

# From Drivers of Economy to Forgotten Indian Citizens: Addressing the Social Welfare Rights of Migrant Workers

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## Abstract

*Migration is a salient demographic variable. The scale of internal and external migration has multiplied many times in recent decades having colossal ramifications for realizing human rights, often inaccessible in case of internal migration or denied to immigrants. People migrate from less affluent or underdeveloped regions to developed or urbanised space in search of opportunity. Migrants are key agents in the economic growth of a region as development gains occurs in both the sending and destination places. However, it has been observed that a close relationship exists between development gains resulting from people moving to regions providing opportunities and provision of securing rights of potential actors, benefitting the economic sector of origin and destination regions. A major gap exists between rights enshrined in the constitution and accessible to migrants. The movement of people to another region alongside economic prosperity brings in its fold plurality of culture, diverse political ideas as harbinger of democratic development. The numbers of internal migrants in India are far more significant than those moving out, yet accorded low priority towards their social inclusion. Successive governments in states have failed to protect or promote the rights granted to the citizens of the country. The challenge of providing social security cover to the movers of economy became evident with the sudden nationwide lockdown during the spread of Covid 19 virus. The paper explores the existing challenges faced by in migrants and analyses government mechanism aimed at better social inclusion of migrants.*

**Key Words:** *Migrants, citizens, rights, social protection*

## Introduction

Migration is a critical demographic variable affecting states worldwide in the twenty first century. People move in search of employment opportunities and better living conditions. Migration is an expression of desire of people on move to better their wages, to seek more opportunities, security and better life chances in a highly competitive

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unequal environment. The increase in urbanisation and development offers more opportunities and better living conditions. The scale of internal and external migration has increased multifold in a transforming world incapsulated in hope, opportunities and challenges. An estimated 272 million were migrants globally in 2019, 50 million more than in 2010. More people are settled in other parts of the region than where they were born. The interdependence of urbanisation and migration are important drivers of economic development and societal transformation witnessed by states world over since historical times. Movement of people has a significant impact on economic and social development. The United Nations Agenda on Sustainable Development 2030 gives significant importance to migration as it contributes in reducing poverty and inequality amongst people and regions by developing and enhancing human capital. Goal 8.8 of the SDGs proclamation to “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment” cited in The Health Aspects of Labour Mobility side event organized by ILO on 12 October 2017 is one of the focus targets of ILO (ILO,2017). Migrants are rational decision makers, they move to a labour market corresponding to their capabilities providing employment to earn higher wages and better their life chances of oneself and their families. “Throughout human history, migration has been a courageous expression of the individual’s will to overcome adversity and to live a better life” (Wickramasekara, 2006). As a global phenomenon migration occurs due to economic factor but the influence of other push pull factors like social, cultural environmental, education opportunities cannot be discounted.

People migrate across national boundaries and within having far reaching implications for the host and destination they arrive. Though migration to other countries has been talked about and debated, however magnitude of internal migration is far greater, as bulk of the migrants are labour having potential to contribute to the economy of the state or district they settle. Internal migration is inevitable in the context of existing regional imbalances and the demand of labour at other places though there are differences in the pattern of migration between developing and developed part of the world. In India, push factors -unemployment, regional disparities, marriage, social restrictions induce migration. Nearly 37 per cent (45.36 crore) of the population in India are internal

migrants as recorded in Census 2011. As Supriyo De (2019) writes, ‘This is an increase of 45% over the 309 million recorded in 2001’ (Supriyo De,2019). There exists a close nexus between migration from rural to urban regions contributing to the development process as posited by neo-classical migration theory. As in most part rural regions are underdeveloped, surplus labour makes way to urban industrial set up as supply of workforce. Haas in *Migration and Development: A Theoretical Perspective*, postulate that ‘migrants were expected to play positive role in development and contribute to the accelerated spatial diffusion of modernization in developing countries, also remittances have been attributed an important role in stimulating economic growth’ (Haas,2010 p.231). Migration results in development gains at the place they move and from the place they move. Being as source of labour they contribute significantly in the development gains of the destination place and with their earnings they send remittances to their home state to enable them to invest further. However, development cannot exist in exclusion of providing rights to the drivers of economy. There is a close nexus between development gains and protection of rights of migrants. Protection of rights including social rights where the migration takes place provides security net to the migrants in terms of health and education benefits having a positive impact to stay for longer duration and contribute to the productivity. Studies have found a direct correlation between migration and securing rights of the migrating population at the place they move. United Nations in its report on the *World Social Situation 2018: Promoting Inclusion through Social Protection*, has highlighted the provision of ‘well-functioning social protection systems contribute to migrants’ desire to stay in their new homes’. (United Nations, 2018, pp.130-31).

