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IMPACT OF COVID 19 ON MIGRANT WORKERS

By Mehavarshni S

ABSTRACT

This paper investigates how the COVID-19 pandemic affected migrant workers. A severe "problem of migration" was sparked in India as a result of the pandemic, with migrant workers in several large cities wanting to go home. In numerous locations, their desperate attempts to get home by any means possible rendered the lockdown ineffective, leading to conflicts with police officers, last-minute policy relief, and ultimately the setting up of transit measures. Further, the paper talks about the difficulties undergone by the women migrant workers, which is an area untouched by many discussions, and finally, the rights and provisions for these migrant workers under Indian law.

INTRODUCTION

The COVID-19 pandemic, which began in January 2020, has caused serious health problems for the majority of people. Apart from health issues, it had a negative effect on the lives of most of the populations by affecting them economically and psychologically. Aside from harming people's physical health, COVID-19 also contributed to major, ongoing psychological disorders such as post-traumatic stress disorder, depression, anxiety, and panic disorder. The two groups most impacted by this pandemic are the working class and migrant laborers. Migrants are one of society's most marginalised communities and rely on their daily salaries to support themselves. In these challenging circumstances, they require the compassion and appreciation of the local community. These groups are extremely exposed to socioeconomic issues like discrimination in the camp, reverse migration, unemployment, financial hardship, insufficient funding for treatments, shortages of food, and a lack of nutrition and medical services.

There are four sections to this paper. The first section explains what migrant workers are, how they are classified, why their numbers are growing, and what difficulties they are experiencing during the lockdown. The issues and challenges that the women migrant workers experience are covered in the second section because that is the area that is left untouched. The rights of these types of employees in India are covered in the third section, and the remedies and reliefs that can be provided to migrant workers in order to improve their living conditions and working rights are covered in the last section.

MIGRANT WORKERS AND THE TROUBLES FACED BY THEM DURING COVID

According to the International Labour Organization (ILO), a "migrant worker" is anyone who migrates from one country to another with the intention of being employed by someone other than himself. This definition also includes anyone who is regularly admitted as a migrant for employment. In India, there were 450 million internal migrants in 2011 according to the "Place of Last Residence" measure, making up 37.7% of the total population. We project 600 million internal migrants in 2020 based on census patterns. One-third of these, or 200 million, are interstate and inter-district migrants; of these 200 million, an estimated two-thirds are migrant labourers, or around 140 million.¹ The worst affected by this shutdown were the daily wagers. They were frustrated since their daily money, which they relied on to subsist, was stopped as a result of the lockdown enforcement in addition to being without jobs. They were unable to provide for their families' daily requirements as a result of their very livelihood coming to an abrupt halt. The working class was found to be most susceptible to the effects of the economy's downturn than the migrants. People from all socioeconomic classes were impacted by the circumstance, which also made clear the significant inequalities in healthcare and social services. In the context of India and against the backdrop of the COVID 19 epidemic, it is important to take into account possible potential influences on the likelihood that internal migrant workers would experience negative mental health indications.² Some of them are

1. Pre-existing occupational illnesses and susceptibility to new communicable infections as risk factors

Asthma, chronic obstructive pulmonary disease, TB, hepatitis, and hypertension are common work - related illnesses. Due to interdependent main risk factors, including socioeconomic status, occupational hazards, chronic malnutrition, unhygienic living conditions prevalent in their urban accommodations, a lack of proper sanitation, and pre-existing respiratory infections, internal migrant workers are practically highly susceptible to new infections. During reverse migrations, migrant workers may act as both illness victims and transmission vectors, spreading the sickness to newer locations.

2. Loss of employment and subsequent debt

The COVID-19 outbreak and the subsequent unprecedented lockdown have had a significant negative impact on the migrant workers' possibilities for making a living. The workers in the

¹ Irudaya Rajan, S., Sivakumar, P. & Srinivasan, A. The COVID-19 Pandemic and Internal Labour Migration in India: A 'Crisis of Mobility'. *Ind. J. Labour Econ.* 2020

² Jesline, J., Romate, J., Rajkumar, E. *et al.* The plight of migrants during COVID-19 and the impact of circular migration in India: a systematic review. *Humanit Soc Sci Commun.* (2021)

informal sector have been badly impacted by the entire suspension of economic operations and travel restrictions. Since the majority of them relied on daily income, their loss has had a detrimental effect on their quality of life. Even if they were able to find work, the opportunities in terms of everyday work are much less. The majority of them still had to pay rent in this unfortunate circumstance.

