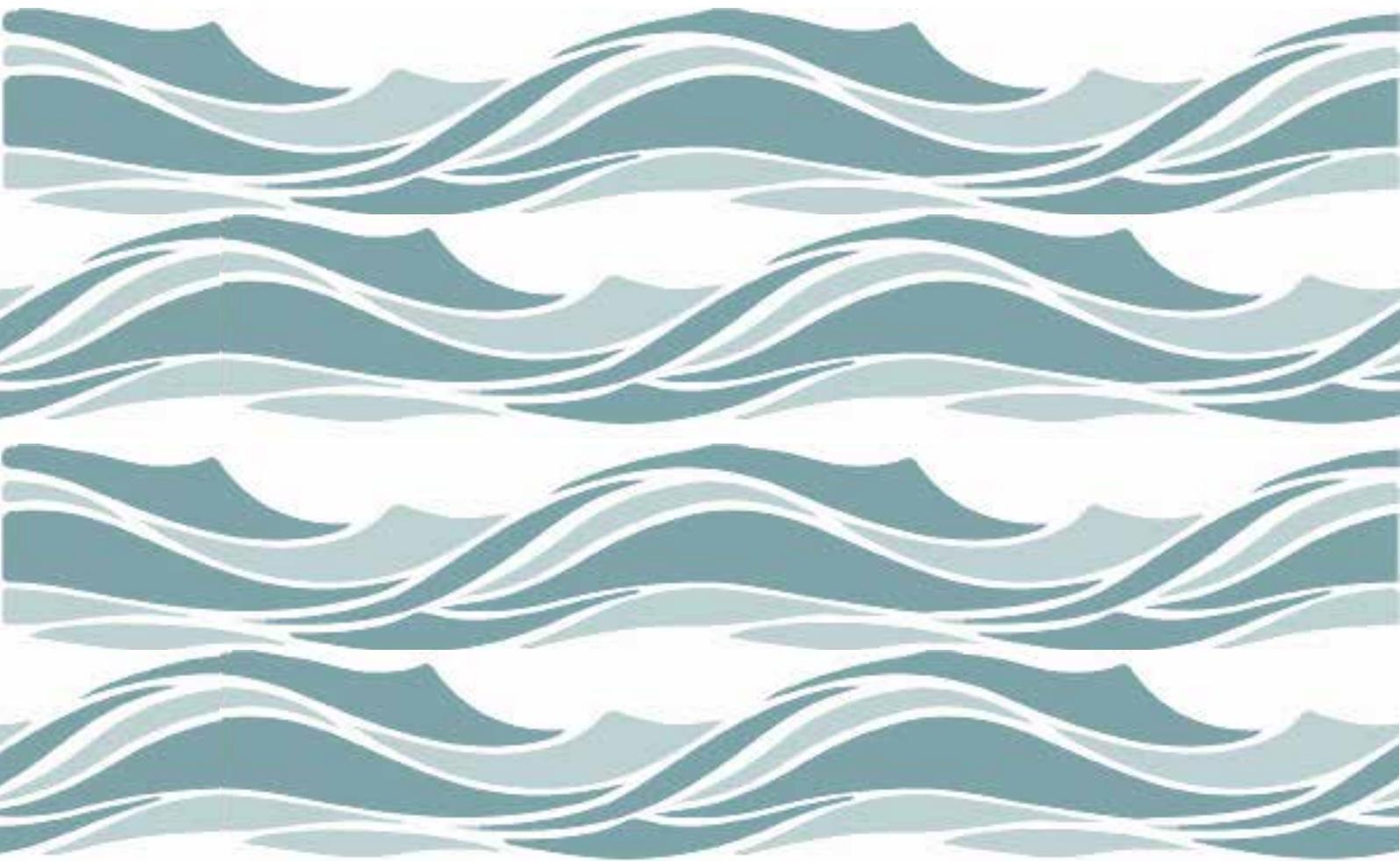




LABOUR AT SEA

AN OUTLINE TOWARDS MIGRANT FISHERS' WELL-BEING IN INDIA

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Fisheries as an economic sector and as a social arena is an overlooked field in India's labour policy discourse. Not only do fisheries (both inland and marine) provide direct employment to an estimated 25 million fishers and fish-farmers and indirect employment to 50 million workers along the fisheries value chain in the country¹, the sector's growth of around 10.88% between 2014-15 and 2018-19 and 7.53% over the past 5 years² has come about on account of wide-ranging shifts in labour relations and mobility. As of 2018-19, inland and marine fisheries contributed an estimated INR 212,915 crores to the national economy. This report focuses on marine capture fisheries whose specialised infrastructures of production have created and sustained processes of migration in fisheries, as witnessed over the last decade. Of the proportion of people employed in fisheries globally and in India, nearly 80% and 63% are employed in capture fisheries.³

India's coastal and marine ecosystems sustain one of the world's largest populations of resource dependent communities – marine fishers. Over 70% of India's 37,74,577 marine fishers are categorised as 'small-scale fishers' (SSF). The 2016 Marine Fisheries Census conducted by the Central Marine Fisheries Research Institute estimates that marine fisheries engage an estimated 3.77 million people in over 3,477 villages along India's 8100 km coastline. However, till the time of the pandemic, official statistics were not collected or maintained on migrant labour within marine fisheries despite the acknowledged shifts within the fisheries production system⁴. Although fisheries in territorial waters are under the jurisdiction of individual state governments, the state departments of fisheries do not maintain consistent labour related data for the fishing harbours within their borders.