The article analyses the non-availability of social welfare schemes to in migrants due to non-portability nature of rights requiring domicile and consequent hardships encountered by migrants. The paper critically studies initiatives taken by the government of India to protect the interest of migrant workers and the gaps in the policy to be addressed for the availability of core rights of life and dignity.

### **Internal Migration in India: Movement from Distress to Opportunities**

Part III of the Constitution of India on Fundamental Rights guarantees freedom of movement to people in Article 19(1)(d) and 19(1)(e).

Faetanini and Tankha in a UNESCO publication (2013) quote The Constitution of India 1950 which 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” (UNESCO,2013, p.4). Internal movements, intrastate or interstate is not restricted by any law. Large number of citizens move out of their place of birth for various purposes. However internal migration in India is induced by push factors of poverty, unemployment, regional underdevelopment social and cultural exclusion or natural calamities. The involuntary nature of migrant force people to leave their place of origin due to distress arising at their place of origin in search of opportunities at the place of destination. Intra or interstate migration is primarily due to regional disparity and unequal level of development in the regions as migration provides much needed hope of survival. While analysing the statistical data one notices considerable increase in internal migrants in the Census 2011 in comparison to the previous one.

With 1.21 billion of India’s population according to Census 2011,37 per cent or 453 million population migrated within the state or interstate, a substantial increase in numbers in comparison to previous decade. This escalation of number is a considerable increase in comparison to Indians migrating across countries i.e., approximately 1.14 crores. Rapid urbanization from 2001 to 2011 has been accompanied with an approximately 31.8 decadal growth. Urban growth has risen with the increase in migration and with more cities adopting policies like National Smart Cities Mission, projects to revamp the cities infrastructure, the rate of people migrating to urban clusters is expected to grow in the coming years. Rajan and Sami (2020) stated that, ‘‘During 2001-2011, India saw an increase of 139 million to its migrant workforce, the internal migration almost doubled throughout twenty years—from 220 million in 1991 to 454 million in 2011’’ (Rajan & Sami,2020).

Labour generally from the geographical regions of the Northern and Eastern India move to the Western and Southern regions. Migrant labour in abundance in regions of developing states move to developed states of India. Raja and Sami (2020) posit that, ‘this can be as a result of the demographic divide between the regions of South and North in terms of demographic dividend and transition’’ (Rajan et al.,2020).

Mahapatro(2012) outlines push factors to migrate as she writes, ‘There can be contrasting reasons for this current increase in the migration rate...increasing unemployment, poverty, population pressure, environmental degradation, depletion of natural resources, etc. limit the livelihood options and may force people to migrate’ (‘Mahapatro, 2012,p.2). Migration primarily is an offshoot of regional disparities compelling people to move to places whether rural or urban with better livelihood. Some pockets of rural regions and urban areas are equipped with better infrastructure providing employment, better wages, educational opportunities and also transport connectivity motivates people to migrate. In the post liberalization period migration received an impetus with labour migrants constituting a major chunk.

Historical experience has shown that with urbanization, migration receives a boost and becomes an integral feature of economic development and at the same time bring change in the societal structure. The emergence of India as a major player in the economy and the development of cities as major contributor to the GDP, the contribution of labour of migrants are immense. ‘Migrants are indispensable and yet invisible key actors of socially dynamic, culturally innovative, and economically prosperous societies’’ (UNESCO,2013, p.iii).

### **Curtailed Citizenship Rights of the Forgotten Citizens**

The movement of people across borders and the right to admission within the territorial boundaries of the state is the distinguishing feature of modern citizenship. Citizenship grants a membership in an association assuring citizens’ rights and participation in the matters of polity. Bauböck (2016) elaborates by stating, ‘The conceptual field of citizenship can be roughly outlined by distinguishing three dimensions... these are, first, citizenship as a political and legal status, second, legal rights and duties attached to this status, and, third, individual practices, dispositions and identities attributed to, or expected from those who hold the status’’ (Bauböck,2016, p.16). As a member of polity described as citizenship, is distinguishable from other related terms describing individual affiliation with territorial societies.

