
REGISTRATION AND LICENSING UNDER THE INTER-STATE MIGRANT WORKMEN ACT, 1979: ENFORCEMENT GAPS AND REFORM NEEDS

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ABSTRACT

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (ISMW Act) was intended to regulate the recruitment and engagement of employees travelling across States for a source of livelihood and to guard them from the exploitative practices adopted by non-licensed contractors and employers. Registration of principal employers, licencing of contractors supplemented by passbooks, wage equalisation and amenities served as the primary regulatory mechanisms and ancillary shields. We, at a distance of almost four decades since its enactment, analyse the architecture, enforcement and efficacy of these registration and licencing procedures. An analysis of the text of the legislation, regulations, case law under appellate and constitutional law, the use of the available data from secondary data collected by government survey instruments and report compilation, as well as the practical experience recorded from the 2020 Covid-19 reverse migrant crisis through doctrinal and socio-legal methodology has highlighted five consistently reoccurring types of non-enforcement fail. These failure points being thresholds and definitional gaps by which contractors could deny inclusion; under-resourced and hence inefficient apparatus for enforcement through inspection; virtual non-issuance of the required book under the law; negligible outdated penalties failing to serve as deterrent to non-compliance; and non-existence of porting rights of Registration/benefits across state boundaries. In the lockdown period, the state was thus essentially failing to identify and locate and facilitate these workers. Hence, the Supreme Court stepped in. This paper review post-consolidating into the Occupational Safety, Health and Working Conditions Code 2020

reviews the fate of the Act and argued for an integrated, nationally portable Aadhaar registered system, technologically boosted and effective inspections, stringent deterrent Penalties and state inter-level cooperation between labour departments (home and host states) to enact fundamental change.

KEYWORDS: Inter-State Migrant Workmen Act, 1979; Registration and Licensing; Labour Migration; Contract Labour; Enforcement Gaps; Occupational Safety, Health and Working Conditions Code, 2020.

INTRODUCTION

India has one of the highest rates of domestic labour mobility globally. Thousands and millions of workers migrate from one state to another in search of employment annually, mostly in construction, brick kilns, textile, agriculture and micro-enterprises, suggests an analysis of railway passenger movements in Economic Survey supplemented by later rounds of national survey data. Migrant workers are transported from poorer labour surplus countries to more industrially developed destination states by informal contractors, sub-contractors and labor brokers who account for a larger part of labour movement rather than formal recruitment avenues. The workers are vulnerable to underpayment, conditions that can approach bonded labour, and deprivation of legal benefits because they are generally unorganized, have poor knowledge of the local language, government and administration, and rely on the contractor for cash, housing, and documentation.

At home India has one of the highest rates of internal migration globally among the population employed in labour intensive sectors. Over ten million migrant workers cross states every year mainly through construction, brick-kilns, textiles, agriculture and small enterprises - according to the research in the Economic Survey based on railway movement data of passenger movement coupled with later rounds of national survey data. Poor labour exporting poorer countries receive workers from industrially richer states for sectors such as construction, manufacturing, through migrant labour contractors, sub-contractors and brokers that make up a significant part of all labour mobility, not so much through recruitment

formalities by employers. ¹The employees are by and large unorganised, strangers to local laws, language and administration, heavily depend on the contractors not just for employment, but also housing, payments and identities for which they tend to face non-payments, near-bonded forms of labour, and not receive due benefits².

