for guaranteeing adequate work during times of crises, including guidance that may be relevant if the COVID-19 outbreak unfolds. The recommendation no. 205 (paragraphs 7(b) and 43), which was unanimously approved by all constituents, highlights the importance of crisis responses that ensure respect for all human rights and the rule of law, including respect for fundamental principles and rights at work and compliance with International Labour Standards. The Recommendation proposes a comprehensive strategy for crisis response, including the implementation of coherent and comprehensive policies aimed at enabling recovery and building resilience in a phased, multi-track manner.¹⁵

Social conversation should occur at all levels (national, sectoral, and company), and it is a critical policy tool for ensuring the adoption of policies and programmes that handle the crisis efficiently while reducing its impact on employment and wages. At the corporate level, it is critical to inform, advice, and educate employees about the crisis's implications for their own terms and conditions of employment, as well as the activities they can take to protect themselves and contribute to containment.¹⁶

Additionally, as stated in paragraphs 59 and 140 of the 2008 International Labour Organization Declaration on Social Justice for a Fair Globalization, freedom of expression and related fundamental rights may be curtailed or interrupted in exceptional situations. Restriction of critical

¹⁵The Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), Paragraphs 7 and 43

¹⁶Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

civil liberties should be reserved for exceptional circumstances, and any measures affecting the implementation of fundamental rights should be limited in scope and duration to the bare minimum required to address the issue at hand.

Under the 1982 Termination of Employment Convention, workers should be entitled to a severance allowance or other separation benefits, unemployment insurance benefits, or assistance to compensate for lost earnings as a result of termination if their employment is terminated due to the economic impact of COVID-19 or for health and safety reasons. As a general rule, an employer shall not terminate a worker's employment unless there is a valid reason for doing so that is related to the worker's capability or behavior, or is based on the undertaking's operational requirements. Absences from work owing to illness or family obligations do not constitute cause for termination. According to Convention No. 158, employers planning collective dismissals must offer important information to workers' representatives (including the reasons for the terminations, the number and types of workers likely to be affected, and the duration of the terminations) and give a proper notice to the competent authorities as well.¹⁷

COVID-19 infection may be considered a work-related or employment harm if obtained on the job. Industrial accidents and occupational diseases are examples of the types of injuries covered by the 1964 Employment Injury Benefits Convention (also known as Convention No. 121) and the 1952 Social Security (Minimum Standards) Convention. Workers who contract COVID-19 as a result of their employment shall be entitled to health care and, if unable to work, cash benefits or compensation, as specified in Convention No. 121. Dependent family members (e.g., spouses and children) of workers who die from COVID-19 should be eligible for cash benefits or compensation, as well as a funeral grant or benefit.¹⁸

The 1988 Employment Promotion and Protection from Unemployment Convention (No. 168) also calls on states to promote full, productive, and freely chosen employment, and states that workers who have lost their jobs should have access to employment promotion measures such as job

¹⁷International Labour Organisation, Protecting Migrant Domestic Workers: The international legal framework at a glance, available from: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/briefingnote/wcms_467722.pdf

¹⁸International Labour Organization, Key provisions of international labour standards relevant to the evolving COVID19 outbreak, available from: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/genericdocument/wcms_739937.pdf

placement and related services such as vocational training and guidance in order to re-enter the labour market. Furthermore, governments should take steps to extend unemployment benefits to workers who have lost wages as a result of partial unemployment, particularly in cases of temporary reductions in normal or statutory working hours, as well as the suspension or reduction of earnings as a result of a temporary suspension of work, particularly for economic, technical, structural, or similar reasons.¹⁹

According to the Recommendation on Working Hours Reduction, 1962 (No. 116), the competent authority or body in each country should determine the circumstances and limits under which exceptions to normal working hours may be permitted in case of force majeure, abnormal work pressure, or to make up time lost due to collective stoppages of work due to calamities, and in case of nascent. Compulsory labour, on the other hand, cannot be exacted invisibly and without the supervision of competent authorities in these exceptional cases. Compulsory service should be limited to what is strictly necessary given the circumstances in terms of duration and scope, as well as the purpose for which it is used. Civil liberties restrictions may have a greater impact on people's ability to express political or oppositional beliefs to the established order. It is worth noting in this regard that the Abolition of Forced Labour Convention, 1957 (No. 105) protects people holding or expressing political views or ideologically opposed to the established political, social, or economic system from sanctions involving compulsory labour, including compulsory prison labour.²⁰

According to the Domestic Workers Convention (No. 189), every domestic worker has the right to a safe and healthy working environment, and adequate measures should be adopted to ensure domestic workers' occupational safety hazards, taking into account the special characteristics of domestic employment. Furthermore, as per the Migrant Workers Recommendation, 1975, all essential precautions should be taken to prevent any particular health hazards to which migrant workers may be exposed (No. 151). Governments must continue to provide an acceptable and free service to migrant workers in order to provide accurate information. These services should provide migrant workers and their families with information on health conditions in the destination country (in a language they understand). At work, employers should take steps to ensure that migrant

¹⁹Supra, Note 18.

