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THE DAUNTING LIFE OF A MIGRANT WORKER

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Abstract:

*'Foreign workers and in particular migrant workers are often isolated in countries with whose laws and customs they are not familiar, they are more likely to be exploited and are often unable to defend their interests effectively.'*¹ Migration, although perceived as a phenomenon on the outset, is a practice that has been followed for generations together. It has benefitted the migrant classes and aided them towards better opportunities. Although migration is both internal and external, there are a few problems that are common to both. The "*right to life*", is a fundamental right that is guaranteed by international treaties as well as domestic laws. But, the matter of looming concern, that this article seeks to highlight is the importance of the *quality of life* of these downtrodden migrant worker class. The grim reality of important aspects of life, such as health, sanitation, security, and equal opportunities are impediments or even aspirations for most of these migrant workers. This article seeks to throw light on the importance of ensuring '*awareness*' at the grass-root level and breaking away from the obstacles of illiteracy and misinformation. Enabling and safeguarding the interests of this disadvantaged class proactively, by participation from all classes of society as well as the support by the government in making labour-friendly laws is the way forward.

Keywords:

Development, Fundamental Rights, Human Rights, Labour, Life, Migrant Workers, Migration, Quality of life, Rural, Urban

Introduction:

¹BettenLammy, International Labour Law, Kluwer Law and Taxation Publishers, Deventer The Netherland, 1993, 363.

Migration has been a crucial and fundamental part of human history. It has been an instrumental force to shape, re-shape, and building societies as well as economies. As a matter of fact, it has been a game player in defining the role of powerful developed nations in comparison to the under-developed and developing nations. Although migration is an age-old tradition, there have been some common problems that have persisted over the decades. The problem that migrant workers face requires strenuous efforts in the form of labour friendly legislation by the government, so as to overcome the obstacles that this section of society faces on an everyday basis. This article seeks to throw light on the various imperative aspects of the life of these migrant labourers and the violations and denials of some of these basic human rights. The pressing need to find a long-term solution that can be undertaken by governments, citizens, and companies collectively seems to be one of the primary purposes of this article.

Despite the existence of a multifarious number of international as well as domestic laws that are said to be in existence, there seems to be a huge difference in the living conditions of this migrant population. Internal laws drafted by nations are often said to be in conflict with the principles laid down in international treaties and conventions.

Migration in more ways than not is primarily an internal issue. Nations across the world try their level best to ensure and safeguard the rights of these migrant workers. Coming closer to home, the primary reason for migration in India is the availability of job opportunities in cities. Internal Migration, in search of employment, has an impact on the economic, social, and political conditions of regions. With regard to external migration, there is an impact on nations sending these migrant workers as well as nations receiving these migrant workers. In India, the sectors that observe the demand for a high degree of migrant workers are the manufacturing sector as well as the service sector. The drive for better opportunities, often makes these migrant workers change their form of employment. “Seasonal employment” is a key feature of migration for these labours.

The Universal Declaration of Human Rights has laid down several principles that are fundamental to human existence. In India, these principles are enshrined in Part III of the Constitution of India. One of the primary purposes of this article is to throw light on key areas of violation of human rights in the lives of these migrant workers. Moreover, this article also seeks to provide a holistic solution that focuses on the needs of the migrant workers, the opportunities

provided by the Central as well as State Governments, and the stake of responsibility taken by private individuals for the betterment of the lives of these migrant workers.

'Migrants' – As we know them:

Over the years, the relevance of the migrant population across the globe has been recognized by international organizations. The formation of the International Labour Organisation or ILO safeguarded the interests of the migrants and ensured them basic human rights.

As a matter of fact, the preamble of the ILO Constitution states '*the protection of the interests of workers when employed in countries other than their own*' to be one of the primary areas of work of the Organisation.²

The traditional definition of the migrant working class that primarily acts as labour is as follows:

“labour, casual and unskilled workers who move about systematically from one region to another offering their services on a temporary, usually seasonal, basis”

In India, the surge in the migrant working class was observed in 1991, after the Liberalisation, Privatisation, and Globalisation [LPG] Reforms were introduced. Globalization came with the hope of better job opportunities in the metropolitan cities of India. There was a very high rural influx in most cities. Liberalization and Privatisation, as a matter of fact, were in the dire need of cheap human resources and the migrant working class was driven towards it. Since then, there have been numerous legislations that have been enacted in India for the protection of this class. As a matter of fact, there are a few safeguards and guarantees that factories and companies have to comply with, with regard to these migrant workers. Violation of any of the compliance measures which are drafted to safeguard the rights of these migrant workers results in huge compensation or penalty that these factories and companies have to bear.

