

Interstate Migrant Workers in India–Vulnerability in respect of Social Security and Health Rights

Asst.Prof. Vidhya Shetty

TMV's Lokmanya Tilak Law College,Pune-37

Email: vidhya.shettymlc@gmail.com

Abstract

Migrant workers in India are the most poor and vulnerable sector of the work force in the country as they are not only deprived of various social security measures but are also susceptible to various health issues. There are various barriers for interstate migrant workers in getting access to Government health services. These barriers are lack of confidence for accessing the health services or fear of the system, local language problem, cultural bias, distance from hospitals, lack of awareness about provision of health facilities and patriarchy prominence. Migrant workers are often considered as non-citizens and their human rights are neglected in host States. Regardless of their status, interstate migrant workers should, by virtue of their essential humanity, enjoy all human rights. By and large, these interstate migrant workers are employed in informal sector where the social protection is totally missing who need support through various social assistance programmes. In most cases, migrant workers are excluded from benefits paid wholly or partly out of public funds, with those in an irregular situation bearing the brunt of policy decision. Migrant workers are predominant features of the contemporary age of globalisation. Migration worldwide has shown a constant upward trajectory, with one in every 50 human beings worldwide living outside their country of origin. Both private sector and various government departments need to play an important role in providing social security to interstate migrant workers. The author in this article would like to examine various kinds of discrimination, human rights violations faced by interstate migrant workers concerning social security and health rights in India and suggest measures for their betterment in the society which will help us to achieve one of the Sustainable Development Goals, 2030 of United Nations Development Programme.

Keywords: Migrant worker, Migration, Sustainable Development, Employment, Mobility.

Introduction

The word Migration in the general sense means movement from one part to another. The word migrant is derived from the word Migration and hence a migrant worker is a person who moves from one place to another for the purpose of employment. In the world economy, a new class of factory workers emerged with the introduction of the Industrial Revolution in Europe. In the post industrial revolution period capital and labour thus emerged as very important factors in the production processes. The latest official data on the number of migrant workers in India could be derived from the 2011 Census. As per this data India had 45.6 crores migrants in the year 2011 which amounted to 38% of the population. As per the World Economic Forum¹ there are around 139 million migrant workers in India.² The percentage rise of migrant worker in comparison to increase in population has been manifold. Agriculture is the main source of income for majority of people in India which is seasonal. The seasonal variations, natural disasters and their resultant failure in agriculture are some of the reasons for migration of such workers, as they are unemployed during these times. These migrant workers have to face a lot of hardships on account of them being migrant. Such workers are also sometimes termed as Blue Collar workers and they travel to major cities like Delhi, Bangalore, Mumbai, Ahmedabad, and Chennai, among others, in quest of more lucrative employment opportunities. In metropolitan areas, in important industries such as construction, hospitality, textile

² Available at <https://www.weforum.org/agenda/2017/10/india-has-139-million-internal-migrants-we-must-not-forget-them/> last seen on 9/9/2022.

manufacture, transportation, services, domestic work, etc., seasonal migrants predominate in low-paying, dangerous, and informal market occupations. Since they enter the workforce at a young age, many migrants find employment as unskilled labourers, never experience upward mobility, and spend the entirety of their working lives in the least skilled, lowest-paying, and riskiest positions.

Life of Inter State Migrant Workers In India

In India Migrant workers frequently experience conflicts and disagreements at their workplaces due to a disorganised and chaotic labour market. They frequently deal with unpaid salaries, physical abuse, accidents, and even death. The current legal system fails to take into account the peculiarities of legal conflicts in the unorganised sector. Numerous issues involving the informal sector either never reach labour courts or remain pending because of a lack of evidence. These Migrant workers in India face a number of issues relating to Migration which are listed below

