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## COVID-19 & Migrant Workers: A Subtle Sector

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### Abstract

The Novel Corona Virus Disease (COVID-19) has affected approximately One Hundred and Ninety Nine Countries and Territories around the world that has its origin from the Wuhan City of China. Majorly, this virus has affected not the underdeveloped nations but the developed or developing nations on a higher rate. The World Health Organization has declared this disease as Pandemic. It has a direct effect on the each and every individual in the whole world but those who are suffering in extreme way are the workers of an unorganised Sector, specifically the women workers. They are the one who are daily wage workers, they earn their livelihood on daily basis and ensure the sustenance for them and their family. This epidemic has resulted into a countywide lockdown which consequently resulted in the closure of all the shops (except shops with essential commodities), construction sites, offices, startups, etc. where these daily wage women workers used to earn their livelihood. It has brought a challenge before them with regard to their sustenance along with their family. This paper makes an analysis on how this epidemic and lockdown has locked the livelihood of the women workers of unorganised workers along with other effects and the steps taken by central and state governments to mitigate this effect.

KEYWORDS: Covid-19, Migrant Workers, Unorganised Sector, Women Workers.

## INTRODUCTION

The COVID-19 has engulfed the entire world posing serious challenges for the health and economic security of millions of people worldwide. It is an unprecedented global crisis which has been declared as pandemic by World Health Organization. The World Health Organization has also declared this COVID-19 as “Public Health Emergency of International Concern”. This pandemic has covered almost entire globe. It has been increasing day by day and till today the only precautionary measure against COVID-19 is to practice the concept of Social Distancing with use of mask. This pandemic has resulted in the closedown of entire world and India is also not an exception to it. India is at an extremely critical stage in its fight against the COVID-19 pandemic. A lockdown was inevitable and the government has rightly made an order for the 21 days nationwide lockdown<sup>2</sup>. This order is followed by the guidelines given by the Ministry of Home Affairs<sup>3</sup> which makes sure that there shall not be any closure in the supply of necessary commodities. This lockdown has resulted in the closure of all the sector, i.e. organised and unorganised sector, but this closure has severely affected the workers of unorganised workers including the women workers. The workers of unorganised sector remained stranded without food, shelter and money in cities. Countless have walked hundreds of kilometer, facing hostile police forces, just to get home. Later the government has ordered the State governments to seal the borders and to stop this movements of migrant workers during the lockdown period<sup>4</sup>. Under this order the Central government has specifically said that the movement of large number of migrant workers in some part of the country to reach their home is the violation of the measures of Social Distancing. The same order also provided some relief for the stranded workers. The order gave some additional measures in order to implement the lockdown measures and to also mitigate the economic hardship of the migrant workers. This order of 29<sup>th</sup> March, 2020 has made some relief for the migrant workers. This order provides for the:-

- i. The adequate arrangement of temporary shelters and the provision of food, etc. for the poor and needy people, including migrant labourers;
- ii. The migrants who have moved out to reach their home states/ hometowns must be kept at nearest shelter homes by the respective state government;
- iii. All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishment are under closure during the lockdown;
- iv. Wherever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.

<sup>2</sup> <https://mha.gov.in/sites/default/files/MHAorder%20copy.pdf> last visited on March 30, 2020 at 4:16 p.m.

<sup>3</sup> <https://mha.gov.in/sites/default/files/Guidelines.pdf> last visited on March 30, 2020 at 4:19 p.m.

<sup>4</sup> <https://mha.gov.in/sites/default/files/MHA%20Order%20restricting%20movement%20of%20migrants%20and%20strict%20enforcement%20of%20lockdown%20measures%20-%2029.03.2020.pdf> last visited on March 30, 2020 at 4:33 p.m.

This order by the Central Government has not only given a ray of hope in this hard time to the workers of unorganised workers but also protected their right to life, which is one of the fundamental rights available to every person under Article 21 of the Constitution of India<sup>5</sup>. Here it is imperative to talk about the decision of Apex court in the *Bandhua Mukti Morcha v. Union of India*<sup>6</sup> and *Bandhua Mukti Morcha v. Union of India*<sup>7</sup>. In these two cases the Supreme Court has held that “Article 21, Article 39 (e)<sup>8</sup>, (f)<sup>9</sup>, Article 41<sup>10</sup> and Article 42<sup>11</sup> of the Indian Constitution has been meant to ensure a life with human dignity. The right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of the State Policy and particularly clauses (e) and (f) of the Article 39 and Article 41 and Article 42 and the least therefore it must include protection of the health and strength of workers, men and women. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no government, neither the Central Government nor any State Government, has the right to take any action which will deprive a person of the enjoyment of these basic essentials”. This decision has paved the way for the protection of right to life of the daily wage workers.

