

National Centre for Advocacy Studies - Advocacy Briefs



HOW CAN WE LIVE WITHOUT OUR LIVES?

A brief on the measures the state can take to alleviate the difficulties of migrants

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email- ncas@ncasindia.org and Website www.ncasindia.org

Tel: +91 20 22952003/22952004

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Preethi Sundararajan

Intern at National Centre for Advocacy Studies, Pune

Student of Azim Premji University

Long wait to go home

It is undeniable that Covid-19 is having catastrophic consequences on human lives, livelihoods, the economy and our way of life. However, attention must be paid to those disproportionately affected by the ongoing crisis. Though the Government has submitted before the Supreme Court that the 5-6 lakh stranded workers¹ who were trying to reach their homes have been accommodated in shelters, there are numerous articles/reports depicting that a significant number of these migrants from the informal sector are still attempting to make their way back by any means necessary. The reports of men, women and children literally dropping dead on their way home are incessant even now, as lockdown measures are strictly enforced in many areas.

Governance measures hitherto taken to enable travel of migrants

Around 20 lakh migrants remain stranded in government relief camps around the country². It is essential to acknowledge that as the lockdown measures prolong, these migrants and their families continue attempting to reach their destination leading to the unfortunate loss of their lives. While social distancing and home confinement remain viable options for the privileged, it is not a feasible strategy for migrants and their dependents. There are reports of migrants living in cramped quarters emerging as Covid clusters in countries such as Singapore as they ramp up testing³. To avoid a similar humanitarian disaster, it is crucial that adequate steps be taken to address the concerns of this section of the population which will remain crucial to the national reconstruction efforts post Covid-19. While the Standard Operating Procedure for Movement of Labour⁴ dated 19th April 2020 issued by the Ministry of Home Affairs ('SoP') permitted migrants to travel within the state limits for purposes of work, it failed to address any concerns that the migrants themselves might have regarding returning to their home state. The SoP envisaged transportation by bus in compliance with social distancing norms, but not beyond the state boundaries. Some states being proactive in this regard, have taken steps to arrange buses to transport migrants till the state boundaries, where the home state makes arrangements to further transportation. Gujarat has already transported 225 migrant workers through buses to the Gujarat-Madhya Pradesh border where the MP government then arranged for transportation to

1

https://www.business-standard.com/article/economy-policy/coronavirus-lockdown-govt-mapping-migrant-workers-for-relief-measures-120040901787_1.html

2

<https://www.financialexpress.com/economy/govt-working-on-to-address-travails-of-migrant-workers-labour-secretary-heerala-samariya/1936892/>

3

<https://economictimes.indiatimes.com/news/international/world-news/the-s11-dormitory-inside-singapores-biggest-coronavirus-cluster/articleshow/75267281.cms>

⁴<https://www.mha.gov.in/sites/default/files/MHA%20Order%20Dt.%2019.4.2020%20with%20SOP%20for%20movement%20of%20stranded%20labour%20within%20the%20State%20and%20UT.pdf>

their homes.⁵ In Uttar Pradesh, officials have worked out a plan to bring back around 5 to 10 lakh workers over the next two months, and plan to send migrant workers who have completed 14 days in quarantine back to their home state⁶ and the process has already begun with 2,224 workers returning from Haryana to UP⁷. While this is commendable, such measures have to be worked on a case-by-case basis requiring inordinate time and effort as no established procedure is available for the same. Further, this becomes feasible only between bordering states, for instance, it becomes a difficult feat to transport a migrant worker from Tamil Nadu back to Bihar as other state boundaries will have to be crossed and separate permissions sought for the same.

On 29th April, 2020 the Ministry of Home Affairs issued another [Order](#), (the latest one in the series of orders being issued in exercise of the powers, conferred under Section 10(2)(1) of the Disaster Management Act, 2005) specifically regarding movement of migrant workers, pilgrims, tourists, students and other persons who are stranded at different places. According to the latest order, all State Governments and Union Territories are required to designate “nodal authorities” and “develop standard protocols” for receiving and sending such stranded persons. It further prescribes registration and screening of such migrants, and coordination between respective states for transfer of migrants, who wish to return home, only by road by using sanitized buses and following social distancing norms in seating. The order also directs the States falling en route to allow the passage of such buses.⁸

