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Challenges Faced By Inter-State Migrant Workers In India: An Analysis

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Abstract

The COVID-19 pandemic brought to light the plight of the 800-million odd inter-state migrant workers in India. Inter-state migrant workers are characterized by the nature of their migration, namely permanent, semi-permanent and seasonal/circular. The challenges faced by them lie at the intersection of identity formation, financing, housing and political inclusion, as past studies point out. In view of the new labour codes introduced by the Government of India, this paper comparatively analyzes past and current labour policies (with a focus on social security and welfare measures) to point out what would change for the workers and if it would benefit them. Based on secondary sources of data like research papers, news articles and magazine articles, the paper asserts the plus points of the new policies and also highlights avenues for planned revamp of specific provisions.

Keywords: *inter-state migrant workers, migration, labour codes, COVID-19, social security, welfare*

1.0 Introduction

An inter-state migrant worker has been defined as one who moves to another state for employment and livelihood through a contractor or otherwise, by the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979 (hereafter referred to as ISMWA). According to the 2011 census, the Hindi-speaking North Indian belt is the main source of migrants with Uttar Pradesh, Bihar, Rajasthan and Madhya Pradesh accounting for 50% of the total inter-state migrants.

Inter-state migrant workers can be primarily characterized as permanent migrants, semi-permanent migrants and seasonal/circular migrants (Srivastava, 2020). Semi-permanent migrants may lack the resources to make a permanent move yet reside in their receiving states (destination) for decades. They are likely to have sufficient resources in their sending states (source). On the contrary, seasonal/circular migrants are those who stay at a specific location to perform seasonal jobs that they may have procured there, only to shift to another place to look out for a new job at the end of the season. They still require social security and welfare measures in their place of stay, albeit for a short period of time. In research from Varma & Abbas (2017), it

is revealed that less data is available for seasonal/circular migrants than for permanent and semi-permanent migrants.

Since labour falls under the Concurrent List of the Constitution of India, both the Central as well as State Governments have the power to devise legislation when it comes to social protection measures for inter-state migrant workers. The emphasis is more on the jurisdiction of local government bodies, and the Centre and the State Governments acting together. As a result, social security and welfare measures differ from state to state and even across local government bodies. The aim of this research paper is to highlight various challenges faced by inter-state migrant workers in India. It also includes an analysis of the Occupational Safety, Health and Working Conditions (OSH) Code, 2020 and the Code on Social Security (CSS), 2020, along with relevant Central schemes like the Unique Identification Authority of India (UIDAI) AADHAR, Pradhan Mantri Awas Yojana (Urban) - PMAY(U), Pradhan Mantri Jan Dhan Yojana (PMJDY) and Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), to bring forth the strengths and weaknesses of the existing measures and whether it benefits or disincentivizes inter-state migrant workers.

2.0 Literature Review

The challenges faced by inter-state migrant workers press development issues that need urgent attention. Their vulnerabilities have been enhanced by the COVID-19 pandemic; the problems begin with having to procure verifiable proof of identity. As research by Aajeevika Bureau, Udaipur (n.d.) points out, as many as 34% of the 60,000 inter-state migrant workers registered across their databases never applied for a Voter ID. Moreover, not possessing recognized identity proofs makes workers vulnerable to harassment by civic authorities at the destination. Of late, growing regionalism has also posed threats to the cultural identity of inter-state migrants, with regular attacks on them observed in the typically receiving states (Talukdar, 2007). During the pandemic, India saw many cases of reverse migration, thereby highlighting the housing uncertainties that inter-state migrants face at the destination. For the longest time, our policies categorized housing for the 'urban poor' and 'migrant workers'

together, thereby refusing to acknowledge their presence and the unique socio-economic and identity challenges that they face at the destination. The Smart Cities Mission, 2015 has been hailed for its idea of all-inclusive city infrastructure, yet the policy as such does not talk about housing for inter-state migrant workers (LexQuest Foundation, 2020).

Inter-state migrants who seek migration as a way of income diversification send remittances home from time to time. Moreover, they are faced with the challenge of surviving on the meagre amounts that they earn. In such a scenario, financial assistance provided by the Government can be crucial. It is estimated that the current 10 crore migrant workers account for 10% of India's GDP. In contrast to workers in rural areas who benefit from Central schemes like MGNREGA, the onus of providing for inter-state migrants is generally on the sending states (Karthik, 2020). The denial of political rights, in the form of not being able to vote either in the sending or receiving states, can be said to be the root cause of their marginalization. Lack of proper documentation makes them 'non-citizens' in the city, thereby denying them the 'Right to the City' i.e. the right of everyone to access the benefits that the city has to offer (Bhagat, 2011).

