

Multidimensional Impact of Migration in Kerala Migrant Labourers And Effectiveness of Existing Enactments

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Abstract

It is of no doubt that Migration has potentially profound socio-economic impact on Migrants. Migration has been issue in existence for so many years but it became a debatable topic in the recent years, in the state of Kerala, especially on account of large scale of influx of Migrant workers from other states. The core area of this study is mainly intended to examine multifaceted social problems and the psychological effects associated with Migration on Migrants in Kerala. The social problem that form part of our research includes social problems in the nature of poor accommodation, health and sanitation, inadequate education and language problems resultant they feel ignored and alienated. This paper also provides a critical analysis on real life issues faced by the Migrant workers in Kerala such as large uncertainties in the job market- accelerating job search cost, irregular payments, longer working hours and poor working conditions. The Article also throws light on the conditions of Migrant workers in the state of Kerala from a legal vantage point wherein the legal regulations and safeguards of the rights of the Migrant workers in the Kerala are thoroughly studied. Major emphasis is given to the Inter- State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the paper looks for the need and possibility of a State Legislation.

Key Words:

Introduction

India has a long history of labour mobility. In fact, there are parts of India where 3 out of 4 households includes a migrantⁱ. Despite this huge number of people involved, migration was rarely studied properly. Needless to say, this phenomenon of cross- state border mobilization- internal as well as external have drawn greater attention in the state of Kerala today. It is witnessed that the state located in India's deep south have experienced large inflow of non- Keralite people from different walks of life ranging from educated, skilled, well-off family to less educated, unskilled, hailing from northern hemisphere of Indian road map.

According to the research study conducted by Gulati Institute of Finance and Taxation for the Kerala Government (2013), there are over 25 lakhs domestic migrant labourers in Kerala today with an annual arrival rate of 2.35 lakhs. Most of them are from West Bengal, Bihar, Assam, U.P., and Odisha. Many of them are mobile, single male aged between 18- 35 years oldⁱⁱ.

The theme on Kerala Migration bisects into two subject areas diagnosing the social curtailments and economic retrenchments resultant in the agony of the jobseekers

especially labourers who are positioned in the lowest rung in the hierarchy of migrants, from the other parts of India. The other segment of this paper involves in the analysis of the efficiency of the existing enactments with regard to the assured safety of these unsecured migrants. The study gives a reality check on the social and economic plights of the unsettled and lost migrants and their tragic experiences has a devastating psychological effect on them. On the other hand, the focus is on the laws regulation and government launched yojanas and schemes with effect to improvising the lives of poor migrants.

I. Inter-Play of Pull and Push Factor.

Undoubtedly, there is complementary relations that exist between the pull – push factors in the notion of migration, where migration happens only if reason to migrate is achieved by pull from an attractive location. This pull factor finds its reflection from the fact that the destination state offers greater job opportunities, Income sufficiency; on the parallel side, the origin state which is responsible for push factor is evident from the following reasons like lack of opportunities, low wages etc in these backward states.

It would not be wrong to state Kerala responsible for pull factor, attracting the mobility of labour from other Southern and Northern Indian states. According to the data for the month of April 2015, Kerala paid the highest wages to labourer in almost all daily wages jobs in agricultural and non- agricultural sector. Kerala average wage is nearly double the average wage of the country. The pattern of wages for the same work culture will differ in Kerala and states like Bihar, U.P, for instances: Agricultural works like ploughing and tilling, the average daily wage in Kerala was more than Rs. 713, whereas Bihar and U.P, paid wages is in the denomination of Rs.200.

II. Social Constrain on Migrants And Its Psychological Effect.

Migration is the movement of a person from one location to another either within same nation (Internal) or between different Nations (International). Migrants are inherently vulnerable as subjects of human rights from the time they leave home to initiate their migrationⁱⁱⁱ. In other words, any human being is less vulnerable at home than right after he leaves it to become a migrant. The whole process of migration leads to a big social modulation. This sea change is seen with respect to change of residence, shift in work, altogether an alien place, working in new environment with strange people.