The order of the MHA covers all stranded persons including migrant workers, students, tourists pilgrims etc., meaning it will involve enabling travel for lakhs of people in different corners of the country. In light of this, the order appears to be woefully inadequate and vague in its approach to the proper handling of the issues connected with the transport of migrant workers, in as much as it permits the same but delegates the actual coordination to the state authorities without providing them with necessary equipment, personnel, means or measures for its effective implementation. The need of the hour is a comprehensive central approach with instructions, training and resources. If each state were to develop its own policy, it would only lead to further confusion. A common set of guidelines would lessen the burden on the states who are dealing with the brunt of the work on the ground, and reduce indecision and uncertainty. The following

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<https://www.deccanherald.com/national/stranded-migrants-from-mp-get-relief-as-guj-govt-arranges-buses-for-return-trip-829886.html>

6

<https://www.thehindu.com/news/national/other-states/uttar-pradesh-to-bring-back-migrant-workers-in-phases/article31423150.ece>

7

<https://timesofindia.indiatimes.com/city/lucknow/1st-batch-of-2224-migrants-returns-state-readying-15-lakh-jobs/articleshow/75384492.cms>

<https://www.mha.gov.in/sites/default/files/MHA%20Order%20Dt.%2029.4.2020%20on%20movement%20of%20migrant%20workers%2C%20pilgrims%2C%20tourists%2C%20students%20and%20other%20persons.PDF>

legislative and executive actions could lead to smooth and safe transportation in the interest of the migrants and the officials involved. Most news reports reported that the Arogya Setu app will be used for tracking the health of the migrants, the Arogya Setu App has run into issues pertaining to privacy.

Areas of Concern and related Recommendations:

1. Coordination and Communication:

The first and most crucial step would be identification of stakeholders and facilitation of coordination and communication amongst them. WHO's Preparedness, prevention and control of coronavirus disease (COVID-19) for refugees and migrants in non-camp settings⁹ repeatedly speaks of local agencies working in conjunction with other entities and taking into account the preferences of the migrants themselves while formulating measures for their well-being. In this context, it is imperative for the Central, State, and District level government authorities to work in tandem and with the NGOs, trade unions/groups and migrants to best serve their interests. Migrants are also particularly at risk for contracting the virus due to their general living conditions which is only exacerbated by the fact that they have no access to either diagnostic or curative healthcare services. They must also be sensitised and made aware of the nature of the virus and the do's and don'ts so they don't fall prey to rumour-mongering.

Of utmost urgency is facilitating the transportation of migrant workers back to their home states on completion of 14 days quarantine, with social isolation being followed in sanitised buses and / or trains, and arrangements made for their food, water and hygiene as per MHA guidelines enumerated above. It is necessary to establish channels of communication between different states and ensure coordination between the states under the aegis of the Centre for hassle free transportation of migrant workers. The Inter State Council could potentially be the body leading the process. With each State evolving guidelines and making arrangements wherever possible, it is imperative that the Centre step in as a facilitator and streamline and simplify the process of repatriation of the migrant workers to their home states.

2. Monitoring and Setting-up the Points of Entry to receive incoming travellers :

The District Headquarters expecting the inflow of migrants must be notified and given adequate time to make arrangements for their arrival such as identifying/mapping health and isolation camps and provision for basic functional utilities such as water, sanitation

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[https://www.who.int/publications-detail/preparedness-prevention-and-control-of-coronavirus-disease-\(covid-19\)-for-refugees-and-migrants-in-non-camp-settings](https://www.who.int/publications-detail/preparedness-prevention-and-control-of-coronavirus-disease-(covid-19)-for-refugees-and-migrants-in-non-camp-settings)

and hand-washing facilities. To allay fears of the returnees spreading the Covid virus, they must be isolated for 14 days and screened for the virus. The latest MHA order speaks of assessment of stranded persons by health authorities once they reach their destination, mobilisation of health workers and law enforcement authorities for this purpose must be undertaken. While asymptomatic persons can be asked to undergo home quarantine, necessary arrangements must also be made for institutional quarantine for those exhibiting symptoms or having at-risk relatives at their residence. This will ensure that there is no spread in areas hitherto not impacted by Covid. The assistance of persons mobilised as Covid warriors could also be taken to facilitate this process.

WHO's guidelines on Management of ill travellers at Points of Entry (international airports, seaports, and ground crossings) in the context of COVID-19¹⁰ which recommends the following - a) Detection of ill travellers; b) Interview of ill travellers for COVID-19; c) Reporting of alerts of ill travellers with suspected COVID-19 infection and d) Isolation, initial case management and referral of ill travellers with suspected COVID-19 infection, should be replicated and strictly followed for returning migrants and their families.¹¹ WHO has an online course for managing such travellers which could be used to guide the Covid Warriors.