Its two principal methods of controlling employment are: first, by requiring that, in order to recruit inter-state workers at the place of recruitment, registered principal employers must first register themselves and acquire a certificate of registration from a registering officer, and, secondly, by requiring, that, when a contractor recruits in one state the employees for employment in a different state, he must separately get a license from a licensing officer, and anyone who recruits migrant labour other than a registered contractor is penalised by prohibiting such employment in case of an unregistered principal employer. Further provision is made in the Act that a migrant worker can only be paid on an officially provided pass book indicating his pay, tenure and establishment, work under, wages at least equal to what is being paid for works of the same type in the state where the labour has been deployed and that travel and displacement expenses have to be borne and fatal accident and any serious injury has to be reported. Unfortunately, and despite this robust legislative framing, there exists a well-documented disconnect between how a statute has been framed and its actual implementation and enforcement. Very few of the estimated migrant workers are currently accounted for in the registration and licensing databases maintained by state departments of labour, and even the provision for the use of the pass-book is infrequently observed. When the nation-wide COVID-19 lockdown of 2020 left migrant workers across states stranded and lost in their jurisdiction without clear data from states identifying, quantifying, or locating them, this massive deficit came to light-since so few companies and contractors were ever registered or licensed under the Act. This generated crisis brought back the Supreme Court of India's 'Suo motu' response, putting to the foreground the importance of registering the migrant workers. In the process, the ISMW Act's provisions were subsumed in to the Occupational Safety, Health and Working Conditions Code, 2020. Against this backdrop, this article raises three pertinent questions. Firstly, in terms of their actual duties and obligations

¹ Bhatt & Joshi Associates. (2025). Inter-state migrant workers: Enhanced protections and registration mandates. <https://bhattandjoshiassociates.com/inter-state-migrant-workers-enhanced-protections-and-registration-mandates/>

under the legal regime of registration and licensing prescribed by the ISMW Act, what is expected of major employers, contractors, and the state entities? Secondly, what are the primary factors why this regulatory architecture has had such poor implementation? Thirdly, do this enforcement lacunae stand adequately plugged by the 2020 codification and what is still needed to make registration and licensing an effective mechanism for the safety and security of migrant workers?

MATERIALS AND METHODS

This study follows a doctrinal and socio-legal design of research to examine a regulatory statute and the state of execution thereof. Three kinds of sources will be utilized in the thesis. The statutory instrument shall include the text of The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, along with the model and state codes made beneath it. The Occupational Safety, Health and Working Conditions Code, 2020, inasmuch as it overrides, amends, and consolidates the previous statute shall be another source³ of a body of the Act. ⁴ In the final leg of research, the case law on contract, constitutional and appellate law dealing with migrant workers like People's Union for Democratic Rights v. Union of India⁵ (the Asiad workers' case), Bandhua Mukti Morcha v. Union of India, as also proceedings in apex court in relation to migrant workers during lockdown of 2020.

Second, secondary and empirical sources consisted of official survey statistics relating to internal migration, including: the Economic Survey's reporting on interstate labour migration; migrant reports produced by National Sample Survey Office (NSSO); and annual reports and enforcement figures that are routinely produced by ministries of labour at both central and state levels; finally, various documented case studies and commentary from legal practitioners⁶ on the application of the Act were accessed. Thirdly, details regarding the events surrounding the 2020 migrant crisis were accessed in order to illustrate the real-world

³Government of India, Ministry of Finance, Department of Economic Affairs. (2017). Economic Survey 2016-17, Volume I, Chapter 12: India on the move and churning: New evidence.

⁴Delhi Labour Department, Government of NCT of Delhi. (n.d.). Inter-State Migrant Workmen Act, 1979. <https://labour.delhi.gov.in/labour/inter-state-migrant-workmen-act-1979>.

⁵People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235 (Supreme Court of India).

⁶TheLaw.Institute. (2026). Safeguarding inter-state migrant workers: A 1979 legislative overview. <https://thelaw.institute/introduction-to-law/safeguarding-interstate-migrant-workers-1979-legislation/>

impact of weak registration rates, through official reporting by the government, local and civil society organisations, and court records relating to legal action following the crisis.

