



# LABOUR AT SEA: GOVERNING MIGRANT FISHERS' WELL-BEING IN INDIA

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*This policy brief contains highlights from a recent report by Dakshin Foundation that focuses on the treatment of migration in marine capture fisheries in India, the peculiar vulnerabilities inherent to it and a roadmap to address these concerns.*

## Introduction 01

- Migration is a deeply Indian phenomenon and millions of Indians have moved internationally and domestically for work over the past several centuries. However, in recent times, migration has taken on worrying dimensions affecting the life and livelihoods of migrant workers.
- The 2011 Census of India estimates 450 million internal migrants in India, a 45% increase from numbers in 2001. Moreover, the 2017-2018 National Statistics Office survey estimated that around 380 million workers belonged to the unorganised sector. Scholars point that there are unreliable statistics on migrants as well as their conditions.
- The 2016 Marine Fisheries Census conducted by the Department of Fisheries and the Central Marine Fisheries Research Institute estimates that marine fisheries support an estimated 3.77 million people in over 3477 villages along India's 8100 km coastline. Nearly 91.6% of the marine fishing families are traditional fishers and 67.3% of them are below the poverty line.
- Push and Pull factors including depleted fish-stock, seasonality, higher wages, tensions between mechanised and non-mechanised fishers, and changing coastal land-use patterns drive migration among small scale fishers (SSF).
- Predominant migration patterns reveal high out-migration from East-coast states including West Bengal, Odisha, Andhra Pradesh and Tamil Nadu to West-coast states including Gujarat, Maharashtra, Karnataka, and Kerala.
- Migrant fishers face unique vulnerabilities due to long months at sea, unavailability of freshwater and poor sanitary conditions while on board, poor working conditions, hostility from local fishers, family alienation, and difficulties in accessing state support in host states. While their precariousness has been a subject of discussion for decades, the advent of COVID-19 and its associated lockdowns has brought these concerns to the forefront of the policy agenda.

# COVID-19 and migrant fishers 02

- ▶ In March 2020, the Indian government announced a stringent lockdown to combat COVID-19. Almost overnight, thousands of migrant fishers found themselves stranded at ports and in cities with little support from their employers.
- ▶ Lockdown revealed the scale of internal fisher migration and their specific needs and vulnerabilities.
- ▶ During lockdown, migrant fishers had to spend days on vessels without potable water
- ▶ Working conditions rarely allowed for social distancing and few employers offered shelter and medical treatment.
- ▶ In cases where stranded workers were given shelter on shore by boat owners, they faced several problems including poor food, no money, unsanitary living conditions, and poor healthcare facilities.
- ▶ Stranded workers faced immense financial and logistical difficulties in making their way back to their home villages.
- ▶ Lack of data on migrant workers delayed relief and repatriation efforts and made emergency response *ad hoc* instead of systemic.
- ▶ Low educational, digital and financial literacy also hindered relief efforts.



# Migrant fishers and the law 03

- The Inter-State Migrant Workmen Act, 1979 (ISMWA) is the primary law relating specifically to migrant workers in India. ISMWA is likely to be replaced by the new Labour Codes 2022, but it remains applicable at present.
  - The ISMWA currently applies to every establishment and contractor employing five or more migrant workers, and contains multiple protections for workers.
  - These protections include having designated government officers to register migrants and their employers, the licensing of contractors, creation of migrant “pass-books” containing employment details, displacement and travel allowance, wage guarantees, residence guarantees, and medical treatment.
  - Other key legislations include the National Food Security Act 2013 (NFSA), the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (CWA), the Disaster Management Act 2005, and Unorganised Workers’ Social Security Act, 2008 (UWSSA).
  - Additionally, the NITI Aayog’s 2021 draft migrant labour policy framework recognises the importance of ameliorating the condition of migrant labourers in the country. Several of the report’s recommendations have important implications for migrant fishers. Recommendations that are particularly pertinent include strengthening state anti-trafficking institutions, enhancing the collection and analysis of statistical data on migration-related issues, improving governmental capacities to administer development and welfare programmes, and improving minimum wages, especially in sending states.
  - In addition, the Supreme Court in the 1984 case of *Bandhua Mukti Morcha* has reasoned that the state has an obligation under Article 21 of the Fundamental Rights and Article 39, 41, and 42 of the Directive Principles of State Policy to ensure that workers are able to live with “freedom and dignity”, in “just and humane” working conditions. The State must take steps to ensure that workers can enjoy basic essentials such as shelter, food, and water, and that they are not exploited.
  - Moreover, all Indians have a right to food under Article 21 of the Constitution.
- Against the growing seriousness of the migrant crisis after the lockdown, several civil society actors and the judiciary urged the state- and central governments to introduce certain relief measures in 2020.
- These included:
- Special no-fare “shramik” trains for stranded migrant workers.
  - Special free buses in certain states.
  - Food-grains under Antyodaya Anna Yojana, Atma Nirbhar Bharat Package, and other government schemes provided between April and June 2020.
  - Relief shelter camps with medical facilities, food and water for migrant labourers.
  - Specially constituted committees to supervise the work and coordinate with NGOs and others working towards migrant relief.
  - Dedicated online portals established by several states including Karnataka, Odisha, Gujarat, Uttar Pradesh and Delhi to register migrant and coordinate relief efforts.
  - Initiation of cash transfers for registered migrants.