#### COVID-19 VIS-À-VIS UNORGANISED SECTOR WOMEN

The COVID-19 has affected the lifestyle of every individual. It will be unfair to say that this effect is equal on each and every person of society. This COVID-19 has its different effect on Passport holders and Ration Card holders, where passport holders can remain in their home and get themselves secured of this pandemic the Ration Card Holder can't. They are bound to remain in their home but being in home without work comes with challenge of sustenance of their life and also the life of family members. The population which has been found as vulnerable among all is the workers of unorganised sector, in the form of migrant workers, but the most vulnerable population in present time is the women workers in the unorganised sector, it may be migrant workers or the domestic workers. These women workers join unorganised sector when they have no other option available to earn their livelihood and sustain their life. A woman joins unorganised sector when:-

- i. There is no male member in the family to earn livelihood.
- ii. If there is male member, he is unable to maintain family with his earnings.

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<sup>5</sup> The Constitution of India, 1950, Article 21: No person shall be deprived of his life or personal liberty except according to the procedure established by law.

<sup>6</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161,183,184

<sup>7</sup> *Bandhua Mukti Morcha v. Union of India*, (1991) 4 SCC 177

<sup>8</sup> The Constitution of India, 1950, Article 39(e): that the health and strength of workers, men and women, and the tender age of the children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

<sup>9</sup> The Constitution of India, 1950, Article 39(f): that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

<sup>10</sup> The Constitution of India, 1950, Article 41: Right to work, to education and public assistance in certain areas.

<sup>11</sup> The Constitution of India, 1950, Article 42: Provisions for just and humane conditions of work and maternity relief.

These two reasons are not solely responsible for the joining of unorganised sector by these women but the lack of skilled knowledge among these women is imperative in both cases. A woman who is working in unorganised sector is always in the situation of 'do or die', as she has to do work in order to feed herself and also to her child, if any.

The Economic Survey of 2018-19 says that 93% of total workforce is in 'informal' sector<sup>12</sup>. It simply means these workers are earning their livelihood on a daily basis and sustaining their life along with the life of their family on such employment. Now another data published by Deloitte says that in India total 195 million women are working in unorganised or unpaid sector<sup>13</sup>. In a country like India which has such a vast population working informal sector, it was a big challenge before the government to implement complete 21 days lockdown in whole country. Now after the announcement of 21 days lockdown, the whole country comes to the position of rest except the essential works. Consequently the workers of unorganised sector has no work to do and as a result they have no earning to sustain their life. This situation makes the whole India aware of the fact the kind of life these workers are going through. In the absence of any work these workers get stranded in the cities to which they have migrated in the search of work or livelihood. In the meantime the Government of India has ordered that there will be complete closure of transportation either it be roadways or railways (except the freight trains). This closure of roadways as well as railways makes these workers helpless and they have no other options available except of moving towards their home on foot. As soon as the lockdown was announced, it was followed by the news of stranded labourers moving towards their village/home on foot<sup>14</sup>. They were bound to go hundreds of kilometer on foot. Now during this challenging time the Central government on one side where it asked the state governments to seal their borders, it also asked them to make availability of shelter homes with proper facility of food, medicines and basic amenities<sup>15</sup>. The Finance Minister announced 1.7 lakh crore relief fund for the migrant, poor and women workers.<sup>16</sup> The Madhya Pradesh government announced for the payment of salary and other basic amenities to the labourers<sup>17</sup>. Further the Uttar Pradesh government has deposited 611 Crore in the bank accounts of around 27.15 lakh MNREGA workers<sup>18</sup>. In between all these welcome steps taken by Central as well as different State Governments a news comes from the Bareilly district of Uttar Pradesh and from South India about the spraying of disinfectant on the labourers in order to get them

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<sup>12</sup> <https://www.ibef.org/economy/economic-survey-2018-19> last visited on April 1, 2020 at 4:30 p.m.