The historical transition of migration- A shift across eras:

Just as the pendulum swings to and forth between the two ends, human life too swings as if it were between two poles: mobility and settlement. “*Mobility is the theme of life and success can be achieved through movement*”. These words of Sumona Chowdhary prove that mobility is the desire of man to progress as he traces the path of evolution. This brings us to the term called Migration and to understand migration one needs to go back to the past. In the beginning, the man was a hunter and was in search of food. This was termed as primitive migration.

²SheebaAhad, International labour standards on migrant workers are basic Human rights: Impact and implementation a grim reality, International Journal of Law, Volume 3; Issue 4; (2017), 215

Ancient Phase:

Migration in India has been an ever-evolving phase. It is a concept which evolves over time and as the human civilization progresses. Migration existed in the roots from the time human life started on earth. When human life began, the man was in search of food in order to meet his essential need that was hunger, and hence he would migrate for miles and had no fixed place of habitation. This was known as the stage of primitive migration. Noteworthy examples of the Ancient phase of migration in India can be that of the: Indo - Aryan Migration. The Ancient phase of migration was one of its kind. In this phase, the migration was characterized by the emigration of the entire group of the emigrants. The Positive aspect of the Indo Aryan-Migration was characterized by the development in agriculture, an advancement in the rich heritage of art and artifacts, progress in the trade and business relations around the world. The Ancient phase of the migration era ended after the Mughal Invasion.

Migration has been a phenomenon that has been in existence for over generations now, internal as well as external migration, primarily takes place in the search of economic opportunities in relatively more developed areas. In India, there is a considerably high rural influx in urban areas. India has seen a history of migration. Earlier it was primarily because of the ruler-regime, which was observed in one of two ways, firstly the Mughals and secondly, the local rulers. Later, with the invasion of Britishers in the Indian territory, there was the second wave of migration that took place in India. And lastly, the post-independence era in India saw the migration for primarily employment opportunities.

The Colonial British influence on Migration:

India was under British colonial rule for over 200 years. Although the impact on the entire Indian polity was huge, there has been a lasting impact on how migration has taken place and shaped the social, political, and economic sphere. Traditionally, it was observed that labour movement was primarily coerced and in extremely rare scenarios, it was voluntary³.

Migration was often perceived as displacement, during the British Era. The primary reasons for migration in that era were firstly the induction of Indians in the British Army, secondly the employment in the East India Company, and lastly, the promise of promotion of these migrant workers in the British set-up.

³Bates, Crispin, Coerced and migrant labourers in India: the colonial experience (2000)

As a matter of fact, there was a high degree of migration internally as well as externally. Immigration along with emigration was a highlight of the Indian polity under British rule. The British government opined and was of the firm belief that they can send Indian laborers in other countries would solve the human resource crisis in other colonies.

Only after the abolition of slavery was legitimized and legalized, first by the British administration in 1833 and subsequently by other colonies like France, the Netherlands, and Portugal, the colonies realized that they need manpower, particularly on sugar and rubber plantations. Keeping this in mind, the Britishers established a convenient and easy “organized system of labor migration”. The aspect of the supply of labor from India further magnified the issue of poverty and hunger in the Indian subcontinent.

This apparent effective administration system, developed by the British remained in place for 80 years. Although there was some change over time, there were a few characteristic features that remained constant.

Labourers which mostly came to the rural pockets of India would originally sign up for a five-year contract. Many Indians renewed their contracts and a significant portion chose to stay permanently, deciding to accept a piece of land or a certain payment in lieu of their right to be shipped home.

