

## **11. The Significance of Restorative Approach in Juvenile Justice (Care and Protection) Act, 2015 in the Rehabilitation of JUVINILES from Drug Addiction in Delhi**

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**Abstract:**

*This paper discusses the role of the restorative approach in Juvenile Justice (Care and Protection) Act, 2015 in the rehabilitation of Juveniles from drug addiction particularly in territorial jurisdiction of Delhi.*

*India as a country witness as the home of many diversities in culture, languages, music, dance, life style. Despite these diversifications, people live with mutual understanding and cooperation.*

*It has always been said that the future of any country depends on the present day of its youth. As it has rightly been stated by Bharat Ratan Dr. APJ Kalam that “Children are future bone to the country”, the whole structure of the society in future totally depends on what exactly its youth is indulge today.*

*According to a survey conducted by Ministry of Social Justice and Empowerment, Government of India along with the Government of NCT Delhi, 22.1 % of all street children of NCT of Delhi have used some substance excluding tobacco in the last one year. Tobacco, alcohol, cannabis and inhalants were some of the most commonly used Psychotropic substances.*

*That was the time when the Juvenile Justice (Care and Protection) Act, 2015 took over the previous act and a new restorative and rehabilitative approach was said to be adopted for the Child in conflict with law and Child in need of care and protection.*

*This paper aims to discuss the significance of the amendment made in Juvenile Justice (care and Protection) Act, 2015 to ensure in the rehabilitation of Child in need of care and protection and Child in conflict of law till now from drug addiction particularly in territorial jurisdiction of Delhi*

**Keywords:**

*Juvenile Justice (Care and Protection) Act, 2015, Child in conflict with law, Child in need of care and protection, Psychotropic Substances.*

## 11.1 Introduction:

*“Migration is an expression of the human aspiration for dignity, safety and a better future. It is part of the social fabric, part of our very make-up as a human family.”*

*...Ban Ki- Moon<sup>1</sup>*

During the COVID-19 pandemic, the imposition of different lockdowns in multiple phases generated widespread panic among migrants’ laborers across India’s major cities and states of employments, which had compelled the laborers to return to their native rural hometowns in search of food, shelter and other basic requirements of themselves and their family members.

The shutdown of various industrial and commercial activities during COVID-19 pandemic had cut off the income source of the labor migrants and left them to face the virus and the scarcity of employment and basic requirements to survive during the Lock downs.

### **Migration in India can be classified in into two types:**

1. **Long-term migration:** which attributes to the resettlement of an individual or his/her family. In this particular form of migration, the migrants have to travel some other place then their previous place of inhabitation for the sake of their survival. This form of migration is being evidenced mostly from small villages or towns to cities and other developed towns,
2. **Short-term or Seasonal/Circular Migration:** This form of migration attributes the to and for movement between the place of employment and another place. Seasonal migration is mostly used by the migrants form the purpose of developing and doing business qua their goods or items manufactured at their native places and selling them in those places where the goods are being in demand of the native of that place.

There is the presence of almost **93% workers** in the economic set up in country. Approximately, **175 million** migrants in India are those who have to travel for work from one place to another.<sup>2</sup>

### **11.2 Sufferings Faced by Reverse Migrants:**

*“In short, in a twisted reverse Arthur Lewis strategy, the lockdown traps labour within urban enclaves in the western region, preventing them from going back to their villages in the east.”*

*-Sai Balakrishnan<sup>3</sup>*

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<sup>1</sup> Available at <https://www.azquotes.com/quote/874403?ref=migration> (last visited on 15 May 2022)

<sup>2</sup> Available at <https://link.springer.com/article/10.1007/s41027-021-00324-y> (last visited on 15 May 2022)

<sup>3</sup> Available at <https://epicenter.wcfia.harvard.edu/blog/indias-migrant-crisis-trapped-covid-spatial-rift> (last visited on 15 May 2022).

The labor migrants who had to travel back in need of the food or better survival facilities, were not able to manage even their basic necessities. We all had witnessed that they had to travel hundreds of Kilometers along with their families which include infants. There was the absence of facilities on the route and if it was there, that was totally ill managed. They had to face the lots of issues be it in context of food or water or even shelter which can be classified as follows:

### ***Sociological Issues:***

There were almost **Six Hundred million** internal migrants' laborers who shifted during COVID-19 pandemic. Among this data, one-third were those who were interstate migrants which accounts to about **Two hundred million in number**.<sup>4</sup> Internal migrants' laborers had faced different sociological difficulties as under:

- (a) Absence of Social identification and economical independency of the migrant laborers in the area where they settle after COVID 19 lockdowns.
- (b) Have to face much less favorable conditions than non-migrants' laborers.
- (c) Non-communication about the different schemes declared on behalf of the Government.

