

A CRITICAL ANALYSIS OF HEALTH AND SAFETY OF MIGRANT WORKERS

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BEST CITATION – BHUVANESWARY S & GRACE GODSON B, A CRITICAL ANALYSIS OF HEALTH AND SAFETY OF MIGRANT WORKERS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (1) OF 2025, PG. 34-37, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

The information of employment and Unemployment which is conducted by Ministry of statistics and Program Implementation (MoSPI) since 2017-18. The overview period is July to June of following year. As per the information accessible in most recent Yearly PLFS Reports, the assessed Specialist Populace Proportion (WPR), demonstrating business, on normal status for people of age 15 a long time & over was 50.9%, 52.6% and 52.9% amid 2019-20, 2020-21 and 2021-22, separately. As per the Report Movement in India, 2020-21, based on PLFS 2020-21, discharged by (MoSPI), the add up to movement rate in India was 28.9%. Out of the add up to transient people, around 10.8% people were relocated due to business related reasons. The business related reasons incorporate in look of employment/better work, for work/ work (to take up business/ to take up superior business/ commerce/ nearness to put of work/ exchange) and misfortune of job/closure of unit/lack of work opportunities. With this ever-increasing rate of relocation inside the nation, the act of giving viable healthcare administrations to all remains a challenge. Discoveries from the survey portrayed a few wellbeing issues and dreary conditions, such as the risk of irresistible maladies, work-related ailment, sexually transmitted diseases (STI) and mental clutters.

This survey paper recognizes need of social security and wellbeing care scope for the vagrants as pivotal concerns; and in this manner illustrates the require to have all-inclusive urban wellbeing care approaches to guarantee common wellbeing and well-being for transients, along with way better work and living conditions.

INTRODUCTION

Indian society and its national government as well as different State governments require to understand and address issues of helpless interstate Migrant workers who are seen over both provincial and urban zones in India. The major chunk of migrant labourer's is unskilled and working in unorganized sectors Major States which send interstate migrant labourers are West Bengal, Assam, Bihar, Uttar Pradesh, Odisha, Jharkhand and Chhattisgarh. A few migrant laborers come beneath the definition of child worker whereas a few undergo school along with part time work. Migrant laborers in India are gone up against with a wide extend of

issues. These incorporate non-provisioning of privileges of government plans, destitute get to accessible plans and administrations, lacking and improper shields at worksites, destitute quality of settlement, long working hours, low wage compared to other labourer's, constrained get to wellbeing care administrations, social prohibition, destitute social interaction and need of integration with the local community.

National Database of unorganized worker (NDUW), which will be a comprehensive information base of the unorganized Labourer's and the Building and other construction worker and migrant worker seeded with Aadhaar. It will

have points of interest of title, occupation, address, occupation sort, qualification, skill type & family subtle elements etc. for ideal realization of their employability and amplify the benefits of the social security plans to them. The subtle elements of schemes/programme executed by Government for welfare of sicked and unskilled migrant workers in the nation inter-alia incorporate such as; Garib Kalyan Rojgar Abhiyan, Pradhan Mantri SVANIDHI scheme, Aatm Nirbhar Bharat, Pradhan Mantri Garib Kalyan Yojana, One Country One Ration Card, financial assistance to Building and Other construction workers etc.

WHO ARE MIGRANT WORKERS

Migrant workers are individual who leave home to find work outside of their hometown. People who move for work in their own country are 'domestic' or 'internal' migrant workers. People who move for work to another country are commonly called 'foreign' or 'international' migrant workers.

It has two types of migration: Internal and International. Internal migration or interstate migration takes place within a country while International is cross border migration. Social security nets should be given a special focus on the interstate migrant workers who were poorest and most vulnerable. It should be done in a way that can be reasonable and suitable to governments of sending and receiving States as well as Government of India.

OBJECTIVE

- Examine different sorts of segregation, human rights violations faced by interstate migrant workers concerning social security and wellbeing.
- Evaluate privileges given to interstate migrant workers by Central and State governments in regard of social security and wellbeing of migrant workers and reasons for their inclusion/exclusion, including problems faced by them in accessing those entitlements.

- To make suggestion and recommendations for strengthening the role of States in addressing social security and wellbeing.
- Make plans and schemes for protection of health and safety of migrant workers.

HEALTH RIGHTS OF MIGRANT WORKERS

In India, there are some studies talks about social security for interstate migrant workers. Shwetha and Prasad (2018) found that the health seeking behaviour was poor and delay in seeking healthcare during their sickness. According to Manas (2018), interstate migrant workers in India, are left-out from the various social security and wellbeing. Lack of political space for migrant workers jeopardize the responsiveness of health and their social needs. It is necessary to plan innovative techniques that can strengthen the participation of migrant workers in social assurance programmes.

S.N Royet.al (2017) expounded distinctive Acts and Provisions for the protection of workers. Social benefits are not extended to migrant construction workers, who face particular vulnerabilities in numerous States. Implementation of the Acts by Indian States presents a terrible picture of overall tardiness and delay.

Simi Sunny in her paper on "Social and Economic Integration of Migrant Labour: A Policy Response" expressed that social security measures for interstate migrant workers in India is limited while many countries across the world have introduced social security programmes to help the vulnerable transnational and internal migrants.

