



ISWM ACT AND INTERSTATE LABOUR MIGRATION: A STUDY FROM A BACKWARD DISTRICT OF ODISHA

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Abstract: The Interstates Migration Workman Act (ISMW act 1976) was implemented to protect the basic right of the inert state migrant worker. The main objective of this article is to critically analyze the ISMW act and a brief assessment of the ground implementation of the ISMW act through a primary survey of migrant workers from a backward district of Odisha. The study surveyed 212 sample households (32.5 percent) from 652 population households of three villages of Balangir district of Odisha. The cross tabulation with row percentage is used to present the survey data. The study found that the ISWM act has been lapsful in registering migrant labourers. We have also found that workers are not much aware of their rights. The ISMW act has never been implemented at ground level and also never been verified by any official authority.

Keyword: Labour migration, Labour law, Odisha

Received : 22 September 2025

Revised : 20 October 2025

Accepted : 26 October 2025

Published : 27 December 2025

TO CITE THIS ARTICLE:

Ananda Meher & Chodaganga Sahu (2025). ISWM Act and Interstate Labour Migration: A Study from a Backward District of Odisha, *Journal of South Asian Research*, 3: 2, pp. 283-291.

Introduction

labour migration between and within urban and rural areas has to be seen as a central element in the livelihoods of many households in developing countries (Haan De, 1999). Rural-urban migration in India is part of the livelihood strategy for poor households (Deshingkar, 2010). NSS 2008 estimates that 28.3 percent of workers are internal migrants in India, approximately 175 million. The economic survey of India 2017 stated that an average of nine million people migrated between states every year for education and employment.

During the crisis of Covid-19 and the lockdown, crores of workers have returned to their homes. They have stepped out from their working places towards their homes through different sources of mobility. Some even walked more than 1000 kilometers barefoot. The plight of workers has opened everybody's eyes, starting from the government, policymakers, academicians, social workers, and common citizens. In this crisis, academicians and policymakers have tried to create some assistance for the workers through the Interstates Migration Workman Act (ISMW act 1976) and Contract Labour Act 1970.

Different scholars have pointed out the importance of the ISMW act and its implementation during the COVID-19. They have written in different news media to pressurize the government to facilitate basic welfare for the migrant workers. Krishna, Burman & Rai have explained the importance of the ISMW act 1979 in the current context of return of migrant labourer during covid-19. Contractors are obligated to provide details of all workers to the relevant authority (Krishnan, Burman, & Rai, 2020). Further, Ranjan & Sami have illustrated different policies taken by different states and central governments to maintain the mobility of interstate migrant labourers during the lockdown period. They also explain that the ISMW Act 1979 assures payment of minimum wages, medical facilities, journey allowances, displacement allowances, residential accommodation, and protective clothing. However, this act has failed to provide any security to the migrant due to the lack of proper implementation (Rajan & Sami, 2020). The Report Of The Working Group on Migration (2017) includes work conditions and the provision of social security and livelihood. Hence, outreach measures must be established to increase awareness and generate demand.

Objective- In the crisis of migrant workers, most scholars, as well as policymakers, have depended on the ISMW act. Some have argued for the ground implementation of the act, and others suggested modification. With this background and the importance of the ISWM act, the main objective of this article is to critically analyze the ISMW act. Secondly, A brief assessment of the ground implementation of the ISMW act through a primary survey of migrant workers from a backward district of Odisha.

Data and Methodology

To verify the implication of the ISWM act, we depend on both secondary and primary sources of information. The information about licensed labour

contractors and interstate migrant workers have been collected from district labour office, Balangir and State Labour Office, Bhubaneswar. To verify the ground implementation of the ISWM act, we surveyed three villages in Balangir district of Odisha in 2017-18.