<sup>13</sup> [https://www2.deloitte.com/content/dam/Deloitte/in/Documents/about-deloitte/UNGONI\\_black\\_final%20v6%20web%20high%20res.pdf](https://www2.deloitte.com/content/dam/Deloitte/in/Documents/about-deloitte/UNGONI_black_final%20v6%20web%20high%20res.pdf) last visited on April 1, 2020.

<sup>14</sup> <https://www.deccanherald.com/national/west/coronavirus-lockdown-3000-migrant-workers-going-on-foot-stuck-at-maharashtra-gujarat-border-818526.html> & <https://www.indiatoday.in/india/story/coronavirus-outbreak-lockdown-migrant-workers-condition-1659868-2020-03-26> last visited on April 1, 2020 at 5:21 p.m.

<sup>15</sup> Supra Note 3

<sup>16</sup> <https://www.dtnext.in/News/Business/2020/03/26134736/1221901/Finance-Minister-announces-a-package-for-migrant-workers-.vpf> last visited on April 1, 2020 at 5:24 p.m.

<sup>17</sup> [http://www.labour.mp.gov.in/KnowledgeSharing/public/View\\_Circular.aspx?id=8861](http://www.labour.mp.gov.in/KnowledgeSharing/public/View_Circular.aspx?id=8861) last visited on April 1, 2020 at 5:36 p.m.

<sup>18</sup> <https://www.indiatoday.in/india/story/coronavirus-india-up-govt-transfers-crore-bank-account-over-lakh-workers-lockdown-1661560-2020-03-31>, last visited on April 1, 2020 at 5:50 p.m.

free from the virus of COVID-19<sup>19</sup> which shows the inhuman character of the government officials. To protect the rights of poor and stranded workers a Public Interest Litigation has been filed in the Supreme Court regarding the violation of Article 14 and Article 21 of these migrant workers<sup>20</sup>. The petition draws the attention of the Apex Court towards the situation of these workers and prayed the court to pass a direction to Centre to immediately identify the moving and stranded workers and immediately shift them to the nearest government shelter homes with proper food, water, medicines and medical supervision, in a dignified manner, till the lockdown continues. On this the Supreme Court asked the Centre to file the status report in this regard. The Centre submits Thirty Nine pages Status Report<sup>21</sup>. This status report provides for the reasons and necessity behind the declaration of the Twenty-One days lockdown. The Status Report has been classified into following heads:

- Para 1-7 deals with the pro-active steps of the Government of India in order to contain this pandemic.
- Para 8 & 9 as Institutional Response
- Para 10-16 Point of Entry Surveillance/ Travel Advisories
- Para 17 Community Monitoring
- Para 18 Enhancement of Laboratory Capacity
- Para 19 & 20 Communications of Risk Factors and Precautions
- Para 21- 24 Health Sector Preparedness
- Para 25-52 Social Distancing/ Lockdown

#### THE STATUS REPORT:

The Status Report filed by the Central Government in response of the Public Interest Litigation doesn't only provide for the reasons behind the declaration of the Twenty-One days lockdown in the nation but it also provides for the precautionary measures taken and preparations made in order to protect the rights of poor people, including the migrant labourers. These are:

- i. Para 35 provides that the Central Government was fully aware that no citizen shall be deprived of the basic necessities of food, water and medication of the poor people for whom a package totaling 1.70 lakh crore has been announced under the "Pradhan Mantri Garib Kalyan Yojna".
- ii. Para 36 of the report further provides that the Central government with a view to obviate any possibility of hardship being faced by the poor people, including the migrant workers, which is

<sup>19</sup> <https://punemirror.indiatimes.com/news/india/covid-19-migrant-workers-sprayed-with-disinfectant-in-uttar-pradesh/articleshow/74888126.cms> last visited on April 1, 2020 on 6:09 p.m.

<sup>20</sup> Alakh Alok Srivastava v. Union of India, W.P. (C) No. 468/2020.

<sup>21</sup> <https://mha.gov.in/sites/default/files/Status%20Report%20COVID19.pdf> last visited on April 2, 2020 on 5:10 p.m.