Half of the Migrant population suffering with lot of social issues related to poor accommodation. Their complaints are about the inadequate residential amenities provided to them as they do not have proper roof, all that they manage is to live in a poorly constructed less than 200 square feet room or in most cases make shift hutments in the vicinity if their work place, mostly near construction sites with materials supplied by contractors, one can barely stand full height and space is hardly sufficient for bedding, kitchen setup. The fact is that most of the migrant workers are unaware about the facilities to be extended by the contractor to them with regard to the living conditions.

Secondly, the most important and inevitable factor is related to health and sanitation which is managed inefficiently, resultant in migrants especially female migrants suffer with illness and disease. Also, these migrants have limited knowledge in understanding good hygiene practices that reduces the health risks from poor sanitation. Labour and health officials have shut down several labour camps in Ernakulum district for lacking proper

sanitation facility. There are little or no social security laws protecting them with hundreds of people sharing slums like homes that grossly eludes sanitary and health conditions.

Living in host states where they (migrants) may not master the official language of Kerala, which brings us to the third social distress i.e. language problem because of which they feel alienated, unwelcomed. Like it can be said that wherever they go, the incompetency in speaking regional language, they are unable to communicate with their contractor, health provider, neighbours and policemen. They are targeted, looked down upon and first one to be suspected in any unlawful or anti social events. The worst part is that these uneducated and helpless migrants remain suppressed as they are compelled to stay here for survival. Perhaps the reason being these northern and eastern migrants speak the languages belong to Indo – Aryan language family (Hindi speaking) while Malayalam is Dravidian language. Being unable to speak the local language makes them vulnerable on many occasions other than which is discussed above are: detachment from traditional support and family networks, difficult to cope with the working of the legal system and administration.

Yet another factor in the row of social issue is Identity crisis, corollary to it is limited access to entitlements, especially affected are the categories of street hawkers, daily wage earners, pedestrian petty mercantilists. It is visible that these lost migrants fear with identity threat because, they have no registration, no licence and this deficiency pushes them away from the access to entitlements. For instances, most of the migrant workers do not have a ration card, restricting them to reap the benefit of Public distributing system (PDS). The state has also been providing essential consumption items at subsidized rates through its outlets managed by the Kerala state civil supplies corporation, an apex federation of cooperation for which also a ration card is necessary^{iv}. Thus, the migrants have to depend solely on the open markets and become more vulnerable. Another illustration: Rashtriya Swasthya Bima Yojana (RSBY), a health Insurance for BPL. To cater to the needs of the workers belonging to BPL families who migrate, there is a facility to split the card which is given to RSBY beneficiary families. But the families of migrant workers appear to be not making use of this facility^v so was the case on the Taluk level government, hospital in Perumbaroor, a town in central Kerala well known for very high presence of migrant labourers. Thus, in practice, the accessibility of benefits of RSBY scheme remains an Issue.

Beyond a shadow of doubt that all these above disserted unfortunate social situations experienced by the migrants shall definitely not only handicapped them but have had a strong psychological effect on them. At first, they began to experience a sense of loss, dislocation, alienation and isolation, especially due to separation from kin and kith in the native place, fear about work related accidents, uncertainties arising of fear of loss of jobs, emotional deprivation which lead to process of acculturation^{vi}. In other words, it can be perceived as the psychological effect in their mindset is that they see possible threat of assimilation which by and large jeopardising their deep-rooted culture, language, living style.

III. Distress of Migrants: Economic Dimension.

Domestic Migrant Labourers (DML) is wealth creators, also on the other hand the host state Kerala is a path breaking gateway for the migrants with main purpose of mobility i.e. to earn better livelihood. On flipping the side, it helps to have a crystal-clear vision of the dark side of the philosophy of migration. Migration having cross benefit gains in the market

as migrants provide cheap and readily accessible labour force and in return receives job and monetary satisfaction in comparisons to their native homes. Evidently, the total remittances to home states channelized is around 17,000 crores as over 70 percent of them earn above Rs. 300 a day as wages. Yet there are stocks of economic shortages and restraints like: migrants often get lower wages than local labourers, apparently, they even work at odd and for longer hours. Also, these outsiders (labourers) are exposed to large uncertainties in the potential job market. First to begin with- job hunt cost and migrants are burdened with this unexpected ascending nature of cost of living in relation to the distance to their homes. The farther they live the higher is the job search risk.