The ISWM act is the follow-up of Odisha Dadan Labour Act, which is one of the main reasons for selecting the Odisha states for our primary survey. The Cyclical migration rate is 7.1 percent of the working-age population in rural Odisha, whereas it is 4.1 percent in rural India. The cyclical migration rate of working-age population in Balangir district was 17.4 percent which was highest compared to other districts of Odisha. Furthermore, 73.5 percent of cyclical migrants of Balangir district have migrated outside states of Odisha (NSS, 2008). The ISMW act will be vailed for these 73.5 percent interstate migrant labourers of Balangir district of Odisha.

The study has selected three villages: Baguda, Sangurjibhata, and Chauldiha, of Balangir district of Odisha. Household is the unit of investigation in our survey. The study selected one-third households of the village for the primary survey. The representation of each socio-economic (caste and land possess group) group in our sample, we categorize the whole population at the sub-group level and select one-third of the respective sub-group. So, in selecting sample households, the survey has used systematic sampling, begins at a random starting point within the sub-group of population, and uses a fixed, periodic interval (of two) to select the following sample. If the selected household is not presented during the survey, the next follow-up household in the population list is selected for sample. We have surveyed 212 sample households from 652 population households of three villages of Balangir district; the sample households are 32.5 percent of the population households.

Finding and Results

ISWM act (1979) and Orissa Dadan Labour Act (1975)

This ISMW act has repealed the Orissa Dadan Labour (Control and Regulation) Act 1975. The Orissa Dadan Labour act suggests the requirement of such a law at the national level to protect interstate migrant workers. The migration of Dadan labour started in the mid-1960 and became widespread in 1970, mostly in two southern districts of Odisha (Balangir and Ganjam). This act regulates the recruitment of labourers from Odisha state to work outside Odisha states. It

was implemented to weaken the clutch of labour contractors over labourers and create welfare schemes for migrant labourers. This act mentions compulsory registration of labour contractors in the district labour office (chapter II, clauses 3 to 7). And it directs the licensed labour contractors to maintain a register to list the workers (name, place of work, nature of work, and wage rate) who migrated under him (in chapter II, clause 8). Chapter III of this act elucidates the condition of recruitment and welfare of Dadan labourers. The labour contractor ensured the payment of minimum wage, work hours, and all dues to the labourer at the end of the agreement period. However, it does not mention the health and social security measures for the worker.

The ISWM act is an extension of the Orissa Dadan labour act for the whole nation. The main aim of the ISWM act is to regulate the employment of inter-State migrant workers and to provide for their conditions of service. It governs both labour contractors and employees as well. It mentions the compulsory registration of employees and labour contractors under the ISWM act. The employee creates work order requirements of labourers through their district labour office. Based on the requirement of labourer, the agent gets a permission letter to migrate the respective number of workers under him. This act includes a section under the duties and obligations of contractors to provide a passbook to maintain work details and maintain a register by both contractors and employees (chapter IV). Chapter V of this act mentions that the labour contractor and employee are responsible for providing wages, welfare, and other facilities to migrant labourers. The welfare measures include journey allowances (travel expenditure, food expenses, and wages for the time spent during the journey in both coming and return journey), suitable residential accommodation, medical facility, and protective clothing in addition to payment of minimum wage, hours of work and payment of all dues to the labourer at the end of the agreement period. These acts ask the employees and labour contractors to maintain details of workers in a register rather than the official registration of workers. This act allowed labour contractors to manipulate the actual number of migrant workers. Even in case of any severe problem of the workers, the contractors manipulate the register and worker list to get out of legality very easily.

To verify the implementation of the ISWM act, this study has quarried how far welfare measures such as minimum wage income, hours of work, payment of total dues at the end period, journey expenditure, and medical facility have reached to the workers.

