

A Study of Human Rights Violations of Migrant Workers in Kerala (2011-2014)

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Abstract

Migrant workers find works but not rights in Kerala. There are over forty lakh migrant workers, mostly from northern and eastern states involved practically in all sectors in Kerala. They are the latest ‘other’ in Kerala society. The Paper explains how their basic human rights are often violated through narrating concrete examples from the field experience of the researcher during the period 2011-14. Despite constitutional provisions, these migrant workers face exclusion and xenophobia. These workers are excluded from trade union memberships, voting rights and from Public Distribution System in Kerala. They face prejudiced police surveillance. Accidents and deaths are very frequently reported among these workers. They are forced to work in hazardous situations and live in deplorable conditions. As they are considered outsiders, there are several instances where these migrant workers faced discrimination, deprivation and violence from the locals. Sometimes their wages are either not paid or withheld by the employers. Therefore, such human rights violations of migrant workers in Kerala are aberrations of the Constitution of India.

Keywords: Migrant workers, human rights violations, exclusion, xenophobia, police surveillance, discrimination, hazardous situations and deplorable conditions.

Introduction

The Constitution of India [Art.19] (1) (d) and (e) states “all citizens shall have the right ... to move freely throughout the territory of India; to reside and settle in any part of the territory of India” (Bakshi, 2015). Thus, all the citizens of India have the fundamental right to migrate and settle in any part of the country. As such internal migrants are not required to be registered in India either at the place of origin or at the place of destination (Bhagat, 2005).

According to Mathrubhumi report (Unnithan, 2016) there were over 40 lakh migrant workers in Kerala and at least 1500 migrants reaching Kerala every week in 2016. Kerala received more migrant labour than any of the other Indian states. Of this, Ernakulam district tallies at the maximum with eight lakhs migrants. Kozhikode, Palakkad and Thiruvananthapuram had over four lakh migrant workers each.

According to the study (Narayanan and Venkiteswaran, 2013) conducted by Gulati Institute of Finance and Taxation in 2013, there were 25 lakh migrant workers in Kerala. They were mostly young able-bodied males belonging to the age group of 18 to 30 years. They were mostly long distance migrants without family from rural areas of eastern Indian States such as West Bengal, Assam, Odisha and Bihar and were distress migrants belonging to SCs, STs or OBCs. These migrant workers were there in all sectors and professions. They had a

visible and considerable presence even in the small towns in Kerala, and it is a common sight during early morning for these workers in great numbers congregating in town centres waiting for prospective job offers. Local employers prefer them over local workers as they were single, less expensive, more sub-servient, hard working and mostly available throughout the year.

Migrant workers find work but not rights in Kerala. C.N. Ramachandran Nair, former judge of the Kerala High Court observed that there are many instances of human rights violations against migrant labourers in Kerala (*New Indian Express*, 2012, December 10) It may be stated that the human rights violations of migrant labourers is a blot on the collective conscience of Malayalees. In fact, it is paradoxical that migrant workers' rights are violated and are treated with much suspicion and mistrust in Kerala which is heavily dependent on the remittances to the State by Keralites working in other Indian States and abroad. Malayalees have been going to other States for employment for decades. Therefore, protection of the human rights of these migrant labourers is of utmost importance.

The study found the major human rights violations of migrant workers in Kerala under six categories and they are listed as follows:

1. Exclusion and Xenophobia
2. Prejudiced Police Surveillance
3. Alarming Number of Accidents and Deaths
4. Appalling Working and Living Conditions
5. Discrimination, Deprivation and Violence
6. Non Payment and Withholding of Wages

1. Exclusion and Xenophobia

Exclusion is a process in which individuals and an entire group of people are segregated from the mainstream social, cultural, political and economic life of the society in which they live (IOM, 2011). It is also a process by which certain groups are denied equal opportunities.

It is a kind of segregation and isolation of a group of people from social, political, economic and cultural domains of societal life creating a system of domination and subjugation by the dominant group. It is also a process involving systematic denial of entitlements to resources and services, and the denial of the right to participate on equal terms in social relationships in economic, social, cultural or political arenas.

According to Arjan de Haan (1999) the concept social exclusion has two main defining characteristics. First, it is a multi-dimensional concept and it focuses on the multidimensionality of deprivation, on the fact that people are often deprived of different things at the same time. It refers to exclusion (deprivation) in the economic, social and political sphere. Second, social exclusion implies a focus on the relations and processes that cause deprivation.

The distress migrant workers face total exclusion from Kerala culture and society. They are often kept excluded in order to ensure their social insularity and to disempower them from asserting their rights as citizens and labourers. This systematic exclusion worked to the

advantage of the Kerala society to keep the wage levels low, rent levels high, services cheap, and to maintain a labour force that is at their beck and call, and one that can be absorbed and driven out at will. In fact, the Kerala society and government officials are not willing to accept these migrants as equal citizens with all democratic rights. As a result, they are excluded from the legal provisions and social security schemes. They are called '*anya samsthana thozhilalikal*' which literally mean 'workers from other States', but denotes workers from an alien State or simply alien workers (Narayanan and Venkiteswaran, 2013).

