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Migrants in India: Strategies for Justice

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Introduction

The COVID-19 national lockdown in India displayed not just a migration, but an exodus of millions of distressed internal migrants. Immediately after the declaration of lockdown, migrants realised that they do not belong to the very cities and urban areas where they worked. So, they had no choice but to go back to their native places. The desire to get home is deep-rooted in all human beings.

But for the ruling class, the industrialists and the middle class in India, migrants are not human beings with families, or persons with desires, hopes and aspirations. They are just a commodity and non-citizens without rights. This article is an attempt to probe into the reality of distress migrants in India and

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to suggest strategies for justice to the migrants and their families.

Distress Migrants in India

In India, migration has been a strategy for survival and livelihood for millions of people. The findings of Census 2011 point to a decade of rural distress as the major reason for migration. Landless farmers, agricultural labourers and marginal farmers who lost their livelihood on account of globalised agricultural practices form the bulk of distress migrants.

The majority of the migrants are from the socially and economically deprived strata of rural society. They belong to the Scheduled Castes or Scheduled Tribes or the Other Backward Classes with very little or virtually no control over the means of production.

All the three major sectors of the Indian economy, namely agriculture, industry and services employ a large number of migrant workers. The building and construction industry along with brick-

kilns, stone quarries and garment industry employ the majority of the inter-state migrants. Services provided by migrants include domestic services, security services, working in small hotels and driving auto-rickshaws and taxis.

Workers without rights

Distress migrant workers face a daily violation of their human rights and in a systematic manner. The violations include the right to livelihood, residence, food, health, education, social security, equal wages, proper hours of work and freedom from bondage. They mostly remain without identity and so are unable to claim State resources. They have no social security, no compensation in cases of accidental injuries and deaths, and no access to safe drinking water and healthcare.

Most of these workers are forced to buy foodgrains and kerosene at higher market prices as they do not possess ration cards. They face a lack of legislative protection due to the scattered and dispersed nature of their employment and lack of collective





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bargaining power. The State sees migrants as a low priority and so many social protection schemes tend to have 'sedentary' bias and exclude migrants.

There is a dearth of exclusive laws enacted by the Central Government for the protection of their rights. The only exclusive law enacted by the government is the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

The Act applies to every establishment and the contractor employing five or more inter-state migrant workers, but it remains, by and large, without teeth.

Strategies for Justice

Let Migrants go home.

In the Bible, the book of Exodus (5:1) describes how Moses and Aaron went to the Pharaoh Ramses 11 and said, 'Let my people go'. After the declaration of the lockdown and prohibition of travel, many appealed to the rulers to

'let migrants go home'. Yes, the immediate strategy for ensuring justice was to let the migrants go home. It should have been done by the Central and respective State governments by arranging proper transportation so that they could reach their native places in a dignified way. Forcibly locking down migrants in temporary shelters, far away from their near and dear ones, was not justifiable. It was told that this ban on travel was to prevent migrants from carrying the coronavirus to the villages and to prevent a shortage of labour after the lockdown. The second reason indicated a capitalist mindset influenced by profit-oriented thinking and an attitude towards migrants as mere commodities, and not as human beings with rights.

Why do migrants want to go home? First, most of these migrants work and live far away from their family and relatives. Secondly, most of them know that they can not survive long without employment as they have neither the eligibility to access any Social Security Schemes nor have access to Public Distribution System (PDS) at their destinations. Thirdly, they realise that they are vulnerable to hostile treatment by the local population, employers, room owners, civil authorities and the police during the pandemic lockdown.

Further, by going home, they can 'stay at home' as per the lockdown rules. Therefore, preventing migrants from going to their homes was a denial of their fundamental rights and freedom of movement.

Accepting migrant workers as fellow citizens

The inter-state migrant workers are not foreigners or aliens, but fellow citizens with constitutional rights. They are the backbone of the economy in Indian cities and one of the wealth



creators of the nation. Migrants, through their hard labour, contribute to the economic growth of India, but they are considered as 'the other'. It is important to promote a positive discourse to avoid prejudices and a negative portrayal of these workers. Thus, the respective governments and civil society must create awareness for a better understanding of their positive contribution to the nation.

India's COVID-19 migration crisis is a manifestation of systemic discrimination and structural injustice. The crisis calls for the formulation of public policies that provide migrants and their families decent and dignified livelihoods, affordable housing, quality education, and access to health, nutrition and sanitation services.

Protection of the rights of migrants

The civil society, as well as the Central and State Governments, must take steps to facilitate protection from rights violations, wage theft and xenophobia. They must be enrolled with trade unions and, in turn, trade unions must take the initiative to protect their rights and

welfare. Instead of creating separate welfare schemes for migrant workers, they must be included in the existing welfare schemes depending on the work in a particular sector they are engaged in. The existing legal protection measures should be made available to the migrant workers in case of accidents or deaths. For instance, provisions of the Workmen's Compensation Act, (1923), which provides for payment of compensation to workers and their dependents in case of injury and accidents arising during employment resulting in disablement or death, should be made available to migrant workers.

The State Governments should facilitate policy initiatives to provide a social security net and inclusion to interstate migrant workers across several areas, such as education, inclusion in welfare boards, housing, and insurance.

Inclusion of Migrants in Unorganised Workers' Social Security Boards

All migrant workers must be registered under the Unorganised Workers' Social Security Act, 2008, which builds a social security system for them.

It redefines the worker to include all types of workers, not only those who have a fixed employer. In doing so, it brings in all the self-employed workers as well as casual, contract and home-based workers. This includes workers in all types of occupations including agriculture. According to the Act, 'Unorganized Sector Worker' means a person who works for wages or income, directly or through any agency or contractor or is self-employed; and in any place of work including his or her home, field or any public place. It identifies each worker and gives him/her a unique social security number and social security card.

It offers a variety of social security benefits to the unorganized worker. These include health insurance, maternity benefits and pension. Thus, by facilitating the registration of migrants under this Act, their social security can be ensured.

Portability of basic services and entitlements

Central government can initiate a policy for migrant workers to access services such as PDS, public health care, Integrated Child Development Services (ICDS), voting rights, housing schemes and insurance schemes anywhere in India. Thus, migrant workers and their families can get subsidised food provisions, public health facilities, mid-day meals, benefits under ICDS and the other social security entitlements at their destinations.

Towards Justice and Peace

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'. Thus, all the citizens have the fundamental

right to migrate, to work and settle in any part of the country. Therefore, migrants cannot be deprived of their basic rights – the right to unionisation, entitlements and benefits - based on the State or place of origin. Thus, it calls for Central and State governments to guarantee migrant workers the fundamental rights enshrined in the Constitution.

The COVID-19 migration crisis is a result of migrants' unequal situation due to the denial of basic constitutional rights. Therefore, in this context, it is important to emphasise 'Justice for all: social, economic, and political...' embedded in the Indian constitution.

In public functions, the citizens often pledge that 'all Indians are our brothers and sisters', and talk of 'one India' and 'one people', but the fellow citizens who migrate are considered as non-citizens and often meet with inhuman treatment. Migrant labour is extracted, but they are not valued and are not allowed to live and work with dignity.

The industrialists and the middle class need their work and services, but most of them do not want migrants to live in their neighbourhoods. Thus, to build a peaceful coexistence among the 'haves' and the 'have-nots' based on constitutional principles of justice, liberty, equality, fraternity and dignity of the individual, citizens need to pledge with honesty to ensure that migrants get justice and can lead dignified lives all over India.

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