3. Formulating a roadmap :

Researchers have identified certain states as *source* states and others as *destination* states – Uttar Pradesh and Bihar are the biggest source states, followed closely by Madhya Pradesh, Punjab, Rajasthan, Uttarakhand, J&K and West Bengal; the major destination states are Delhi, Maharashtra, Tamil Nadu, Gujarat, Andhra Pradesh and Kerala¹². Migration corridors¹³ have also been mapped by experts so there is a general idea of where the majority of the migrant workers are coming from and where they are headed. Additionally, the government has already compiled a database of migrant workers in relief camps, on their employers' premises, or in clusters where they reside. The States have already been asked to upload all collated information on a proposed portal tentatively titled the 'National Portal for COVID-19 Affected Unorganised Migrant

¹⁰ WHO's Interim Guidance dated 19 March 2020 *c.f.*

<https://apps.who.int/iris/bitstream/handle/10665/331512/WHO-2019-nCoV-POEmgmt-2020.2-eng.pdf>

¹¹

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/points-of-entry-and-mass-gatherings>

¹²

<https://www.businesstoday.in/opinion/columns/coronavirus-lockdown-130-million-migrant-workers-a-float-covid-19-crisis-unorganised-sector/story/400806.html>

¹³ <http://www.aajeevika.org/labour-and-migration.php>

Workers’, which will also allow workers to register themselves on the portal.¹⁴ This information could be effectively utilised by the nodal authorities (appointed as per MHA order) to plan the transportation requirements of migrants from their place of residence to their native place¹⁵. Kerala has introduced a provision whereby those wishing to return to Kerala must register on the NORKA (Non-Resident Keralite Affairs) website¹⁶. The process could be streamlined if there was one common national-level portal for all states, thus, making it easier for states to gauge how many persons would like to leave/enter their state and also providing one common portal for all stranded persons to register on. For persons without access to internet or mobiles, the state must maintain kiosks that will assist persons wishing to register on the portal. As the state machinery has been mobilised on prior occasions to ensure stranded/travelling persons reach their destination, this process could be replicated albeit on a larger scale on the basis of data collated as referred above.

4. Social security measures & Budget:

Many states have announced piecemeal measures to address the welfare of workers. For instance, Uttar Pradesh has stated that Rs. 1,000 would be given each to those affected by the lockdown, and a month’s supply of food grains to the most disenfranchised families and Rajasthan has set aside Rs. 1,000 crore to support daily wage earners in addition to delivery of food.¹⁷ However, funds allocated by different states as monetary support for daily wagers seem to vary drastically¹⁸ and a comprehensive measure must be formulated with the assistance of the Centre.

Instead of dipping into existing funds/revenue allocated to various other schemes, it would be more prudent for all the state governments to hold a special session of their respective legislatures and pass a budget for at least six months as the budgets prepared and approved for 2020-21 have become redundant due to the present crisis. It would allow the states to better account for and access funds for the required resources to make available nominal amounts to those adversely and severely affected by the lockdown, as a one-time relief measure, and also set aside necessary amounts to house stranded migrants in shelters, provide clean water, food, safe washing facilities and healthcare services.

¹⁴

https://www.business-standard.com/article/current-affairs/government-to-launch-online-portal-for-stranded-migrant-workers-120042600535_1.html

¹⁵

https://www.business-standard.com/article/economy-policy/coronavirus-lockdown-govt-mapping-migrant-workers-for-relief-measures-120040901787_1.html

¹⁶ <https://frontline.thehindu.com/dispatches/article31447451.ece>

¹⁷ <https://economictimes.indiatimes.com/blogs/et-commentary/a-war-to-rescue-daily-wagers/>

¹⁸ <https://public.flourish.studio/visualisation/1851150/>

Despite unprecedented increase in workers enrolled under MGNREGS, hiring under the same ought not to be frozen. State Governments ought to take steps to divert unutilised cess funds towards undertaking welfare measures for construction workers.¹⁹ A survey of 11,159 stranded migrant workers across India in mid-April has revealed that 96% of them did not get rations from the government²⁰ and that 50% of them had only rations for less than a day left with them.²¹ The situation in states with near-universal coverage under PDS (Public Distribution System) such as Kerala has been feted as a good model to emulate, and many other states such as Telangana, Chattisgarh, Rajasthan, Jharkhand, Delhi have announced universalisation of PDS.²² Other states must also ensure food supplies to self-identified migrant workers through PDS. If the states fail to fulfill the fundamental right to live with dignity, the Supreme Court must take *suo moto* cognizance and issue requisite directives to all the concerned parties.