### ***Economic Issues:***

In the initial phase of the First lockdown, **4 out of every 10 women laborers lost their jobs**.<sup>5</sup> Also, the laborers had to face extreme difficulties in accessing to the different benefits and reliefs provided by the Central and state governments. The situation was that intense as Government of India had to increase the budget for Mahatma Gandhi National Rural Employee Guarantee (MGNREGA) of \$ 5714 million and about 2020–21 budget allocation of \$ 8785 million.

## **11.3 Mental Health Crisis Faced by Inter State Labor Migrants:**

After the first lockdown, there were the rapid increase in the cases depression, anxiety and attempt to suicide. The Bihar State Health Society initiated a project named "**Ummeed**", a mental health programme intending to provide in health quarantine and isolation centers for migrant laborers. Today, about 21 states currently operate **mental health counselling** helplines and fifteen thousand migrant laborers were given counselling in Delhi alone<sup>6</sup>.

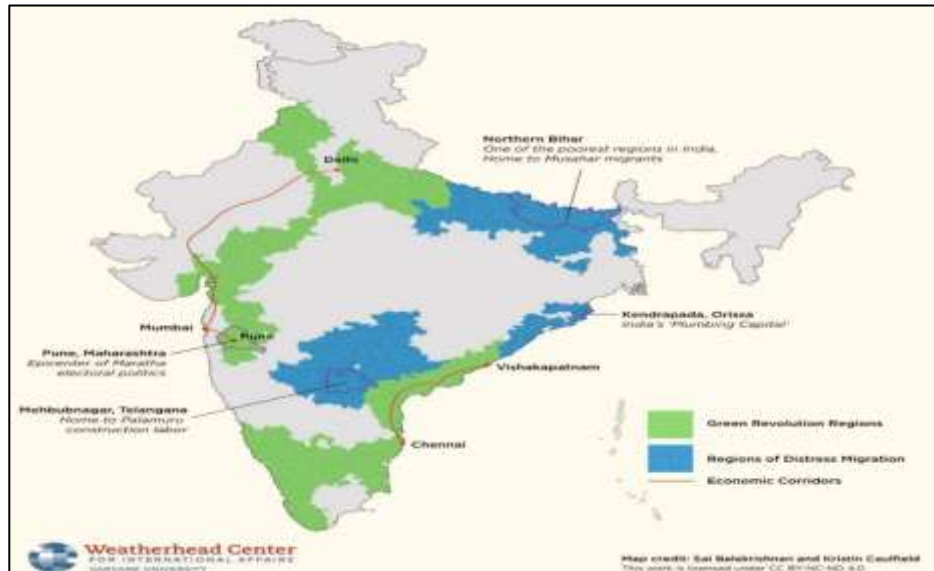
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<sup>4</sup> Available at <https://prsindia.org/theprsblog/migration-in-india-and-the-impact-of-the-lockdown-on-migrants> (last visited on 15 May 2022)

<sup>5</sup> Available at <https://www.livemint.com/news/india/how-covid-19-locked-out-women-from-jobs-11591772350206.html> (last visited on 15 May 2022)

<sup>6</sup> Available at <https://www.mohfw.gov.in/pdf/COVID19Final2020ForOnline9July2020.pdf> (last visited on 15 May 2022).

### 11.3.1 Indian Labour Migrant Crisis, 2020<sup>7</sup>:



**Figure 11.1: Indian Labor Migrant Crisis, 2020**

Since last two years of lockdown, India is witnessing reverse labor migration to the parent states. The migration routes adopted by the migrants is normally from big cities to small parent cities or towns or villages in eastern states, basically in the quest of better livelihood.

If we try to analyse the shifting of long-distance migration in India, the major chunk of internal migrants is from the under developed districts of eastern Uttar Pradesh and Bihar. Indeed, it is the lack of opportunities which forced the laborers to migrate from their hometown to cities. But now for last two years, this process of migration is being reversed and the laborers are being returning back to their parent states. Now, what is the need of the hour is that the respective state governments should use the *developed work force* to promote the small-scale industries in the respective state, especially in the field of *Geographical Indications*.

### 11.4 Geographical Indications: A Ray of Hope:

Every society always tends to nourish a certain knowledge issued over a long period of time. Ensuring such knowledge/ information owes its origin to the geographical prospective and human involvements and proved a boon for the development of their economy and tradition. In this era of globalization, the geographical indications are vulnerable to misused by the concerned, hence the procedure of preserving the knowledge and traditions are important. The process of manufacturing or only traditional knowledge

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<sup>7</sup> Available at <https://epicenter.wcfia.harvard.edu/blog/indias-migrant-crisis-trapped-covid-spatial-rift> (last visited on 15 May 2022).

which has developed over a period of time, throughout which the locals have put their effort, must be rewarded in the context of contemporary market economy. Article 37 provided in international conference on Intellectual property<sup>8</sup> has provided that

*“The skill and heritage of any local community must be protected from unfair competition and should be adequately paid. GIs are quite suitable for the protection of traditional knowledge since they are based upon collective traditions and collective decision-making process.”*

GIs protect and reward traditional knowledge besides promoting their evolution. GIs emphasizes for a belonged relationship among human culture, economy and traditional knowledge.