The evolution of “migrant workers”:

In India, there is a high degree of the rural influx in urban areas. The primary reason for this is the availability of employment opportunities in developed cities. The two main reasons for migration are enlisted below as follows:

i. migration for survival:

The severe social and economic adversities faced by these rural labourers forces is a perpetual problem that seems to exist. But the primary reason is such that, if not for migration, the mere survival of this class is questionable. It is not a choice; it is just the need to survive;

ii. migration for sustenance:

The second important reason for migration is rooted in subsistence that arises because of the need for additional income in order to fill the gaps in seasonal employment. Such migration generally takes place for a shorter amount of time and in areas of proximity.

Apart from internal migration, some workers travel to foreign countries for jobs and employment opportunities and are called Foreign Workers.

Realizing the position of migrant workers in society:

Migrant workers play a significant role in strengthening and enhancing the economy. They are employed in various kinds of jobs such as at construction sites, various kinds of industries, small scale restaurants, road-side restaurants or tea shops, rickshaws, mines, and security jobs amongst others. They are a substantial workforce and play an important role in economic growth. Hence, there is a pressing need to improve their condition and quality of life in society. Employment of migrant workers also helps in reducing the poverty rate in the country, as the children of these workers can get access to education from the wages.

Over time, the option of the scarcity of labourers has diminished as the migrant workers accept the jobs primarily on a contractual basis. As the migrant labourers come from different parts of the country, they tend to get acquainted with the new language, environment of the workplace, and this results in Creating a Diversity Rich atmosphere.

On the International Level, Migrant Labourer's are often referred to as Foreign Workers. They play an important role in contributing to that country's revenue in the form of remittances. Migrant labourers thus are a vital resource and play a crucial role in the development of the economy of that particular country.

The grim reality of life for migrant workers:

A fundamental characteristic of human rights in the labour field is that they are universal rights that are applicable regardless of a country's level of economic, political, social, or other development. The multi-dimensional set of problems that these migrant workers face on a daily basis is extremely grim and saddening. Although governments across the world as well as international organizations ensure several rights, the question that arises is that - *who can guarantee these safeguards?*

The imperative question of the *quality of life* of these migrant workers stands at crossroads when the right to life debate is put forth, as it is in complete violation of human rights. Vital problems that these migrant workers face on a daily basis are as follows:

1. Occupation and Peril: Hand in Hand;

In a country like India, which has been one of the fastest-growing economies in the world, there has been a large development over the past years. This development has led to various job opportunities also resulting in the requirement of labour.

A Migrant Worker, with a family to look after and with minimum jobs available in the rural areas, migrates to the developed urban areas. Hence, there are a large number of migrant workers who are employed in the construction sector, large scale or small-scale Industries and the government secured the railway sector. The workers working in the Construction Sector are subjected to occupational hazards. Several migrant workers are at risk of losing their lives and facing several injuries. Workers working in the Industrial Sector have to work overtime and also face injuries or deaths due to gas leaks, machines falling, or any incidental mishappening on oneself. The Migrant workers staying at these allocated workplaces suffer from various diseases, some of which end up with fatal consequences. The Situation arises for the Migrant Workers to take up such hazardous jobs as such jobs are ignored and looked upon by the local urban population.⁴

The Women Migrant Workers have to face such strenuous problems as they fail to get maternity leaves. For women workers, there is absolutely no provision of maternity leave, which forces them to resume work almost immediately after the birth of their child. They are also deprived of education: the schooling system at home does not take into account their migration pattern and their temporary status in the destination areas does not make them eligible for schooling there.⁵

2. Migrant Worker; A Synonym for an outcast;

Just as public speaking is one of the biggest fears in most of the human beings, another fear which is rising in the minds of the people is the '*Fear of being hated or ignored*'.

Apart from a Migrant Worker who would know this fear better? The Migrant Workers

⁴ Annie Jane, A study of migrant labour-issues and policies, Indian Journal of applied research, Volume 4 Issue 6

⁵ Rogaly, Ben & Coppard, Daniel & Rafique, Abdur& Rana, Kumar & Sengupta, Amrita & Biswas, Jhuma, Seasonal Migration and Welfare/Illfare in Eastern India: A Social Analysis.The Journal of Development Studies, (2002).

are excluded and marginalized from social programs as they fail to prove the domicile required. The women and children who migrate with the men are socially excluded from festivals. Migrant workers who migrate to urban areas are from different rural areas and possess different communication skills. For them, the problem of language occurs and hence a problem to socially mix with the local inhabitants. Workers are subjected to racial discrimination. They are ignored and since their status is temporary, they cannot even access the basic health benefits that are available to the local inhabitants. So the lines present in our pledge '*All Indians are my brothers and sisters*', the saying "*All are together as one*", is merely a dream and does not seem to be true to its words at-least for in the near future for this down-trodden migrant section of the population.