Scholarship in fisheries reveals commonalities between the categories of SSF, peasant and agrarian communities including a high degree of natural resource dependence, socio-cultural ties to ecosystems and the relatively low economic capital driving production systems. Migration in fisheries also bears resemblance to drivers of migration seen in rural agrarian systems, such as rising indebtedness, precarity of life and livelihood on account of depleting resource health and resource degradation (both landward and seaward) and aspiration for a better life. Work in marine capture fisheries is additionally considered to be rife with occupational hazards and dangers⁵ and SSF fisheries have been particularly vulnerable to a paradoxical dependence on opportunities generated by mechanised fisheries production systems and value/supply-chains. One of these contemporary dependencies within SSF communities is related to the poorly understood and inadequately addressed phenomenon of migration in marine capture fisheries, especially that undertaken by coastal SSF communities.

¹Pradhan Mantri Matsya Sampada Yojana. https://dof.gov.in/sites/default/files/2020-07/Book_PMMSY_Framework_0.pdf; Salim S. S. and Anuja, A.R., (2022) Marine Fisheries Policies in India: Opportunities and Challenge. In: 1st Indian Fisheries Outlook 2022. ICAR-Central Marine Fisheries Research Institute, Kolkata, pp 215-224

²Pradhan Mantri Matsya Sampada Yojana. https://dof.gov.in/sites/default/files/2020-07/Book_PMMSY_Framework_0.pdf

³The State of World Fisheries and Aquaculture, (2016) Food and Agriculture Organization, Rome, pp. 32-34; Fishery and Aquaculture Country Profiles: India (2019). Food and Agricultural Organisation.

<https://www.fao.org/fishery/en/facp/ind>; Narendran, V (2016) A study on Migration of Fishers from Kanyakumari to the Cooperation Council for the Arab States of the Gulf. International Collective in Support of Fishworkers, Chennai, pp 1-57.

⁴Shinoj, P and Gopalakrishnan, A and Jena, J K (2020) Demographic change in marine fishing communities in India. In: Demographic change in Asian fishing communities – Drivers, outcomes and potential impacts. Food and Agriculture Organization of the United Nations, Bangkok, pp. 85-102.

Action-research and scholarship on migrant fishers and fisheries in India is still a fledgling field with little uptake of existing research findings on fisheries policy and regulation either. Despite the media reports that described in detail the impact of the COVID-19 pandemic lockdowns on migrant fishers and the fishing economy more generally,⁵ and research efforts to capture the impact of the pandemic on marine capture fisheries, it still remains a policy blind spot in recent discourses on labour laws, welfare measures and official regulation. For instance, a recent report commissioned by the ILO on developing a policy roadmap for migrant workers in India, published in 2020, contains no reference at all to migrant fishworkers.

In the sections below, we discuss migration within marine capture fisheries in India with a particular focus on the vulnerabilities revealed by the COVID-19 pandemic. We first describe the vulnerabilities that migrant fishers face and then turn to the legal landscape relating to migrant fishers in India. After identifying the positive obligations cast upon the state in relation to migrant fishers, we offer a sectoral road map to reduce precarity among migrant workers in India's marine capture fisheries in India.



⁵International Labour Organisation, Work in Fishing Convention, 2007 (No. 188). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188; Decent Work for Migrant Fishers, Report for discussion at the Tripartite Meeting on Issues Relating to Migrant Fishers (Geneva, 18–22 September 2017), International Labour Office, Sectoral Policies Department, Geneva; International Labour Organization, Geneva, pp International Labour Conference, 92nd Conference (2004). Report V(1) Conditions of work in the fishing sector. International Labour Office, Geneva, pp 1-1496. https://www.ilo.org/wcmsp5/groups/public/--ed_dialogue/--sector/documents/genericdocument/wcms_181288.pdf

⁶Mondal, M. September, 2020. On the Road: Tracing the Current Patterns of Fishworkers' Migration in India. The Bastion.

02 Migration in marine capture fisheries

Nearly 91.6% of marine fishing families are traditional fishers and 67.3% of them registered as being below the poverty line,⁷ a figure that has often been used to justify over-capitalisation in this sector (Jadhav 2017) but which does not address the root causes of poverty in the sector and perversely results in exacerbating poverty-induced distress. Over-capitalisation in marine fisheries translates into increasing investment in various forms of mechanised fishing technologies (boats, nets and motors) and forms of post-harvest processing, which not only impact marine ecosystems, but which also shape forms of labour within fisheries, towards greater demand for diverse unskilled labour in harvest and post-harvest operations, and a neglect of practices within small-scale fisheries.

Despite the fact that small-scale fisheries are a source of livelihood to over 70% of India's fishing communities and contributes to poverty alleviation and food security, they remain outliers to India's developmental gaze. Further, environmental push factors such as depleting fish catch, climate change induced weather uncertainties and eroding shorelines have exacerbated precarity, leading to steady out-migration from traditional fishing villages.⁸

The marine small-scale fishing communities on the east coast of India⁹ are currently the largest proportion of seasonal migrants hailing from the states of Andhra Pradesh¹⁰, Odisha¹¹ and Tamil Nadu¹². The causes of migration are attributed to a combination of push factors which are on account of developmental deficits in home states as well as environmental and resource degradation. With an increase in unregulated mechanised fisheries on the east coast¹³, and the pursuit of resource intensive fishing technologies, and with rising costs of living small-scale fishers from Tamil Nadu are pushed to seek supplementary sources of income through migration within India and abroad¹⁴. Aside from this, there is still very poor understanding on the extent and scale of migration, impacts and coping strategies, and working conditions¹⁵ among migrant communities in SSF. There is an even further gap in understanding about the conditions of families of migrant workers, particularly on the vulnerabilities and challenges faced by women in such communities.

⁷ Marine Fisheries Census India 2016 (2020). Department of Fisheries and ICAR-Central Marine Fisheries Research Institute, Kochi, pp 1-116.