Through the unfolding of the COVID-19 pandemic and lockdown-related migrant worker crisis, the Supreme Court and High Courts passed several important orders to ameliorate the condition of migrant workers in the cases of *Harsh Mander & Anr. v. Union of India*, *In Re: Problems and Miseries of Migrant Labourers & Ors*, and *Gujarat Mazdoor Sabha & Ors. v. The State of Gujarat*, (collectively, the COVID cases). Some key aspects of the Supreme Court's orders include directions relating to:

## ➤ Registration

1. Mandatory registration of migrant workers on the E-Shram portal under the provisions of the UWSSA.
2. Implementation of the ISMWA with specific emphasis on employer registration and contractor licensing.
3. Creation of the National Database of Unorganised Workers (NDUW) of the Ministry of Labour and Employment, Government of India.
4. Maintaining records of migrants, their skills, and previous employments by sending and receiving states at the village, block, and district level.
5. Creation of decentralised, simplified and language-appropriate registration and information delivery mechanisms.
6. Additionally, in *Mahendra Kumar Parida v. State of Odisha* the Orissa High Court also ordered that the state government must accept non-Aadhar forms of identification including Voter ID, Ration Card, MGNREGS card, Caste Certificate, post office/bank passbook, etc from migrant workers for registration in the COVID-19 Odisha State Portal or with the Gram Panchayat and Urban Local Bodies.

## ➤ Food

1. Providing stranded migrant workers across the country dry rations under the Atma Nirbhar scheme or other government schemes.
2. Implementation of the "One Nation One Ration Card" (ONORC) scheme. The ONORC scheme is particularly important for migrants because it allows NFSA beneficiaries to access their guaranteed foodgrains at any fair price shop in the country. Although the ONORC scheme was technically implemented in August 2019, the pandemic revealed major gaps and issues in its functioning.

3. Examining data on the E-Shram portal to check whether workers had the necessary ration cards to ensure that they were able to access food.
4. Conducting another exercise under S. 9 of the NFSA to create an updated list of eligible beneficiaries since the existing data was as per the 2011 census and deemed to be out of date.
5. Establishment of shelter camps with food and water, as required by the Disaster Management Act, 2005 (DMA) and the guidelines framed under it.
6. Establishment of community kitchens for providing two cooked meals a day to migrant workers and their families.
7. Requiring the state and central governments to provide dry ration to all migrant workers for at least two meals a day.

## ➤ Transport

1. Free transport be provided for migrant workers to return to their native places and back to their places of employment
2. The creation of help-desks for coordinating between governments and road and rail authorities
3. Considering the withdrawal of cases against migrants for movement in violation of the orders issued under the DMA.



# Governance gaps on migration 05

## ➤ Identifying migrant fishers

Without an easy definition for “migrant” or “worker” or “fisher”, it is important to determine and agree on a way to define migrant fishers. This is especially important since several of the legal benefits for migrants only begin to flow once they have been identified as such. While these definitional concerns are being resolved, it is important to give migrant fishers the option to self-identify as such.

## ➤ Data lacunae

There is no register of migrant fishers maintained by either sending or receiving states. There are several reasons for this including political unwillingness to acknowledge the reasons for out-migration, a systemic lack in record-keeping structures, an unwillingness on the part of employers to keep records for fear of being caught up in the obligations imposed by the ISMWA, lack of awareness among the workers, and worries about impacts on benefits eligibility, among others.

Such records, however, are invaluable in situations like the pandemic or during natural disasters. As our interview respondents indicated, the lack of information about workers, meant that relief efforts proceeded along *ad hoc* networks rather than being coordinated and directed in an organised fashion. To obviate privacy concerns, such a register might be kept more locally, in the hands of communities as well as by employers and the registering officers appointed under the ISMWA. Such a register would, at a minimum, contain the fishers’ full names, names of parents, spouses and dependents, home address, and address at place of employment, and employer details.