Secondly employers often prefer migrant labourers to local labourers, as they are cheaper and do not develop social relationships with the place of destination which very naturally makes them easily available and dispensable. According to anecdotal evidences and newspaper reports, the workers from the state of Tamil Nadu are relatively paid higher wages and with better living and working conditions compared to workers who have migrated recently from the other states in the country. Some of the contractors and employers opine that workers from north and east are more tolerant to poorer working condition and it is easier to extract labour from them. This is nothing but the sheer exploitation of these helpless poor ignorant migrant labourers.

The whole migrant labour force have penetrated almost all sectors such as agriculture, Industry, business, marketing spread all over Kerala, nevertheless they suffer from acute socio economic problems as a good majority of them are unskilled workers. Therefore, this dimension helps to comprehend the socio- economic related problems faced by them as they are adverse working conditions, hard physical labour, poor living conditions, lack of basic amenities etc.

IV. Legal Facet

Here, the words of great philosopher ‘Aristotle’, that “poverty is the parent of revolution and crime” are so relevant. The need of law is to regulate the society, protect people, to enforce rights and to solve conflicts. Even in the middle of numerous laws and legislations regarding numerous subjects, truancy of State legislation on inter-state migration is a burning issue up to the minute.

While coming across the necessity for legislations with respect to the inter-state migrant labourers in Kerala, a glance at international juncture and national phase on the same is ineluctable. The reasons and concerns behind the emergence of International Conventions and National Enactment coincide the present-day situation in Kerala.

International Standards

The international community recognized the need for a new instrument for protecting the migrant labourers in 1970s. It was perceived that the number of international migrants is between 185-192 million, ie. around 3-4 percentage of world population^{vii} and it was wistfully identified that the majority were subjected to vulnerabilities. The first attempt to address these specific issues was International Labour Organisation(ILO) Convention N 143^{viii} of 1975 and it contains provisions on the prevention of irregular migration and clandestine movements, as well as rights aimed at protecting migrant workers from exploitation at work^{ix}.

Afterwards in 1980 a working group was created under the auspicious of United Nation and they drafted International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was adopted unanimously at the 69th plenary session of the UN General Assembly on 18th December 1990. For the campaign of the same a Steering committee consisting of fourteen organisations exists, namely, UN Agencies, Trade Unions, NGOs and other International Organisations^x(it includes UN High Commissioner of Human Rights (UNHCHR), International Labour Organisation(ILO), and United Nations Educational Scientific and Cultural Organisation (UNESCO)).

The dilemmas and problems identified were gathered together in the Convention for equality of treatment of migrant labourers. The term ‘migrant worker’ is defined as, it refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he\she is not a national^{xi}. To sum up, the Convention appears for the prevention of inhumane living and working conditions, sexual abuse and degrading treatment^{xii}, freedom of thought expression and religion^{xiii}, access to information on their rights^{xiv}, equality^{xv}, access to educational and social service^{xvi}, right to participate in trade unions^{xvii}, are the relevant and preminent realm of rights covered by the convention. All Human Right Conventions can be read together with this Convention. Around 46 nations ratified the Convention and thereby became legally bound to it.

National Phase

India is not a ratifying party to UN Convention on Migrant Rights. Here, the nation faced issues and concerns regarding inter-state migration. It paved the way to The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act,1979^{xviii},^{xix} was passed by the Parliament. By a deep analysis of the Act, the solutions for major socio-economic problems faced by inter-state migrants can be chalked out.

