

India: The authorities must act immediately to protect internal migrant workers stranded under intolerable conditions

The ICJ today called on the Indian Government to take effective measures to mitigate the disproportionate impact of the lockdown on internal migrant workers and guarantee the right to a minimum adequate standard of living to all in line with India's international obligations and Indian law.

The call comes just as India announced its second lockdown period starting April 15, 2020, extending the prior 21-day lockdown period, 2020, to 40 days. On March 29, 2020, the Government had also issued a circular prohibiting movement of migrant workers and an order stating that migrant workers be given food and shelter. It banned evictions of all migrant workers for a month.

"While the measures taken by the Government so far are important, they have proved inadequate. The Government's efforts need to be targeted towards internal migrant workers and respond to the multiple layers of discrimination and risks they face," said Maitreyi Gupta, ICJ India International Legal Advisor.

The announcement of the second lockdown has led to thousands of migrant workers in Mumbai and Surat protesting this decision and demanding the right to return home. It came soon after more than 500,000 migrant workers and their families attempted to travel distances of hundreds of kilometers on foot to return to their homes after the first lockdown period was announced on March 24, 2020. This massive internal displacement has led to the deaths of 22 internal migrant workers and their family members, including seven children.

The ICJ called on the Indian authorities to ensure that any restrictions on freedom of movement of migrant workers, protected under international law, is strictly necessary and proportionate and does not result in other human rights violations.

The ICJ is particularly concerned by civil society and media reports indicating that some internal migrants have not eaten for several days and are at the brink of starvation, while others have started rationing their meals to one meal a day.

"The situation of internal migrant workers in India is wholly unacceptable. If their urgent needs are not addressed in a way that respects their human rights, it will only serve to compound the current crisis," said Frederick Rawski, ICJ Asia-Pacific Director. "We call on the Indian Government to take all necessary measures to bring an end to this deplorable situation."

The UN High Commissioner for Human Rights Michelle Bachelet on April 2, 2020 also expressed concern at the "plight of India's internal migrants" and said "more needs to be done as the human tragedy continues to unfold before our eyes".

The UN Committee on Economic, Social and Cultural Rights has already called on States to implement "targeted programmes to protect the jobs, wages and benefits of all workers," and take measures to ensure the "extraordinary mobilization of resources to deal with the COVID-19 pandemic".

The ICJ urged India to take to all necessary measures to fulfill its obligations to protect the right to adequate standard of living of all internal migrant workers and other vulnerable populations. This includes ensuring access to quality health systems and facilities; minimum essential food; adequate shelter; sanitation and potable water; and timely information.

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Background

To contain the spread of COVID-19, the Government of India announced a nationwide lockdown for 21 days, on March 24, 2020. The Government on April 14, 2020 extended the ban until May 3, 2020. The first lockdown for 21 days was made with only four hours' notice, while the second lockdown was made with 24 hours notice. The lockdown effectively shut down all activity including most industrial, commercial, cultural, religious and social activity. It required people to stay in their houses, only allowing them to leave to access essential goods and services such as food, medical care, among others.

On March 26, 2020 the Indian Government announced a stimulus package of Rs. 1.7 lakh crore which included food security and direct cash transfer focused on daily wage workers and other people living with poverty. In total, central and state governments have issued over 350 government orders detailing relief measures.

In response to a public interest litigation petition on the plight of migrant workers filed in the Supreme Court, the Indian Government stated that the mass exodus occurred due to "panic created by some fake/misleading news" and that as on April 1, 2020, no migrant workers were "on the roads". The Supreme Court ruled on March 31, 2020 that it was "satisfied with the steps" taken by the Indian Government and recommended mental health measures to reduce panic among migrant workers.

Ninety percent of India's total workforce of nearly 400 million people is part of the "unorganized" or informal sector. At least 41 million people in India's workforce are internal migrant workers. As indicated in statistics produced by the World Bank, 176 million people in India live in extreme poverty on less than \$1.9 a day, wherein they live a "hand to mouth" existence.

According to a Stranded Workers Action Network's report, published on 15 April, 2020, which surveyed more than 11,000 migrant workers, of those who responded, 50 percent did not have rations to last them a single day; 96 percent have not received rations and 70 percent had not received cooked food from the Government; and 78 percent had less than five USD left.

India is party to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which respectively protect the right to adequate standard of living, health and freedom of movement, among other related rights.