Analysis Method The methodology adopted for this analysis is Thematic and Qualitative, whereby registration and licensing provisions under the Act (Sections 4-6 and 7-12) were aligned against the institutional framework for enforcement setup by the Act (registering officials, licensing authorities and inspectors under Sections 12-19) to locate sites where failure for registration / licencing might possibly occur. Subsequently secondary materials were analysed to gauge whether there have been documentary failures at these sites. The five key thematic areas were found to recur from failures identified. These include (i) terminological and definitional loophole; (ii) resource and manpower constraints; (iii) worker focused-based documents' unavailability and pass book non issue; (iv) inadequate penalty regimes; and (v) poor interstate mobility and coordination. In the sequel the discussion and findings are presented and organized under these themes. The article will contribute by using the interaction of the analysis of statutes, the reporting of case law and emerging empirical reporting of figures, to construct a plausible story as to why registration and licensing perform poorly and what this report offers by way of reform. A doctrinal and secondary material-based article. It will add new primary survey research information.

RESULTS AND DISCUSSION

The Statutory Design of Registration and Licensing

As provided in the Act, a big employer shall not employ migrant workers from other state without the registration certificate issued to the employer by a registering authority as the government may have provided (typically the Deputy and Additional Labour Commissioner. Further, an employer cannot hire workers in the source state for employment in a destination state unless the contractor holds a licence to act as a contractor. This licence contains particulars like the premises of the establishment, nature of work and conditions related to payment and provision of basic amenities like housing, water, and etc. Of a migrant worker. If someone contravenes this Act, license/registration could be cancelled with a reasonable hearing. With the aim of ensuring the recruitment and use of migrants is in compliance, this two-tier setup was developed in order to place two separate watchtowers in the loop: a “supply-side” one (on the contractor who transports and brings migrant workers over) and a “demand-side” one (on the establishment for whom migrant workers are being employed). Contractors also need to ensure that migrant workers are paid at least minimum wage and

equal remuneration as any employee in the state for similar jobs, are entitled for displacement and journey allowances, are maintaining prescribed registers, which must also be open to inspection, and are issuing a booklet with photograph of migrant worker indicating the age, name, employment position, duration of employment as also the rates of wages paid. And to report any accidental deaths or serious injuries to the relatives and dependents of the worker and also to the appropriate Government of both states. It empowers to enter into any establishment and seize the registers and records, taking statements. So, the act creates a relatively elaborate regulatory network, right from licensing and registration to day-to-day supervision of the payments and conditions.

The Gap Between Statutory Design and Implementation

In fact, the extent of interstate migration noted in national surveys only a small number of firms and contractors registered in the scheme in most states. The time to pinpoint where in the chain breakdown begins here.

Definitional and Threshold Loopholes

Designed to remove small contractors and very small enterprises from cumbersome, though largely unenforceable, compliance procedures, it sets a threshold of five or more interstate migrant workers, and this is circumvented with utmost ease. Despite large numbers of people being employed at a large construction site or brick kiln the overall hiring operation is typically conducted through multiple very small, informal sub- contractors, individual intermediaries (known in various localities as sardars, mestris or thekedars), each less than the five-worker statutory threshold, while the definition of what constitutes an interstate migrant worker is conditional upon contractor mediation. Unwittingly, and unfairly, all workers who move from state to state in search of jobs of their own accord and at their own initiative without being “recruited” by or through a contractor do not fall within the scope of the Act. A substantial volume of labour migration falls within this grouping for reasons of the definition given and given the self-initiated nature of so much of the migration caught in the migration survey.

Institutional and Inspection Capacity Constraints

Members of the same pool of state labour department staff as have responsibility to implement most of other labour statutes including the Contract Labour (Regulation and Abolition) Act, Minimum Wages Act and the various Factory and Shop acts, are commonly designated to act as registering officer, licensing officers and inspectors under the Act.