3. Mental health issues

Among migrant workers and non-migrants, mental health issues were more prevalent among migrants. These kinds of workers suffer more mental distress due to socio-environmental adversities like loss of social status, lack of employment, and discrimination³. This shows that the experience of migration has a degrading influence on mental health conditions. Public health measures like compulsory quarantine or isolation in the government's temporary shelters upon return to their original areas of residence and social segregation, in addition to the troubles brought on by the virus, aggravate the feeling of loneliness and may even result in suicide. According to Nelson Vinod Moses of the Suicide Prevention India Foundation, "Rural India may be particularly susceptible to suicide due to the inflow of migrant workers, as well as because it is home to the at-risk farming population."

4. Absence of family support during COVID crisis

Most of the migrant workers are not staying with their families; the absence of love and affection, loneliness, staying away from their home, the loss of their family members due to COVID 19, and feeling helpless to attend to the needs of their family members will result in the mental health deterioration of these workers. Due to the lockout, a 26-year-old Ranchi student who was unable to return to her parents' house killed herself.⁴

HARDSHIPS AMONG WOMEN MIGRANT WORKERS DURING LOCKDOWN

As most males who migrate in India do so in need of employment, migration is sometimes viewed as a male-centric phenomena in India. Women who migrate are only perceived as travelling with their husbands and not as active participants in the labour force. However, recent years have seen a feminization of labour mobility, particularly in emerging nations. The information technology and fashion industries, which employ a large number of women, have seen an increase in employability as a result of economic liberalisation and a faster pace of reforms. Women are in high demand because they are seen as being quiet and gentle and are

³ Firdaus G. Mental well-being of migrants in urban center of India: Analyzing the role of social environment. Indian J Psychiatry. 2017 Apr-Jun

⁴ Ranjana Choudhari, COVID 19 pandemic: Mental health challenges of internal migrant workers of India, Asian Journal of Psychiatry, 2020,

willing to work for any pay. The COVID 19 lockdown is having an unequal gender impact as the women workers are most affected than men. One mother, who moved from Uttar Pradesh to Delhi 14 years ago with her husband and four kids, said they are having access issues to the restrooms even before the lockout. There are restrooms, but they are all at the extremity of the slum. She hardly ever go there. they frequently use the empty area next to the slum. As everyone stays at home during the lockdown, the bathroom gets quite packed. Additionally, it is unsafe and unhygienic. Due to the observation of many males who stay at home, going to the open area is now impossible as well. People' experiences during the epidemic were made even more distressing by the disrupted access to facilities and resources. Due to the epidemic, the previously outdated facilities are now inaccessible.⁵ Access to restrooms was a significant problem for migratory women. The public restrooms became crowded as a result of the lockout. The narrative largely ignores the single women migrants who overcame the restrictions and moved alone from rural to metropolitan regions in search of career possibilities and financial benefits. This comprises a sizable number of women, from live-in domestic help to those employed as agricultural labourers, brick kiln workers, construction site labourers, and waiters, to those employed in the service sector.

Male migration to urban areas, where they leave their partners, kids, and extended family behind, has largely been attributed to greater possibilities in cities rather than rural areas due to a lack of employment options, the agricultural crisis, and small landholdings in rural areas. Women's responsibilities inside and outside the home have increased dramatically as the proportion of households headed by women in rural areas has increased. In addition to caring for the family and managing the household, women are increasingly taking on the traditional occupations or agricultural and related tasks that the man left behind.

The challenges women encounter are the same whether they travel to cities with their men or on their own. If they are members of a religious or racial minority, they must learn how to live in the new hostile environment. Young women are more susceptible to sexual violence than other women who are out in public alone, especially those who live away from home. Young women from the North-East have been targeted for harassment, particularly during this COVID 19 era, because of their distinctive appearances.

RIGHTS OF THE MIGRANT WORKERS CONFERRED UNDER INDIAN CONSTITUTION

The migrant workers usually fall under the informal sector of the economy, in both the formal and informal sectors of the labour market in India, informal employment occurs predominantly. Although the informal economy is highly diverse, there has been a noticeable shift in the nature of informal employment throughout time, from traditional non-standard wage jobs and self-

⁵ Abdul Azeez E P, Dandub Palzor Negi, Asha Rani & Senthil Kumar A P (2021) The impact of COVID-19 on migrant women workers in India, Eurasian Geography and Economics, 62:1, 93-112

employment to more current non-standard wage jobs and self-employment. As a result, a sizeable portion of workers especially those employed in the informal rather than the formal sector have their rights violated. Greater occupational hazards, including less secure contracts, fewer benefits, and worse working conditions for wage workers, are faced by informal workers.

