



BRIDGING THE GAP: ADDRESSING MIGRANT WOMEN'S VIOLENCE THROUGH INTERNATIONAL AND INDIAN HUMAN RIGHTS FRAMEWORKS

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INTRODUCTION

Migrant women around the world face unique vulnerabilities that intersect with issues of gender, migration status, and socio-economic disadvantage. Violence against migrant women is a critical human rights issue, yet gaps persist between international human rights standards and their implementation within national frameworks like those of India. Addressing these gaps is crucial for ensuring justice and protection for migrant women. Despite international commitments and national policies aimed at safeguarding human rights, migrant women in India continue to face violence that slips through the cracks of both global and local legal frameworks.

WHO IS A MIGRANT?

A migrant is an individual who moves from one geographical location to another, either within a country (internal migration) or across national borders (international migration). In India, internal migration predominantly involves the movement from rural areas to cities, driven by socio-economic factors, natural disasters, or conflict. Migrant women often work in informal sectors such as domestic work, agriculture, construction, and small-scale industries.

Gender-Based Violence (GBV) refers to harmful acts directed against individuals based on their gender. It stems from inequalities and power imbalances between genders and can take various forms, including:

- Physical Violence: Assault, domestic abuse, or physical harm.
- Sexual Violence: Rape, molestation, and sexual harassment.
- Emotional and Psychological Abuse: Verbal abuse, intimidation, and coercive control.

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- Economic Abuse: Denial of financial resources or control over income.
- Social and Cultural Violence: Discrimination, exclusion, or harmful traditional practices.

Human rights are inherent to all human beings, regardless of nationality, ethnicity, gender, or socio-economic status. They are essential for ensuring the dignity, freedom, and well-being of individuals. The Universal Declaration of Human Rights (UDHR), 1948, emphasises the right to life, liberty, security, and protection from discrimination.

CONSTITUTIONAL SAFEGUARDS FOR WOMEN IN INDIA:

The Constitution of India guarantees several fundamental rights that protect individuals, including women and migrants, from violence and discrimination. Key provisions include:

Article 14: Right to equality before the law.

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.

Article 21: Right to life and personal liberty, which the Supreme Court has interpreted to include the right to live with dignity.

Article 23: Prohibition of human trafficking and forced labour.

Additionally, the Directive Principles of State Policy (DPSP) encourage the state to work towards gender equality, adequate means of livelihood, and protection against exploitation.

Global Human Rights Frameworks and Their Approach to Migrant Women's Violence

International human rights laws have long recognised the need to protect women from violence, irrespective of their migration status. Key frameworks include:

1. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW emphasises state obligations to protect women from violence. However, migrant women often face barriers to accessing justice due to their legal status (CEDAW, 1979, Art. 2¹).

2. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)

This convention highlights the protection of migrant workers but lacks a specific focus on gender-based violence (ICMW, 1990, Art. 7²).

3. The Global Compact for Safe, Orderly, and Regular Migration (GCM)

Although the GCM addresses human rights concerns, including violence, it lacks binding enforcement, leaving implementation to national policies (GCM, 2018, Objective 7³).

Despite these frameworks, the absence of binding commitments and gender-specific provisions within migration laws often leaves migrant women unprotected.

INDIAN LEGAL FRAMEWORK: PROTECTION AND SHORTCOMINGS

India has ratified several international conventions, including CEDAW, but significant challenges remain in implementing these standards effectively:

1. Protection of Women from Domestic Violence Act, 2005 (PWDVA)

The PWDVA addresses violence within households but is less effective when the perpetrator is outside the domestic sphere, as is often the case with migrant women (PWDVA, 2005, s 2)⁴.

2. Immoral Traffic (Prevention) Act, 1956

Primarily focusing on human trafficking, this law does not address violence against migrant women who are not trafficked (ITPA, 1956, s 3)⁵.

3. Criminal Law (Amendment) Act, 2013

Although this amendment strengthened laws against sexual violence, migrant women, especially those without documentation, face challenges in reporting and accessing justice (CLA, 2013, s 9)⁶.