- approximately 80 crore individuals is to be provided 5 kg of the food grains (Rice and Wheat) and 1 kg of pulses free of cost every month for the next three months.
- iii. Under the same package the government will also provide one gas cylinder per month for the next three months.
  - iv. The Women who have bank account under the Pradhan Mantri Jan Dhan Yojna shall get an ex-gratia amount of Rs. 500 per month for the next three months.
  - v. Over 3.5 Crore migrant labourers shall be given financial assistance through the “Welfare fund of building and other construction workers”.
  - vi. With respect to the movement of migrant workers from the place of their work to village the government assured the Supreme Court that their daily needs are being taken care by the government at place wherever they are and also of their family members at their respective villages.
  - vii. The bare foot migration take place consists of approximately 5-6 lakh persons across the country.
  - viii. These barefoot migrant workers were being stopped from moving to their village with a view that there could be possibility of carrying the COVID-19 virus with them to the rural areas and thus putting not only their life at risk but also the life of their family members and the rural people who are unaffected so far.
  - ix. The Central Government has also directed to the State Governments that those migrant workers who have moved their respective States/ home towns, must be kept in nearest shelter homes in a quarantine with proper screening of minimum period of 14 days as per the standard health protocol.
  - x. Further with a view to secure the rights of migrant workers and other poor peoples the government in the exercise of its power under Section 10 (2) (1) of the Disaster Management Act, 2005 issues direction that all employers either in the industry or shops or other commercial establishments shall make payment of wages to their workers at their work place on the due date without any deduction for the period such establishment were under closure due to lockdown.
  - xi. Also it is directed that the migrant workers or other poor people living under the rented accommodation shall not be compelled to pay rent by their landlords. If any landlord flouts this direction, they shall be liable for action under Section 57 of the Disaster Management Act, 2005.

## THE APEX ORDER

While hearing of the matter before the Supreme Court, the Solicitor General of India informed the Court that according to the information received by the Control Room at 2:30 a.m. on 1<sup>st</sup> April, 2020 there are total 21,064 relief camps have been set up different state governments and Union Territories where the migrant labourers have been shifted and they are being provided with the basic amenities like food, clean drinking water, medicines, etc. According to Status Report 6, 66, 291 persons have been provided shelters and 22, 88, 279

persons have been provided foods.<sup>22</sup> The Solicitor General of India also made a statement that on the same day at 11:00 a.m. there was no person walking on the roads in an attempt to reach his/her town/villages. Further it was highlighted that in order to deal with the chaos created by such a large mass movement the National Disaster Management Authority has also issued an advisory on 28.03.2020 in which it advised that the police authority and other administrative authorities have to adopt a humane approach in dealing with migrant workers and stranded tourists.

The Solicitor General of India also referred the Status Report while submitting that the mass movement of migrant labourers have been triggered due to the panic created by the fake news and social media. In this regard, the Government of India has made an advisory on 24.03.2020 to the concerned authorities to deal with rumour mongering.

In this order the Court stated that in this petition they are concerned with the migrant labourers only. The Court quoted the statement of Dr. Tedros Adhanom Ghebreyesus, Director General, World Health Organisation as:

*“We are not just fighting the epidemic; we are fighting an infodemic. Fake news spread faster and more easily than this virus, and is just as dangerous.”*

The migration of large number of migrant labourers including women workers working in the cities was triggered by panic created by the fake news that the lockdown would continue for more than three months. This panic migration have caused unseen sufferings to those who have believed on this fake news. Many have lost their life too. It is therefore equally important to put a check on the menace of fake news either by electronic, print or social media.

The Court said, in this time it is expected by media (print, electronic or social) to show a higher sense of responsibility and ensure that unverified news which are capable of making a situation panic not to be disseminated. It is made clear that by this the Court doesn't mean to interfere the free discussions made on the pandemic, but the court directs media to publish the official versions of the developments of pandemic. The Apex Court also makes sure that those who have been kept in shelter houses may have also be disturbed due to the panic created, for which the Court is satisfied by the consciousness of the Central government regarding the mental health of the migrants kept in shelter home for whom the government has submitted that within 24 hours trained counsellors or community group leaders will visit the each and every shelter homes of the country. The Court further directs the police authority to deal with the migrants, either male or female, in humane manner. The Court also opined that the State Government/ Union Territories should endeavor to

<sup>22</sup><https://mib.gov.in/sites/default/files/OM%20dt.1.4.2020%20along%20with%20Supreme%20Court%20Judgement%20copy.pdf>  
last visited on April 03, 2020 at 5:42 p.m.

engage the volunteers along with police to supervise and ensure the smooth flowing of welfare activities for the men, women and children.

