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## Migration, Migrant Workers, Their Rights and Challenges in the Strainer of Covid 19

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**Abstract:** The COVID 19 pandemic or the novel Coronavirus – the well disseminate eerie virus is nothing new so far before the world of 2020, caused by severe acute respiratory syndrome Coronavirus 2 (SARS-COV-2), triggered outbreak first in Wuhan, China in December, 2019, later it sparked into other portion of the world. India is also not an exception - hitherto, many a life has lost, many blooming expectation has shadowed, many opportunities are lockdown, various Containment Zones are created, self-isolations are promoted, a stout appearance of socio-economic imbalances are visible, and mostly the vulnerability of the marginalized communities are manifested especially the displaced migrant population who generally remain in a curtain behind every development - suffers the worst form. The sudden Govt. proposed lockdown abruptly closes their worksites, snatches their last alternative of livelihood and shelter, and worst of it was the lack of transportation channels. Hence, thousands of them compelled to back home by walking; they crossed several thousand kilometers with starvation, exhaustion and due to this many died on the road, many suffer police brutality, many faced denial of medical care and that is not an end of their misery. The unrecognized strength of the democracy still deprived from their allotted rations, basic amenities, and last means of survival – allowances in absence of systemized registration. That is the significance of this present study and this study also highlight the Government and employer's positive step to combat with it.

### Key words:

COVID 19, Lockdown, Migrant workers, Socio-economic imbalance, Sufferance of Migrant Workers.

### I. INTRODUCTION:

*"Migration is a powerful driver of economic growth, dynamism and understanding. It allows millions of people to seek new opportunities, benefiting communities of origin and destination alike."*

..... Antonio Guterres, UN Secretary General.

In the era of rapid globalization-liberalization-industrialization-urbanization migration becomes a stout reality of up-to-the-minute. It's a multidimensional phenomenon concerning with the development of the origin country, transit country and the destination country and hardly there is any country remain untouched by the migration.

India, the land of resources, land of opportunities is also not the exceptional one - remained a lodestone for visitors, traders, warriors, students etc. of the whole world since time immemorial, then Britishers nurtured the seed of migration by the developmental changes in production and economic sector, eased communication and transportation facilities by starting railways, and later Indian independence and various socio-political and economic developments, industrial growth and technological advancements attracted the people to migrate in various regions of India. Now here a people can easily fulfill his desire to seek better employment opportunity with a decent salary and adequate livelihood through inter-state or intra-state migration; it has numerous potential to improve household' socio-economic status, contribute inclusively and exclusively in the sustainable socio-economic growth and development process, social cohesion and urban diversity. In one hand, it fill the

requirement of nations demand for and supply of efficient skilled labour, unskilled labour, cheap labour; enhances the knowledge and skills of workers, simultaneously in other hand internal migration or the migrant workers assist to build up a nation's stout economy by sending the economic remittances to their family members which increase consumer expenditures and investment in education, health, housing, food and asset formation, altogether enhance the quality of life of the nation. But the risks and costs, they encounter routinely, is very high. Maximum of them a daily wagers - usually spend their whole day silently on worksites and at night covert themselves into a perilous shelter, often encountered deprivation, discrimination, forced labour, unsafe work condition, unpaid wages, inadequate food, exploitation, employer's confiscation of identity documents, human trafficking, abuse and other severe human rights problem. So, quite naturally, the dislocated migrant population, whose life is typically precarious, work under vulnerable conditions, generally not counted in mainstream suffered the most in amid pandemic of COVID 19 and its short noticed lockdown. Although the very lockdown slowed down the spread of the disease, yet it widely exacerbates the existing inequalities and vulnerabilities in India. And, worst of it was the lack of anticipation of the Govt. that without work, savings and food the vulnerable group of persons especially the migrant workers who migrated in several part of India for better livelihood, how they survive in an unknown province where they only fill the existing labour gap in exchange of a meager remuneration. As the lousy nightfall spends with the strict guidelines of several phases (Phase II, III, and IV) of lockdown, the position of migrant workers become crystal clear, their everyday vulnerability comes into focus – neither the policy makers nor the employer think twice about their fate. Accordingly, after close down of all the work places, they chose to return to their own native places to get a minimum guaranty of food, shelter and security of life. But it was too late to board a transport as the Govt. proposed lockdown already cancelled all trains and buses. So, thousands of them compelled to back home by walking or it will be better to say that from that moment, city noticed exodus of millions migrant workers with exhaustion, starvation, rail accident, road accident, mob lynching, police brutality etc. and that is the significance of this study. This study is not only highlighting the vulnerable position of the migrant workers during the pandemic COVID-19, but also exaggerating their existing rights and daily challenges in pandemic which makes them more vulnerable than before.

