



The Rights of Stateless Citizens



Image Source: The Hindu

The plight of migrant workers walking thousands of kilometres to their homes carrying their children on the shoulders and their meagre possession on their back, braving heat and hunger will haunt us for many years. Pathos, the identity of the vulnerable communities, hitherto unnoticed, unidentified and unrecognised, exploded shaking the conscience of citizens. Throughout the lockdown period, not a single day passed without heart breaking narratives of migrants. Thanks to the fourth pillar of democracy - media and independent journalists who continue to project the plight of the migrants in the headlines. However, it took long time to crack the conscience of the primary three pillars of the State – legislature, bureaucracy and judiciary. COVID-19, India story has been marred with hunger, pain and bloodstains of migrant workers and insensitivity of those who govern.

Need new categorisation of migrant workers

The title, Rights of Stateless Citizens, is clearly a contradiction

in terms. Migrants are faceless without an identity, denied Fundamental Rights and entitlements prescribed in the Directive Principles in the Constitution of India. The experiences of the migrant workers show that the phenomena of migration in the post COVID era cannot be contained in established definitions. It has challenged the academic understanding of push-pull factors.

Some argue that the situation of migrant workers resembled that of bonded labourers. Arguably, despite denial of freedom under Article 19 of the Constitution, the bonded labourers, in many cases, had food, shelter and some wages. In contrast, the migrant workers had 'freedom' but were denied food, shelter and wages. That the starvation virus is worse than the corona virus was an indication of a yearning for survival.

The Central Government enacted the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. Chapter V clearly mandates payment of minimum wages (Sec. 13), displacement allowance (Sec. 14), journey allowance (Sec. 15) and other facilities such as

residential accommodation, medical facilities free of charge, protective clothing (Sec. 16), holidays, hours of work and other conditions (Sec 1, 3). However, violation of these provisions has been the norm as the States colluded with companies.

The Act also makes explicit provisions for registration of establishments and subsequently registration of employees. In Karnataka, for example, only 30 per cent of establishments are registered. When establishments are not registered, how could one expect registration of workers? More than 90% of migrant workers are in the informal sector and they are unregistered. They do not even know their principal employers. They are governed by layers of sub-contractors who not only take big cuts in wages but also curb their cries so that they are not heard in public.

There is also a phenomenal increase in the number of intra-state and inter-district migration. As per the 2011 Census the number was 121 million. These groups generally move from one place to another with the entire family. Their contribution to the economy and their plight, especially of children and women has rarely been a matter of public discourse. Enactment of Unorganised Workers' Social Security Act in 2008 did not usher in substantial changes in the lives of domestic workers, street vendors and home-based workers. The protective measures proposed by the Working Group on Migration in 2015 were not acted upon. The identity, visibility, contribution and concerns of migrants are at stake. There is an urgent need to develop new ways of conceptualising the phenomenon of migrant workers, their wages and working conditions adhering to core labour standards.

Rights and Economic revival are interconnected

It is a fact that the economy is in shambles and a number of factories and establishments are closed or on the verge of drastically reducing its production, employees, and cut salaries. Every organisation - corporate or non-profit - is struggling to maintain and support its employees. It is time to look for alternate ways to revive the economy from a bottom-up approach. Protection of the rights of migrant workers must go hand in hand with recovery and restoration of the economy, not just in urban conglomerates but in rural sector as well. If the economy is not revived in a reasonable time period, it will lead to incredible oppression, suppression and violence; and the worst affected will be migrant workers and other vulnerable communities.

Responsible State and responsive market

Neo-liberal paradigm has failed us. The welfare state must assume greater responsibility for the protection and development of its workers, and it cannot pass the buck totally to market forces. On 3 April 2020, the British-based Financial Times widely read by the richest and the most powerful players in global politics published an editorial titled – Radical reforms are required to forge a society that will work for all. “Radical reforms - reversing the prevailing policy direction of the last four decades - will need to be put on the table. Governments will have to accept a more active role in the economy. They must see public services as investments rather than liabilities and look for ways to make labour markets less insecure.

Redistribution will again be on the agenda; the privileges of the elderly and wealthy in question. Policies until recently considered eccentric, such as basic income and wealth taxes, will have to be in the mix.” This quote, in a way lays down the roadmap for the future.

Need for proactive enhancing and protective measures

Concrete measures must be worked out to ensure socio-economic and citizenship rights of the migrant workers by the Central and State Governments in the spirit of cooperative federalism. A number of recommendations are already in the public domain. The need of the hour is the political will to make the right choices in consonance with the values enshrined in the Constitutions, devoid of narrow electoral and political agenda.

Primarily the State must recognise that migrant and informal workers are major contributors to economy and must take all steps to strengthen the agency of the migrants.

Enhancing measures: Ensure that no one is deprived of food, basic healthcare or shelter. Increase the purchasing power of the poor by direct cash transfer. Revival of rural economy is non-negotiable. Invest in MGNREGS, agriculture, animal husbandry and employability skills of the youth. Encourage rural micro entrepreneurs with subsidised loans with minimum interest and without collateral security. Strengthen social security measures such as pension, maternity benefit and nutritious food for children. At the policy level, enact laws to ensure universal basic minimum income to all poor households.

Protective measures: Minimum protection is a constitutional duty. All migrant workers must be registered through a simple registration process and digitization of records. Sending States must be proactive. Digitization must be linked to facilitating inter-state portability of benefits, including delinking individuals from households as the context warrants. Presence for a period of 6 months in a State must be considered as proof of residence in the place of work to enable the migrants to access social and food security, educational, health benefits and voting rights. Establish social security welfare boards in all the major cities. Set up mechanisms to improve collective bargaining of the workers with due stakes and shares in establishments/companies.

Self-reliant India needs sensitivity to the pains of the migrant workers. When concrete assistance is the need of the hour, we hear lectures on Atmanirbhar Bharat - one size fits all campaign. What does this mean to migrant workers who cannot put food on the table and are looking for ways to survive? The State must act and the collective conscience of the citizens must continue to monitor the State. Jesuits and collaborators must explore opportunities to inhale the emerging voices of the migrant workers as their lifeline.

The author is the Director of ISI Bangalore.

Contact: ajoexavier@gmail.com