3. Living Conditions- a complete disorder:

*"Think ye that building shall endure,
Which shelters the noble and crushes the poor?"⁶*

Problems such as occupational hazards, exclusion from the society are persistent in a migrant worker's life. However, one of the biggest problems that a migrant worker has to face is the poor Housing Facilities available. With a Family to look after, and with minimum wages it is not feasible for a migrant worker to take houses on rent in the urban areas. Hence, this results in them staying in the factories or staying in *pucca houses* or even staying in houses with just a sheet of tin on the top. The workers are forced to stay at their workplaces such as tents, open grounds. They do not have a fixed place to stay. As their workplace changes, their place of stay also changes.

Most of these migrant labourers work in the unorganized sectors, where the living and working conditions are largely unhygienic, which makes them susceptible to a variety of diseases. It engulfs the lives of these people to a variety of health problems and the impending concern of the failure to afford any kind of medical expense. The employment of this unskilled and unorganized labour generally takes place in hazardous environments such as construction sites, mines, factories, and mills.

⁶James Russel Lowell, c.18508

The living condition is often in the form of open spaces or make-shift shelters. Although the Contract Labour (Regulation and Abolition) Act, 1970 stipulates that the contractor or employer should provide suitable accommodation, it continues to remain a suggestion and not are a requirement. Apart from Seasonal Workers, there is a considerable population of slum dwellers who are mostly migrants, stay in terrible conditions, with inadequate water and horrible drainage mechanism.⁷

As it is said, during the lockdown, even if food is made available but what will be the point when there is no proper shelter available for the migrant workers. The problems pile up as due to scarce wages, the poor worker cannot afford to pay electricity bills and so forth and hence fail to seek the availability of essential facilities

The Article seeks and aims to highlight the problems of housing and the poor living conditions that are faced by migrant workers.

4. Violence against women continues:

Earlier, women used to migrate along with their husbands to help them with the housework while they tried to earn a living. Although, recently, there has been an increase in the number of women who choose to migrate independently. Apart from this, some women workers contribute by working in order to support their husbands to meet the requirements of them and their children and hence emigrate in search of work and employment opportunities. Women contribute to more than half of the migrant workforce. Ninety-two percent of the 20 million domestic workers in the country are women and children, and 20% of these females are under 14 years of age.⁸ However, women migrant workers face immense problems at their workplaces. In a report by the United Nations, it is reported that women migrant workers in India are vulnerable to sexual harassment at the workplace and also lack of hygienic sanitation facilities. These basic problems of women workers are not considered and often completely overlooked.

5. Child Labour- still a cruel practice:

⁷Ravi Srivastava, SK Sasikumar, An overview of migration in India, its impacts and key issues, Regional Conference on Migration, Development and Pro-Poor Policy Choices in Asia, (2003)

⁸ Abhijit Banerjee Esther Duflo Rachel Glennerster Cynthia Kinnan, The miracle of microfinance? Evidence from a randomized evaluation, (2014)

More often than not, children migrate with their families. As the source of income is often contributed by only one person, there is an added pressure on the women and the children of the family to contribute to the family earnings. The inadequate free education provided by the States across India often force these children to leave their hopes and dreams of education and work in the most horrific workplaces and pathetic condition. The exposure of kids to such workplaces often makes them prone to a variety of life long diseases. As a matter of fact, there is a very high mortality rate of children who die because of child labour. This takes a toll on the overall growth and development of the child⁹.

6. Identity crisis:

The issue of proving identity is a problem that persists. It continues to act as an impediment for most of them, as a majority of them do not have any kind of documentation to prove their place of residence, as they keep migrating from one place to another. The authentication of Identity documentation by the state government is indispensable for ensuring that a person has a secure citizenship status and can claim benefit from the rights and protections that the state ensures and provides as a safeguard. The root cause of this identity crisis results in a loss of access to rights and social services. The nonexistence of identification in turn implies that the migrants are unable to access provisions such as subsidized food, fuel, health services, or education that are meant for the economically backward sections of the population.