5. Protection of Human Rights

The National Human Rights Commission and State Commissions are well-placed and equipped to ensure that the stranded migrants' basic rights are protected, whether it is in ensuring that the facilities set up for their shelter are habitable, or that the law enforcement machinery deployed for their containment are functioning responsibly and within the ambit of law. Whether it is the spontaneous spraying of disinfectant on migrant workers²³, or reports of inadequate rations, their health and safety have to be ensured by the concerned officials, thereby also reducing the risk of rioting and mass violence. State Human Rights Commissions can coordinate with the designated nodal authorities to ensure that the camps set up for stranded migrant workers are duly inspected for compliance with national and international norms for protection of human rights.

6. Training and Resources:

It is trite that the National Disaster Management Authority is well placed to formulate specific guidelines for the handling and care of Covid-19 positive or asymptomatic carriers. It is further pertinent to provide adequate training to ASHA workers, policemen,

¹⁹ <https://pib.gov.in/PressReleasePage.aspx?PRID=1607911>

²⁰

<https://www.thehindu.com/data/data-96-migrant-workers-did-not-get-rations-from-the-government-90-did-not-receive-wages-during-lockdown-survey/article31384413.ece>

²¹ <https://thewire.in/food/covid-19-lockdown-food-pds-india>

²²

<https://www.financialexpress.com/opinion/covid-19-outbreak-immediate-framework-needed-for-reaching-out-to-distressed-migrant-workers/1935791/>

²³

<https://www.aljazeera.com/news/2020/03/migrants-india-sprayed-disinfectant-fight-coronavirus-200330135052425.html>

other law enforcement officers, government officials, transportation personnel (such as drivers) deputed to Covid affected areas, to be trained properly in order to be able to reduce risk of contracting the virus and also further train other Covid Warriors on the ground in like manner, particularly those persons entrusted with the duty of escorting the stranded migrant workers from one state to another. It is also necessary to provide such Covid Warriors and officials with necessary protective gear and equipment in order to ensure their own safety and that of the migrant workers, with proper instructions for usage. The State Reserve Police Force can also be deputed to escort the stranded migrant workers between states.

It is suggested that the designated nodal authorities can certainly benefit from specific training and guidelines for handling any potential Covid patients.

7. Usage of Trains for Inter-State Transport of Stranded Migrants: A paper by serving officers of the Indian Railways has suggested transportation of migrant workers through non-stop special trains.²⁴ This measure was also suggested by many Chief Ministers during their meeting with the Prime Minister. Needless to mention the railways provide better inter-state connectivity, food and hygiene facilities and are more amenable to enforce social distancing by limiting the number of occupants of compartments. While transportation by buses might be feasible for neighbouring states, it is challenging to make necessary arrangements for long-distance travel spanning multiple days and multiple states while complying with norms for maintaining social distancing and safe hygiene. Deployment of non-stop trains on strategically mapped out routes could lessen the burden of the officials and reduce the risk for all stakeholders.

8. Implementation of extant laws: The Covid crisis is only made worse by the inadequacy and/or non-implementation of provisions of The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (ISMW) and The Unorganised Workers' Social Security Act, 2008 (UWSS). For instance, ISMW Act mandates that workmen falling within its purview must be provided residential accommodation and prescribed medical facilities by the contractor in accordance with the provisions of the legislation. The time is ripe for the National Social Security Board and the State Security Boards established under the UWSS Act to kick into action and take the lead on making social security benefits accessible to workmen. The members of the state-level boards must spearhead registration efforts for the migrant workmen and act as a facilitator between the migrants, and the designated nodal authority, law enforcement officials and health workers to ensure that the migrant workers are tested and repatriated to their home states without any hassles.

²⁴ <https://indianexpress.com/article/india/railways-lockdown-coronavirus-migrants-special-trains-6380105/>

9. Registration of Migrants: Massive data has been collected both by civil society and the government, as it reveals that most migrants are not registered under any labour laws. Odisha government launched a portal to register the migrants who have been stranded and would like to return home. All the data that has been collected through various means should be channelized to ensure the protection of workers across sectors.
10. Role of the Panchayat: these existing strong structures and functionaries created by the 73rd and 74th amendment to the Constitution is critical for states to handle the current crisis. In states like Kerala and Odisha panchayat's have sprung into action to curb the pandemic and also receive migrants. The panchayats who have a close contact with the community need the preparedness to ensure the smooth entry of migrants into the villages, co-ordination between the village-block-district and the state should be established, flow of funds for necessary arrangements. This is an opportune moment for people's centered governance, all the committees at the villages level can play a role in executing the roadmap to welcome the migrants back home.