3.0 Description and Background of Current Policies

Given the concurrent nature of labour, the Second National Commission on Labour (2002) commented that the bulk of over 100 state and 40 Central laws that regulated various aspects of labour were ridden with 'archaic provisions' and 'inconsistent definitions'. A need was expressed to 'improve ease of compliance' and 'ensure uniformity' in labour laws. Acting upon this recommendation in 2019, the Ministry of Labour and Employment introduced four codes to consolidate 29 Central laws. They pertain to 1. Wages, 2. Industrial Relations, 3. Social Security, and 4. Occupational Safety, Health and Working Conditions. The last two are relevant to this study. Barring the first code, the remaining three were referred to the Parliamentary Standing Committee on Labour. Following its report, the government introduced three refurbished bills in 2020. The provision of linking statutory benefits to AADHAR found in the CSS has already been implemented. However, the three codes as a whole are likely to be implemented from the 1st of July, 2022 (Tejaswi, 2022).

4.0 Comparison of Past and Current Policies

Prior to the Codes, the ISMWA, 1979, was the main source of legislation for inter-state migrant workers. As defined by the Act, an inter-state migrant workman is “any person who is recruited by or through a contractor in one 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” (Ministry of Labour and Employment, Government of India, 2022).

Basis of Comparison	ISMWA, 1979; OSH Code, 2020	CSS, 2020
Definition	Did not consider inter-state migrant workers hired through contractors.	Considers inter-state migrant workers hired through contractors and confers equal benefits on them as regular employees
Number	Applied to establishments with more than 5 inter-state migrant workers.	Applies to establishments with more than 10 inter-state migrant workers.
Wages	No specifications.	The wage ceiling of INR 18,000 per month to qualify as inter-state migrant workers. At least 50% of the total remuneration is to be considered as 'wages' for calculating social security contributions.

Public Distribution System (PDS)	The benefits were not portable.	Portability of PDS in tune with ‘One Nation, One Ration Card’ scheme.
Identity	The employers were required to issue a passbook affixed with a passport-sized photograph of the worker. It would mention the name and place of the establishment where the worker is employed, the period of employment, wage rate, and other relevant information.	The Codes do not make any mention of such passbooks but introduce the option of self-registration of inter-state migrant workers via AADHAR.

5.0 Pros and Cons of Current Policies and Amendments

As identified above, we will examine four key challenges that inter-state migrant workers face - identity, documentation and portability, housing, finance and political inclusion.

- **Identity, Documentation & Portability**

Firstly, that the Codes prescribe the equal application of social security and welfare measures for inter-state migrant workers is a welcome move. In sync with the expanded definition of contractual inter-state migrant workers, it will extend the scope of welfare delivery. However, it would have been wise to not increase the requirement of minimum hired workers to 10, as 70% of establishments in India employ less than 6 workers (Reddy, 2021). Furthermore, the wage ceiling might leave out workers who earn less. Therefore, the expanded definition will not necessarily entail wider coverage.

The Birth Certificate, issued by the local government body which presides over the region a person was born in, is an acceptable proof of citizenship in the country. According to Varma & Abbas (2017), birth registration rates in the states of Uttar Pradesh and Bihar, the largest source of

out-migrants (people who change states for jobs), are 6.5 per cent and 1.6 per cent, respectively. As a result, a large number of potential out-migrants already remain undocumented upon reaching the receiving state. As per the recommendations of the Second National Commission on Labour (2002), the issuance of identity cards and registration of beneficiaries has been made a part of many schemes for migrant workers. The UIDAI was established in 2009 and according to the Registrar General of India, AADHAR is a smart card on which the person's details, including beneficiary status and benefits received, could be stored. It has been explicitly stated that the AADHAR will be an identity card, not a citizenship card. At any given point in time, semi-permanent migrants "belong" to at least two locations, while seasonal/circular migrants are multi-locational, as argued by Srivastava (2020). The main catch here is that the UIDAI links only one permanent address per person.

Secondly, the portability of PDS is a great move to ensure delivery of foodgrains till the last mile. Although not the only requisite document, there have been cases of people being denied food under the National Food Security Act, 2013 despite possessing ration cards, just because they did not have an AADHAR issued in their names. The Central Government had announced 30th September, 2021 as the deadline for linking ration cards with AADHAR, after which 3 crore ration cards were cancelled altogether for failing to get linked with the latter. It is no hidden secret that during the peak of the pandemic, many migrants died of starvation and the cancelling of ration cards only added to the trouble (Chidambaram, 2020). However, those who do end up with their documents will have the liberty to head to different fair-price shops, not subject to the whims of the dealer. The laws prevailing before the Codes led to monopolies by owners of fair price shops as the sole dealers for predetermined customers.

