

MIGRANT LABOUR'S POTENTIAL VULNERABILITY AND THEIR ENSURED SOCIAL JUSTICE: A CRITICAL ANALYSIS IN THE LOCKDOWN INDIA TOWARDS HUMAN RIGHTS PRINCIPLES.

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Abstract – The aim of this paper is to conceptually analysis the condition of the Migrant workers in the present scenario. Now India is facing an unprecedented crisis .in this situation the priority should be given to save a life .So there is no choice but to take extraordinary measures. This exceptional situation restricts freedom of movement and freedom to enjoy many other human rights. This reasonable restriction adversely affected people's right to life, health care and security, education, right to work, etc.,In the current scenario human rights principles make sure that the State having the responsibility to take active measures to preserve and protect the human rights of the vulnerable's and the weaker section of the society. There are so many labor welfare legislations in India but migrant workers have to face the new challenges like it becomes very difficult for migrants to return home. States are not prepared for the huge outflow of migrants and unexpected interstate travel. States are under the pressure of allowing the migrants who want to return home. and the states have to face struggle to maintain official statistics as many returnees cross through unofficial boarder ways. Official statistical data is necessary for the sack of identifying the returnees and make sure to them the public hygiene measures. The final findings of this paper are that the vulnerable workers are in an emergency need to be attained and the State and the judiciary are in the status to concentrate and focus their attention on this marginalized's human dignity.

Keywords: Migrant labourers, Social justice, Human rights, ILO, Human dignity.

Introduction

The migrant labourers are forced to proceed to their native place.They are already suffering for they lost their employment.It is the responsibility and duty of the States and Union Territories to take care of all the needs of migrant labourers.in this present situation. The marginalized and vulnerable are totally depending upon the mercy of the Government for their social protection ,emergency , good environment and adequate safety measures (mask,sanitizer etc.).These human rights principles of the vulnerable which is ensured by our constitution should be confirmed by the state as an emergency need.

Objectives

- ❖ Study about the human rights challenges faced by the migrant labour.
- ❖ To know about the constitutionally guaranteed social justice of the migrant labours in India.
- ❖ To know about the special measures taken by the state and Judiciary.

Research questions

- ❖ What are the challenges that have been faced by the government to suppress the critical position faced by the migrant.
- ❖ What are the suitable measures and strategies to tackle the present situation.
- ❖ What are the judicial response of Indian Supreme Court..

Partial lockdown and the risks faced by the migrant workers

The Migrant workers have to face employment challenges and abuses related to COVID-19 like violence or harassment and forced labour. Contract may be terminated They are required to take unpaid leave They may be refused work during lockdown Threats, or abuse from an employer. As for as the returnees are concerned they left jobs because they chose to and wanted to return home so now under the uncertainty of future. Waiting times for return that are really higher emotional and physical abuse a grave human rights violation. Returnee migrants have been quarantined at home or in a state-mandated institution upon return. They have to face certain problems like isolation, depression, sleep difficulties and psychological issues. Government should ensure the following necessary measures are strictly followed in the workplace at the time of partial lockdown,

- ✓ Avoidance of person-to-person contact keeps up.
- ✓ Ensuring physical distance
- ✓ Good hygiene environment and adequate measures mask, hand sanitizer, comply with safe work behaviours..

The status of the returned workers and the responsibilities of the concerned state.

As per the Supreme Court guidelines: The first step in this regard is to maintain record of all such migrant workers, who have arrived at different places, towns in different States.

The details of migrant workers, nature of their skill, and place of their earlier employment are maintained in prescribed proforma. It should be to be formulated by the concerned State at village level, block level and the district level so that necessary helps can be extended by the State authorities and district authorities to these migrant labourers. Counselling centers be set up by the concerned State at block level and the district level to provide all information regarding Government schemes and other avenues of employment to these workers and where possible to expand the avenues of employment to these workers so that they may not sit idle and they may be utilized as a resource by the State. Majority of stranded workers have reached at their native Places. The State may also provide necessary information and facilitate the return of the workers who want to return to their employment. Migrant labourers and other needy persons should be made aware of all schemes through counselling centers and help desk which may be established by the States at district levels and block levels to extend helping hand to large number of migrant workers,

The Government of India, Ministry of Home Affairs noticed this fact on 29.03.2020 in following words:

“Whereas, movement of large number of migrants have taken place in some parts of the country so as to reach their hometown, this is the violation of Lockdown measures of maintaining Social Distance.” Under the guidelines, movement by migrants also constituted an offence under Section 51 of Disaster Management Act, 2005. Police Authorities started stopping such movements and also registered certain First Information Reports against the migrant labourers.

Supreme Court asked the state: State may consider withdrawing Prosecution/Complaints lodged against such migrant labourers for the offences as referred to in Section 51 of the Disaster Management Act, 2005 and other related offences lodged against the migrant labourers during the period of Lockdown under Disaster Management Act, 2005. It is e relevant to consider the Indian Supreme Court’s direction which is the very effective and timely intervention of our judiciary for the marginalized.