## II. MIGRANT WORKER'S RIGHT IN INDIA:

India the country of 5.6 crore inter-state migrants (as per 2011 Census), majority of who work in the informal/unorganized centre; often accounted deprivation, discrimination in worksites, where a large number are daily wagers and very few have any form of valid identity card – COVID 19 becomes a curse for them. Hence, quite naturally their sufferances in real are beyond assumptions. But before highlighting their challenges, existing beneficial legislations should be mentioned. And, in perspective of existing enactment, at first come Indian Constitution, where the Preamble clearly utters the chief aim of India is *"to secure justice, liberty, equality and fraternity for all the citizens of India"*. So, being a part of the total population of India, migrant workers are also entitled all this basic rights. Now, in order to emphasize migrant workers' rights in India, the existing legislatures can be classified under two broad heading as:

- a) Migrant Worker's right under Indian Constitution; &
- b) Migrant Worker's right under other legislatures;

### 2.1. Constitutional Provisions in relating to the right of Migrant Workers:

Indian Constitution i.e. the supreme law of the land, containing laws and rules, conforming as well as recognised every right of the individuals throughout its provisions. So, migrant workers are also not the exception, their several rights under the Indian Constitution are mentioning below:

- i. **Right to Life [Article 21]:** The first basic right confirmed to all migrant workers is right to life under Article 21 of the Indian Constitution. But here the term "Life" is not meant mere animal existence, it refer a quality of life, life with human dignity, right to livelihood, right to social security and protection of family, right to shelter, right to health etc. of all migrant workers.
- ii. **Right to Equality before Law and Equal Protection of Law [Article 14]:** The second right which the migrant workers are enjoying is - right to equality before law and equal protection of law under Article 14. And as they are treated equally before law, they will easily experience equal legal protection.
- iii. **Right to Equal Opportunity [Article 16]:** One of the other secured right of the migrant workers are right to equal opportunity guaranteed by the term "Socialist" of the Preamble as well as through Article 16 of Indian Constitution. Until and unless they get equal opportunity literally in workplace, the very purpose of 'social justice' would shatter.
- iv. **Right to Movement and Residence [Article 19(1)(d) and 19(1)(e)]:** The next very important fundamental right of every migrant workers are freedom of movement and residence guaranteed under Article 19(1)(d) & 19(1)(e) of Indian Constitution by which no internal barriers can stop them to find out a better employment opportunity and a prosperous life.

- v. **Right against Exploitation [Article 23 and 24]:** By Article 23 and 24, another important fundamental right conformed to all migrant labourers or like, is the right against exploitation. Every kind of exploitation through trafficking of human beings, beggar or other similar forms of forced labour are strictly prohibited in India.
- vi. **Right to Work, to Education and Public Assistance [Article 41]:** Right to work, education and public assistance is also ensured to all migrant workers under Article 41 as it is the ultimate way to eradicate unemployment from the root of the society.
- vii. **Right to Just and Humane conditions of Work [Article 42]:** Article 42 provide another basic instance to lead a healthy life i.e. the right to just and humane conditions of work to them whether they work in any industry or construction, agriculture, fisheries, manufacturing, hotel, textile, transportation, brick kiln, mine sector or in domestic work.
- viii. **Right to equal pay for Equal Work [Article 39(d)]:** They also enjoyed the 'Right to equal pay for equal work' under Article 39(d) of the Indian Constitution which undoubtedly establishes economic justice in the society.
- ix. **Right to Living Wage [Article 43]:** The State is also ensuring to them a living wage under Article 43 of the Indian Constitution.
- x. **Right to Participation on Management of Industries [Article 43A]:** Even their right to participation on management industries is also secured by the Indian Constitution.
- xi. **Right to Redressal of Grievances and right to legal aid [Article 32 and Article 39A]:** Last but not the least they enjoy the right to redressal of grievances by filing of a writ petition under Article 32 and 226 of Indian Constitution. Even if their sufferance can be curtailed to some extent by another right secured under Article 39A i.e. the right to free legal aid guaranteed to all of them.