## CONCLUDING REMARKS

The World Health Organization has declared the Corona Virus outbreak a Public Health Emergency of International Concern (PHEIC) on 30<sup>th</sup> January 2020, and a pandemic on 11<sup>th</sup> March 2020. This medical emergency comes with the challenge to contain the spreading of this pandemic, for which the government took a pro-active step and observed Janta Curfew on 22<sup>nd</sup> March, 2020 and then a twenty-one day lockdown has been declared followed by three more lockdowns which is further followed by systematic and planned unlock process. This nationwide lockdown results in the closure of all the offices and industries except the essential ones. During this lockdown period the government has advised the nation to remain in house and to practice the precautionary measure of social distancing. This timely precautionary action of government was welcomed by every citizen by following the guidelines of lockdown. But this lockdown and closure of every single industry has another consequences too which came before the nation after a day of declaration of lockdown in the form of migrated labourers, men and women including their children. The migrant workers (ranging from 5-6 lakhs in number) has started migrating from their place of work to their respective hometowns/ villages in different parts of the country. This migration was very much anticipated as these are those population who earn their livelihood on the daily basis and in the absence of any work it was impossible for them to remain in their place of work without any earning which ultimately means without availability of food for them and their family. This picture of the consequence of lockdown raises two questions before government:

- i. Whether this declaration of lockdown is hurried and unplanned?
- ii. Whether Government was unaware of the data of migrant workers or daily wage earners available in different cities of India?

Government must take such a bold and active step in order to put a check on such a condition of medical emergency but before taking such step it is expected by government to think of every single citizen of his country including the migrant labourers either men or women and other workers of the unorganised sector. They are the one who works more than any other sector and either directly or indirectly contributes in the development of the nation.

Last but not making it the least the researcher would like to conclude by providing some pragmatic suggestions in order to protect the interest of such unorganised workers of our country. These are:-

- i. The first and foremost need of the hour is to make a count of the available unorganised workers in country, because it is one of the bitter truth before us that there is no available official data of the population of unorganised workers in our country. Thanks to COVID-19 which makes the government aware of this fact.
- ii. A National Unorganised Sector Welfare Fund should be established by the Central Government which must be funded by the Central Government on an annual basis. On the same scale the State



Government should also establish a Provincial Unorganised Sector Welfare Fund and maintain it. Such funds should only be used in the time of emergency either national, financial or medical.

- iii. Every unorganised workers should be registered and should be provided a bank account in their name so that in the time of emergency the financial help can directly be transferred to their bank account.
- iv. There must also be a separate data of women workers in unorganised sector who are either widow, divorced, deserted, etc. and they have no skilled knowledge due which they have no other option except to join the unorganised sector in order to sustain their life. The government must make a special policy for such women workers.
- v. The government must take care of the basic needs of children of such women workers.
- vi. A trade union should be formed among the women workers of unorganised sector.
- vii. A women in unorganised sector should be given maternity benefit in accordance to the legislative provisions and those who are indulged in the hard labour should be provided with the minimum 3 days as Menstrual Cycle Leave during the course of such cycle.
- viii. The working hour for unorganised workers, particularly of women workers should be regulated by law and if any employer uses labour of any such worker beyond the prescribed time should be made to pay double wage for that day.
- ix. The employer should take care of basic facilities like clean drinking water and washroom facilities for such unorganised workers with special reference to women workers.
- x. Employers should have humane approach towards unorganised workers.

To conclude I would like to say it is high time to think on our existence as human beings. There is barely any difference between us in terms of the requirement of basic necessities of life. Every person needs food, cloth and shelter to maintain decent lifestyle. If we have all these we are fortunate but at the same time it is our duty to take care of those members of our society who are short of these basic requirements, especially the bare requirements of women population who have to go through some special functions on a monthly basis. It is also imperative to say here that we shouldn't take men and women against each other and always we should focus on their cumulative effort towards the development of our society, State, Nation and ultimately of World.