⁸ Sathiadas, R., & Prathap, S.K. (2009). Employment Scenario and Labour Migration in Marine Fisheries. *Asian Fisheries Science* 22, pp 713-727.

⁹ Karnad, D. (2017) India: labour heading west. *Samudra Issue* 75.

¹⁰ Sarma, S. B., & Salagrama, Venkatesh. (2007). Migration of Fishermen From Srikakulam District in Andhra Pradesh. Report of South Indian Federation of Fishermen's Societies.

¹¹ Mondal, M. August, 2020. On the Road: Unravelling the legacy of migration from fishing villages amidst Covid 19. *The Bastion*.

¹² Rajan, S. I., & Pillai, K. A. (2020). Migration as a Livelihood Strategy Adopted by Fisherfolk in South India. *Social Change*, 50(4), 548-568.

¹³ <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/fishing-resources-indian-fisheries-danger>

¹⁴ Narendren, V. (2016). A study on migration of fishers from Kanniyakumari to the cooperation council for the Arab states of the Gulf (CCASG) (Occasional Paper). International Collective in Support of Fishworkers.

¹⁵ Roshan, M. (2016). A study of migrant fishers from Andhra Pradesh in the Gujarat marine fishing industry. Chennai: International Collective in Support of Fishworkers.

Work within fisheries refers not just to acts related to fishing, but also in processing and post-harvesting arenas. Thus, the term fishworker includes within its ambit even individuals engaged in sorting, cleaning, vending, and processing, even if they all do not hail from the so-called “fishing castes”. Within the marine capture fisheries sector, structural economic changes have combined with ecological degradation to create a perfect storm for heightening migration in this sector, mostly from the small-scale sector to the mechanised fishing sector. Multiple factors have contributed to this phenomenon with artisanal fishers facing the brunt of the negative impacts. In the context of small-scale fishers (SSF), push factors for migration are reported to include depleting fish stocks, increased input costs in fishing operations, rising indebtedness and cost of living, regulatory gaps, seasonality, tensions between mechanised and non-mechanised fishers, and coastal land-use degradation from localised anthropogenic activities and climate change induced shifts. Pull factors for migration include higher short-term wages in the receiving states, differences between sending and receiving states with respect to overall fisheries infrastructure, a promise of security from social networks that facilitate migration, and the prospect of work in the familiar field of fisheries.¹⁶

Predominant migration patterns reveal high out-migration of fishers from east-coast states including West Bengal, Odisha, Andhra Pradesh and Tamil Nadu to west-coast states including Gujarat, Maharashtra, Karnataka, and Kerala. These western coastal states have higher concentrations of mechanised fishing harbours which attract not just labour from SSF, but also unskilled labour from the states of Bihar and Jharkhand. The forms of labour required at these sites are cleaning, sorting, assisting with hauling, sorting and sundry activities on board and at sea. None of these forms of labour require specialised knowledge or skills but demand great and long durations of physical exertion.

The phenomenon of migration within the fisheries sector raises distinct problems¹⁷. Not only do migrant fishers face all the vulnerabilities experienced by other migrant workers¹⁸ and non-migrant fishers¹⁹, but they also experience particular precarity by virtue of being at the intersection of these two identities. Firstly, fishers themselves defy the category of ‘worker’ as applied to industrial or factory work settings. Secondly, as has been pointed by the ILO Convention on Fishing, the ‘workspace’ for fishers differs significantly in being a mobile, unsteady, and plural entity, often doubling up as workspace, residence, home, site for relaxation etc (Mathew, 2010). Perhaps the most significant aspect of fishing work, especially as practiced by small scale fishers, is their relation to marine spaces which are at once more than just economic ‘resources’ but rather also social, ecological and cultural spaces. Marine capture fishing within SSF is highly skilled and in its sophisticated practice and relations with coastal marine ecosystems, has been compared to hunting and gathering²⁰. When SSF are therefore compelled to work on mechanised fishing boats, it results not just in strained relations between the individual and resources, but also between individuals and their communities.

¹⁶ See, for example, Roshan, M. (2016). A study of migrant fishers from Andhra Pradesh in the Gujarat marine fishing industry. Chennai: International Collective in Support of Fishworkers.

¹⁷ Mathew, S. (2010). From Informal ‘Co-adventurers’ to Formal Workers? ILO’s Work in Fishing Convention, 2007. *Economic and Political Weekly*, 49-55.

¹⁸ Migrant precarity is a long-standing issue in India, particularly within the low-income sector. Migration has long played a key role in Indian economy and society and at least since the colonial period, internal and international labour migration has been a common feature within the subcontinent. 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 unorganized sector. Scholars point that these are unreliable statistics on migrants as well as their conditions and their true number is likely to be much higher. Deshingkar, P. (2022). Structural Violence and Normalizing Human Suffering: Labour Migration during the COVID Pandemic in India, *Journal of South Asian Development* 17(1), pp 134-140; Srivastava R. (2020). Labour Migration, Vulnerability, and Development Policy: The Pandemic as Inflexion Point? *The Indian Journal of Labour Economics* 63, pp 859-883.

¹⁹ Marine Fisheries Census India 2016 (2020). Department of Fisheries and ICAR-Central Marine Fisheries Research Institute, Kochi, pp 1-116

Migrant fishers face additional unique vulnerabilities due to working far from families in host states for several months, pressures of intense work for few months, undertaking several trips on board mechanised vessels, poor quality of freshwater, poor sanitary conditions while on board, poor working conditions, hostility from local fishers, family alienation, and difficulties in accessing state support in host states. As with other migrant workers in India, migrant fishers have informally reported²¹ facing problems associated with exploitative work conditions (including physical and mental abuse), poor access to redressal from labour agencies, poor housing conditions, rising indebtedness to agents, absence of democratic rights of citizens, discrimination based on absence of identity cards, and poor portability of provisions, despite the existence of such identification. While the precariousness of migrant fishers in India has only recently begun to be researched, the advent of COVID-19 and its associated lockdowns has brought these concerns to the forefront of the policy agenda.

