

Labour Migration in India

Constitution of India

The Constitution of India guarantees freedom of movement for all citizens. The foundational principles of free migration are enshrined in clauses (d) and (e) of Article 19(1) of the Constitution, which guarantee all citizens the right to move freely throughout the territory of India, and reside and settle in any part of the territory of India.

Internal Migration

Migrants are forced to leave their native places in search of better opportunities and earnings, sometime leaving behind their families. In many instances, the families in native places depend partially or entirely on the money sent by the migrant earning members of the family.

Employment is seen as the primary driver of migration. Growing part of migration in India, especially among younger people, is migration for education.

Most rural urban migrant males move for work and business related reasons. Women predominantly move for Marriage. However, women who move for marriage can also work after moving.

Migrants fuel the Indian economy by carrying human capital to regions where it is needed.

The resulting remittance flows increase household spending in the receiving regions and further the economic development of less-developed regions.

States like Delhi, Maharashtra, Tamil Nadu, and Gujarat attract large migrants.

Most labour in the country comes from Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh and Jharkhand. It is estimated that Uttar Pradesh and Bihar account for the origin of 25% and 14% of the total inter-state migrants.

DATA on Migration

According to Census 2011, there were 454 million migrants in India.

India does not have a single definition to identify migrants. The two major agencies (i.e. Census and National Sample Survey) which collect information on migration uses different criteria, though both based on the change in place of residence, to define migrants.

According to Census, an individual is classified as a migrant if [s]he has changed his place of residence in the past from one village/town to another village/town.

On the other hand, NSSO defines migration on the basis of last usual place of residence, which, unlike the Census, is defined as a place where one has stayed continuously for a period of six months or more.

If the present place of residence of an individual (i.e. the village or town where the person is being enumerated) is different from his last usual place of residence, then [s]he is classified as a migrants.

Challenges Faced by Migrant Workers

Labour migration in India tends to be circular in nature. Circular migrants are individuals who migrate from place to place for temporary periods.

Size of the migrant workforce is estimated to be over 100 million.

Migrants form the largest part of India's vast unorganized work sector. Devoid of critical skills, information and bargaining power, migrant workers often get caught in exploitative labour arrangements that forces them to work in low-end, low-value, hazardous work.

Lack of Benefits

Because they are often paid in cash off the books, migrant workers are not eligible for company benefits such as pensions and insurance plans. They also miss out on unemployment, disability and Social Security benefits from the government. Breaks, overtime, sick pay and minimum wage laws may not be followed because there is no recourse for the worker.

Dangerous working Conditions

Migrant workers are also subject to harsh working conditions on the job, such as working in extreme weather for long hours with no breaks. Overtime wages, when paid, are not at legal rates.

Accidents are frequently reported and safety norms are not in place.

Poor Housing Facility

Migrants face difficulties in accessing housing and other basic amenities such as water and sanitation.

Workers may be housed in unsanitary conditions, which are especially dangerous for children. If the company provides food for its employees, it is often low quality and not very nutritious.

Workers typically lived in makeshift arrangements (kaccha and/or jhuggi) on sites provided by the employer and/or contractor.

They, especially shorter term migrants, are often forced to live in urban slums, facing constant threats of displacement and eviction. Many live in footpaths and city parks without provision of basic services and subject to harassment, especially for women.

Cultural Differences with locals

Local residents may discriminate or resent migrant workers for taking the available jobs in the area.

Migrant workers are often isolated from their neighbors because they do not speak the local language.

Losing access to Food Security under National Food Security Act, 2013

Existing administrative infrastructure for food security often results in migrants losing access to their food security entitlements upon moving to a different location, both within and particularly outside the state.

Consequently, migrants become vulnerable to malnutrition and resultant health complications.

Health issues

Poor access to healthcare and treatment facilities among migrants is a major issue. Health care utilisation rates among migrants remain poor due to a number of factors: expensive private health facilities, conflict between time of work and availability of medical practitioners, cost of missing hours or days of work, long distance to access services and associated problems of transportation and language difficulties.

Skilling and Employment

The majority of current skills training have an inflexible and set duration and educational qualifications and it becomes difficult for a migrant, whose living depends upon daily wages, to dedicate this time.

Further, Migrants face difficulties in accessing Govt. Skill development training programmes due to domicile restrictions.

Children Education

Children of migrant workers often miss school and fall behind their peers because they have to work along with the rest of the family. Child labor laws are typically not enforced among the migrant population, so there is no protection for the children.

Even when the child does not perform any actual work, he may spend the day at the job site with his parents because there is no available daycare.

Families tend to move according to the seasons, which makes it even more difficult for the children to keep up in school.

Labour laws related to Migrants Workers

Building and Construction Workers

Construction work does constitute a major area of work for short-term and vulnerable migrants. There are about 50 million building and other construction workers as per the estimates of the NSS 2011-12.

Two principal legislations concerning the building and other construction workers are: the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; and the Building and Other Construction Workers Welfare Cess Act, 1996.

As per these, building and other construction workers are required to be registered with state-level Construction Workers Welfare Boards. Minimum safety standards and conditions of employment for construction workers have also been prescribed.

The Building and Other Construction Workers Welfare Cess Act, 1996 mandates a cess (at 1% of the cost of construction incurred) which is pooled into a fund, managed at the state level by the Construction Worker Welfare Boards, to be used for the provisioning of social security and related services for construction workers.