²⁰Supra, Note 18.

workers fully understand instructions, warnings, and symbols related to workplace safety and health, including COVID.

Finally, taking into account The Migrant Workers (Supplemental Provisions) Convention, 1975 (No. 143) it states that the cost of expulsion shall not be borne by migrant workers and their families. This also applies to migrant workers covered by government-sponsored arrangements who fail to secure the employment for which they were recruited due to circumstances beyond their control (for instance because they have contracted COVID-19).²¹

LEGAL ANALYSIS AND APPLICATION OF INDIAN PROVISIONS

India has a plethora of legislation and constitutional provisions pertaining to labour and migrant rights. Some of the constitutional provisions are as follows:

Article 14 of the Indian constitution protects the fundamental rights of migrants by stating that everyone is equal before the law. Article 16 guarantees equal job opportunities inside a state, while Article 19(1) (c) guarantees the right to organize groups and unions. Article 21 guarantees the right to life and personal liberty, but Article 21 A requires all children aged 6–14 to receive a free and compulsory education. Article 23 of the Indian constitution criminalizes human trafficking and forced labour, while Article 24 criminalizes child labour and makes it illegal to employ a child under the age of 14 in a factory, mine, or other hazardous activity. Article 38(1) of the Indian constitution directs the state to strive to promote the welfare of the people by securing and protecting social order for the purpose of promoting the welfare of the people, Article 38(2) directs the state to strive to reduce income inequality in the country, Article 38(3) directs the state to strive to promote the welfare of the people by securing and protecting social order for the purpose of promoting the welfare of the people. Article 41 of the Indian constitution directs states to strive to ensure their citizens' right to work, which was attempted to be implemented through the Mahatma Gandhi National Rural Employment Guarantee Act-2005 (MGNREGA), a scheme that aims to guarantee at least 100 days of employment to every adult member of a rural household who volunteers to perform unskilled labour. Article 43 A of the Constitution directs the State to work on legislation to enable worker participation in the administration of businesses, establishments, and other organizations engaged in any industry.

²¹Supra, Note 17.

In light of these provisions, let's analyze one of the recent cases on this issue- *Bandhua Mukti Morcha v. Union of India & Others*²²

In this case last year, during the peak of the pandemic, the Supreme Court took *suo motu* notice of the migrant workers' plight and continued to hear the case through the second wave. The order aims to improve food security by instructing the Union and state governments to be more liberal, provide food to non-ration cardholders, increase subsidized food allocation, and allow migrants to access dry rations from anywhere under the National Food Security Act's "one nation, one ration card" scheme. The court accepted assurances from the Union and state governments that the scheme will be implemented.

According to government figures, this initiative assisted only a limited number of people in the last year. According to a news story²³ about the rollout, as of May 6, 2021, the Integrated Management of Public Distribution System reported that just 50,000 people had benefited. It highlighted multiple cases throughout the country of migrant labourers being denied meals under the plan. The governments have made no attempt to communicate the scheme's purpose to the intended audience. On the other hand, migrant labourers undoubtedly require more than food to keep their bellies full and perform effective labour. These two items pertain to migrant worker registration. This is critical to give advantages to a certain target group, one must first identify that group. One of the primary reasons for the initial wave of migrant workers fleeing was that the government had no knowledge how many people it had or where they were located. The court did an excellent job of devoting a sizable portion of its opinion to the subject of "worker registration." On this point, the administration has been roundly chastised. As evidenced by the court's orders, the court and the Union and state governments, as well as the public-spirited civil society organisations (CSOs) and attorneys that joined the petition and endorsed the court – continue to be completely ignorant of the ground reality. Finally, governance requires a major increase in attention. There are already indicators of cooperation problems amongst state labour bureaus. We have an excellent understanding of how the government interacts with migrant subjects on a daily basis, but not enough about how the government's internal operations affect migrant results. Jan

²²Writ Petition (C) No.916 of 2020

²³2021. [online] Available at: <<https://indianexpress.com/article/india/year-later-one-nation-one-ration-off-to-slow-start-7303694/>>