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 immediate support from either their employers, or other state and non-state actors²². Lockdown revealed the scale of internal fisher migration within marine fisheries 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. Women are crucial actors in SSF activities although their labour remains invisible, particularly in processing and trading activities²³ because of which women fishworkers faced unique problems due to the shutting down of markets. With harbours closed, women working on gleaning and sorting lost their source of livelihoods. Women fish vendors engaged in door-to-door sales, or market-based sales lost out heavily to the rapid transition to online-sales outlets. Lack of data on migrant workers impeded planning and coordinated relief and repatriation efforts and fostered an approach towards *ad hoc* solutions. Low educational, digital, and financial literacy also hindered relief efforts that were designed primarily targeting urban migrant workers who already had skills that enabled them to avail such aid. Finally, a distinct prejudice against the fisheries sector marked the COVID-19 pandemic, with the Government of India declaring all meat and fish as being unsafe and unhygienic, which immediately impacted not just the sale of fish, but also sparked off deeply embedded social prejudices against fishers, fish vendors and their mobility²⁴.

²⁰ Sridhar, A. (2018). Hunting-gathering lives with molluscs, Seminar No 702. p 45-49 (February 2018 issue); Parthasarathy, D. (2011). Hunters, gatherers and foragers in a metropolis: Commonising the private and public in Mumbai. *Economic and Political Weekly*, 54-63.

²¹ See Migration Diaries (www.migrationdiaries.org) for accounts of migrant workers

²² Dakshin Foundation (2020) Locked Down! A COVID-19 Emergency Response for Marine Fishers, p 31.

²³ ICSF (2019) Report of the National Workshop: The SSF Guidelines and Mainstreaming Gender into Fisheries Policies and Legislation, YWCA of Madras International Guest House, Chennai, Tamil Nadu, India, 18 to 20 August.

²⁴ <https://ifmrlead.org/covid-19-and-the-future-of-seafood-markets-in-chennai/>

The relief interventions undertaken by various coastal civil society organisations during the COVID-19 related lockdowns revealed a snapshot of the extent, scale and precarity of migrant work among SSF communities. In the first month of the lockdown in 2020, over 116 academics from the field of fisheries social sciences across the globe had to petition the Government of India to take immediate relief measures for SSF in India and migrant fishers, who were deeply impacted by the numerous COVID-19 advisories and restrictions.²⁵ Subsequent direct engagement between researchers and migrant fishers revealed that due to a decline in fish catch and reduced incomes from small-scale fishing, the category of traditional fishers have been most impacted and compelled to migrate from their home villages to mechanised fishing harbours on the west coast, a phenomenon that has silently grown over the last decade²⁶ but with virtually no governmental oversight. It also revealed significant vulnerability of women within such communities as well as governance deficits in villages with high rates of migration.

Today's SSF uniquely struggle to survive in a fast-changing coastal space and share the predicament of contemporary India's unorganised labour force, as they experience increasing alienation in traditional sources of livelihood, and an alienation of rights and entitlements in relation to their gendered fishing labour. The complexities associated with migration, its regulation and policy oversight add to this vulnerability. The next section maps the contemporary legal landscape in relation to migrant workers and assesses its appropriateness for safe working conditions, occupational needs, livelihood security and resource sustainability concerns within marine capture fisheries.



²⁵ https://www.dakshin.org/wp-content/uploads/2020/04/Petition-Requesting-Attn-to-Fisher-Health-Livelihoods_13.04.20.pdf

²⁶ Venugopal, V. May, 2020. The Heavy Toll of COVID-19 on India's Fishers. The Bastion.

03 **Complex governance terrain**

Migrant fisher rights and entitlements emerge from a fragmented legal and policy landscape in India. This complexity arises from five principal reasons:

I. No dedicated legislation or scheme: Although migrant labour is a pervasive phenomenon in the fisheries sector, there is a singular lack of a focused legislation which takes into account their particular needs and requirements. Put another way, while state and central legislations relating to migrants, workers, and fishers are all relevant for migrant fishers, there is no legislation that addresses their intersectional vulnerabilities which are produced through the combination of these three identities. Assessing the applicable legal framework for migrant fishers thus requires reading across multiple policies and legislations to understand their rights and entitlements. Regrettably, even government policies have not quite addressed the specificities of their situation. The Pradhan Mantri Matsya Sampada Yojana, for instance, does not address the issues faced by migrant fishers at all. Similarly, the draft Migrant Labour Policy does not specifically address migrant fisher vulnerabilities. The root 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.

II. Fragmented governance structures: The legal landscape is further complicated by the fact that different levels of government bear different responsibilities towards migrant fishers. For instance, under the Constitution of India, fisheries within territorial waters are within the legislative competence of state governments²⁷ while fishing and fisheries beyond territorial waters are under the jurisdiction of the central government.²⁸ Under A. 243G and the Eleventh Schedule, fisheries are also within the competence of local governments in rural areas. In the context of workers, both state and central governments are responsible for labour welfare²⁹ and for implementing the provisions of the Directive Principles of State Policy relating to workers - these include the obligation to ensure worker health (Article 39(e)), just and humane working conditions (Article 42) and a living wage (Article 43). This fragmentation causes issues when attempting to define the appropriate responsible authorities for fisher welfare.