The social security benefits involve medical assistance and accident cover, pension, maternity benefits, educational assistance for children of workers, assistance to family members in case of death (by accident, at worksite or even in case of natural death), funeral assistance, and in some states, marriage assistance for children of workers. However, the funds under this head are very sparingly used, except in a few states. Generally workers are not aware of the Construction Workers Welfare Board.

Recruitment

In the organised sector (For example- construction of large residential complexes, construction of office and commercial complex by firms in the organised sector), They are recruited through labour contractors often known to and from the same area as the workers.

In the unorganised sector (For example-construction of individual residential Premises), Workers relied more on kin networks and smaller contractors.

Workers recruited by contractors are paid advances, to ensure availability for the duration of the season.

Inter State Migrant Workmen Act, 1979 (ISMWA)

The Act was enacted to prevent the exploitation of inter-state migrant workmen by contractors, and to ensure fair and decent conditions of employment.

It applies to every establishment in which five or more inter-State migrant workmen are employed or were employed on any day of the preceding twelve months. It also applies to every contractor who employs or employed five or more inter-State migrant workmen on any day of the preceding twelve months.

It provides for registration of establishments employing inter-state migrant workmen, and licensing of contractors.

Some safeguards are provided to the workmen, in the form of obligations placed on the contractor, including non-discrimination in terms of wages vis-à-vis non-migrant workmen, payment of travel and displacement allowance, and ensuring suitable work conditions.

But no state seems to have implemented this law in letter and spirit. Primary reason for this seems to be the heavy compliance requirements set out in the law.

Unorganised Workers' Social Security Act 2008

It provides a minimal level of social security (like pension, insurance etc.) to registered unorganised workers, but is yet to be effectively implemented by the states.

The contribution of migrant workers to national income is enormous but there is little done in return for their security and well-being. There is an imminent need for solutions to transform migration into a more dignified and rewarding opportunity.

Impact of Lockdown on Migrant Labour

The nationwide lockdown due to coronavirus outbreak began on March 25 and has been extended four times till May 31.

Novel coronavirus outbreak threatened their lives in their congested rented homes in big cities. Factories, offices and markets had come to a halt. They stared at an unknown future.

Most of them were not paid wages for the lockdown period. Their landlord forced them either to pay rent or vacate the house. They were not entitled to food security under National Food Security Act due to change of location.

This has led to a reverse migration with workers leaving cities to go back to their home states. Some of them started walking to reach their home town.

Migrant workers form part of the unorganised sector, which constitutes about 93% of the country's total workforce of nearly 500 million

Govt support/package for Migrants workers during lockdown

- Government of India has allowed the movement of migrant workers by buses and 'Shramik' special trains to enable them to travel to their native places.
- In order to capture the information regarding movement of migrants and facilitate the smooth movement of stranded persons across States, National Disaster Management Authority (NDMA) has developed an online Dashboard - National Migrant Information System (NMIS).
- Government of India has permitted State Governments to utilise State Disaster Response Fund (SDRF) for setting up shelter for migrants and providing them food and water etc.
- MGNREGS support to returning Migrants. Average wage rate rose to Rs. 202 from Rs. 182 in last FY. Drive being undertaken to enroll returning migrants. States/UTs advised to provide works to migrant workers as per the provisions of the Act. Planning for continuing MNREGA works in Monsoon as well: plantations, horticulture, livestock related sheds.
- Free Food grain Supply to Migrants for 2 months. Migrants in various states require food-grain assistance. Migrants who are neither National Food Security Act or State Card beneficiaries in the state they are stationed will be provided 5 kg of grains per person and 1 kg Chana per family per month for two months.
- Technology Systems to be used enabling Migrants to access Public Distribution System (Ration) from any Fair Price Shop in India by March 2021 - One Nation One Ration Card. Migrant families are not able to access food in other states. This scheme will enable a migrant beneficiary to access Public Distribution System from any Fair Price Shop in the country. 100% National portability will be achieved by March, 2021.
- Central Government will launch a scheme **for Affordable Rental Housing Complexes** for migrant workers and urban poor to provide ease of living at affordable rent. **Affordable Rental Housing Complexes** will provide social security and quality life to migrant labour, urban poor, and students etc.

This will be done through converting government funded houses in the cities into Affordable Rental Housing Complexes (ARHC) under PPP mode. Manufacturing units, industries, institutions, associations to develop Affordable Rental Housing Complexes (ARHC) on their private land and operate. Incentivizing State Govt agencies/Central Government Organizations on similar lines to develop Affordable Rental Housing Complexes (ARHC) and operate.

Challenges for Migrant workers after lockdown period is over

The exploitation of the labour class may rise after the lockdown is lifted, as more and more people try to regain their jobs and financial health, making an oversupply in the market.

Worker conditions will likely improve in the worker-deficit areas where there is not enough labour available. Several cities and industrial estates has become worker deficit, as the migrant workers who form a large majority of the workforce in these areas have moved to their home towns and areas.

Here companies and employers will be more worker-focused and thus the workers' welfare measures such as food, transport, stay, etc, will gain precedence and the wages may also rise in the fear of losing workforce.

Govt will face challenge to provide employment to the migrant labourers returning home.

Government is looking at MNREGA to provide employment to migrant workers who are returning home. However, the government faces the hurdle of lack of money to fund the scheme in face of increased employment demand.