

Pandemic and the Reverse Migration of Labour in India*

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The current predicaments faced by of India's migrant labour - losing livelihood and shelter in urban areas as started with the 4-hour notice for a complete shutdown in response to the Pandemic - will remain as one of the worst humanitarian crisis the country has ever faced since independence. The gruesome details of the sufferings by masses of the uprooted people lacking access to shelter, food or sources of income or even means of transport to take them back to places they came from, narrate the sub-human conditions for a vast majority of the working class in the country at this hour.

The usual pattern in rural migration to urban areas

Migrants, across states in India were calculated at 56 mn in the 2011 Census. Of above 40mn are those heading for the mega cities, and moving largely from the rural Hindi belt in North India. As further estimated, 79% of migrants to the urban cities were on daily wages, at construction sites or factories where they were employed. Another large number remained self-employed with low levels of incomes. Migrant workers as above are part of the 'informal' workforce which is 93% of aggregate labour force having hardly an access to benefits as still exist for workers in the formal organised sectors. It may be mentioned here that even enterprises in the formal sector of the economy more than one-half of jobs are there on an informal basis, say by using sub-contracting or by casualization. A substantial part of those are performed by migrants from rural areas.

We can point out here that barring abnormal times (as at present) the major part of the migrant flow in India has been from rural to urban areas, much exceeding those across rural or urban areas. Categories of such people, as aptly described by Sainath in one of his papers, include those who migrate on a 'permanent' basis, having no plan to return; the 'seasonal' migrants who temporarily return, from urban areas to their villages in harvest times, and then go back to urban centres; and finally, the 'footloose' fetched from rural areas by contractors who have no means to decide on their future plans.

Tracing back the initial stages of migration which push people from rural to urban areas, much of such flows can be described as 'mobility by default'. Reasons behind include the growing rural distress with agriculture failing to provide sustenance for the majority of cultivators –both with small land holdings and being dispossessed of land due to factors which include heavy debt burdens. State policies to support to the ailing rural economy proved both inadequate and ineffective. With steady losses of sustainable livelihoods there has been a continuing stream of out-migration from the rural economy, both seasonal and as 'footloose', often escorted by local contractors on basis of payments to cover the initial travel costs and also as cuts from the meagre wages received by migrant workers in the urban centres. Migration has also been facilitated by the prevailing familial links between the rural folks and the urban workmen.

Reverse Migration from urban to rural

The current flow of reverse migration in India, which is from urban to rural, however, falls into none of the above categories describing the usual patterns in the movements from rural to urban centres. The enormity and suddenness, along with the miseries in the rush of the hapless people trying to leave the urban centres for bare survival, opens up several issues relating to the current situation.

Inflows of migrants to urban areas provided cheap labour having no legal compulsion for employers

Looking at the build-up of the migrant flows from the rural areas to the urban centres, it will be an understatement to conclude that the flow of migrants had no impact on the functioning of the urban work places. The drive provided a reserve army of cheap labour waiting to be hired at wages which could dip lower than the statutory minimum, especially after meeting the commissions due to the contractor. Nor were there any further obligation on part of the employers, given that the 'footloose' migrants never had any legal status as working population.

With the formal organised sector units of industry and services using as much as one half or more of those employed with an informal status, it became rather opportune for the enterprises in factories, construction sites and other labour-intensive activities to make use of the migrants in their cost-cutting exercises. The remaining migrants who were not absorbed in the formal or informal work-places, continued as self-employed in various capacities ranging from vendors to shop-keepers at low levels of remunerations. On the whole the presence of the rural migrants benefitted the urban economy as a whole, providing cheap labour to factories, cheap services to households and in various other forms.

Passive role of the Indian state in relation to migrant labour

The rather lukewarm responses on part of the state to issues faced by migrants can be evidenced from the large number of related legislations on paper - mostly ineffective due to a lack of implementation. Mention may be made of Contract Labor Regulation and Abolition Act 1970, introducing casual labor for a legal status by providing a mechanism for registration of contractors engaging 20 or more workers with a few other facilities. Failing such registration, the employer was to be held directly responsible for employment provided. One can also mention the Inter-state Migrant Workmen Act 1979 (seeking the regulation of employment and conditions of services), the National Disaster Management Act 2005 and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 enacted to regulate street vendors in public areas and protect their rights. More recent has been the enacting of the Code on Occupation, Health, Safety and Working Conditions, seeking to regulate health and safety conditions of workers in establishments with 10 or more workers, and in all mines and docks. Above code was to replace the 13 prevailing labour laws which included the Factories Act, 1948; Mines Act, 1952; Dock Workers Act, 1986; Contract Labour Act, 1970; and Inter-State Migrant Workers Act, 1979. The Code, referred to a Standing Committee of the Parliament in July 2019 was responded positively by the latter on a date as recent as February 11, 2020.

Enumeration of above pieces of legislation provide an idea as to how those were of no relevance in addressing the informal sector workers, and in particular the migrants thrown out from the urban centres during the current crisis. An account of the sufferings currently experienced by the masses of the out-migrants in urban pockets who are trying desperately to return to their respective villages, along with the hardship of hunger and destitution which are encountered by them provide clear indications of a minimalist state in the process.