In India, the Employees State Insurance Act, 1948 and the Employees Provident Fund Miscellaneous Provision Act, 1952 are the legislations for social security.

Both the legislations have focused on the fundamental problems of labour including migrant labour by such provisions which take care of the workers in the exigencies of sickness, ill-health and other contingencies of life.

SAFETY OF MIGRANT WORKERS

Labour Bureau has been entrusted with the task of conducting the All India Survey on Migrant Workers. An Expert Group has been constituted by the Government of India on 9th September, 2020 to look at and finalize the schedules, sampling design and other technical details of the aforesaid survey being conducted by the Labour Bureau.

'Sarva Shiksha Abhiyan (SSA)' is a universal education programme, Government of India to give free and compulsory education to the children of 6-14 years' age group under Right to Education, which is available to the all children of inter-state migrant workers as well.

Ministry of Labour & Employment provide scholarships to students of different category including children of Migrant workers.

All these grants are facilitated through National Scholarship Portal.

In order to protect the interest of the migrant workers, the Central Government had enacted the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. This Act has presently been subsumed in the Occupational Safety, Health and Working Conditions Code, 2020 and the Code has been notified on 29.09.2020.

The above specified code commonly known as OSH Code, provides for decent working conditions, minimum wages, grievances redressal mechanisms, protection from abuse and exploitation, enhancement of the skills and social welfare and social security to all category of skilled and unskilled workers including Migrant workers.

ILO CONVENTIONS ON MIGRANT WORKERS

ILO Conventions and Recommendations are meant to apply to all labourer's irrespective of their nationality. In other words, international labour standards apply to migrant workers in the same way as they apply to labourers who are citizens. This implies that, in rule all the international labour instruments are relevant to

migrant workers as they set out the minimum labour standards that have been universally agreed upon at the international level.

This Guide refers primarily to the international labour standards that are of specific relevance for the protection of migrant workers' rights and explains the substantive areas in which all migrant workers should enjoy equal treatment and opportunities. These international labour standards can be roughly divided into three categories:

1. Standards on migration as an element of employment policy
2. Standards articulating fundamental principles and rights at work
3. Other measures that are important to migrant workers including those concerning social security, work arrangement, private and public employment agencies, employment and working conditions, as well as those covering segments with large numbers of migrant workers.

States have the sovereign right to determine who enters their domain and their labour market. To guarantee that sovereignty does not run counter to the equal treatment principle provided in international labour standards—and to provide for protection during the migration process—the ILO's member States adopted five up-to-date instruments (two Conventions and three Recommendations) specifically for international migrant workers:

1. Migration for Employment Convention (Revised), 1949 (No. 97) and Recommendation (Revised) 1949, (No. 86)
2. Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)
3. Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151).

It is to be noted that the 'migrant workers' referred in these standards include only 'foreign' or 'international' or 'external' migrant workers,

and not 'domestic' or 'internal' migrant workers. In addition, the two migration Conventions (Nos. 97 and 143) refer to the rights of migrant employees, and do not cover the rights of foreign citizens who are self-employed workers.

FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

In recent years, a consensus has emerged that certain standards form the foundation of equitable social and economic development. In order to enable ILO member States to adapt with the competitive pressures of global economic integration and guarantees that the standards underlying these guidelines as laid down in the ILO structure are recognized, regarded and realized all over, governments, employers' and workers' organizations adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998.

The Declaration's Preamble particularly calls for special attention to "persons with special needs, especially the unemployed and migrant workers," and endeavours at all levels to resolve their problems

The Principles standards and Rights at Work cover four areas:

1. Freedom of association and the right to bargain collectively
2. Elimination of all forms of forced or compulsory labour
3. Effective abolition of child labour
4. Elimination of discrimination in employment and occupation.

SOCIAL SECURITY AND WELFARE PLANS

Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY) and Pradhan Mantri Suraksha Bima Yojana (PMSBY) propelled in 2015 gives for life & incapacity cover due to natural or accidental death.

PradhanMantriShram Yogi Man Dhan Pension Scheme (PM-SYM) propelled in 2019 gives for old age social security in the form of monthly pension.

Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PMJAY) propelled in 2018 gives Rs.5 lakh health coverage for secondary and tertiary health benefits to those migrant workers who are covered as qualified person as per deprivation and occupation criteria.

PM-SVANidhi Scheme encourages collateral free working capital loan of up to Rs. 10,000/- for one-year tenure to street vendors.

Pradhan Mantri Awas Yojana caters to the housing needs of all qualified person Under the provisions of the Minimum Wages Act, 1948, both the Central and the State Governments are appropriate Governments to settle, survey, review and revise the minimum wages of the employees employed in the Scheduled employments including Migrant labourers under their respective jurisdictions.

Under Section 13 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, an Inter State migrant workmen shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948 (41 of 1948).

In order to protect the interests of the migrant workers, the Central Government had ordered the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. This Act has presently been subsumed in the Occupational Safety, Health and the Working Conditions (OSH) Code 2020.

The OSH Code provides decent working conditions of workers, minimum wages to all labourers, grievance redressal mechanisms, and protection from abuse and exploitation, enhancement of skills and social security to all categories of workers including migrant workers.

REFERENCE

1. <https://www.ilo.org.com>
2. <https://labour.gov.in/sites/default/files/pib1909987.pdf>
3. <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1705415>
4. <https://nhrc.nic.in>