CASE STUDIES: REALITIES OF MIGRANT WOMEN IN INDIA

1. Violence Against Domestic Migrant Workers

In metropolitan cities like Delhi and Mumbai, thousands of women migrate from states like Jharkhand and West Bengal to work as domestic helpers. In a 2021 case from Gurgaon, a tribal

woman was physically abused by her employer. Despite filing a complaint, a lack of proper identification delayed police action (Gurgaon Police Report, 2021)⁷. Migrant men, facing economic hardships and job insecurity, may direct their frustration toward their partners, leading to increased cases of domestic violence. Women find it difficult to report such abuse due to fear of retaliation or loss of financial support.

2. Sexual Violence Against Migrant Construction Workers

Women on construction sites are particularly vulnerable to harassment and assault. A 2019 study by the Tata Institute of Social Sciences found that 60% of female construction workers faced harassment, but most incidents went unreported due to fear of job loss (TISS Report, 2019)⁸.

In 2017, a migrant woman in Bengaluru was assaulted while returning from work. Lack of safe transportation and inadequate policing were major factors (Bengaluru Police Report, 2017)⁹.

Workplace harassment- In sectors like domestic work, construction, and garment factories, migrant women face sexual harassment and physical abuse. Limited legal awareness and fear of job loss prevent them from speaking out. Harassment at the workplace is prevalent, particularly in low-wage jobs where women lack bargaining power. Instances of sexual harassment, physical violence, and verbal abuse are common. Factories and households employing migrant women often do not adhere to regulations under the Sexual Harassment at Workplace Act, 2013.

Example:

A recent study by the Asia Pacific Migration Network (2024) revealed that 38% of migrant women in garment factories reported sexual harassment by supervisors, but only 15% filed complaints due to fear of retaliation.

3. Migrant Women and Trafficking

Internal migration for employment exposes women to trafficking risks.

In 2022, a group of women from Odisha was trafficked to Maharashtra under the pretext of job opportunities, but they ended up in exploitative labour (Maharashtra Anti-Trafficking Unit Report, 2022)¹⁰. Despite the Immoral Traffic (Prevention) Act, poor interstate coordination often leaves trafficked migrant women without immediate assistance. Traffickers often lure

young women with promises of jobs or marriage. Upon migration, they are forced into sex work or domestic servitude. Cities like Delhi, Mumbai, and Kolkata are major hubs for such trafficking networks.

Example:

A 2024 report by the Anti-Human Trafficking Unit (AHTU) revealed that 25% of trafficked women in urban centres were migrants lured by false job offers. In many cases, local agents collaborate with employers to exploit these women.

Challenges:

Identifying victims is difficult as they are often hidden in private households or unregistered workplaces.

Victims fear law enforcement, as traffickers instil the belief that they will be treated as criminals.

Lack of Legal Awareness: Migrant women often do not know their rights or the mechanisms available for reporting violence.

Language Barriers: In cities where the local language differs from their native tongue, reporting incidents becomes challenging.

Economic Dependency: Women engaged in low-paying, informal work are reluctant to report abuse for fear of losing their livelihood.

Documentation Issues: Many migrant workers lack proper identification, making it difficult to access social welfare schemes and legal support.

Social Stigma: Victims of violence are often blamed or ostracised, particularly in conservative communities.

4. Migrant Women and Communal Violence

During communal conflicts, migrant women are at higher risk due to their isolation and lack of local networks.

In the 2020 Delhi riots, several migrant women from Uttar Pradesh and Bihar reported harassment while fleeing violence, but they faced challenges in accessing relief camps (Delhi Commission for Women Report, 2020 ¹¹).

THE GAP: MIGRANT WOMEN LOST BETWEEN INTERNATIONAL IDEALS AND LOCAL REALITIES

The most glaring gap between international and Indian human rights frameworks lies in the lack of intersectional protection for migrant women. While international treaties acknowledge violence against women, national laws in India often fail to consider the compounded vulnerabilities migrant women face due to their migration status. For instance, women migrating internally within India often experience harassment and violence, but local authorities may not adequately address their complaints, especially if the women lack proper identification. International frameworks also frequently overlook the socio-cultural nuances unique to migrant women in India, leading to policies that are disconnected from reality.