Migration entails far-reaching implications for putting into practice an exhaustive declaration on human rights. Universal Declaration of Human Rights are applicable to all individuals in any part of the world as core

human rights are available to people in any part of the world without any distinction (Godwin Gill, 1978). However, in practice these sacrosanct claims are not available or denied to migrants. The contemporary world is witnessing the mass movement of people within the national territory and inter nation-state. The crossing of the boundary is not accompanied by a corresponding assurance of rights enjoyed by people in their origin place. As Grant (2005) writes that, "the rights are agreed to by governments world over however their denial or non-availability to workers makes them vulnerable depriving them of dignity".

Movement of people and settlement within (interstate and intra state) is fundamentally recognized for citizens of India. Citizens' rights and participation in polity is assured with the movement of people crossing boundaries from the place they were born maintaining continuity in availability of rights and performance of political obligations towards the state. Bauböck (2006) quotes Constitutional lawyer Georg Jellinek pronouncement "citizenship as a positive status that implies a duty by the state to promote the interests of individuals through a system of public rights and an active status that entitles its holders to participate, or be represented in, democratic institutions" (Bauböck, 2006, p26). Jellinek's statement implies obligation of the state to protect the rights of individual. With T H Marshall essay in 1965 on *Social Citizenship and Class*, the obligation of the polity to provide and promote social citizenship became implicit as it held that provision of basic social rights e.g., health care, schooling for children are considered human rights and strengthen the equitable ethos incorporated in the constitution. These rights intensify individual safety and autonomy primarily based on assuring equality to ensure a dignified life (KumarChoudhury,2021). But the availability of these rights effectively is uncertain, depending on the place of residence.

As large population move out of their place of origin, they encounter numerous constraints due to limited social protection offered by the state. Large chunk of vulnerable poor labour migrating intra state or interstate, employed in informal sectors of economy confront wide range of challenges in managing their livelihoods. Amongst the many difficulties faced are the non-portability of social welfare schemes in offered by state or local government and requirement of domicile to avail educational and job opportunities leaves them at risks of fulfilment of basic needs or

denial of right to education or work. Without proofs of residence, migrants are unable to avail social protection and benefits of government sponsored schemes. Their children too remain deprived of education in schools adversely affecting the development of human development indicators leading to transference of poverty from one generation to another. Instead of acknowledging their efforts in the economy they are seen as ‘burden’, and often mistreated and held responsible for unhygienic practices and disturbing the city planning initiatives.

UNESCO in its publication on *Social Inclusion of Internal Migrants in India (2013)*, states the constraints faced by internal migrants, ‘Internal migrants face numerous constraints, including a lack of political representation; inadequate housing and a lack of formal residency rights; low-paid, insecure or hazardous work; limited access to state-provided services such as health and education; discrimination based on ethnicity, religion, class or gender; extreme vulnerability of women and children migrants to trafficking and sexual exploitation’ (UNESCO,2013,p.7). As a result, they remain excluded from the political, social, economic and cultural lives of the place they give their substantial labour. The non-availability of reliable data base of in migrants is a severe handicap for labour departments to provide public welfare schemes to migrants at all levels of governance. Furthermore, due to diverse labour market the incoming labour remains fragmented and consequently unable to unionise.

The lockdown implemented by the Government of India on 25 March, 2020 to curb the spread of Covid-19, brought to light the mammoth task of ensuring rights with dignity of the vast majority of marginalised workers working mostly employed in informal sectors of economy in India. The problem for years did not receive a centre stage as it remained invisible from the consciousness of decision and policy makers. The news briefs and videos in various media platforms of anguished migrant workers eager to reach back home walking, or boarding whatever means of communication available to them brought to fore their insecurities and deplorable conditions. Due to lockdown workers had no work and consequently no wages to sustain themselves, is a reminder of an existing reality of the wide gap in the provisions of rights to citizens and actual entitlements.

The unavailability of rights to citizens under different circumstances, question the principles of democracy premised on freedom and equality. Such issues are often missing from the discussion as it is assumed that the working of liberal democracy has made provisions of political equality thereby including all and the focus is on socio economic equality and recognition of cultural liberties. As Bauöck quotes Joseph Carens in *Migration and Citizenship* (2006), “Citizenship in the modern world is a lot like feudal status in the medieval world, it is assigned at birth; for the most part, it is not subject to change by the individual’s will and efforts; and it has a major impact upon that person’s life chances” (Bauöck,2006, p.16).