## 2.2 Other Legislature in relating to the right of Migrant Workers:

With the Constitutional safeguards, some other specific legislation is continuously working to enlighten the role and significance of the migrant workers in society categorized under the broad heading of 'Labour Law', containing various rights of workers, emphasized deeply the need for protecting workers, such as –

- (i) The Contract Labour (Regulation and Abolition) Act, 1970;
- (ii) Bonded Labour System (Abolition) Act, 1976;
- (iii) The Employees Compensation Act, 1923;
- (iv) The Payment of Wages Act, 1936;
- (v) The Industrial Disputes Act, 1947;
- (vi) The Employees State Insurance Act, 1948;
- (vii) The Employees Provident Fund Act, 1952;
- (viii) The Maternity Benefit Act, 1961.

But a specific beneficial legislation in favour of migrant workers enacted in the year of 1979, named The **Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979** which at the very outset clear that an "inter-state migrant workmen" includes any person who is recruited by or through a contractor in any state under an agreement or other arrangement for employment in an establishment in another state, whether with or without the knowledge of the principal employer in relation to such establishment [Sec. 2(1)(e)] and vehemently declare that for the purpose of employing migrant workers, registration of every establishment [Sec. 6] and the contractor's licence [Sec.7] is very necessary. With the preliminary formalities, this Act proclaim that every contractor is bound to issue a pass book [Sec. 12] to every migrant worker containing the worker's photograph and their personal details, details of work etc. necessary in case of payments of dues after cease of employment. So, this Act provides wage security to every inter-state migrant workman. Even their right to healthy environment of work, right to secure condition of work, right to protective clothing, right to equal pay for equal work, right to regular payment of wages, allowances, right to being informed to the kin of the workman in case of any fatal accident, right to get free medical aid [Sec. 13, 14, 15, 16] – everything is guaranteed to all migrant workers of India under this Act. This Act not only prescribing some rights of migrant workers, it also unanimously express that every contravention of any provision of this Act will amounting to punishment and continuous contravention subjecting to greater punishment (Sec. 25). Judiciary also upheld the beneficial purpose of the Act through various adjudications like in *Labourers Working on Salal Hydro Project vs. State of Jammu and Kashmir and others case* <sup>1</sup>, Where the migrant workers working in the Salal Hydro Project of Govt. of India, were repeatedly deprived and denied the benefits of various Labour Laws, then the Supreme Court gave directions to the specific authority to follow whether any bonded labour or forced labour or illegal trafficking conducted there or not. Similarly the Supreme Court promote justice to the migrant workers in *Asiad Project case* or *People's Union for Democratic Rights V. Union of India* <sup>2</sup>, where the contractors were not implementing some provisions (Sec. 14, 15, 16, 17, 18) of Inter-State migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 regarding payment of wages and allowances.