Reports of Labour Administration point out that while the ratio of inspecting staff to the registered/unregistered establishments remains low, the inspections are affected even by staff vacancies, poor mobility and resources, and the clash of jurisdictions. 'Poor Inspection Capacity directly results in poor coverage' as the act expects the contractors and principal employers to approach and get themselves registered and licensed instead of a proactive approach to find out the unauthorized operations: in the absence of any accident, wage dispute or publicity, there is little likelihood of finding the unauthorized utilization of the migrant labour,

Non-Issuance of the Passbook

The pass book was meant to be the main legal protection the migrant worker enjoyed. It was to be a wage slip which the worker could present in order to enforce payment against the contractor. It was meant to be his proof of identity. It was to be evidence of the terms under which he was engaged. In effect there has always been minimal compliance with the pass book requirement, as most migrant workers have told reporters and researchers for field investigations that they have never received one at all. Because the worker doesn't carry it, it negates evidence of proof on most of the substantive features of the act like equal pay or compensation for accident the worker as an inspector must know the terms under which he is engaged before either applies.

Inadequate Deterrence

The Act's penalty provisions, framed in 1979, prescribe fines and short terms of imprisonment that have not been meaningfully revalued and are, in real terms, a negligible cost relative to the commercial advantage of using unregistered, unlicensed migrant labour. Reported prosecutions and convictions under the Act are correspondingly rare. Where the expected cost of detection and punishment is low, and the probability of detection is itself low given the inspection constraints noted above, principal employers and contractors have little economic incentive to register or seek licences voluntarily.

Absence of Inter-State Coordination and Portability

While the Act contemplates requirements to both origin and destination state authorities - such as the filing of accident reports for worker fatalities in two states, it stops short of establishing on an ongoing permanent basis formal mechanism to share information or coordinate work between the labour agencies of one state and the other. States retain individual registration and licensing files which are not linked up or to a mutually

transferable status. A migrant Worker's license status in one destination country does not provide him/her status if he/she moves to another in due course. Because they are not portable and lack any robust shared record, both states sending the worker workers (origin states) and states receiving them (destination states) in their state limits had not solid sense of where these interstate migrant workers were in their boundaries in the midst of 2020 lockdown, making aid and travel, not to mention the task of helping them find their way back to their jobs, complicated beyond all hell. Consequently, the apex Court asked Centre and state Governments to speed up workers' registration and handling of workers' grievances.

Judicial Intervention and Its Limits

Constitutional Courts have generally interpreted that questions related to fundamental rights that have been addressed by this Act is not limited to contractual obligations. As back in 1980s itself, the Supreme Court observed in *People's Union for Democratic Rights v. Union of India*, that even not paying minimum wages amount to bonded labour in contravention of Article 23 of the Constitution of India, and later extended it further to the field of bonded and migrant labourers in general, in *Bandhua Mukti Morcha v. Union of India*⁷. The outcomes of these decisions confirm that a state can't deflect its responsibility for violations of employment law by allowing a third party to control the immediate employment setting. Indeed, these types of legal decision making do not change the ongoing management's control of, or incentives to take care of, whether or not actual registration and licensing actually takes place; they affect, rather, the State government's constitutional framework and concrete directives on a case-by-case basis. Followed suit by a raft of similarly themed orders⁸ the Supreme Court passed following its 2020 *Suo motu* notice on the migrant labour crunch that have once again fallen to the once-incapable state labour department to enforce many had hoped a more fundamental reset would occur to better serve future workers in transit.

The 2020 Codification: Progress and Residual Gaps

The ISMW Act and a number of other labour laws are combined into the Occupational Safety, Health and Working Conditions Code, 2020, which also includes significant modifications pertaining to licensing and registration. It closes one of the aforementioned

⁷*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (Supreme Court of India).