Sahas, a nonprofit organisation that works with the most vulnerable people in nine states, discovered a number of roadblocks within the labour department, including a lack of registration procedure guidelines and delays in uploading data submitted in hard copy to the portal due to the portal's inability to be updated directly by others. At the heart of these issues is the fact that labour bureaus are chronically understaffed and underequipped to carry out the Supreme Court's mandate.²⁴

This can be illustrated due to the following circumstances; the court's first ruling chastises the central labour department for failing to commence the process of enumerating unorganized workers and sets a deadline for the construction of a National Database for Unorganized Workers (NDUW). Following that, the court compels the state to properly implement the Inter-State Migrant Worker Act in Order No. 5. (ISMW). If the ISMW Act is completely implemented, however, a separate registration process such as NDUW will become obsolete.

Apart from the Indian constitution's instilled values, other laws exist to protect the interests of Indian migrant workers, one of which is the 1979 Inter-State Migrant Workmen Act. (ISMW). The Inter-State Migrant Workers (ISMW Regulation of Employment and Conditions of Service) Central (Amendment) Rules, 2017 were changed in 2017 and are now referred to as the Inter-State Migrant Workers (ISMW Regulation of Employment and Conditions of Service) Central (Amendment) Rules, 2017. The ISMW Act regulates the employment of interstate migrant workers, as well as their working conditions and other pertinent issues. Labor contractors are required to get a license, register their migrant employees with the government, and arrange for the distribution of a passbook to record the workers' identities. Additionally, the Act establishes the minimum salary, housing, medical care, and protective clothing that contractors must provide to employees.

The 1926 Trade Union Act establishes a legislative framework for union registration and protects registered organizations. In 2020, leading Central Trade Union Organizations wrote to Santosh Kumar Gangwar (then Union Minister for Labour and Employment) asking him to modify the present restriction of 48 hours per week. Trade Unions are also opposed to the restructuring and reallocation of resources by the Employer Provident Fund Organization (EPFO) under the guise

²⁴2021. [online] Available at: <<https://indianexpress.com/article/opinion/columns/why-the-supreme-court-order-on-registration-of-migrant-workers-is-welcome-7415997/>>

of Covid-19, claiming that workers have lost jobs, wages have been withheld, and retrenchments have been undertaken.²⁵

In essence, if the projections of employers' organization's from various sectors are added together, the unemployment rate could reach 23.7 percent, and in such a scenario, rather than focusing on strategies for job creation and subsistence, using the Covid-19 cover to permanently damage the factory Act is highly condemnable.

The 1970 Contract Work (Regulation and Termination) Act controls contract labour in particular industries and provides for its termination in certain circumstances. An exodus of migrants was apparent on Delhi's streets during the COVID-19 curfew. Migrant workers were returning to their homes due to a lack of food, health care, and wages. Workers told the media that contractors either did not pay them or paid them a pittance and asked them to leave. The contractors' licence includes requirements requiring them to supply all necessary facilities that the government may impose in accordance with the laws, as stated in Section 35 of the same. Contractors, as reported in the media, are failing to pay daily wage workers as a result of the lockout, despite official requirements. This would have been a violation of the Act, and the licenses should have been revoked. However, no action of this nature was done.

The Contract Labour (Regulation and Abolition) Act of 1970, which was succeeded by the 1979 Act, was inadequate in dealing with the suffering of contract labourers and failed to address the malpractices done by contractors, among others. The Act then went on to handle interstate migrants, who had not been addressed by the previous Act. The Act mandated, among other things, equal/similar wages for equivalent work for local workers (Section 13), a displacement allowance of 50% of monthly salary or Rs 75, whichever is greater (Section 14), and a home travel allowance (Section 15) for inter-State workers. Workers can also file a grievance in the province where they work or in their home province, according to the Act. In addition to the CLA's registration requirement, this Act makes the contractor's actions, such as the submission of a passbook and registration ID, a condition of obtaining benefits. Furthermore, the Act allows major employers to avoid liability if they can demonstrate that violations occurred without their knowledge. As previously noted, under the Industrial Disputes Act of 1947, dissatisfied employees can file a

²⁵Sundar, K., 2020. COVID-19 and State Failure: A Double Whammy for Trade Unions and Labour Rights. *The Indian Journal of Labour Economics*, 63(S1), pp.97-103.

complaint with the adjudicatory authority. (IDA). There is, however, almost little track record of prosecutions or dispute resolution.²⁶