Guarantee Of Fundamental Rights – A Myth Or Reality?

Labour is primarily a human being and secondarily a worker and as a human being entitled to the inalienable human rights. In other words, human rights are relevant for workers in all categories and situations regardless of whether they are organized or unorganized. Human rights, however, acquire a different meaning and significance in the case of unorganized labour

Migration is an ancient and natural human response to hunger, deprivation, war, or any natural disaster. Today, most governments regulate their borders and govern who enters or leaves the country. Migrants are classified based on their intent and how they enter a particular country. The Universal Declaration of Human Rights enlists several human rights that form the basic

⁹ Mansuri, Ghazala, Migration, School Attainment and Child Labor: Evidence from Rural Pakistan, (2006)

necessity for our existence, These Human rights are also applicable to migrant workers. Governments across the world have taken various measures to imbibe and compile the principles enshrined in the UDHR under their respective constitutions. In India, fundamental rights are guaranteed under Part III of the Constitution.

The Constitution of India is first and foremost a law that protects the rights of labour. The fundamental rights and the directive principles of state policy ensure a number of rights to migrant labour. It acknowledges securing social, economic, and political justice to its citizens. Social justice implies the abolition of all sorts of inequities which may result from the inequalities of wealth, opportunity, status, race, religion, caste, title, and the like.

The 20th century has welcomed the age of democracy and assertion of Human Rights and social justice for women, children, workers, the poor, and the downtrodden. It promoted the values of compassion and humanity and aspired to recognize the remaining vestiges of slavery and feudalism which were outlawed. The basic constitutional principles in all democratic nations recognize the right of everyone to live with dignity and have assured rights to education and health. The Charter of United Nations reaffirms the faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and workmen and nations large and small; and to promote social progress and better standards of life in larger freedom. International human rights apply to all human beings, regardless of their immigration status. Everyone – citizen or migrant, documented or undocumented – enjoys basic human rights such as the right to life, liberty, and security of person; freedom from slavery or torture; the right to equal protection of the law and freedom from discrimination; freedom from arbitrary arrest and detention; the presumption of innocence; and freedom of association, religion, and expression.

Migrant labourers are said to live in the poorest of conditions and in some cases are not even guaranteed their basic “right to life”. This issue was first taken up in 1972, by the United Nations with regard to the importance as well as the relevance and the quality of lives of these migrant workers.

The Constitution of India in its ambit of “right to life” includes the basic right to food, shelter, security, and health as the primary criteria for survival. Over time and lots of research, it has been observed that the living conditions of these migrant workers are extremely dismal.

Key issues that this article aims to raise with regard to the right to life of these migrant workers are primarily as follows and shall be elucidated through the course of this article:

- The right to work and receive wages and ensure an adequate standard of living;
 - The right to freedom from forced labour;
 - The fundamental right to safe working conditions and a clean and safe working environment.
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- The Health of the Migrant Workers.
 - The Problems and hardships faced by the children of migrant workers.

The *equality of opportunity* which is an object enshrined in our Constitution is not achieved throughout the country. The opportunities are often enjoyed by a select privileged section of the society, only in certain parts of the country. These are mainly metropolitan cities and corporations. The Migrant workers who do not belong to these parts of the country, to get the opportunities, have to migrate to these parts. This creates intra-country migration in and the most prevalent among them are for employment, education, and desire to experience a new culture. The migration affects the guests as well as the hosts. The migration for employment is mostly in all fields. People migrate for employment in organized sectors as well as unorganized sectors. The people who migrate for employment in unorganized sectors without any job security suffer more in the host place. And in a differentiated country like India, the migrant people who move from one State to the other i.e. the inter-state migrant workers have to accommodate in a place of new language and culture, owing to the diversity.

Right to Life:

Bhartiya Samvidhana - The Constitution of India, the Supreme Law of India is termed as a living document. The Indian Constitution which came into effect on 26th January 1950 it sets out the directive principles, the duties of the state governments, citizens, the Fundamental right, and so forth. Part III of the Indian Constitution guarantees Fundamental Rights. Over time and lots of research, it has been observed that the living conditions of these migrant workers are extremely dismal and poor.