Government efforts to issue identity cards have long been in the pipeline and might well be important for fishers to claim rights and entitlements. Additionally, our respondents also identified a pressing need to register workers with the E-Shram portal. Although free and expressly directed towards unorganised workers, the uptake among fishers has been poor, in part due to technical and language difficulties and the absence of state machinery to facilitate the process systematically.

## ➤ Lack of awareness and organisation

Migrant fishers are often unaware of their rights and entitlements under various laws and policies. These include their rights to written contracts containing employment details including wages, minimum wage guarantees, displacement and travel allowances, proper medical facilities, regulated working and rest hours, workplace safety norms, potable water and proper sleeping and sanitation measures on board fishing boats.

Literacy and access to mobile technologies can also be a barrier to access. Governance in India now heavily relies on mobile and web platforms and fishers who are unable to access these technologies can face grave difficulties in accessing information and benefits.

## ➤ No dedicated schemes for migrant fishers

As noted above, the pandemic has revealed the precarious condition of migrant fishers in the country. In spite of these, it is notable that specific relief for migrant fishers remained unmentioned in the country’s flagship fisheries scheme, the Pradhan Mantri Matsya Sampada Yojana, which was introduced as part of efforts to alleviate COVID-19 related economic distress. Similarly, NITI Aayog’s draft migrant labour policy framework, while important, does not specifically focus on migrant fishers.

The causes of migrant fisher distress lie as much in COVID-19 related disruption as it does in larger fisheries concerns including inadequate support for artisanal fishing, dominance of the mechanised sector in fisheries governance, depleted fish-stock, coastal land use degradation and climate-change induced ecosystem shifts, to name just a few. While key short-term measures can ameliorate the working conditions of fishers in important ways, long-term measures are needed to ensure the health of the fisheries sector and the small-scale fishers in the country.

# Recommendations for safeguarding **06** SSF migrant workers

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The continuation and upscaling of several COVID-19 initiatives is the need of the hour to safeguard and secure the conditions of migrant fishers. These measures include:

- ▶ Eliminating policies negatively discriminating against migrant workers – especially in the arena of fisheries subsidies, welfare measures and social security schemes.
- ▶ Generating migration data at the national level. Such data would specifically adopt improved and consistent definitions for migrant workers and would ensure that data collection kept up with the dynamism inherent to seasonal and circular migrations.
- ▶ Creating a centralised database for migrant workers. This would assist in delivering social welfare schemes and also allow employers and migrant workers to explore employment opportunities.
- ▶ Providing unique identification cards to assist with accessing social security.
- ▶ Ensuring reforms in National Food Security Act to cover migrant workers.
- ▶ Improving access to public healthcare, housing, and water, sanitation, and hygiene (WASH) facilities for migrant workers. This could include universal coverage of all health programmes, mobile health cards, implementing the Ayushman Bharat Yojana, and special health outreach services.
- ▶ Block-level offices with designated officials for addressing and monitoring fishing-related issues, especially constraints in accessing welfare provisions and schemes.
- ▶ Lists of migrant workers to be maintained jointly by nodal office and fisher representative body.
- ▶ 24-hour dedicated helplines for fishers: Beyond the emergency helplines activated during disasters, a regular fisheries helpline is crucial to resolving systemic issues that are exacerbated during a disaster. These can be run at the Block level in collaboration with civil society organisations.
- ▶ Ensuring that the National Legal Services Authority (NALSA) support the fast-tracking of legal responses for issues facing migrants including trafficking, abuse, and minimum wage violations. NALSA should also create a cadre of paralegals among migrant workers.
- ▶ Organising migrant workers, especially those in the informal sector. Such unions could promote collective action around issues related to wages, workplace safety, exploitative labour practices, benefits, and insurance.
- ▶ The establishment of “Facilitation Centres” in the Fisheries Department of each state and union territory to coordinate fisheries matters including extension services, government welfare schemes, knowledge transfer, within each territory.
- ▶ Creation of community-based databases on migrant workers in collaboration with panchayat raj institutions and traditional fisher institutions and civil society organisations to ensure the production, maintenance and secure use of reliable and secure data on migrant workers to ensure their wellbeing at all times.





## Conclusions 07

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Amidst the confusion of the pandemic, efforts by civil society and government officials provided much needed relief to workers. This included food provisions, medical treatment, temporary shelter, transport, and general assistance to migrant workers. This revealed the marginalisation and vulnerability of this vital part of the Indian workforce.

Better data is needed alongside ensuring that plans and policies are co-developed in consultation with the fishing communities. Moreover, if the pandemic has revealed anything, it is the importance of coordination and communication during times of disasters. The time is thus ripe for putting in place a robust, transparent, and holistic system that is responsive to fisher needs and pragmatic about their lived realities.

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