### III. CHALLENGES OF THE MIGRANT WORKERS DURING PANDEMIC COVID 19:

In reference with specific legislations, it is the duty of the state to protect and secure the migrant workers in every phase of life. But incidentally the scenario was different. With the outbreak of pandemic COVID 19, India noticed the approach of “social distancing”, complete “lockdown”, “sanitization” etc. without any preplan that nearly 22% of India’s total population who live in slum-congested areas, ‘social distancing’ - a great mockery, ‘lockdown’ - helped to snatches their daily bread and butter and ‘sanitization’ merely a superfluous thing for them. Hence the vulnerability of some group of Indians including the migrant workers comes into frontline. Majorly they are daily wagers; therefore unpredictable pandemic snatches at first their every scope of **daily jobs** and put them into a phase of jobless uncertainty. Even their chance of further reemployment also ceased due to their status of unorganised labour. Second, their hope of survival also ruin into the extent of **lack of money, lack of food, lack of healthy environment**. They are deprived from their basic right to get a shelter as the employers are consciously remaining ignorant about this matter. Helplessly their decisions to rejoin with their family put them under an obligation to walk miles after miles with exhaustion, starvation in **lack of transportation**. Many felt anxious in lack of food, many board overcrowded truck, many unstable footsteps stopped by road accident, many felt asleep in railway track and killed by a freight train, many died and injured in police brutality, many lost their life in **refusal of medical aid**. Later on, their endangered conditions also exposed during their journey to home by Govt. arranged Shramik Special train which was reluctant to provide minimum food, pure water, bedding and medical facility to them. Next, they again suffered after reaching their native places, faced **social boycott**, and denied entry to their villages, witnessed 14 quarantine days in a quarantine centre far from home. Even a migrant worker as a vulnerable population, also being hosed down with bleach (unfit for human use), disinfectants or soap solution. Last but not the least, in **lack of proper reemployment** process of the Govt., in **lack of opportunity** - they all are continuously victimized, face **economic boycott** in their native places as well as in some other destination places also.

### IV. SOCIO-ECONOMIC STEP OF THE GOVERNMENT AND THE EMPLOYERS IN FAVOUR OF MIGRANT WORKERS DURING PANDEMIC:

As the sufferances of the migrant workers were making so noise, the Government could not able to ignore it, and as a result government comes with several directives, announcement and friendly policy in favour of the migrant workers, set up several relief camp/centres instantly, arranged free transport facilities for the stranded migrant workers, even the Home Ministry ordered the states to use the National Disaster Response Fund (NDRF) as to ensure that migrants would not move during lockdown and can access adequate food and shelter <sup>3</sup>. Then monetary assistance flows upon the migrant workers from the Central Government through a relief package of Rs. 11,092 crore to states and Union Territories under the National Disaster Response Fund. On 1<sup>st</sup> May, Indian Railways launched “Shramik Special” trains <sup>4</sup> to ply the stranded migrant workers in their native places and around 60 lakh migrant people benefitted by it. Some other financial aid of Rs. 3k crore came from the PM CARES Fund <sup>5</sup> for the migrant workers and as the maximum daily migrant wagers have no ration card, Govt. next unveiled second tranche of stimulus package of Rs. 3,500 crore for close to 8 crore migrant workers who are not covered under the food distribution system, containing – a) free food grains (5kg grains and 1kg chana) to every person per family per month for two months; b) affordable rental housing facility for them under PM-Awas Yojana; c) One Nation One Ration Card to enable access of PDS across the country; d) 14.32 crore person-days of work generated under MGNREGA as of May 13 <sup>6</sup>. The Govt. of India in further advancement of migrant workers launched several reemployment yozana like the Garib Kalyan Rojgar Abhiyaan <sup>7</sup>, 100 day work etc. and not only the Government, the employers are also realizes the worth of the mass of the people who often built our dream at their costs. So, various arrangements like booking plane ticket, reserving train ticket, arranging special buses or other vehicle are noticed during the course on the part of the employer.

## V. CONCLUSION AND SUGGESTION:

In ending the discussion on the status of the migrant workers in amid pandemic Covid19, it should be relevant to point out that Covid 19 pandemic creates a worldwide threat and it's very tough for a country like India where the highest proportion of the vulnerable workers are exist to manage the socio-economic- medical crisis of Covid 19 spontaneously. Although the Government's redressing steps are appreciable, yet we have to go the extra mile to attain socio-economic equality and justice in a society for the migrant workers as they are the strongest workforce of one nation's development. So, some further suggestions are mentioning below:

- i. Firstly, in proportion of vulnerable community more stimulus packages are needed;
- ii. Secondly, only provide the allowances are not enough to succumb this crisis, a permanent job opportunity is highly required;
- iii. Thirdly, a strict vigilance is needed that the proposed packages should reach in the proper hand;
- iv. Fourthly, till now, all migrant workers are not registered before the Govt., so, a proper registration of all the migrant workers are needed to help them out in the pandemic like situation in further.
- v. And, lastly as 22% of India's population consisted of vulnerable community, belongs to poverty – some free Covid 19 testing method should be arranged; otherwise to control the endless caravan of misery of the vulnerable community including the migrant workers becomes a fallacy.

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