The Act applies to all establishments and contractors who engage five or more migrant labourers^{xx}. The Act defines inter-state migrant workman as “any person who is recruited by or through a contractor in one state under an agreement for employment in an establishment in another state, whether with or without the knowledge of principal employer in relation to such establishment”^{xxi}. The Act also authorises the appropriate governments (state governments) to appoint registering officer for the purpose of registration of such establishments which employ migrant workmen^{xxii}.

The Act also prescribes duties of the contractors who hire migrant labourers^{xxiii}. It mandates a passbook with photograph for every migrant worker, with his particulars, employer’s details and wage particulars, in Hindi and English. The Minimum Wages Act 1948 applies to inter-state migrant labourers as well. The Act elaborates almost all the solutions for the socio-economic problems run into by the migrant workers. Section 16 of the Act provides with the facilities to be provided for a migrant worker. It includes regular payments, equal pay, suitable conditions of work and residential accommodation, free medical aid, protective clothing at the time of work etc... The employer is obliged to report to specified authorities in both states as well as to next of kin.

The Act also specifies the enforcement mechanisms, dispute resolution through Industrial Disputes Act and punishments for its violations^{xxiv}. The state governments can make rules for carrying out the purpose of the Act^{xxv}.

Dilemma in Kerala

The Central Legislation specifically laid down that the appropriate government can make rules for carrying the purpose of the Act^{xxvi}. There are many policies and schemes in state of Kerala with regard to the welfare of the with regard to the welfare of inter-state migrants. Even though its implementation is in question. As the Central Act provides for, in the year 2015, a draft of the Kerala Migrant Workers Social Security Bill was ready, but not yet finalised and passed by the legislature.

The influx of the migrant labourers is increasing day by day in Kerala. It's time to be more vigilant and ensure the implementation of the existing legislation as well as policies and schemes. Even the registration of migrant labourers are not fully implemented and it is evidenced by the increasing number of illegal migrants. As a host, State Kerala is obliged to ensure and provide healthy and hygienic atmosphere to work as well as to live, for the migrant workers.

A very word spelt out that, 'we know little about them, we do little for them', come up with a powerful message that the poor living conditions of the migrants were never given prior requisite attention. The study reveals and helps to penetrate our sight through the real picture of a State which offers not only higher paid jobs than their mother State, but also a favourable and peaceful environment, to a reality of their sad, untold stories. The wide held alien feeling among the local community add to their vulnerabilities. At this moment, the State initiative for the upliftment and welfare of inter-state migrants is inevitable. Instead of State level implementations, grass root level schemes and policies might be more effective. Apart from NGOs, government appointed counsellors at Panchayats where migrant population is high can study their problems and grievances. The counsellors should be persons with psychological knowledge as well as well versed with Hindi.

For the implementation of the policies, schemes or the provisions of the Act, identification of the core issues and problems faced by the migrants are essential. An effective method for it is to conduct monthly or weekly meetings of the migrants under the auspicious of ward members or counsellors. It will also give them an opportunity to mingle with the natives. Even it can control the crimes done by migrants and identify the criminal natured among them is a vantage. Small scale housing schemes for migrants can bring them out of the health issues due to unhygienic accommodations sometimes resembles concentration camps. So, it's time to know more about them and do more for them, on humanitarian considerations.

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^{xii} Ibid, Articles 10, 11, 24, 25.

^{xiii} Ibid, Articles 12, 13.

^{xiv} Ibid, Articles 33, 37.

^{xv} Ibid, Articles 16 to 20, 22.

^{xvi} Ibid, Articles 27, 28, 30, 43 to 45, 54.

^{xvii} Ibid, Articles 26, 40.

^{xviii} 1st June, 1987, vide S.O.630(E), published in the Gazette of India, Extraordinary, pt.11.

^{xix} Herein after referred as 'Act'.

^{xx} Section 1(4) of The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

^{xxi} Section 2(e) of The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

^{xxii} Ibid, sections 3 to 6.

^{xxiii} Ibid, Chapter IV, Section 12.

^{xxiv} Ibid, Sections 20 to 30.

^{xxv} Ibid, Section 35.

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