

HUMAN RIGHTS OF MIGRANT WORKERS IN THE ERA OF GLOBALIZATION – THE SOCIAL AND LEGAL ISSUES

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Abstract: Historically, and particularly since the dawn of industrialization, the grim reality in the world is that, the individuals have left their comfort zones of their home and society and they have started to cross the borders not only of territory, currency or law but also of language, culture and perceptions in pursuit of a life to be made and money to be sent home. Today, globalization is not only characterised by liberalisation of trade, services, investment and capital, but also by national and international movements of people in search of better lives and employment opportunities. Developed countries are increasingly employing the migrant workers in the field of agriculture, food processing, construction, manufacturing and low wage services like domestic work at home, health care and the sex sector and they are often subjected to poor pay, dangerous conditions and the existence of alternative welfare provisions. Despite their huge number, these labourers remained unorganised and are forced to work and dwell under extremely adverse working conditions.

The main standard which protect the migrant workers are being formulated by the International Labour Organisation and the United Nations Agency are devoted to labour issue. Despite its comprehensive nature, these instruments provide inadequate protection as the concept keeps on changing on a day to day basis. The Rights of the Migrant Workers in India are protected under various labour laws, especially in Interstate Migrant Workers Act, 1979. These workers still face many problems especially relating to life, dignity etc. They are being subjected to abuses, illegal trafficking and other malpractices at the hand of employers, government officials and the general public. This is a grave situation that demands the urgent attention of society and policymakers since an approach to migrant labour based on the values of inclusiveness and respect for human dignity can benefit all stakeholders. Our Indian Judiciary has extended its able hands and has interpreted the migrant workers rights through various cases in different aspects.

Introduction: Man is constantly on the Move. Movement of living beings in search of better environments is a natural phenomenon and man is no exception to the same. Migration from one area to another in search of improved livelihood is a key feature of human history. Migration is as old as human history. It is not a new phenomenon and is a subject with historical roots and wider implications. In this present world, it is the changing context of a globalised world and the extent and scale of migration is that which makes it a key feature of the present times. Migration movements are and have been an integral part of human history, including labour migration. People moved across length and breadth of a country, at times across borders for social economic and political reasons. However, labour migration in noticeable proportions goes back to the beginning of the industrial age, when wave upon wave of the rural population migrated to urban areas to find work in the burgeoning industries, leaving behind their traditional rural occupations. Due to uneven development, the workers are forced to move to the developed areas in search of better opportunities. Migration in India is mostly influenced by social structures and patterns of development. The development policies by all the governments since Independence have accelerated the process of migration.

The concept of migration has become a social, economic and universal phenomenon in modern times. With the expansion of transportation and communication, there has been a wide scope for urbanization and industrialization. Industrialization widens the gap between rural and urban areas and helps in shifting the work force towards the industrializing areas. The collapse of rural livelihood in many parts of India has in a large scale forced the workers to migrate from their native place in search of employment. The mingling of different cultures has had positive consequences as well as placing strain on the culture and life of the upcoming society affected in either way by migration. Migrant workers contribute positively to the development of the local economy both at their places of destination through their involvement in various economic activities, and at the places of their origin through remittances. The rising contributions of cities to India's GDP would not be possible without migration and migrant workers. The employers get cheap labour from the migrant community and it is possible for the employers to increase their profits at the cost of the

worker's rights. Some of the important sectors in which migrant workers include are that of construction, brick kiln, salt pans, carpet and embroidery, commercial and plantation agriculture and variety of jobs in urban informal sectors such as vendors, hawkers, rickshaw pullers, daily wage workers and domestic work. They are being exploited as a class due to their poverty, landlessness and lack of assets. They come from poorest of poor family who are illiterate and ignorant of their rights, which is being exploited. The human rights are said to be inalienable. The human rights are available to all by virtue of their existence and it is not necessary to specifically refer to migrants. They are universal and inalienable. The rights are relative and are considered to be of prime importance in developed countries, which may not be so in underdeveloped and developing countries. The abuse of basic rights and human dignity suffered by migrants has become a global issue. Retd. Justice K. Chandru of the Madras High Court, an expert in Labour Law has said that "whenever a Crime is committed, in which a migrant worker is suspected, it is the attitude of the people against the migrant workers that matters. People have a tendency to take the law into their hands and brutally attack the migrant worker. Even the State / Police are condoned"