- **Housing**

According to the 2011 census, 68 million Indians lived in slums and the numbers are sure to have risen after all these years. Inter-state, semi-permanent migrants are forced to live in slums because of the inadequate supply of low-income ownership and rental housing options, which leads to the spread of informal settlements and slums (Iyer, 2020). Circular/Seasonal migrants

typically stay at their destination for six months or more at a time and likely move from place to place in search of employment (Rajan & Bhagat, 2021). They may find it even difficult to reside in slums because of the infrequent nature of their jobs, high rents and constant mobility. As a result, they are forced to reside in open spaces with unhygienic living conditions.

The PMAY(U) in 2015 segregated urban poor and migrant workers for the first time. It aimed to provide 20 million affordable housing units by 31st March, 2022. The scheme has introduced a model of Affordable Rental Housing Complexes (ARHCs) for inter-state migrant workers, through public-private partnerships. According to the Ministry of Housing and Urban Affairs, Government of India, (n.d.), ARHCs are a sub-scheme under PMAY(U) and entail a combination of a single bedroom unit of up to 30 sqm. with a double bedroom unit of up to 60 sqm. with living area, kitchen, toilet and bathroom. It can also include a dormitory bed of up to 10 sqm. carpet area each along with all common facilities. However, as far as accessibility is concerned, these units are generally located at the periphery of the city, away from city centres where heavy economic activities are concentrated. As a result, migrants do not prefer to lease them due to connectivity issues and the units go unsold for years together (ET Government, 2021).

- **Finance**

The biggest obstacle faced by inter-state migrant workers in availing of financial assistance is that a majority of them are simply not enumerated in the Government's database. Furthermore, the Government also failed to cite data on the number of job losses and deaths among migrant workers during phases 1.0 and 2.0 of the nationwide lockdowns, thereby denying them or their families rightful compensation. As a remedial measure, the incumbent Union Finance Minister, Smt. Nirmala Sitharaman announced a Rs 1.70 lakh crore Direct Benefit Transfer (DBT) package for 800 million of India's population under Pradhan Mantri Garib Kalyan Yojana (PMGKY) on 26th March, 2020. Under the PMJDY, the facilitation of zero bank-balance accounts of the marginalized through the Jan-AADHAR-Mobile (JAM) trinity is already in place. In both scenarios, welfare benefits will not reach those who are not registered in the database in the first place. Moreover, a large number of accounts opened under this scheme have been found

to be inactive (Shagun, 2020). The latter also requires smartphones and a stable internet connection for availing benefits. As noted by Pandey (2018), mobile internet is common in rural India, but net banking is not, which makes it difficult for the families of inter-state migrant workers who stay back to procure benefits.

Furthermore, the relief package also provisions increasing daily wages under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) from Rs. 182 a day to Rs. 202, keeping in mind the increased demand for labour by migrant workers who returned back to their villages. Currently, almost 100 per cent of wages are disbursed through the DBT (Shagun, 2020). Framing an urban employment guarantee programme on similar lines to incentivise migrant workers to come back to cities could be an option for maintaining their continuity of labour, as most of them would want to travel back to cities and engage in meaningful employment for income diversification (Jha, 2020).

- **Political Inclusion**

According to Article 326 of the Constitution of India, every adult citizen is entitled to be registered in the electoral roll from their parliamentary and assembly constituencies. On the contrary, the Conduct of Elections Rules, 1961 provision postal ballots for certain categories but exclude inter-state migrant workers from its ambit (Ministry of Law and Justice, Government of India, 1961). The former aims to make political processes, especially voting, inclusive. Given the inherent mobility of inter-state migrant workers, their non-inclusion as beneficiaries of postal ballot excludes them from the festival of democracy. The Government does not explicitly state any reasons for leaving these workers out of the facility. A point here to note would be that the postal ballot provisions were framed in 1961, and until now, no thought has been given to extending it to inter-state migrant workers. This brings to light their unfortunately low bargaining power within the nation.

In research by Aajeevika Bureau, Udaipur (n.d.), it is highlighted that the share of seasonal migrants' voting is higher during *panchayat* elections at the source, due to the political aspirations of the local elite and pressure from the brethren to help the kin win. Ironically, this is a case of opportunistic inclusion for the profit of the powerful. In cases wherein the area of

migration of permanent and semi-permanent migrant workers is small, the number of people returning back for a vote is higher. Voter ID cards in India are issued from the age of 18 years and are linked to one address only. Some inter-state migrant workers move out in search of livelihoods as children or pre-teens and if they fail to make a trip back thereafter, get essentially left out of electoral rolls (Varma & Abbas, 2017).