Ground Implementation of ISWM act in Balangir district of Odisha

According to the government figures, 87,000 labourers engage in interstate seasonal migration in 2008 but it has increased to 1.02 lakh in 2012, 1.20 lakh in 2014, 1.46 lakhs in 2015. Maximum migrant workers are from Balangir district, around 45000 in 2015. The State government had granted 3,046 licenses to labour contractors who recruited 1,18,451 labourers as interstate migrant workers in 2014 (State Labour Office, Odisha). In the surveyed district, labour office had granted 276 licenses to 139 contractors, averagely two licenses have been given per contractor in 2014. These 139 contractors of Balangir district have got permission to migrate 21855 number of workers. There are three contractors who got more than 10 licenses and they have recruited averagely 1427 labourers. Process of issuing a labour license requires that each employee creates demand letter through his respective district labour office. On the basis of that labour demand letter, the labour contractors get labour licenses from the origin place district labour office. So, the above data is not the actual number of workers migrated rather it is the actual number of labourers permitted through licenses to take outside states. Actual number of migrant labours is far much higher. Labour contractors have used same licenses multiple times in interstate migration of workers.

Pattern of Migration

The survey found that 57.7 percent of sample households are engaged in migration, the highest among SC followed by ST and OBC households (see Table 1). Averagely two members of the survey households are engaged in migration, and the female-male migration ratio is 86 percent. So, both male and female members of one household jointly migrate. The average age of migrants is 32 years, and they have averagely five years of educational qualification. Distance of migration suggests that 80 percent migrate outside Odisha, and only 20 percent have migrated within the state border. The ISWM act is essential for these interstate migrants to avail their basic rights.

Nearly 80 percent of migrant workers are engaged in Brick kiln activity. Most brick kiln workers are interstate migrants, mainly migrating to the southern states of India, such as AP, Telangana, Tamil Nadu, and Karnataka. Few brick kiln workers have also migrated within the state. One-tenth has migrated to work in Tendu leaf binding and processing work. Another 11 percent have worked as contractual workers in different industries outside

state. The young and middle-educated (secondary school) youths are engaged in migration for industrial work.

Table 1: Pattern of Migration across social groups

Social Group	Percentage of HH Engaged in Migration	Average No of individual migrated per HH	Percentage of Individual Engage in Migration	Female/Male Ratio (Among migrant)	Type of Migration	
					Intra State	Inter State
ST	64.4	2	39.7	76.79	6.1	93.9
SC	67.3	2	45.5	97.62	41.1	58.9
OBC	46.0	3	32.5	89.66	17.8	82.3
All HH	57.7	2	37.9	86.62	20.0	80.0

Source: Authors' Primary survey in 2017-18

Note: ST- Schedule Tribe, SC- Schedule Caste, OBC- Other Backward Class, HH- Households

Migration Network and Worker Welfare

The main question arises, how do the workers know the availability of employment opportunities outside the state, and how does the owner know the labourers' interest in migration? It requires some institutional mechanism to manage and intermediate between labourer and employer. Nearly 83 percent of labourer migrated with labour contractors, and the rest migrated through relatives (caste network), village friends and school friends. Most brick kiln workers have migrated through labour contractors, leaf-binding workers have migrated with the help of relatives, and the industrial workers have migrated through school and village friends (see Table-2).

According to the ISWM act, the labour contractors should maintain a register to record details of their migrant workers. It is the duty of the labour contractors to ensure minimum wage payment, travelling expenditure, Pass Book, house, food, sanitation, and health condition of their workers. In our survey, we enquired about the benefits the workers availed. More than 40 percent of migrant workers don't know and never see their actual contractors. Most licensed labour contractors have appointed their representatives (second labour contractor) to manage and maintain vast numbers of labour migrants. None of the migrant workers knows about the registration of workers and passbook facility. After reaching the destination, the owner gave them a notebook to maintain their work and weekly payment (food allowance). Nearly one-third of workers' pay their travel expenses, and another one-fifth has received travel expenditure partially.