There is hardly any cordial relationship between local people and distress migrants in Kerala. The local population view migrants as aliens or outsiders and interact in a minimum possible way with them. Due to language barrier and inferiority complex migrants also keep aloof from the local population. As most of these migrants are from socially and economically lower strata of Indian society, the local public has a very low opinion about them and see them as a threat to public hygiene, security and law and order. Their presence in public places often seems to irritate local people and there were instances where migrants had been driven out of parks by police on the demands of the locals. Their participation in local festivals and celebrations are minimal and the locals do not join in their celebrations. There are also instances where migrants became victims of xenophobia, racism and other forms of hostility (Narayanan and Venkiteswaran, 2013). In fact, while migrants from Kerala who live outside the State lead a cordial relationship with people of those States, the migrant workers from other States in Kerala have been by and large kept isolated by the local population.

In Kerala, local employers use exclusive strategy to restrict migrants' entrance to social protection and unionisation. Thus, migrant workers are left on their own to deal with local employers. Further, migrants are kept physically isolated from the surrounding community making more difficult for them to find out local wage, rights, and support systems available to them (Moses and Rajan, 2012).

Xenophobia can be described as attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity. There is a close link between racism and xenophobia, two terms that can be hard to differentiate from each other (International Organisation for Migration, 2011).

Migrants often become victims of xenophobia in Kerala. For instance, over 60 migrant workers from West Bengal were beaten up by the local people on 25 September 2011, near Kayamkulam on the suspicion that one of them had stolen a mobile phone of a shop-owner in the area. Twenty-five migrant workers suffered injuries in the attack and five of them had to be admitted in the Medical College Hospital, Alappuzha with serious injuries and fractured bones.

2. Prejudiced Police Surveillance

The number of crimes in which migrant labour is involved is much less in proportion when compared to the corresponding figures for the general population. However, a few of the crimes in which they are involved get high degree of publicity and adds to the perception

that most of the migrants are criminals. This adds to the fear psychosis and strengthens suspicion and distrust.

In some areas, these migrant workers are routinely rounded up by the Police who cannot make them understand due to language barrier, summoned and harassed at the Police Stations, and often severely beaten up and even put behind bars for the crimes committed not by them.

For instance, Dipen Konra, a 30 year old tribal from a remote village in the Burdwan district of West Bengal, was travelling in a suffocated general compartment of the Shalimar-Trivandrum Express on 7 June 2011 to toil at the construction sites in Kerala. At the Aluva railway station, Dipen got down to fetch water and could not get back into the over-crowded general boggy to reach Kollam, his destination. Not knowing what to do and how to ask in Malayalam, the partly and poorly dressed Dipen began to walk. In the late evening, as the strangely appeared Dipen could not answer the Police in Malayalam, he was taken to the Nedumbassery Police Station. In the early hours of 8 June, with a mere desire of escaping, he ran away and without knowing entered the adjacent air port compound. Suspecting Dipen to be a Maoist or a terrorist, he was beaten up so brutally that his legs and hands were broken and he became unconscious. The critical Dipen was sent to Viyyur central jail in Thrissur. After nine months of the assault, with the intervention of State Human Rights Commission, Dipen was released from the jail and returned home, but with one leg and one hand dysfunctional.

Migrant workers in Kerala are very vulnerable to police harassment demanding police clearance certificates from their native States, police surveillance and threat to citizenship. They are often called to police stations for questioning in the context of theft or murder or ethnic tension in the locality or for even protests by migrants for their rights (Prasad-Aleyamma, 2014). For instance, Promod Kumar Lima, a 24 year old migrant worker from Odisha was beaten up by the police on 23 October, 2011 for not having the Identity Card and then by the locals near Aluva and was admitted to the General Hospital, Ernakulam with both the legs broken and a fractured back bone. In the hospital, he found his mobile phone and Rs. 2000 missing. When the police was contacted, they informed that some cash was handed over to the ward nurse in the Government hospital, Aluva, but only to be denied by the nurse.

3. Alarming Number of Accidents and Deaths

Minimum 50 dead bodies of inter-state migrant workers reach the hospitals for post mortem every month in Kerala and in some cases the dead bodies of migrants are sold for lakhs of rupees to private medical colleges by the employers (*Malayala Manorama*, 2013, November 28). In most of the cases, no compensation is reached to the dependents of the diseased.

Deaths of migrant workers are “Unrecorded Deaths” in God’s own country (*Mathrubhumi*, 2012, April 9). In cases of accidental fallings, what happens to these migrant workers in their promise land? Why do so many migrant workers frequently die in Kerala? What happens to their dead bodies? Does the State have any provision to reach the dead bodies in their native villages and to provide financial assistance to the poor families of the diseased? There are several unanswered questions remain pricking the conscience of the Malayalees.