From a resource management perspective, fisheries are governed by the State Marine Fisheries Regulation Acts. The framework for these laws draws from the Indian Fisheries Act of 1897 (now rescinded). The principal regulatory mechanisms of the MFRAs are the issuing of licences and registering fishing vessels and the prohibition of particular forms of fishing practice (area and fishing effort based). However, the socio-cultural and economic dimension of fisheries is poorly addressed in the requirements of these laws, while over a century of scholarship on fisheries shows them to be central to fisheries management. The result is that the only dedicated legislation for fisheries management at a state level does not require state agencies to effectively monitor demographic changes within the sector such as employer- and labour- profiles, to analyse ownership patterns, indebtedness and to monitor capital formation and accumulation within the mandate of the fisheries departments themselves. Thus, any data on fishers that is gathered at present is only undertaken by the Central Marine Fisheries Research Institute, an ICAR institute, mostly once in ten years. CMFRI data itself does not contain any disaggregated information on migrant or resident fishers.

²⁷ Entry 21, List II, Seventh Schedule, Constitution of India.

²⁸ Entry 57, List I, Seventh Schedule, Constitution of India

²⁹ Entry 24, List III, Seventh Schedule, Constitution of India

III. Definitional issues: This is one of the central stress points in the legal framework, and perhaps why fisheries were treated somewhat separately from other issues even by bodies such as the ILO. Fishing in India is both an occupation and a caste-based practice. Not only has this sector seen tremendous churn over the past couple of centuries, but it is also marked by seasonality and ongoing issues of plunging fish stocks, overfished waters, and tremendous livelihood insecurity, to name just a few concerns. This has created multiple challenges in identifying migrant fishers. For instance, the seasonal nature of fisheries often translates into non-fisheries work for fishers in the off-season. This fluid nature of fisher employment militates against static notions of the identity of a fisher and complicates the question of whether the migrant fisher category can only be extended to persons who work year-round in the fisheries sector. Another problem arises when one considers the question of the destination of migrant fishers. Several understandings of migrant fishers focus on those fishers who cross state and national boundaries. However, given the size of the country and the breadth of the fisheries sector, this raises the possibility of important elisions since migration is a frequently a phenomenon at intra-state scales as well.

Case study research (cited in the previous section) on migrant fishers has shown that migrants hail from traditional fishing communities (within the SSF category) who tend to move towards employment opportunities (either temporarily, seasonal or cyclical) on vessels of the mechanised fishing sector. This tends to complicate fisheries management decisions (especially related to conflict management) that require more water-tight and simplistic categories of traditional/mechanised fishers. Instead, capture fisheries growth trends reveal a paradox whereby marine resource degradation (in which mechanised fishing is centrally implicated) leads to declines in SSF fish catch, causing migration towards other forms of fishing (the mechanised sector), which contributes to marine fisheries over-harvesting and ecosystem degradation. It was believed that marine fisheries regulation would impose its own limits on the amount of labour that the mechanised sector could absorb. However, the unchecked and poorly regulated marine fisheries scenario indicates that the absorption of migrant labour from SSF communities and from non-fishing castes and hinterland states (such as Chhattisgarh and Jharkhand) enables the mechanised sector to thrive. Such migrant labour might not have the power or the knowledge to play an effective part in sustainable fisheries practices in the host states. On the contrary, they are incentivised to undertake as much fishing as possible within the short fishing season.

Definitional issues are known to have caused some government fisheries departments to deny fisheries subsidies to seasonal migrant fishers in their home states. Given that entitlements are closely tied to definitions and linked identities, as well as forms of identification (such as fisher identity cards), it is necessary to understand the precise overlaps and inconsistencies that emerge from migration within marine capture fisheries.

IV. Data lacune: At the time of writing this report, there was 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 Inter-State Migrant Workmen Act, lack of awareness among the workers, and worries about impacts on benefits eligibility, among others. It has been noted that a mere addition of data or creation of databases alone does not ensure access to various state benefits, and that there are multiple systemic constraints and normalised unjust employment practices that perpetuate power inequalities between migrant workers and employers and prevent workers seeking redressal through formal state mechanisms. However, the near complete absence of any data on migrant fishers is undesirable.

³⁰ Agarwal, P. (2022). State-Migrant Relations in India: Internal Migration, Welfare Rights and COVID-19. *Social Change*, 52(2), 239-256.

V. Lack of awareness and organisation among migrant fishers: 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.

While the above issues are important and need to be addressed, it is also necessary to emphasise that while there are significant gaps, existing legislations and judicial decisions do create an overarching legal framework of rights and entitlements of migrant fishers.



04 Legal provisions for migrant fishers

The Inter-State Migrant Workmen Act, 1979 (ISMWA) is the primary law relating specifically to migrant workers in India. The ISMWA is applicable to every establishment and contractor employing five or more migrant workers and contains multiple protections for workers. These include designated officers to register migrants and their employers, licensing contractors, 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 Food Security Allowance Rules, 2015, the Cash Transfer of Food Subsidy Rules, 2015, the Disaster Management Act 2005, and Unorganized Workers’ Social Security Act, 2008 (UWSSA). In addition, the Pradhan Mantri Matsya Sampada Yojana (PMSSY) and the International Labour Organization’s Work in Fishing Convention, 2007, (C-188) are also relevant for determining fisher welfare standards in India.

In addition to legislations, the Supreme Court and High Courts have also taken key decisions in relation to migrant fishers, although these decisions have been addressed towards migrant workers more broadly. In the 1984 case of *Bandhua Mukti Morcha*, for instance, the Court stated that the government 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. Additionally, the Courts passed several important orders in relation to migrant relief during the COVID-19 pandemic.