Migration Related Vulnerabilities

In India the migrant workers are vulnerable on account of the following grounds

i) Difficult Living Conditions

The migrants have to make arrangements for a place to live for themselves and their family (if family is accompanying them) close to their place of employment as they travel from their distant native villages and homes, frequently from other states, in order to save money on daily transportation costs to get to work. It has been observed that employees at restaurants, hotels, and construction sites bargain with their employers to remain on the job site itself, frequently in exchange for wage reductions. Others search for reasonably priced rental homes in slums, mess houses, or worker colonies that are frequently found close to major workplaces. Due to the great demand for this accommodation, the migrants are forced to pay higher rent while living in congested, filthy conditions without essential water and sanitation amenities. People without housing options sleep on city sidewalks, train platforms, and bus stops. A research conducted by Stranded Workers Action Committee (SWAN)'s during the COVID-19 shutdown indicated that the migrant workers found it impossible to pay their rent in the city after losing their jobs and risked eviction, forcing them to use their meagre resources to return home.

ii) Problems relating to Food

They experience both food insecurity and financial distress. Because they are regarded as "outsiders" who are unable to use the ration cards registered elsewhere, migrant workers are not eligible for subsidised food in their work cities because their ration cards remain with their family in their native towns. Therefore, in contrast to the local poor, migrants have to devote a considerable percentage of their money in purchasing food. They are also denied access to legitimate gas connections due to a lack of official local residential documents, which forces them to utilise wood as fuel for cooking or buy gas cylinders at substantially higher prices. These financial requirements lock the migrants in a cycle of debt since they must send money home to family who rely on their income. A research conducted by Stranded Workers Action Committee (SWAN)'s³ during the COVID-19, 76 % of the employees they spoke to during the pandemic had only INR 200 or even less for food. Poor migrants in the cities faced never-before-seen difficulties due to job losses, small savings, and a lack of identification for getting free meals.

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iii) Financial Problems leading to Economic Hardships

Migrant workers are forced by the informal nature of their employment to perform lengthy hours of labour for extremely meagre pay. They lack employment-related security due to the informal nature of their employment conditions, and their irregular wages leave them at the mercy of their employers. According to a CMIE (Centre

³ Available at <https://www.orfonline.org/expert-speak/need-for-a-holistic-perspective-towards-indias-migrant-workers/> last seen on 25th May, 2022.

for Monitoring Indian Economy) report⁴ published as the second wave raged, 1.72 crore of the 2.25 crore jobs lost between April and May 2021 were held by people on a daily salary. Without substantial monetary transfers from the state in such a situation, their economic status swiftly deteriorated.

iv) Lack of Healthcare Facilities to the Migrant Workers

Due to their state of origin, migrants frequently are not qualified for the state government's subsidised healthcare facilities in the public hospitals in the cities. Additionally, because they are primarily daily wage workers, they lose valuable work time in government hospitals due to the lengthy lines, onerous processes, accessibility issues, and "hostile environment." As a result, they are compelled to seek treatment at private hospitals at exorbitant costs that they cannot pay, placing them in severe debt. Low living and sanitation conditions, inadequate nutrition, and poverty make migrants' women more susceptible to disease, especially pregnant and nursing mothers and young children. During lockdown, domestic violence against women increased, which made things worse for them.

v) Harsh Treatment by State Administrative Authorities

Due to their lack of documentation, they are treated harshly by the police and city authorities. The political establishment in the city appears unconcerned with the plight of the workers because they are not registered to vote there.

vi) Absence of Social Security Benefits

Problems arise for migrant employees because they receive less social security. Because there is no recourse for the employee, provisions like breaks, overtime, sick pay, and minimum wage rules are not enforced.

vii) Use of Force or coercion at Workplace

Due to lax employment regulations, incidences of sexual or physical abuse frequently go unreported. The migrant worker is also compelled to stay silent out of fear of the consequences.

viii) Challenges due to cultural differences and discrimination

Since migrant workers come from a different place than where they are employed, they face challenges due to cultural differences even when they are not on the job. The notion that locals are "sons of the land" is fuelled by prejudice towards or resentment of migrant workers who take the jobs that are available.

Measures adopted by the Government to reduce the hardships of the Migrant Workers in India

In the current era, worker migration has evolved into a social, economic, and global phenomenon. The Indian government has passed a number of labour legislation since gaining its independence.

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

{ISMW Act}: In 1979, the Government of India had enacted Interstate Migrant Workmen Act of 1979. This particular law offers numerous aid programmes for interstate migrant workers, but its administration lacks oversight and transparency.