⁸National Sample Survey Office, Ministry of Statistics and Programme Implementation. (2010). Migration in India, 2007-08 (NSS 64th Round, Report No. 533).

definitional gaps by expanding the definition of an interstate migrant worker to encompass those who travel independently as well as those hired through a contractor. It considers a toll-free complaints helpline, a national database, Aadhaar-based registration that is meant to be accessible across states, and the transfer of some benefits. The coordination and portability gap identified during the 2020⁹ crisis is immediately addressed by these notable advances in statutory design. However, successful adoption of the Code depends on individual states developing their own regulations in a widely variable fashion, and on adequate technical and administrative support being made available to licensing and registration bodies support which under the 1979 Act proved chronically lacking. The inherent Code advantages the better substantive approach and stronger certification standards, for example) still need to be translate into improved outcomes, in view of sustained resistance¹⁰ from employer groups to the costs of compliance with some provisions and lingering doubts in various states over the effective implementation schedule for others. The Code essentially rectifies the definitional and transportability defects of the 1979 Act but leaves in place the definitional and inspection defects specific to state labour administrations that cannot be resolved by legislation alone.

CONCLUSION

The design of a quite solid legislative scheme, based on passbooks, wage parity and inspection the Inter-State Migrant Workmen Act of 1979, centred around primary employers being registered and the licensed contracting employers has proved consistently under-enforced in the over 40 years of its existence as a result of definitional ambiguities that enable contracting to be fragmented and self-moved workers to be excluded from its ambit, a lack of staff and resources for the inspection machinery to get on the ground for ex-ante identification of informal hiring, persistent non-provision of passbooks that denies the workers a bedrock of evidence for claiming their otherwise guaranteed rights, penalties that fail to adequately deter violations, and a complete failure of coordination/portability between origin and destination states. These shortcomings are clearly laid out as it became manifest that the state's failure to identify or find migrant workers in 2020 lockdown generated a colossal humanitarian crisis requiring intervention directly by the Supreme Court of India. At the level of statutory design, the Occupational Safety, Health and Working Conditions Code,

⁹ In Re: Problems and Miseries of Migrant Labourers, Suo Motu Writ Petition (Civil) No. 6 of 2020 (Supreme Court of India).

¹⁰ LawBhoomi. (2026). Inter-state migrant workers Act. <https://lawbhoomi.com/inter-state-migrant-workers-act/>

2020 adds to many of these strengths by significantly broadening the definition of migrant worker, and establishing a portable, central registry linked to Aadhaar, an effective system by design. Nevertheless, sustained financial support will be needed for the development of inspection infrastructure and robust interstate mechanisms for coordination amongst departments of labour, non-deterrent penalties (which are regularly reviewed and re-calibrated), and coherent and consistent rule-making and administration by states. Registration, licensing only help when there are the resources to ensure compliance.

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REFERENCES

1. Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 (Supreme Court of India).
2. Bhatt & Joshi Associates. (2025). Inter-state migrant workers: Enhanced protections and registration mandates. <https://bhattandjoshiassociates.com/inter-state-migrant-workers-enhanced-protections-and-registration-mandates/>
3. Delhi Labour Department, Government of NCT of Delhi. (n.d.). Inter-State Migrant Workmen Act, 1979. <https://labour.delhi.gov.in/labour/inter-state-migrant-workmen-act-1979>
4. Government of India, Ministry of Finance, Department of Economic Affairs. (2017). Economic Survey 2016-17, Volume I, Chapter 12: India on the move and churning: New evidence.
5. Government of India, Ministry of Labour and Justice. (1979). The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No. 30 of 1979).
6. Government of India, Ministry of Labour and Employment. (2020). The Occupational Safety, Health and Working Conditions Code, 2020 (No. 37 of 2020).
7. In Re: Problems and Miseries of Migrant Labourers, Suo Motu Writ Petition (Civil) No. 6 of 2020 (Supreme Court of India).
8. LawBhoomi. (2026). Inter-state migrant workers Act. <https://lawbhoomi.com/inter-state-migrant-workers-act/>

9. National Sample Survey Office, Ministry of Statistics and Programme Implementation. (2010). Migration in India, 2007-08 (NSS 64th Round, Report No. 533).
10. People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235 (Supreme Court of India).
11. TheLaw.Institute. (2026). Safeguarding inter-state migrant workers: A 1979 legislative overview. <https://thelaw.institute/introduction-to-law/safeguarding-interstate-migrant-workers-1979-legislation/>