Some of the fundamental rights available to these kinds of workers in India are mentioned in the Indian Constitution. Article 14 says everyone is equal before the law, so the people who migrate from one place to another for the purpose of work will get the same justice as the natives in case of any violation of their rights, irrespective of their status, race, caste, or religion; Article 15 of the Indian Constitution forbids the discrimination of citizens on the grounds of religion, race, sex, caste, and place of birth. This article will benefit workers by ensuring equal treatment in all parts of the country, regardless of origin.

Article 16 of the constitution confers the right to equal opportunity in employment under any office of the state on all citizens; The grounds on which people should not be subjected to discrimination for employment or appointment to any office under the state are outlined in Article 16(2). According to Article 16(2), discrimination on the basis of religion, race, caste, sex, descent, place of birth, domicile, or any combination of these is forbidden. Clause 2 of Article 16's reference to "any employment or office under the state" suggests that this provision solely refers to public employment and work in the private sector.⁶

A child under the age of 14 cannot be employed in a factory, mine, or any other hazardous job under Article 24 of the Indian Constitution, but this article allows the children to do non-hazardous jobs, and Article 19(1)(c) grants the right to form associations and unions. The Constitution's Articles 23 and 24 guarantee protection from exploitation. The article provides protection from private persons as well as the government. Article 21 guarantees protection for life and personal liberty, and Article 21A mandates free and compulsory education for all children in the age ranges of 6 to 14, which allows the children of the migrant workers to study freely in the government schools of the respective states where they work. In accordance with Article 38(1) of the Indian Constitution, the state shall work to safeguard and defend social order in order to advance the welfare of the people; in accordance with Article 38(2), the state shall work to reduce income disparities in the nation; Article 39(d) of the Indian Constitution states that the state should work to ensure equal pay for equal work for both men and women, as most of the women in these types of unorganised sectors are paid less compared to men; Article 43 directs the state to ensure that workers have the right to a living wage and good working conditions, which includes a decent standard of living and full enjoyment of leisure and social and cultural opportunities; The state is required by Article 43 A of the Constitution to develop

⁶ Shailendra Kumar, Sanghamitra Choudhury, Migrant workers and human rights: A critical study on India's COVID-19 lockdown policy, Social Sciences & Humanities Open, 2021,

legislation that would guarantee employees' participation in the administration of undertakings, establishments, or other organisations operating in any industry.

LAWS FOR MIGRANT LABOURS IN INDIA

Poor immigrants are frequently given dangerous professions that involve working long hours in unsanitary circumstances and being exposed to dangerous substances. Particular risks include death, work in other chemical industries, stone crushing, brick manufacture, steel utensil production, and loading. Because of their extremely poor, crowded, and unsanitary living situations, migrants are more prone to infectious diseases. They frequently experience discriminatory practises that prohibit them from learning new skills and climbing the corporate ladder. So let us look upon the laws relating to the migrant labours.

INTERSTATE-MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1979

The Migrant Workmen Act, 1979, is a significant piece of legislation that the Indian Parliament passed to regulate the terms of interstate labourers' employment under Indian labour law, with a particular emphasis on safeguarding employees whose services are required outside of their home states in India. This Act allows contractors and establishments to use the on-site services of out-of-state workers to temporarily fill any gaps in the state's supply of needed skilled labour. The act's goal is not to promote worker migration across state lines in opposition to the interests of local workers because doing so would require the main businesses to spend more money on hiring and deploying interstate workers.⁷

- The proposed legislation will be applicable to all businesses and contractors who currently employ or have ever hired five or more out-of-state migrant workers.
- Every establishment that hires migrant workers from outside their state must register with registering officials authorised by the Central Government or the State Government, as applicable. Similar to this, any contractor that hires interstate migrant workers must obtain a licence from the designated government in both their home state and their destination state.
- The contractor is obligated to provide information on the workers in the form required by rules to the designated state authority as well as to provide each worker with a pass book including information about their job.
- In addition to his pay, the interstate migrant worker will be entitled to a trip allowance and a displacement payment.
- The salaries that must be paid to interstate migrant workers starting from the date of their recruitment must follow a number of rules that have been established.