The Building and Other Construction Workers (Regulation Employment and Conditions of Service) Act (BOCW (RECS) Act) and the 1996 Building and Other Construction Workers Welfare Cess Act (BOCW Welfare Cess Act), 1996 were passed with the intention of standardising pay, working conditions, safety for their health, welfare measures, etc. Every establishment with 10 or more employees is subject to the Acts. The Building and Other Construction Workers Welfare Cess Act of 1996's collection of cess at the rate of one percent of the construction costs borne by the employer is the main source of funding for the Building and Other Construction Workers Welfare Board. For the purpose of enforcing various Act provisions, the Central Government serves as the implementing agency in the central sphere. States serve as the implementing authorities under state jurisdiction. The State Governments are required to establish regulations, publish them, form advisory

⁴ Available at <https://www.cmie.com/kommon/bin/sr.php?kall=warticle&dt=20210712171532&msec=220> last seen on 25th May, 2022.

committees or expert committees, and name various bodies for worker registration, cess collection, inspection, and appellate authority. State Welfare Boards must also be created by them.

On 29th December, 2017 the said BOCW Act was amended to simplify the registration process for construction workers. The State Welfare Boards will be able to streamline their financial operations and spend money on administrative and other purposes to keep the Board operating efficiently.

Unorganized Workers' Social Security Act, 2008.: The act calls for the establishment of a National Social Security Board at the federal level, which will recommend the creation of social security programmes for unorganised workers, including life and disability insurance, health and maternity benefits, old age protection, and any other benefits the government may deem appropriate. On August 18, 2009, the National Social Security Board was established as a follow-up to the Act's implementation.

To ensure that scheme benefits may reach the workers, the aforementioned laws mandate the registration of businesses and employees. In practise, registration becomes the only way to obtain social security, and it is the State's duty to set up a quick, efficient, and worker-friendly infrastructure for beneficiary registration.

Additionally, the government implemented a number of labour measures to enhance the pay and working conditions for employees in both the organised and unorganised sectors..In 2006, the government of India (GOI) introduced a new programme called the Mahatma Gandhi National Employment Guarantee Act (MGNEGA) with the dual goals of giving rural residents the opportunity to work for a minimum number of days each year as a matter of right and utilising the vast pool of underemployed and unemployed labourers in rural India, especially women during times of agricultural crisis in particular and non-agricultural seasons in general. . It was anticipated that the programme would particularly help the rural population during hard times and reduce distressed migration from rural to urban areas. It was also predicted to increase purchasing power generally and produce the physical assets rural areas need using previously untapped labour resources. The Indian government's approach would unquestionably lower the number of poor people in rural areas and guarantee a stable source of income to them.

Covid 19 and its impact on Migrant Workers

The COVID-19 pandemic has caused migrant workers, many of whom are engaged in India's informal sectors, unthinkable hardships. These migrant workers were stranded without any socioeconomic and health security in the cities where they worked when a sudden nationwide lockdown was proclaimed to stop the spread of COVID-19, making it impossible for them to travel back to their home countries. Images of desperate economic migrants trying to make their way home on foot in the face of obstacles such a lack of transportation, the possibility of malnutrition and despair, dread of the COVID-19, societal discrimination, and administrative hostility brought their vulnerability to light.

Like no other disaster in recent memory, the Covid-19 pandemic has put our society to the test and wounded it. We have vivid memories of migrant workers walking hundreds of kilometres in the summer heat; too many people have died. In order to avoid making the same mistakes again, we must draw lessons from the past experience. But avoiding making the same mistakes again is insufficient. The fact that the most vulnerable people always end up paying the highest price for everything is the worst type of structural and moral failure which needs to be changed fundamentally. The impoverished migrants' access to Covid 19 vaccines was delayed due to administrative hurdles, a lack of communication, and a lack of proper information regarding vaccination centres. They also lacked access to online registration for slot booking without smartphones. During COVID-19, immigrants were frequently viewed as "dirty," "job usurpers," "criminals," and "anti-socials." They encountered similar hostility when they returned to their home villages because they were perceived as "carriers" of the sickness who should not be allowed in the city.

Also in the post pandemic period various schemes have been launched by the Government to safeguard the Migrant workers in India.

After the lockdown, **the PradhanMantri GaribKalyanYojana** was introduced with a cash package of Rs. 1.7 lakh crore to aid the nation's impoverished, destitute, and unorganised sector workers.