The below table sets out key governmental obligations in relation to migrant fishers:

Category of obligation	Source of obligations
Registration	<p>While a lack of accurate information on migrant fishers has long been a concern, the pandemic acutely exposed the implications of this absence. Relief efforts were hampered by confusion around the workers’ presence and numbers and neither sending nor receiving states were found to have information on the migrants.</p> <p>Under S. 10 of the UWSSA, it is mandatory for the District Administration to register migrants and issue “smart cards” to them. Moreover, under S. 4, 6, and 8 of the ISMWA, establishments and contractors employing migrant workers must mandatorily be registered and licensed.</p> <p>In light of the above legislative provisions, in the case of <i>Harsh Mander & Anr. v. Union of India</i>,³¹ <i>In Re: Problems and Miseries of Migrant Labourers & Ors.</i>,³² and <i>Gujarat Mazdoor Sabha & Ors. v. The State of Gujarat</i>,³³ (collectively, the COVID cases) the Supreme Court passed a number of orders in relation to migrant registration:</p> <ol style="list-style-type: none">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.

³¹ WP (Civil) 10801/2020

³² (2020) 7 SCC 181 & AIR 2021 SC 3100

³³ AIR 2020 SC 4601

3. Creation of the National Database for the 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

In addition to the Supreme Court's decisions, in *Mahendra Kumar Parida v. State of Odisha*³⁴ 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. The portal was established to facilitate the return of workers and to coordinate travel plans, quarantine, medical, and other COVID-19 related infrastructure.

Food

The pandemic revealed multiple food crises within the country. One set of issues concerned the need for migrant workers and their families to be provided food in their places of employment and while travelling to their home states, and the second concerned food supplies for migrants over the long period of pandemic related lockdowns and unemployment.

The Indian landscape contains robust food security guarantees stemming from the landmark PUCL decisions of the Supreme Court in the early 2000s which declared that the right to food was part of the fundamental right to life under A. 21 of the Constitution.

In 2013, the National Food Security Act (NFSA) was enacted in order to give legislative heft to the right to food guarantees. As per the law, "priority households" (as defined in S. 9 & 10 of the NFSA) are to receive 5kg of subsidised foodgrains **per person** every month. Households covered under the Antyodaya Anna Yojana receive 35 kg **per household** at subsidised prices. Moreover, as per the Food Security Allowance Rules, 2015 and Cash Transfer of Food Subsidy Rules, 2015, the government is obliged to provide a cash allowance in cases of non-delivery of foodgrains. Direct Benefit Transfer in relation to food grains has also been trialled in some states. Moreover, under S. 12, 24, and 34 of the Disaster Management Act (DMA), 2005, responsible authorities are also required to set up relief camps and provide food, shelter, medical treatment, food, potable water, and sanitation facilities in times of disasters.

³⁴MANU/OR/0143/2020

In light of the above, in the COVID cases, the Supreme Court ordered the following:

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 in order to ensure that they were able to access food;
4. Conducting another exercise under S. 9 of the NFSA in order 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. The state and central governments would be required to provide dry ration to all migrant workers for at least two meals a day

Transport

The need to provide migrant workers with transport is recognised under the ISMWA. Moreover, in the COVID cases, the Supreme Court ordered the following:

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.



Working conditions

In addition to the multiple provisions in the Constitution and in labour laws and decisions calling for safe and healthy employment conditions, the ILO Convention C-188 specifically sets out the standards for fisher work. Notably, although India has signed the treaty, it has not ratified the convention. C-188 sets out several provisions including minimum age, medical facilities, linguistically appropriate contracts, resting hours, the necessity for written contracts, wages, food, and accommodation.

Miscellaneous

The Pradhan Mantri Matsya Sampada Yojana (PMMSY) does not specifically mention migrant fishers but it does include several provisions relating to fishers' welfare - one of the PMSSY's key objectives is to achieve "social, physical and economic security for fishers and fish farmers".

Towards this end, the PMMSY aims at the following:

1. Collectivisation of fishers and fish farmers through Fish Farmer Producer Organisations
2. Enhanced insurance cover for fishers and new insurance coverage for fishing vessels
3. Swatch Sagar – Introduction of biotoilets in fishing vessels.
4. Livelihood and nutritional support for socio-economically backward active traditional fishers' families for conservation of fisheries resources during fishing ban/lean period.
5. Fish data collection, fishers' survey and strengthening of fisheries database
6. Support to security agencies to ensure safety and security of marine fishermen at sea

05 Appraising the situation of migrant SSF

As the above mapping exercise shows, migrant fishers are eligible for several welfare schemes and guarantees within the Indian legal framework. However, there are also serious absences within this framework that specifically pertain to the vulnerabilities of fishers.

1. Definitions: Without an easy definition for “migrant” or “worker” or “fisher”, it is critical 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 also imperative to give migrant fishers the option to self-identify as such.

2. The artisanal/trawler divide: There exists in India a distinct conceptual and legal separation between artisanal fishers and trawling operations. What is often elided in these conversations is that migrant fishers often straddle these two worlds and as such require dedicated schemes. For example, migrant fishers might be artisanal fishers in their home states but might be working as wage labour on trawling boats in the states to which they migrate. They thus exist as part of both worlds and deserve the social protections guaranteed in each.

3. Benefit fragmentation: Even where well-intentioned, the existing provisions seem delinked from the realities of migrant lives and families. This is visible, for instance, in the multiple provisions in the NFSA which offer benefits to households. How is a migrant household to be defined in cases where different family members live in different locations? In such a case, who may access these benefits, and where? This issue is heightened since the logistical and financial responsibility for delivering the welfare benefits is often allocated to state governments. Determining who may access a benefit, and where, is thus far from being a trivial concern.