Article 21 of the Indian Constitution -

"No person shall be deprived of his life or personal liberty except according to the procedure established by the law."

Article 21 one such Part of the Indian Constitution which is an ever-evolving right, As Human life progresses the Article tends to adapt to the various changes observed in the society. In the words of Honorable Justice KrishnaIyer, which are of utmost importance, Article 21 is nothing but the *heart of the Indian Constitution* and a key term in the meaning of “*Fundamental Rights*”

Right to life which is guaranteed under Article 21 of the Indian Constitution, which is not merely concerned with breathing, it has evolved to understand the wider meaning of life and its related aspects thereof. With the evolving time, Article 21 has been interpreted and various additions have been made by the Supreme Court in its judgments to the term “*Right to Life*” such as Right to shelter, right to live with dignity, Right to health, Right to Medical Care, so on and so forth. Hence, the issue that this article would like to bring to light is that “Whether for a Migrant Worker who is a “Human”, is Right to Life Merely a myth?”

Right to live with Human Dignity

The Honourable Supreme court in *Maneka Gandhi v. Union of India*,¹⁰ brought about a new addition to the term “*Right to Life*” and held that Right to Life means a right to live with dignity. Dignity means to live with respect i.e a person is worthy of respect. However, Migrant Workers are more often than not subject to continuous exploitation at their workplace. They are ill-treated and subject to torture as well. In the society too, migrant workers are excluded, subject to ignorance as well. Hence, Living with dignity is often just an aspiration.

Further, in *Bandhua Mukti Morcha v. Union of India*¹¹, the Honourable Supreme court expanded their earlier view and held that the protection of the health of workers, facilities for children to develop healthily, educational facilities, and human conditions of work and maternity relief are included in Article 21.

Due to Poor and minimum wages, their children fail to access basic educational facilities provided by the State, and even if they do they have to face severe hardships on the way- such as studying in minimum light, inability to buy books due to shortage of money. Although there are various programs initiated by the government, companies, Non-governmental organizations, Non-profit Organizations, however, the mission has not been successful as this problem still

¹⁰1978 AIR 597, 1978 SCR (2) 62

¹¹ 1984 AIR 802, 1984 SCR (2) 67

persists. The Female Workers also tend to suffer as they are not provided with maternity leaves and hence have to work even after giving birth to a child.

Hence the questions arise *Whether Right to life which is a fundamental right of a citizen of India, does this right have practical applicability to a migrant worker?*

Right to shelter:

The most essential thing needed for a man's survival is shelter and without shelter, the questions that arise are that *how will man survive in this world?*. The shelter is an essential aspect of human life.

In *U.P. Avas Vikas Parishad v. Friends Coop. Housing Society Limited*,¹² it was held that the Right to Shelter is a fundamental right mentioned in Article 19 and within the scope of *Right to life* as mentioned under Article 21. However, the reality of the right to shelter for a migrant worker is very different. It is often in the form of a make-shift hut, or a *kachha house* with absolutely no sanitation facility. The earnings of these migrant workers do not even meet their basic needs. They cannot afford rental houses and hence have to stay at their workplace, share rooms, or even under the bridges, flyovers, and near railway tracks. The migrant workers are hence forced to work for upto 20 hours a day and even in the night as they have no place to go after their work is done. In certain cases, even if the migrant worker has the means to afford a rental house, he is denied. As with the KYC norms and a failure to have the required domicile documents he cannot gain access to the available schemes. According to Aajeevika Bureau, a civil society organization, "*living within the worksite*" is the most common means of accommodation, that a migrant worker avail. Several migrant workers are forced to even stay in the open and fail to get access even to the basic amenities. Hence, for a Migrant Worker, a Right to shelter which is easily available to a local urban resident is a "*Dare to a Dream Situation*". Hence, *Does the Right to Shelter mean a dream which is impossible to achieve?*

Right to health:

Health is the most crucial factor for a man to live a happy life and his well-being. Thus, one cannot ignore the importance of a "*Good health*" for a human. It was in the year 2002, Right to Life had a new addition to its meaning. Right to Health is a right that is under the Scope of Right