The PM SVANidhi Scheme was established to assist around 50 lakh street vendors in resuming their enterprises by providing collateral-free working capital loans up to Rs. 10,000 with a one-year term.

PradhanMantri GaribKalyanRojgarAbhiyan: Launched in 116 districts in the country, this initiative aims to make it easier for migrant workers who have returned to their home state to find job.

State migrant cell: A database of migrant workers in states with mapping is being prepared by the migrant workers' Cell.

eShramPortal: It is a nationwide database set up to catalogue all of the nation's unorganised workers, including migrant labour.

National migrant workers policy: NITI Aayog has been tasked with developing a draft national migrant workers policy in order to rethink labor-capital interactions and integrate migrant workers into the formal workforce.

The plight of the Migrant workers came to the notice of the common man mainly after the pandemic of Covid 19. In spite of various legislations and welfare schemes safeguarding the migrant workers, these workers have been suffering since ages and continue to be victimised till date. There are no significant migrant worker unions in the unorganised sector. Thus, the negotiating capacity of these migrant workers' is lower than that of employees in the organised sector.

Supreme Court's Intervention to improve the conditions of Migrant Workers post Covid 19.

The Supreme Court suo motu heard a writ petition in *Bandhua Mukti Morcha vs. Union of India* to take cognizance of the problems and miseries of the migrant workers. In this case the Supreme Court Bench of Justices Ashok Bhushan and M.R. Shah passed the judgement on June 29, 2021 instructing the Central and the State Government to ensure that no migrant worker goes hungry. The Supreme Court in this judgement specifically stated that "A government cannot "abdicate" its responsibilities to feed migrant workers just because they lacked ration cards, particularly during a pandemic"⁵. According to the Hon'ble Court, the right to have access to food, one of the "basic essentials of existence," is inextricably linked to the Right to live in dignity. The Court ordered that by July 31, 2021 all States were to have fully implemented the One Nation One Ration Card (ONORC) programme enabling the migrant workers to be protected by the National Food Security Act (NFSA) to use their ration cards to purchase food at any fair price shop located anywhere in the nation. The Labour Ministry was criticised by the court for its "unpardonable apathy" in failing to complete the task of updating "The National Database for Unorganized Workers (NDUW)". The portal's mission is to register and identify migrant workers and unorganised labourers in order to ensure their rights, welfare, and food security of such workers. The Centre was told by the court to get its act together and finish building the portal by July 31, 2021. Within a month, the Labour Secretary must submit a report. By December 31 of this year, all of the Central Government's "benefit schemes" must be registered, failing which they would all be viewed as "tall claims on paper."

Prior to this landmark judgement on March 19, 2018, the Supreme Court in a strikingly similar ruling in *National Campaign Committee for Central Legislation on Construction Labour* as well instructed the State Governments to implement the BOCW Act in good faith.

⁵ Available at https://main.sci.gov.in/supremecourt/2020/11706/11706_2020_36_1501_28166_Judgement_29-Jun-2021.pdf last seen on 23rd Sept, 2022.

Conclusion

It is crucial that migrant workers are represented by powerful trade unions in order to improve their living conditions. Public Distribution System (PDS) Cards must be made available to all interstate workers so they can avoid paying more for kerosene and food staples. The contractors must deposit the compensation for interstate workers' bank accounts rather than paying them in cash. The state authorities must be given rapid access to all the information regarding the interstate workers' deployment outside of the state. When it comes to the deployment of interstate employees, the state government authorities are required to conduct an annual audit of all employers and contractors in the state. They should then present an annual compliance status or implementation report to the State Assembly for review.

The Supreme Court's Judgement of June 29, 2021 is evidential of the fact that, where our country has almost turned 75 years of age and more than 20 years after the passage of significant welfare legislations for migrant workers, the Indian State still requires a reminder of its responsibility toward its most vulnerable citizens. Structure-related changes, such as interstate and centre-state coordination on data relating to migrant workers, policy interventions with hassle-free documentation of migrants for easily accessing government social-welfare measures, and reforms in city governance structures to treat the migrants humanely, can be a much-needed starting point for the improvement of their condition.

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