⁷ Sangeeta Mandal, *Emerging Trends of Inter-State Migrant Workers in India: A Study of Legal Framework*, 7 INDIAN J.L. & Just.(2016).

- Due to their migration from another state, there are a number of amenities that must be supplied to the labourers, including proper residential housing, adequate medical care, protective clothes for changing climatic conditions, and a suitable working environment.
- A clause that allows the competent authority to appoint an inspector to monitor how fully laws are being implemented.
- After the employment contract has ended, the interstate migrant worker may, at his discretion, file a claim for an industrial dispute arising out of his employment in either the host State or his home state. On the grounds that he returned to the State after the expiration of his contract, he may also transfer the procedures pertaining to an industrial dispute currently before an authority in the host state to the relevant authority in the Home State.
- Punishments that serve as a deterrent have been established for breaking the law.

UNORGANIZED WORKERS SOCIAL SECURITY ACT 2008

Most social security laws and programmes in India do not address workers in the unorganised sector, hence excluding them and their issues. Provided that the unorganised sector employs more than 90% of the country's workforce, this is a hard reality. These workers deal with major issues, from unstable employment to dangerous working conditions.⁸ As a result, unorganised employees who are poor and vulnerable and in desperate need of welfare programmes needed specific social security legislation. The ultimate purposes of the Act were to provide for the social security, welfare, and other related issues of unorganised workers.

Salient Features of this act

1. The Act gives the federal government the power to design assistance programmes for employees in the unorganised sector. These welfare programmes include maternity and health benefits, life and disability insurance, old age security, and any other government-sponsored benefits. The Act outlines 11 programmes for workers in the unorganised sector.
2. The Act also gives state governments the power to create welfare programmes related to provident funds, job injury benefits, children's educational programmes, worker skill up gradation programmes, funeral assistance, and nursing homes.
3. These announced programmes may require contributions from programme participants or their employers to cover the costs of unorganised sector employees. These programmes may be fully supported by the federal, state, or both governments.

⁸ Sunita Adhav, *Protection of Unorganised Workers in India: A Critical Analysis*, 5 INDIAN J.L. & Just. (2014).

4. The National Social Security Board is established by the Union Government, with the union minister for labour and employment serving as chair. Other members appointed by the Union Government include an eminent member of civil society, two members of the House of the People, one member of the Rajya Sabha, and five members each representing ministries from the Central and State Governments. The following functions are carried out by a combination of parties.
 - They make suggestions to the Union Government regarding appropriate programmes for the unorganised workforce.
 - Provide guidance to the Union Government on issues related to the act's administration.
 - To keep an eye on the social security plans created for unorganised workers.
 - To the unorganised workers, identity cards are issued after the registration is reviewed.
 - Examine the State Government's state-level record of accomplishments.
 - Examine the money' expenditures under the various plans.
 - Carry out additional tasks as directed by the central government.
5. The Social Security Board must be established by the State Government at the state level in order for the Act to be properly implemented. The National Social Security Board and State Social Security both serve the same purpose. The Social Security Boards, who are tasked with carrying out the act's implementation, are only advisory in nature and aren't given much authority beyond monitoring and review. The Boards lack independent decision-making authority. The decision to adopt or reject the board's recommendations rests with the government. A well-defined administrative structure, which is absent in most laws, is absolutely necessary for the successful implementation of any law and the continuous distribution of social security entitlements to the workers.
6. The district government should require the unorganised workers to submit an application for registration. A person must indicate that he works in the unorganised sector and be at least 14 years old. The district administration will provide a smart card with an individual identification number upon registration. If a programme requires employee participation, the employee will only be eligible after making a donation.

Although the aforementioned laws are in effect to benefit migrant workers, they have not been effectively implemented due to a lack of public awareness. As a result, the government should take effective steps to ensure that these laws are effectively implemented and that the general public is aware of them.

CONCLUSION

By looking at the gender, mental health, and social security protections of internal migrant labourers, this paper sheds light on the current migrant problem brought on by COVID-19. The plan should be more compassionate so as to improve the inclusion of all members of the internal immigrant population in society, especially women and children. Additionally, it is advised that the public be consulted before introducing any legislation that may have an impact on the lives of the general people. Avoiding rash policy decisions that might have a significant impact on the lives of huge numbers of people is crucial. Additionally, awareness of the necessity of giving internal migration top priority in policies needs to grow.