The 2008 Unorganized Workers Social Security Act provides for the social security and welfare of unorganized workers. However, unorganized labourers must register under the Act in order to benefit from Central Government programmes. Under Section 10 of the Act, an unorganized worker must submit an application to the District Administration, after which the District Administration will issue the worker an identity card with a Unique Identifying Number (UIN). To be eligible for social security benefits, the unorganized worker must pay a minimum wage. This is a time-consuming process, and it is expected that in the event of a pandemic, the government will make a change and instead allow the District Administration to identify every unorganized worker in the area who is eligible for benefits under the Pradhan Mantri Garib Kalyan Yojna (PMGKY) and other schemes. Schedule I contains initiatives for the welfare of the unorganized sector, such as the Rashtriya Swasthya Bima Yojana (RSBY), which attempts to provide unorganized personnel with adequate health insurance coverage. Under the plan, people living below the poverty line (BPL) are eligible for cashless insurance because they are issued a smart card that permits them to be treated at both private and public hospitals. The bulk of migratory employees are unable to use the Public Distribution System since they move from one state to another (PDS). As a result, they are unable to take use of many of the provisions of the Act.²⁷

It is evident that India clearly has a plethora of legislation in place to safeguard the rights of migrants and employees; nevertheless, the primary issue is how those laws are enforced. Despite numerous regulations, migrants and labourers continue to be impoverished, exploited, and entirely reliant on the goodwill of employers and contractors. India formed and has been a permanent member of the International Labor Organization (ILO) since 1922. Additionally, it has ratified six of the ILO's eight essential principles, but not conventions 87 and 98 due to governance concerns. The major relationship between Convention No. 87 and the 1948 Convention on Equality of Assembly and Security of the Right to organize is the 1948 Convention on Equality of Assembly and Security of the Right to Organize. Employees' and Employers' Sodalities are authorized to

²⁶Sharma, D., 2021. *Labour Laws and Migrant Workers during COVID-19 / SCC Blog*. [online] SCC Blog. Available at: <https://www.sconline.com/blog/post/2020/04/15/labour-laws-and-migrant-workers-during-covid-19/>

²⁷Supra, Note 25.

draught their constitutions and statutes in accordance with the provisions of this Convention, to freely nominate their members, to coordinate their administration and operations, and to create their programmes. Additionally, the agreement requires public authorities to refrain from interfering with or obstructing the authorized exercise of the privilege.²⁸

On the other hand, Convention No. 98 is connected to the 1949 Convention on the Freedom to Organize and Collaborate. Under this law, employees will receive adequate protection against anti-amalgamation discrimination. India's primary reason for not ratifying ILO Conventions 87 and 98 is that doing so would entail granting government employee's privileges that are currently illegal under Indian law, such as striking, publicly opposing regime policy, freely accepting financial donations, and freely entering international organizations.²⁹

PAST ACTIONS EXAMPLE: ILO'S RESPONSE TO EBOLA VIRUS OUTBREAK IN 2014; SOLUTION TO THE CURRENT SITUATION?

The present pandemic condition is very comparable to the epidemic that struck the African continent in 2014. The United Nations launched a new mission, the United Nations Mission for Ebola Emergency Response, for the first time in its history as an emergency health response (UNMEER). Various United Nations bodies collaborated on this mission to provide coordinated assistance to migrant workers using the UN Office for Coordination of Humanitarian Affairs' (UNOCHA) cluster approach, with relevant bodies such as the United Nations Children's Fund for child protection, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) for women protection, and the World Health Organization (WHO) for global health protection.³⁰

Under the same approach, The International Labor Organization (ILO) created a number of Occupational Safety and Health instruments and procedures that were utilized to safeguard workers from catching Ebola at work over the years. Businesses and labour unions both maintained

²⁸Shailendra Kumar, Sanghamitra Choudhury, *Migrant workers and human rights: A critical study on India's COVID-19 lockdown policy*, Social Sciences & Humanities Open, Volume 3, Issue 1, 2021, 100130, ISSN 2590-2911, available at: <https://doi.org/10.1016/j.ssaho.2021.100130>.

(<https://www.sciencedirect.com/science/article/pii/S2590291121000267>)

²⁹Supra, Note 28.