4. Ecological issues: Given the close relationship between depleted fish-stocks both in home states and in host states, it is critical to address marine fisheries management more broadly. Without better implementation of efforts to restore ecosystems, to control trawler movement, and to ensure that fishers are supported during the fishing ban period, it is difficult to envisage successfully addressing the issue of migration in the fishing community. Fisheries management policies and laws themselves need a comprehensive review from the perspective of fishing as a cultural, social, and economic endeavour with strong implications for resource health.

5. Fisher conditions of work: Unlike other forms of shore-based labour, migrant fishers’ working conditions make multiple aspects of the current registration process and benefit-access regime unfeasible. They are often away for months at a stretch, have poor internet connectivity which hinders communication, and government visits within regular working hours are unlikely to be in sync with the rhythms of fishers’ working lives. This means that the government must appoint dedicated fisheries personnel at ports in order to maintain appropriate records of fishers. Moreover, the very nature of fishing means that crew details are likely to be dynamic and change from one voyage to another. Thus, any registration of workers and employers has to take this dynamism into account. One way of doing so is to adopt the provisions of Article 15 of ILO C-188. This article requires crew lists to be maintained and handed over to the competent authorities immediately prior or immediately after the commencement of each voyage. Additionally, since accessing fishers in person might be more difficult,

6. Medical facilities: While the ISMWA contains several provisions for the health and well-being of migrants and the Courts have been keenly aware of the necessity of providing adequate medical care to migrants, the working conditions of fishers mean that specific provisions which recognise the non-land-based nature of work are critical. Medical services and facilities must be provided for fishers on boats, especially given the length of the time they spend at sea. This is echoed in C-188 which sets out detailed requirements for medical care in Part VI of the Convention.

7. Language: Registration, contracts, information, and documentation is often provided to fishers in languages that they are unfamiliar with. This is in spite of legislations specifically addressing the issue. For example, S. 12 of the ISMWA specifically requires the issuance of a “pass-book” with employment information to workers in a language that they are familiar with. This is in consonance with ILO C-188’s provisions regarding linguistically appropriate information and materials.





06 Recent policy changes

The seriousness of the migrant crisis during the pandemic led to several relief measures by the state and central governments. These included special no-fare “shramik” trains for stranded migrant workers, 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 measures included shelter camps with medical facilities, food and water for migrant labourers, specially constituted committees to supervise and coordinate with NGOs and volunteers others. Several states including Karnataka, Odisha, Gujarat, Uttar Pradesh and Delhi set up dedicated online portals to register migrant workers aimed at coordinating relief efforts and initiating cash transfers for registered migrants.

At the national level, the National Institution for Transforming India (NITI Aayog) published a draft policy framework to ameliorate the condition of migrant labourers in the country. The draft recognises that while migration is hardly a new phenomenon in India, “the realisation of the magnitude of dependence on the migrant workforce in the development process, is certainly new for many” and commits to “support, succour and strengthen the migrant labour sector”. The framework largely focuses on enhancing migrant workers’ agency and capabilities and on removing barriers (structural and otherwise), to their development.

While focused on the broader category of migrant workers and not specifically on migrant fishers, several of the report’s recommendations have important implications for the latter. 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.

The continuation and upscaling of select COVID-19 related governance initiatives is needed to safeguard and secure the conditions of migrant fishers. In addition, the measures proposed by the NITI Aayog in its draft migrant worker policies of 2021 may also need to be translated and adapted for marine capture fisheries.



07 Recommendations towards migrant fishers' well-being

The insights into specific challenges concerned migrant fishers as well as the recent policy measures point to a few priority areas and recommendations which are listed below:

1. Eliminating policies negatively discriminating against migrant workers – especially in the arena of fisheries subsidies, welfare measures, and social security schemes.
2. 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 migrant fishers' seasonal and circular movements.
3. Databases on Migrant Fishers. To overcome the data lacunae on migrant fishers, efforts need to be taken to build robust, transparent, and accessible records of human dimensions in fisheries. This means co-creating databases of labour in fisheries, including migrant labour. A few pilot initiatives have been started in Nagapattinam District in Tamil Nadu and Ganjam District in Odisha to build community-based databases on migrant fishers within SSF communities. These databases will be far more accessible, easy to update and contain information of relevance to local communities from a standpoint of disaster response and would also assist in delivering social welfare schemes.
4. Involvement of Panchayati Raj institutions in migrant worker welfare, as outlined in the draft NITI Aayog report of 2021.³⁵ The creation of community-based databases on migrant workers in collaboration with panchayat raj institutions and traditional fisher institutions and civil society organisations is important for ensuring the production, maintenance and secure use of reliable and secure data on migrant workers and their wellbeing .
5. Providing unique identification cards to assist with social security. Given that migrant fishers are frequently crossing state lines (and on occasion international boundaries), unique identity cards could arguably improve the process for establishing their identity and accessing their entitlements across the country.
6. Ensuring reforms in National Food Security Act to cover migrant fishers. Such reforms could include the implementation of the ONORC scheme to allow access to food entitlements across the country and creating an updated list of beneficiaries under the Act.
7. Improving access to public healthcare, housing, and water, sanitation, and hygiene (WASH) facilities for migrant fishers. This could include universal coverage of all health programmes, mobile health cards, implementing the Ayushman Bharat Yojana, and special health outreach services.
8. Ensuring income support guarantees are aligned with the rhythms of migrant fishers' lives. Given that migrants fishers may be away from their homes for up to 8 months of the year, income guarantees must account for the fact that they are maintaining two households simultaneously - one in the home state and one in the receiving state
9. Block-level offices with designated officials for addressing and monitoring fishing-related issues and lists of migrant fishers which are jointly maintained by the nodal office and fisher representative body.
10. 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 and knowledge transfer within each territory.