In November 2021, the Election Commission (EC) announced an ambitious project of introducing remote voting in the Lok Sabha 2024 elections, with the aim of making voting inclusive for migrants. The idea here is to make a machine similar to the EVM, based on blockchain technology. Blockchain is essentially a chain of blocks, with unique data stored on each block and then tied together in a chain, thus facilitating the decentralization of data. The world's first blockchain-powered election was the Presidential election in Sierra Leone, 2018. The Swiss Company, Agora, which was brought in as the conducting agency vouched for the use of blockchain to overcome the barriers to free and fair voting posed by electoral violence, low literacy levels and poor internet connectivity in the country (Kazeem, 2018). As far as India is concerned, as the EC itself identifies, many states do not have databases on inter-state migrant workers and mapping their sources and destinations will be a task, least done on a door-to-door basis manually. Furthermore, the already existing information asymmetry will have to be addressed to make inter-state migrant workers blockchain-friendly, because, for any system to become user-friendly, public trust needs to be established first.

6.0 Recommendations

The proposed National Database for Unorganized Workers portal under the Ministry of Labour and Employment aims to make a central database of all unorganized workers, including inter-state migrants. This is a very good solution to ensure that the workers are heard and provided for. However, the over-reliance on self-registration via AADHAR needs to be kept in check, and the onus should be on the Principal Employers to get inter-state migrant workers enumerated in the database.

The ‘One Nation, One Ration Card’ scheme for PDS requires the creation of a central repository of all beneficiaries and ration card numbers and it aims to integrate existing databases maintained by all States, Union Territories and the Central Government. However, to strengthen the mechanisms, it is necessary to digitize the old method of manual recordkeeping. The Government has envisioned the use of electronic Point of Sales (ePoS) machines to perform this, however, the number of machines installed so far remains abysmally low (Jebaraj, 2019). There is a need to speed up their installation and ensure good ePoS connectivity that otherwise jeopardizes smooth functioning, especially in remote areas.

For dealing with the housing issues that inter-state migrant workers face, the ‘Apna Ghar Project – Palakkad Scheme’ facilitated by the Government of Kerala can be a case in consideration. Although similar to ARHCs, the scheme provisions to accommodate 620 male inter-state migrant workers in a ground plus three-floor hostel complex at KINFRA Integrated Industrial and Textile Park, Kanjikode, Palakkad. The hostel has shared residential rooms with bunk beds, indoor bathrooms, laundries, mass kitchens, CCTV surveillance and rainwater harvesting. The main idea is to make workers feel ‘at home’ and thereby enhance their physical and mental well-being. Moreover, spaces have been reserved in Special Economic Zones (SEZs) in Kerala to ensure that the workers get to live near the city centres, where most of them are employed. This plays a key role in cutting their travel-related costs.

To overcome the political exclusion of inter-state migrant workers, introducing ‘Migration Tracking Systems’ as in the case of some *panchayats* of Bihar can be a good start. The System registers migrant workers and keeps track of their destination, contact details and identity. This is performed with the support of ‘community vigilance committees’ at the village level. A collaboration between Panchayati Raj institutions, civil society organizations and labour departments at the district level ensures proper data collection and procuring of benefits. Thus, it is crucial to make the grassroots more accountable to strike off the problem at its core. Moreover, in tune with the recommendations of the Parliamentary Standing Committee on Labour, it is advisable to introduce an exclusive chapter on the occupational

safety, health and working conditions of inter-state migrant workers, as in the proposed law, these provisions are intertwined with provisions for other workers (Chakradhar, 2020). Such exclusive measures imply ‘simplification’ of laws in the truest sense of the term.

7.0 Conclusion

Inter-state migrant workers have been a neglected lot since time immemorial. Post-independence, there was only one law - ISMWA 1979 - in place for them. The Act had provisions for documentation of inter-state migrants but the lockdown periods and the Government’s declaration of lack of availability of data brought to light how badly the Law had failed to enumerate inter-state migrants. Another reason why the law failed could be that it made hiring inter-state migrants more expensive than intra-state workers, making provisions for displacement and journey allowances to be paid for by employers. If employers refuse to hire inter-state migrants, it poses a danger to potential migrants’ extra sources of income and enhancement of livelihood that migrating to prosperous states brings. Therefore, it is no surprise that the Act was criticized to be dysfunctional and subsequently subsumed by the codes. The Codes, waiting to be implemented, hold many better provisions than the previous Law, as the analysis shows. However, how the inter-state migrant workers get benefited because of these will depend on fast and efficient delivery, quick grievance redressal and doing away with rampant red tapism. When laws are loose, it affects societal positions too. Inter-state migrant workers have to face different types of discrimination at their destination, however meaningful their contributions may be. Their life becomes a struggle ridden with issues ranging from proving their human identity to financing their inherent mobility. It is therefore high time that the authorities, NGOs and the society at large join forces to strive for the well-being of inter-state migrant workers, who have as many rights as others do, as citizens of India.

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