¹²AIR 1996 SC 114

to Life under Article 21 as held in the case of the *State of Punjab v. M.S. Chawla*¹³. Migrant Workers in India as mentioned earlier live in open, under the bridges, flyovers, hence they are at risk of getting exposed to various diseases. Migrant workers who stay on open grounds suffer from sunstroke. The workers who are forced to stay under bridges, flyovers, or even in those houses with poor and the most defiled surroundings and hence are subjected to various life-threatening diseases such as Malaria, Dengue, and so forth. The workers who face various occupational hazards are also often put through various problems such as those working on construction sites, railway tracks have a high chance of death or even injuring their body parts and suffer from various injuries. Women Migrant Workers who fail to get maternity leaves and are also subject to various reproductive system problems.

In *Consumer Education and Research Centre v. Union Of India*¹⁴, The Supreme Court held down that the Health of the Workers was an essential right under Right to Life, and its denial results in the violation of Article 21. The Children of the Migrant Workers suffer from problems such as scarcity of food which lessens their immunity and hence becomes a subject to the threatening diseases. The Government of India has launched various awareness programs however there are still migrant workers who are not aware of the same. Lack of education and knowledge is the cause children suffer from polio, Expensive medical facilities, expensive treatments, are some of the serious problems faced by the Migrant Workers.¹⁵

There are a large number of migrant workers who also die of hunger and thirst on account of failure to afford food daily.

Hence, Right to Health which is, in fact, the Most Important right for a man, A right to which a man's life is dependent, Is this Right an expensive a dream for Migrant Worker?

Right to Life thus which has the Right to shelter, Right to Health and Right to leave with Human Dignity within its scope, is a fundamental right which looks like a Mountain to climb for a Migrant Worker. The Question therefore arises is '*Right to life: A Myth or a Reality for a Migrant Worker?*'

¹³ AIR (1997) SC 1225

¹⁴ AIR (1995) 922, (1995) SCC (3) 42

¹⁵ Anjali Borhade, Health of internal labour migrants in India: some reflections on the current situation and way forward Essay, Asia Eur J DOI 10.1007/s10308-011-0293-z

COVID 19: A Giant to be defeated

The life of a migrant worker is not an easy one, apart from the hardships that one has to face, things could not have got worsened. With the rise of a sleeping giant called COVID-19, something the world had never seen before, amongst the ones who were affected the most can be said to be the Migrant Workers.

According to the assessment by the Centre for Monitoring Indian Economy, more than 120 million lost their jobs in April due to the lockdown, 75 Percent of whom were working in the unorganized sector. The mass number of Workers have been not got been credited with their salaries during the lockdown.

On 29th March, The Home Ministry made it legally compulsory for salaries and wages to be paid even during the lockdown period. Yet many of our capitalists did not even pay wages for March, not for the days, the labourers had worked. In Tamil Nadu, for instance, a survey found 63 percent labourers hadn't been paid wages they were owed from before the lockdown. In Gujarat, the diamond industry hasn't been paying workers despite repeated Government Orders. The lockdown restriction which had put a stop to public transport and with no money in addition to the loss of jobs, thousands of migrant workers headed back home walking or on their bicycles. Some of them were arrested for violating the lockdown, some of them died of exhaustion, some died in accidents. In Aurangabad, 16 migrants were killed on 8 May after a freight train ran over them while they were sleeping on the tracks.

Well in a recent example, the situation in Pune is a horrendous mass number of migrant workers sleep on the footpath with no shelter and a head full of fears. What would be the state of such workers with the monsoon soon to come.

Steps have been taken by important public figures such as Sonu Sood in order to help the migrant workers, however, this will not be enough to cure the problem.

With cases on the rise and severe lockdown measures, unemployment, no payment of wages, and a family to look after are making the situation worse for these migrant workers. With special trains being allowed to carry the migrants, however, the price of a ticket is one they can't afford the government announced a 23 Billion aid package to help the poor, including migrant workers but relief has been patchy across the vast country.

Not shocking to hear that there is nothing but hatred in them for the place where they meet their basic needs.

The Supreme Courts' recent decision on the conditions of the migrant workers shook the Centre and the State completely. The Supreme Court of India, which is an apex independent judicial body, took into account the plight of these migrant workers, due to the ongoing Covid-19 outbreak and ordered the States to ensure their safety and security.