TRIPS defines Geographical Indication<sup>9</sup> as:

*“A sign that identifies a territory of a member country, or a region or area within the territory as the origin of the goods, in which the reputation, quality, and characteristics of the goods concerned are determined by geographical factors.”*

Thus, the origin of a product or goods which is attached to the *reputation, characteristics and quality* of the product associated with a particular area should be protected by a legal framework.

The Lisbon Agreement<sup>10</sup> which provides for the concept of *appellation of origin* which discusses that there must be a qualitative link between the produced and the geographical area.

According to the Paris convention<sup>11</sup>, according to its article 10, member countries are under obligation to assure “*effective protection*” against unfair competition. Geographical Indications are protected under both national and international legal frameworks.

According to The Geographical Indications of Goods (Registration and Protection) Act, 1999 Act NO. 48 OF 1999, Section 2 (1) (e)<sup>12</sup> provides for ***geographical indication*** as:

*“in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its*

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<sup>8</sup> Available at <https://www.wipo.int/pct/en/texts/articles/a37.html> (last visited on 15 May 2022).

<sup>9</sup> Available at [https://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/modules4\\_e.pdf](https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/modules4_e.pdf) (last visited on 15 May 2022).

<sup>10</sup> Available <https://www.wipo.int/lisbon/en/> (last visited on 15 May 2022)

<sup>11</sup> Available [https://www.wipo.int/treaties/en/ip/paris/summary\\_paris.html](https://www.wipo.int/treaties/en/ip/paris/summary_paris.html) (last visited on 15 May 2022).

<sup>12</sup> Available at <https://legislative.gov.in/sites/default/files/A1999-48.pdf> (last visited on 15 May 2022).

*geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.”*

Also, under Section 2 (1) (k)<sup>13</sup>, definition for “*producer*” has been provided as under,

*“In relation to goods, means any person who-*

- (i) if such goods are agricultural goods, produces the goods and includes the person who processes or packages such goods;*
- (ii) if such goods are natural goods, exploits the goods;*
- (iii) if such goods are handicraft or industrial goods, makes or manufactures the goods, and includes any person who trades or deals in such production, exploitation, making or manufacturing, as the case may be, of the goods.”*

Today, the situation is that around 417 goods across the country, have been provided the protection under Geographical Indications Act. But these geographical indications need a proper strategy for developing and restoring their growth in the country. The reverse migrant laborers can play a pivotal role in ascertaining the growth of Geographical Indications across the country.

## **11.5 Conclusion: The Journey Ahead**

*Namak aur Roti Kha lenge, par waapas shehar nahi jayenge.”<sup>14</sup>*

The labourer migrants have faced a lot of struggles and had to suffer huge loss of financial, physical or economic in nature. But now most of them are not willing to go back the cities, as they feel that the nightmare which they had faced in last two years, had given unforgettable scars for their life time. Their workforce can be utilized by the legislature in the production and manufacturing of the different Geographical Indications goods. The reverse migrant laborers who are the product of that soil only, they have those skills pertinent for the Geographical Indications goods, inherent in themselves.

Although according to the definition of “*producer*” under Sec. 2 (1) (k) of Geographical Indications Act, it can be any one who “*produces, exploits or deals in the manufacturing of the goods*”, so any reverse migrant labourer can act as the work force and help in developing and manufacturing of the goods of Geographical Indications in nature. But they cannot be considered to include as “*producer*” of any Geographical Indications.

Undoubtedly, The Geographical Indications are considered to be one of the oldest forms of Intellectual Property Rights, but the ambit of protection under Geographical Indications have only recently got the spot light for the securing of Intellectual Property Rights. In

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<sup>13</sup> *Ibid.*

<sup>14</sup> Available at <https://theprint.in/india/will-live-on-salt-up-bihar-migrants-refuse-to-return-to-cities-say-were-disowned-by-them/415516/> (last visited on 15 May 2022).

majority of the countries, the need to comply with obligations under the TRIPS Agreement essentialises the focus on Geographical indications only. The signatory countries of TRIPS Agreement have now realized that the significant role which Geographical Indications can play. The Geographical Indications are embedded in a territory means they have the potential in being proving as an effective tool for promoting and securing the rights of a migrant labourer.

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