Supreme Court directions to the Central Government, all States and Union Territories:

(1) All the States/Union Territories shall take all necessary steps regarding identification of stranded migrant workers in their State which are willing to return to their native places and take steps for their return journey by train/bus which process may be completed within a period of 15 days from today.

(2) The Central Government may give details of all schemes which can be availed by migrant workers who have returned to their native places.

(3) All States and Union Territories shall also give details of all schemes which are current in the State, benefit of which can be taken by the migrant labourers including different schemes for providing employment.

(4) The State shall establish counselling centres, help desk at block and district level to provide all necessary information regarding schemes of the Government and to extend helping hand to migrant labourers to identify avenues of employment and benefits which can be availed by them under the different schemes.

(5) The details of all migrant labourers, who have reached their native places, shall be maintained with details of their skill, nature of employment, earlier place of employment. The list of migrant labourers shall be maintained village wise, block wise and district wise to facilitate the administration to extend benefit of different schemes which may be applicable to such migrant 29 workers.

(6) The counselling centres, established, as directed above, shall also provide necessary information by extending helping hand to those migrant workers who have returned to their native places and who want to return to their places of employment.

(7) All concerned States/UTs to consider withdrawal of prosecution/complaints under Section 51 of Disaster Management Act and other related offences lodged against the migrant labourers who alleged to have violated measures of Lockdown by moving on roads during the period of Lockdown enforced under Disaster Management Act, 2005. **IN ALAKH ALOK SRIVASTAVA V. UNION OF INDIA (2020) Case** . In response to a petition concerning the public health and safety of a mass migration of labourers on foot back to their home village's .The anxiety and fear of the migrants should be understood by the Police and other authorities. As directed by the Union of India, they should deal with the migrants in a humane manner. Considering the situation, we are of the opinion that the State Governments/Union Territories should endeavour to engage volunteers along with the police to supervise the welfare activities of the migrants. We expect those concerned to appreciate the trepidation of the poor men, women and children and treat them with kindness.

Discussion findings and Suggestion

States are making extraordinary efforts to protect the human life with high attainable standard of health and a life with dignity, it must remain the primary focus and become an imperative. The current scenario critically affects society, economy and human rights. During the restrictions on movement and association the economy will definitely be affected. So the policy of the government should be an economy centered approach to reduced inequalities and promise of realization of economic and social rights to all the migrant labourers. The migrant workers have to face the very big challenges to access adequate housing, health care facilities, water and sanitation and social justice.

A human rights perspective focus on the individuals should be taken in utmost importance. Potential impacts of upcoming recession should be handled with wide range of human rights i.e. right to food, education, water, housing, sanitation, work with favourable condition. The migrant workers financially struggling and discriminated widely, so initiatives should be designed such as cash transferred and subsidies urgently reach the informal workers without discrimination. Human rights based approach such as unconditional cash transfers in order to maintain adequate standard of living and expand social safety. In the current scenario gender inequality, abuses and harassment be sustained against women labourers. Women human rights are blatantly ignored in the case of marginalized sections. This crisis hit women deeply in mental and physical phenomena than men. Women specific pattern of vulnerability make them encounter unique such of challenges. Lack of awareness about their right put them at increased risk of violence, so religion leaders, NGOs and the community in collaborate manner Amplify their voices for the voiceless sections. So its on the government that should ensure the women labour will be protected by preventing discrimination, exploitation and abuse of migrant women labourers. (ILO).

The government should make gender sensitive labour migration policies (OSCE, published in 2009). This would to enhance equal protection, treatment and opportunities for both men and women migrant workers and their families. Both the receiving states and sending states should promote the dignity, equity of migrant workers in accordance with fundamental human rights. They have to cooperate for the stability the situation of migrant workers by intends efforts to promote the welfare and to ensure the human dignity of migrant workers. Both the state should facilitate and give the accurate information in recording with the social welfare services being provided for the migrant workers Indian SC asked the state to consider the withdrawing of Prosecution/Complaints lodged against such migrant labourers for the offences as referred to in Section 51 of the Disaster Management Act, 2005. **Harsh Mander and anr. Vs. UOI and anr in this case the petitioner seeking inter alia, to direct Central**

Government and the State Government to jointly and severally ensure payments of wages/minimum wages to all the migrant workers within a week. The court take in to consideration the material placed before us, we call upon the respondent-Union of India to look into such material and take such steps as it finds fit to resolve the issues raised in the petition. It is a timely intervention of our judiciary in preserving human rights of the vulnerable. The government should provide the migrant workers with food and water, and other medical facilities. The effective migration policies should be prepared to mitigate the risks.

Conclusion

Identify and address migrant worker's needs is a effective tool to prevent and to avoid rises in COVID-19 cases. The society in a collective manner and with the passion and devotion should play an important role in extending helping hand to the migrants. migrant workers need food, water and transportation. the Government should promise to the people that when we recover from the situation you will be better in social justice and right to life and dignity. The marginalized should be ensured with income security and there should be a accurate information in this record also be made available to them. The effective migration policies should be prepared to mitigate the risks.

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