According to Mathrubhumi (Somen, 2014) most of the deaths of migrant workers in Kerala happen at work places, especially by fall from high rise building under construction due to absence of safety measures. However, the kith and kin of these migrant workers are denied any compensation as they are not members of Inter State Migrant Workers' Welfare Scheme, 2010 or in any trade unions.

For instance, Madhu Naik, a 40 year old worker from Gajapathi district in Odisha died at the Ernakulam General hospital on 11 June, 2012 in circumstances typical of many inter-state migrant labourers in Kerala – accidental fallings, uncared for, totally helpless. Madhu had suffered the injuries falling from the building under construction near Edappally. His death was an evidence of the predicament of the poor migrant workers whose sufferings are unspeakable and who languish in inhuman conditions.

4. Appalling Working and Living Conditions

Migrants live in crowded and unhygienic conditions and work in inadequate provisions for safety at the worksites (Kumar, 2012). The vast majority of migrant workers in Kerala are forced to work in hazardous situations with minimum or no safety measures. They also live in work sites or in tin-roofed huts rented by contactors or local individuals. Roughly 10 to 20 workers cook and sleep in a room with only one toilet and no proper water supply. Further, according to a *Malayala Manorama* report (2013, November 28) migrant workers in Kerala are vulnerable to infectious diseases as their working and living conditions are very deplorable.

5. Discrimination, Deprivation and Violence

Migrants are very vulnerable to exploitative conditions at work sites including discriminatory wages, long working hours, cheating by contractor regarding wages and lack of safety measures (Moses and Rajan, 2012). Migrant workers are not given equal wages compared to local workers and are forced to work long hours without appropriate over time payment.

Most of the migrant workers are kept away from the social security schemes and are deprived of various benefits available to the workers. They are deprived of ration cards, BPL cards, health cards, residential documents and membership in trade unions. Voting right is a far cry for migrant workers in Kerala (*New Indian Express*, 2015, October 5)). Migrants are denied residential certificates, access to Public Distribution System (PDS), Rashtriya Swasthya Bima Yojana (RSBY) and Comprehensive Health Insurance Scheme (CHIS) in Kerala (Kumar, 2012).

Seetu Bismaji, a 18 year old migrant worker from Odisha died in the Medical College Hospital, Kottayam on September 8, 2011 due to the callousness of the hospital authorities after he was admitted with injuries suffered during a road accident. The employer as well as the owner of the car which knocked him down disappeared leaving the seriously injured Seetu at the mercy of the hospital authorities. Rather than admitting him to the ICU and providing the ventilator, Seetu was left in the general ward where he was found being administered artificial respiration using the equipment by a by-stander of the patient. Seetu was the only bread- earner of the family consisting of his widowed mother and younger

siblings. It is just an example for the criminal negligence of the hospital authorities, the employer and the owner of the vehicle towards one of the “bhais” in Kerala.

Migrants often become victims of violence and exploitation by the locals. For instance, Basid Khan aged 20 and Sabir Khan aged 20 from West Bengal were thrashed thoroughly by a hotel owner in Ernakulam for not joining the work on the day they arrived on 4 August 2012.

A 14 year old Bengali girl was gang-raped and abandoned naked on the road on the Christmas night in 2011 in Kerala. On December 24th while the girl along with the other two men were waiting at the bus-stop, the three accused offered them lifts in a mini lorry. Instead of taking them to Iritty, in Kannur district, the crew of the lorry took them to a river-bank at Vayathur and after tying the two men with her to the lorry, they raped her. The gang who raped the girl also invited another youth to join their nefarious deed. The crew continued the journey in the same lorry with the girl and the other two men from Bengal. Before reaching Perumparamb, the crew of the lorry took away the mobile from the men and made them get down on the road. Later at midnight the girl was dumped alone on the street at Perumparamb. The people returning after the midnight church service helped this helpless teenager with a dress to cover her nakedness and informed the police.

6. Non Payment and Withholding of Wages

There are several instances reported where migrant workers were not paid wages in different parts of Kerala state. Further, withholding of wages to migrant workers is a commonly used cunning tact by the construction companies and the other local employers. Some of these cases were brought to the notice of the researcher and the researcher tried to intervene in some cases with the help of his colleagues. For instance, when the researcher contacted with a complaint of withholding of wages to Dulal Burman and a group of migrant workers from West Bengal, the cashier of a famous construction company in Ernakulam replied that such practice was part of their company’s policy towards migrant workers.

Conclusion

The Constitution of India has solemnly promised to all her citizens justice - social, economic and political. Article 15(1) prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Article 19 (1) (d) and (e) guarantee freedom of movement and freedom to settle in any part of the territory of India as a fundamental right of the citizens of India. In reality, migrants’ labour is extracted, but they are not valued and are not allowed to live and work with dignity. Therefore, exclusion, xenophobia, prejudiced police surveillance, discrimination, deprivation and violence towards migrant workers in Kerala are serious human rights violations and aberrations of the Constitution of India. Thus, any discourse on human rights in Kerala would be inadequate if it is unwilling to address the rights of the migrant workers.

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