The Rights of the working class and those of the entrepreneurs are in conflict. The State finds it difficult to balance the conflicting interests. They are entitled all rights recognised under Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights 1966, International Covenant on Economic, Social and Cultural Rights 1966, Convention on Elimination of Discrimination against Women 1979, UN Convention on the Protection of the Rights of Migrant Workers and Members of their families 1990 and so on. The rights of the working population are protected when the state succeeds in its duty to balance the conflicting interests. The resident workers in comparison with the migrant workers face harassment and exploitation in a lesser degree

The Inter State migrant Workmen Act is a piece of social welfare legislation intended to effectuate the Directive Principles of State Policy. They are to be ensured decent living and working conditions for the workmen when they come from other states. At arrival, they are in a totally strange environment whereby reason of their poverty, ignorance, illiteracy they would be totally unorganised and helpless and are subjected to easy exploitation in other states. Section 17 and 18 of the Inter – State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 also makes the principal employer liable to make payment of wages to the migrant workmen employed by the contractor and also to pay the allowances provided under Section 14 and 15 and to provide the facilities specified in Section 16 of such migrant workmen. The Article 21 of the Indian Constitution has been used by the courts in interpreting the concept of 'life and personal liberty' to mean a number of things. The courts have ruled that working conditions that violate human dignity are impermissible, thus making bonded labour illegal. Workplace exposure to contamination from hazardous materials, access to roads and transportation in hilly areas which if denied would gravely endanger livelihood. The duty of every contractor employing an Inter State Migrant Workmen in connection with the work of an establishment to provide various facilities like medical facilities, protective clothing, drinking water, latrines, crèche, residential accommodation etc. are found in Rule 36 to 45 of the Inter State Migrant Workmen Rules. The Supreme Court of India has made an inroad for the poor and weaker segment of the society through Public Interest Litigation. The labour class contributes to the economic growth of the society in no way less than other classes. The labour class is bestowed with a number of rights, claims and entitlements.

The condition of the women migrants and their dependants are really pathetic. They are in a large scale facing physical as well as sexual harassment from the employers. Marriage is one of the reasons for women migration. They are mainly engaged in informal sector. Poverty, Unemployment and Survival as also starvation situation are the factors that push women to migration. The migrant children who are accompanying their parents are being forced to work in areas where which are not suitable for their age and health and are dangerous to their health. Thus, the children are exposed to health problems and occupational hazards similar to the adults. It hampers the overall growth and development of the child. They are deprived of free and subsidised educational facilities offered by the State resulting in Child Labour. There is no provision for maternity leave for the women workers and are mostly forced to return back to work immediately after child birth. They faced several gender based problems like discrimination at workplace and violence. Most of them are engaged in domestic works are paid very less compared to their local counter parts. They are mainly living in the crowded rooms without basic necessities and are victims of health hazards due to poor nutrition, poor hygiene, lack of fresh water and lack of toilet facilities This kind of attitude in the women has a huge impact on the physical and mental status of these women. Another vulnerable category is the aged old population. They are working commonly at the construction sites and are suffering from injuries caused by machine, amputation, falls etc.

Various health care family care programmes are not accessible for them. They also suffer from social and political exclusion from local peoples.

The social and legal issues that are being faced by migrants can be addressed only through a right based approach towards migration. It cannot be abolished or prohibited as every human being has an urge to achieve better standards of life. Constitution provides and protects the right of freedom of movement and profession. The legal and social issues faced by the migrant workers are increasing the era of globalization. The interstate as well as international migrant workers are vulnerable to all types of harassment. The women migrant workers and child migrant workers are the victims of sexual harassment and human trafficking. The female migrant domestic workers should be encouraged to form their own union, so that their interests and rights can be protected. The international movements to protect the labour rights are praiseworthy. There is a committee established under UN Convention 1990 to investigate into complaints on violation of treaty provisions. The UN special Report on Human Rights of Migrant Workers as well as ILO is closely monitoring the international labour standards. The international labour standards are available to interstate migrant workers in states across the country. They are entitled to protection of constitutional and statutory provisions. Lack of required political will, lack of support from society, non-awareness of rights, improper implementation of labour laws and poor economic development are the major reasons for the pathetic life of migrant workers in the globalised society. The challenges faced by the migrant workers are complex and an analysis of the migrating pattern can make it clear that though the migrant labourers contribute to India's Economy, they are not in a protective and prosperous zone. The Central Government and the State Governments have to provide adequate measures to safeguard the interest of the migrant labourers and to protect their welfare. A concerted national policy to facilitate and promote the well being and a system that ensures access to entitlements and basic work conditions is the need of the time.

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