³⁵ Draft Migrant Labour Policy Framework (2021). NITI Aayog.

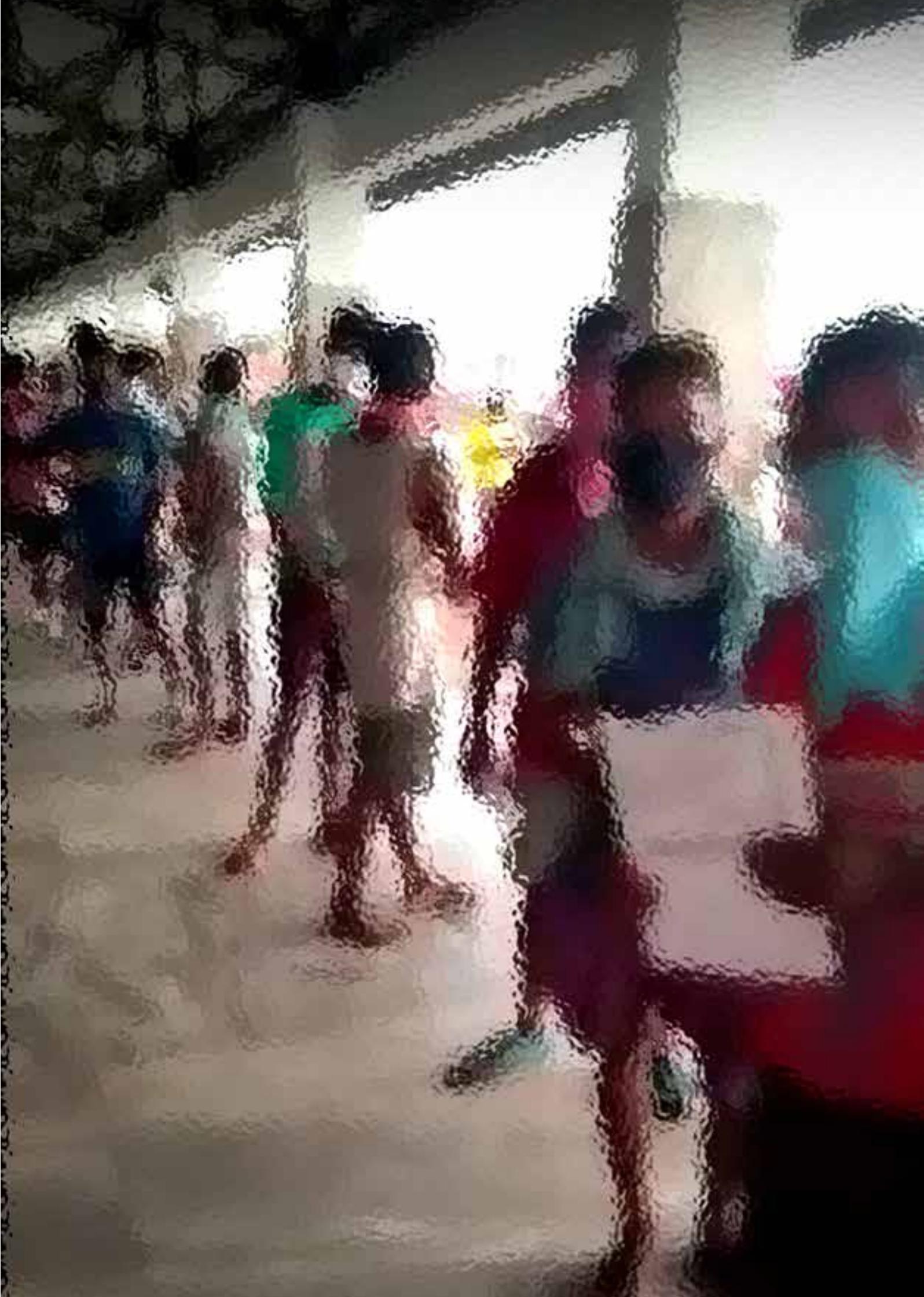
11. 24-hour dedicated helplines for fishers. Beyond the emergency helplines activated during disasters, a regular fisheries helpline is crucial to resolving systemic issues that are exacerbated during a disaster. These can be run at the Block level in collaboration with civil society organisations.

12. Ensuring that the National Legal Services Authority (NALSA) supports the fast-tracking of legal responses for issues facing migrants including trafficking, abuse, and minimum wage violations. NALSA could also help to create a cadre of paralegals among the migrants fishers.

13. Organising migrant fishers, especially those in the informal sector, as suggested in the draft NITI Aayog migrant labour policy framework. Such unions could promote collective action around issues related to wages, workplace safety, exploitative labour practices, benefits, and insurance.

14. Research on marine migrant fisheries. Research programmes on migrant fisheries in India need greater attention and support. Priority themes under such programmes would include a) work arrangements and labour relations within mechanised fisheries, b) implications of increasing migrant labour within fisheries on marine ecosystem governance, c) Understanding evolving intersectional identities, skill and knowledge within fisheries, and d) ethnographies of work-in-fisheries, everyday experiences of governance, opportunity and vulnerability within fisheries life-worlds.





08 Conclusion

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. As our report has shown, there are significant gaps and opportunities in the current legal framework with respect to migrant fishers. Existing laws and policies need to be implemented alongside enacting migrant fisher-specific legislation that recognises their specific vulnerabilities. At a minimum, the Supreme Court's specific orders in relation to migrant workers and the Central Government's own draft Migrant Labour Policy Framework must be implemented in both letter and spirit. Above all, it is important to emphasise that plans and policies should be co-developed in consultation with fishing communities. Finally, 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 is pragmatic about their lived realities.



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