³⁰United Nations Development Programme, *Recovering from the Ebola Crisis - Full Report*, available from: <https://www.undp.org/publications/recovering-ebola-crisis-full-report>

extensive working contacts and networks with the International Labor Organization (ILO). The governments of three nations i.e. Guinea, Liberia, and Sierra Leone accumulated a global team for the conduction of an Ebola Recovery Assessment upon request by the Secretary General of the United Nations. An international multi-partner mission led by the United Nations, European Union, World Bank, and African Development Bank was completed in January 2015 after consultation with a number of partners, including the Mano River Union, Economic Community of West African States (ECOWAS), Africa Union, and the African Union Commission. The purpose of the medical emergency response team as it confronted the pandemic in its current form was to contribute to the establishment of a foundation for short-, medium-, and long-term recovery. In order to provide comprehensive coverage of Ebola-related themes, four theme working groups were organized for the evaluation especially for the workers:

- Water, Sanitation, and Hygiene
- Governance, Peacekeeping, and Social Cohesion
- Infrastructure and basic essential services
- Social and economic revitalization.

Another, national example can be taken into account by the nation of Sierra Leone. Sierra Leone, upon recommendations from the United Nations subjected specific policies for the labour and migrant workers.³¹

The major goals of their policy reform were to support programmes for the restoration of lost livelihoods among youth and the broader public and to put systems in place to assist adolescents in becoming more resilient in the event of future health problems in hand with the Sustainable Development Goals 2030.³² This two fold approach helped in bettering the target results of the SDGs and essentially diminish the Ebola outbreak in the country as well.

They used the following strategies:

- Conduct a nationwide poll to compile a list of all Ebola victims under the age of 25.

³¹United Nations, The World Bank, European Union and African Development Bank, Recovering from the Ebola Crisis, available from: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_359364.pdf

³²Supra, Note 31.

- Ensure that social support networks for unemployed EVD survivors be expanded.
- Prioritize the restoration of young income and livelihoods; metropolitan areas have been hit the worst in terms of livelihoods, particularly as a result of business closures.
- Improve the capacity of current technical and vocational training institutes to successfully incorporate EVD young survivors and Ebola response youth staff.
- Incorporate Ebola response personnel and young Ebola survivors into national youth employment development programmes. Provide post-Ebola psychosocial counselling to traumatised Ebola youth victims.
- Investment in youth employment and skill-building programmes, particularly through job-intensive infrastructure programmes, is vital to avoid further alienating a youth population in a region prone to cross-border security issues.³³

Such strategies and policies can be used as an example of how a country ranked 180th out of 187 in the Human Development Index³⁴ (which is a measure of average increase in the development of key aspects of life in a country) at that time, combated with tremendous coordination and United Nations support while concurrently assisting its neighboring countries of Guinea and Liberia. This demonstrates the intention and optimistic view to move out of a crisis and ultimately combat such outbreaks as a whole, as well as assist migrant workers in overcoming the same (them being one of the most affected groups). Certainly a country like India (currently ranking 131) can adopt such better approaches and help out the needy at this time.

CONCLUSION

We have entered a new world as a result of the coronavirus outbreak, one in which the status quo no longer applies. As the virus wreaks havoc on our bodies and economies, millions of people are in excruciating pain and misery. The pandemic has caused us to examine practically every area of our lives, whether prosperous or impoverished. The pandemic is both a major challenge and a big opportunity for the 2030 Agenda and the SDGs. The SDGs (Sustainable Development Goals) provide humanity with a road plan. They encompass nearly every facet of human and planetary

³³Government of Sierra Leone, National Ebola Recovery Strategy for Sierra Leone, available from: https://reliefweb.int/sites/reliefweb.int/files/resources/sierra_leone_ebola_strategy_030715.pdf

³⁴United Nations Development Programme, Human Development Index, available from: http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/SLE.pdf

well-being and, if achieved, will ensure everyone's stability and prosperity while also ensuring the world's health. Around 1.6 billion people, or more than half of the global workforce, labour in the informal economy. According to the International Labour Organization, they are in urgent danger of losing their work. According to the International Labour Organization, over one in every six young people has lost their jobs since the pandemic began, and those who remain have had their hours shortened. They have been dealt a devastating blow this year, one that will have long-term consequences.

On the other hand, the outbreak demonstrates the reality of what the SDGs already state: the issues we confront cannot be tackled in isolation. For the first time in a century, the entire world is united in pursuit of a single objective: eradicating the coronavirus. Returning to "normal" is impossible, because "normal" is the very thing that got us here. The crisis has demonstrated how closely we are related to one another and to the natural world. COVID-19 compels us to reassess our views and forge a new sector of development capable of balancing economic, social, and environmental progress in the manner anticipated by the 2030 Agenda and SDGs. Integrated solutions are the only approach to assist countries in meeting the 2030 targets while also building a more sustainable and inclusive future.

RECOMMENDATION-

1. Too many spelling and grammatical errors.
2. Add recommendation and suggestion sub-topics in the article.