BRIDGING THE GAP: RECOMMENDATIONS

To better protect migrant women from violence, the following steps are crucial:

1. Strengthening National Legislation - Indian laws should incorporate specific provisions addressing violence against migrant women, including those who lack legal documentation.
2. Enhanced Implementation of International Norms - India should actively implement provisions from conventions like CEDAW and ICMW, specifically targeting migrant women.
3. Holistic Protection Systems - Establish support systems integrating legal aid, shelters, and counselling services, accessible to migrant women irrespective of their documentation status.
4. Capacity Building for Law Enforcement - Training police and judicial officers to recognise and respond sensitively to violence against migrant women would ensure better enforcement of both international and domestic laws.

GOVERNMENT INITIATIVES

Nirbhaya Fund (2013)

To support initiatives aimed at enhancing the safety and security of women.

Projects Under Nirbhaya Fund: Emergency Response Support System (ERSS): A pan-India, single emergency number (112) for women in distress. Safe City Projects: Aimed at making cities safer for women through better surveillance and rapid response.

Nayi Chetna - Pahal Badlav Ki: To address violence against women through community engagement. Involves Self-Help Groups (SHGs) to educate women about their rights and Focuses on encouraging women to report violence and seek support.

CAA AND GENDER BASED VIOLENCE

The Citizenship Amendment Act (CAA), 2019, marked a significant shift in India's approach to citizenship by providing a path to citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan who entered India before December 31, 2014. While the stated aim was to offer protection to persecuted minorities from these countries, the act sparked widespread protests and debates about its constitutional validity and discriminatory nature.

Legal Uncertainty and Fear of Deportation

One of the major criticisms of the CAA is its exclusion of Muslims, which, when combined with the proposed National Register of Citizens (NRC), raised fears of mass statelessness, especially among undocumented Muslim women migrants. This fear often compels women to stay silent about abuse or exploitation, fearing that any interaction with authorities might expose them to deportation.

Example:

In states like Assam and West Bengal, where many undocumented migrants reside, women working as domestic helpers or in informal sectors reported increased anxiety during NRC verifications. This fear makes them susceptible to coercion and exploitation, as employers or community members might threaten to report them.

Displacement and Vulnerability to GBV

During anti-CAA protests, many migrant families, especially those from marginalised backgrounds, found themselves displaced due to violence or threats. Women in such displaced communities faced increased risks of sexual harassment and assault, particularly in temporary shelters or camps.

In Delhi's Shaheen Bagh protests, women migrants who participated in peaceful demonstrations reported being harassed by both authorities and vigilante groups. Women without proper identification faced additional scrutiny, making them more vulnerable to violence.

CONCLUSION

Addressing violence against migrant women requires more than formal commitments; it necessitates comprehensive, inclusive policies that bridge the gap between international human rights ideals and practical national implementations. India must enhance its legislative frameworks to offer targeted protection to migrant women, acknowledging their unique challenges and ensuring their right to live free from violence. The bottom line is that migrant women deserve safety and respect just like anyone else. It's time to put words into action and make sure our laws work for everyone, no matter where they come from.

REFERENCES

- ¹ CEDAW, 1979, Art. 2.
- ² ICMW, 1990, Art. 7.
- ³ GCM, 2018, Objective 7.
- ⁴ PWDVA, 2005, s 2.
- ⁵ ITPA, 1956, s 3.
- ⁶ CLA, 2013, s 9.
- ⁷ Gurgaon Police Report, 2021.
- ⁸ TISS Report, 2019.
- ⁹ Bengaluru Police Report, 2017.
- ¹⁰ Maharashtra Anti-Trafficking Unit Report, 2022.
- ¹¹ Delhi Commission for Women Report, 2020.