Questions can be raised as to what happened to legal status of migrants as under the Act of 1970? Then where are the registered contractors or employers who are responsible for employment status of the migrants in terms of the same law? Finally, what happened to the various laws still operative till the Code was to replace those in early 2020? It is thus more than obvious that none of the so-called corrective measures in terms of the numerous labour laws as passed by the ruling state, or the newly constructed labour codes, were of any significance at all in relation to what the migrants have been experiencing since the lockdown began in March this year.

Pro-active role of state to safeguard interests of capital

Reflecting the close alliance between big capital and the ruling state, one witnesses the steady inclinations in official policies to protect the interests of big capital. One such measure included an early advocacy, in the National Commission of Labour (2002), of the use of flexible labour as a panacea for achieving efficient growth. This sanctioned the use of casualization to restore cost-cutting and wage-productivity nexus - and as a matter of right for the employers in the organized sector. As for the unorganized sector, the Committee suggested initiation of social security on part of both employers and the state. There came up another important committee, the National Commission on Enterprises in the Unorganized Sector (NCEUS) 2006 which sought to follow up the issues relating to the unorganised sector. While the NCEUS Report recommended a number of measures for the unorganised workers addressing the low wages (or earnings) and unequal bargaining power, the Report was folded up and recommendations ignored. The action clearly contrasts the pro-active role of the government vis a vis the employers as can be seen at present.

Employers, supported by state-level Ordinances, unite to further weaken the prevailing labour protection

At least four states in India, including UP, MP, Rajasthan and also Assam have initiated a process of further downgrading labour rights by passing Ordinances which scraps important labour rights still enjoyed by the regular (ie, not casual) workers in the formal sector. For UP the measures include the scrapping of all existing labour laws for next 3 years. In Gujarat new manufacturing units are to be exempt from the current labour laws over next 1200 days. Rajasthan also follows suit in abrogating prevailing labour laws in the state. In addition, the Ordinances introduce new rules for working hours by changing the prevailing 8 hour norm to 12 hours per day. As implemented the change will take away the much struggled labour right achieved by the working class of the world more than two centuries back. To top it up, the Ordinances ensure that workers will no longer get overtime even if they continue to work beyond the stipulated 12 hour day.

Arguments have been advanced by the corporate industry in support of the Ordinances. Those concern the prevailing tendencies for small firms to avoid expansions in order to evade the labour regulations as relate to the large ones. Removal of such restrictions would, as have been argued, encourage the small ones to expand. Also the measures, as claimed, would attract Investment by making it easier to manage and cheaper to engage labour. Using the same argument, industry expects that by improving the competitive capacity, India would successfully entice foreign investors away from China. Finally, and rather unbelievably, industry also expects that stretching working hours to the 12 hour norm will be labour-saving and as such will be of help in situations where labour is in short supply. It sounds strange to hear about labour shortage in a labour surplus country like India today! Are they fearing the loss of cheap sources of labour with the decimation of workers as they try the route to their villages in the reverse flow of migrants?

One may just question here if industry in states mentioned above are right in claiming that the measures would be able to generate a favourable investment climate by scratching the few labour rights as still prevail in India? While engaging labour may be rendered both easier and cheaper, incentives to invest will also be determined by a large number of other issues (like state of demand, infrastructure, expectations in the market) none of which can be taken for granted by moving the Ordinances.

Finally, it must be recognised that the strict labour discipline invoked by the Ordinances will relate only to the formal or the organised sector of industry and services. As reported by the ILO, “Close to 81% of all employed persons in India make a living by working in the informal sector, with only 6.5% in the formal sector and 0.8% in the household sector.”^[1] This tallies with the estimates provided in the official NCEUS Report for informal workers at 84% of the aggregate workforce in 2010, as cited by Kannan and Bremen.^[2] Further of the remaining workers in the formal sector, as many as 51% were employed informally, with a casual status, according to same sources. With increasing tendencies of using flexible and casual labour, the formal sector today employs not more than 10% of the aggregate labour force and the rest of the 90% remain with the informal sector.

To continue, since 50% or more of workers engaged in the formal sector of industry in the country are employed with a casual or informal status, it remains that the Ordinance in the four states (or more to follow) may only catch around 5% of workers which currently enjoy such labour rights (like 8 hours a day with overtime payments) as are still there. Can industry justify the Ordinances even if the benefits as expected for the prevailing and future investors in those states are realized?

Possibly the measures are being regarded both by the ruling state and by big capital as an opportune step in time of the lockdown under the Pandemic - specifically, to further the much sought-after onslaughts of capital on labour. Issues relating to the jobless informal workers swelling the numbers of the unprecedented reverse migration, all under inhuman conditions, do not form an agenda in framing such Ordinances.

- [¹] ILO, Women and Men in the Informal Economy : A Statistical Picture (Third Edition)
April 2018
- [²] Kannan KP and Breman Jan, The Long Road to Social Safety OUP 2013 pp 1-2

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