Table 2: Percentage of worker migrate through different migration network

<i>Social Group</i>	<i>Labour contractor (%)</i>	<i>school friend (%)</i>	<i>village Friend (%)</i>	<i>Relative (%)</i>
ST	83.3	5.2	7.3	4.2
SC	88.2	10.5	0.0	1.3
OBC	79.8	5.5	0.0	14.7
All Migrant	83.3	6.8	2.5	7.8

Source: Same as Table 1

However, according to the ISWM act, the contractors and employers must pay travel expenditure and wages for the travel time. More than one-third of migrant workers have paid 500 to 700 rupees on their travel expenditure, which is never repaid by employers or contractors (see Table 3). Another 22.3 percent of migrant workers partially received their journey expenditure, which is only oneway travel expenditure. No migrant people received any wage payment for the time spent on the journey to the destination.

Table 3: Worker awareness and journey expenditure across social group.

<i>Social Group</i>	<i>Percentage of migrant do not know about their actual labour contractor (%)</i>	<i>Received Journey Expenditure (%)</i>	<i>Partially Received Journey Expenditure (%)</i>	<i>Did Not Received any Journey Exp (%)</i>
ST	61.5	29.2	13.5	57.3
SC	36.8	34.2	38.2	27.6
OBC	45.4	60.6	18.3	21.1
All Migrant	48.4	42.6	22.3	35.1

Source: Same as Table 1

Migrant workers also never received any welfare measure at their destination. According to the ISWM act, the payment of wages and hours of work should be maintained under government regulation. Nearly 82 percent of migrant workers are engaged in leased work, mostly brick kiln and leaf binding. However, in the name of leased work, brick kiln and leaf binding workers are forced to work more than 12 hours per day. The working time is also crucial to understand the intensity of hardness. The brick kiln activities are performed during night hours to decrease the damage to the brick. After working such long hours at odd timing, workers earn 240 rupees per day. This earning is again the lowest among the ST migrant workers. After the end of the working season, nearly 12 percent of workers have not received their last

due, which is highest among the SC migrant workers. According to the ISWM act, the labour contractor must pay all labourer's dues if the employer does not pay (see Table 4). They also cannot approach legal institutions as they need an official document of migration under a specific labour contractor. The main problem in the whole process of migration and avoidance of responsibility of contractors arises due to the non-registration of labourers through any government institution. The government also does not know the number of interstate migrant workers.

Table 4: Working condition and income from migration across social group

<i>Social Group</i>	<i>Average Hour of Work</i>	<i>Percentage of migrant received Daly Wage payment</i>	<i>Percentage of migrant received Monthly Wage Payment</i>	<i>Percentage of migrant received through Leased work</i>	<i>Average Wage rate /Per day Income</i>	<i>Percentage of migrant Cheated by Employer or Labour contractor in last payment</i>
ST	12.3	10.4	15.6	74.0	173.8	2.1
SC	11.3	10.5	3.9	85.5	297.8	19.7
OBC	12.9	3.7	8.3	88.1	257.3	14.7
All Migrant	12.2	8.2	9.6	82.3	239.9	11.7

Source: Same as Table 1

Conclusion

The ISWM act have some loopholes in registering migrant labourers. It mentions the duties of labour contractors to maintain a register and provide welfare measures to migrant labour. So, the government doesn't have correct information regarding the number of migrant labourers and their condition. Most labour contractors never fulfil their duties to list the migrant workers and provide social welfare measures. We have also found that workers are also not much aware of their rights. The ISMW act has never been implemented at ground level and also never been verified by any official authority. During lockdown, the situation is much worse for the migrant worker. So, just the availability of legal acts is nothing for the worker without regular intervention of the government to implement it.

In addition to the ISWM act, Government should register migrant labourers at the local level, either in Panchayat or in the Anganwadi centre and provide some social security number. The government of Odisha recently

registered migrant workers at the panchayat level to manage the exodus of return workers during the lockdown. This registration at the local level is a positive step towards the management of migrant labourers. Government should extend this registration process at the place of origin. This registration process will also benefit the government in implementing “one card, one ration” programme, which is planning to be implemented.

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