In its *Suo moto* case related to the plight of these workers, the apex court held that trains or buses cannot charge any fare and the workers must be provided free food while they wait to board their respective transportation. The originating state will be responsible to provide food and water at stations and the Railways will take care during the journey. State governments will oversee the registration of migrant workers and must ensure that they board trains or buses at the earliest. It also said if migrant workers are found walking on the roads, then they should be taken to shelters immediately and given food. The court further clarified that train fares will have to be shared by states and union territories (UTs) and held that whenever states place requests for trains, the Railways have to provide them.

The inclusive way forward:

The working migrant class which is often perceived and treated as an outcast, in reality, has to deal with numerous hardships on a daily basis. Migrant families have to collectively try and make ends meet by ensuring having two meals a day. In most cases, all members of the family, including the children contribute to the total earning of the family. Basic facilities of good food, clean water, and safe shelter are often merely a promise by the employers of these migrant workers. *Quality of life* is just a dream for most of these migrant workers.

With the outbreak of Covid-19, the glaring problems of the migrant workers have come to the fore. There is an urgent and pressing need for a comprehensive, exhaustive, and inclusive solution from all sections and sectors of society. A few solutions that this article seeks to provide are enlisted below as follows:

- States should ensure and promote a sense of stability in terms of employment for these migrant workers. Instability and insecurity is the main driving force for forced migration and seasonal employment. An effective solution to breaking away from the traditional seasonal employment is to enable these unskilled migrant workers to skill themselves.

Additionally, companies that employ these workers should offer an option of either

staying or migrating and provide for a contractual agreement between the employer and the migrant workers;

- Apart from this companies and other organizations that employ these migrant workers should collect and collate all the data of this vulnerable migrant worker class. They should analyze the key problem areas that these workers face daily. Providing this data to the appropriate government agency will help them formulate a comprehensive policy that intends to minimize the problems that are faced by these migrant workers on a daily basis;
- Ensuring a redressal forum for these migrant workers to lodge and notify their concerns will be the ideal way forward. Basic amenities such as a safe and secure place of shelter and healthy sanitation are two important criteria that this article seeks to bring to light;
- Cruel practices such as violence against women and child exploitation absolutely should not be tolerated. There need to be stringent punitive sanctions that must be established for all offenses against migrant workers, irrespective of gender.

This article seeks to promote the importance of '*awareness*'. Illiteracy and ignorance are the two main obstacles in the path of development for a migrant worker. Ensuring that these migrant workers are aware of their rights as well as duties, will be the first constructive step forward in the direction of progress.

Channelizing the potential of the human resource available will not only benefit the economy but will aid in the holistic growth and development of society.

The light at the end of the tunnel:

India, a diverse country with multifarious ethnicities and all sections of society, truly defines "*unity in diversity*". With that being said, as a country, it also faces a huge problem of marginalization and discrimination. The susceptible class of migrant workers forms a significant portion of society. They contribute to the social, economic, and political landscape of India. The hardships that this class of society faces is most certainly beyond everyone's imagination. As a matter of fact, the questionable *quality of life* is extremely dismal. As it is said Human Life is not bound to be perfect, similarly our country faces several problems. In such situations what counts is the mindset and determination of the people to solve the difficulty. Just as Corona Virus

cannot vanish until all of us come together, are united and help each in battling it similarly. Unless and until, the contribution for the upliftment from all sectors and sections of society is translated in actions, this arduous task of ensuring some standard of living for these migrant workers seems impossible. With the pandemic, deepening the curve and making life difficult for this susceptible population, it has given the rest of the population, the ability to contribute and work towards solving their problems. Several Restrictions are being lifted via “Unlockdown 1.0” and this can be a sign of positive things to come for the Migrant Workers, as inter-state transport may get back to normal soon. Stepping up and moving away from evils such as marginalization and discrimination, humans will truly work towards becoming humane in spirit and letter. Inclusive steps were taken by “*Our fellow brothers and Sisters*” in ensuring the upliftment of the migrant worker population for a better living. Hence, in trying times like this, the words of Martin Luther King JR are of immense importance “ *We must accept fine disappointment but we must never lose infinite hope*”.