### **Initiatives to Promote Inclusion of Invisible Indians**

In order to safeguard and promote migrants’ access to social protection and to include them as socially and politically active citizens impediments to access constitutional rights has to be looked. Rights play a crucial part for the wellbeing of migrants, conceived as prime agent of development and their availability is decisive in developing the required skills. Lack of rights have a grave impact on developing the capability of migrants whereas providing rights aid in its developing. (Böhning, 2009).

Böhning cites The United Nation’s International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families that explicitly spells out sets of rights for different categories (Böhning, 2009). Article 14 of the constitution of India provides dignified life to the citizens by guaranteeing the right to equality. To strengthen the ethos of dignified life, the Government of India implemented in 1979 Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, to protect the interest of workers migrating from other states. The act aimed to provide economic benefit of minimum wages, travel allowance, medical aid and social security such as shelter for the duration of stay. However, the Covid 19 disaster brought to forefront the ineffectiveness of the claims guaranteed in the act due to its improper implementation, defeating the purpose of its enactment. Nonetheless visionary interventions from the transferring and destination states together will show the way forward in putting into practice the rights given to citizens in any part of the country without any reservations for migrant workers.

Towards making social entitlements realisable the Ministry of Housing and Urban Poverty Alleviation in 2015 set up a Working Group on Migration headed by Partha Mukhopadhyay. The report submitted by the expert group on 1 March, 2017 urged the central government to secure the constitutional rights of the migrants as they are potential contributors in the profitable growth of the economy of the country. The report made it explicit for the inclusion of migrant workers with other workers as Rajan and Sami (2020) refer to the recommendations of the report, "in principle there was no reason for specific protection legislation for migrant workers, inter-State or otherwise, that they should be integrated with all workers as part of a legislative approach with basic guarantees on wage and work conditions for all workers, as part of an overarching framework that covers regular and contractual work" (Rajan & Sami, 2020).

International Labour Organisation, Aajeevika Bureau and the Centre for Migration and Inclusive Development (CMID) in their report 2020, stated the urgency for the Indian government to initiate inclusive policy framework to guarantee basic rights to vulnerable migrants entering the informal sectors of economy within the country borders. The process of codification of central labour laws which began in 2014, 29 central laws have been merged into four codes. CMID in its report (2020), specified four codes as code on wages, on occupational safety, health and working conditions, on industrial relations and code on social security (ILO, 2020), which came to be adopted by September 2020. The Occupational Safety code, Health and Working conditions broadened the term interstate migrants to also include workers migrating on their own besides already providing protection to people migrating through contractors. Their inclusion broadens the extend of social security networks. In addition to this, the code provides for portability of public distribution system to provide notable benefits to large number of people from other states or districts. The Code on Social Security directs governments at the centre and state to establish funds for employees working in informal sectors of economy and to make provisions for their registration (ILO, 2020). However, by not making social security measures portable, large number of migrants stand deprived of welfare measures necessary to sustain life.

Neeta Lal in *India's Government Focusses on Internal Migrants, at Last(2021)*, expresses hope in the NITI Aayog draft on National Migrant Labour policy 2021 for migrant workers that, “emphasizes the political inclusion of migrant workers so that they can demand their entitlements; advocates setting up interstate coordination mechanisms; suggests embedding a migration wing in each state’s labor department; and aims to get source states and destination states to work with each other” (Lal,2021).It is proposed in the draft to set aside provision and delivery of welfare services while rights grounded approach to be championed.Kingshuk Sarkar(2021) expresses faith in the right based approach perceived in the draft national policy on migrant workers. “The policy urges to remove restrictions on true agency and potential of the migrant workers” as the aim, “should not be to give temporary or endless economic or social aids”, viewed as “a rather limited approach”. The draft pronounces migration, “should be conceded as an integral part of development” (Sarkar,2021). The draft further states “government programmes should not hamper but...seek to facilitate internal migration” (Sarkar,2021).

Neeta Lal adds (2021),”Calling on employers to be transparent concerning about their value chains and formalize work contracts with migrant workers, the draft policy advocates a “rights-based” approach to tap the migrants’ potential rather than issue hand-outs and cash-transfers”. It is perceived the draft may be significant in mainstreaming internal migrant labour. Experts say the draft could be vital in mainstreaming migratory labour. Presently the imperfect Inter-state Migrant Workmen Act, 1979 is the legal document with its restricted scope as it provides protection to workers moving out through a contractor, not covering large number of freelance migrating workers.

The proposed policy framework could be a comprehensive one as Mehrotra in a write up on, *What is NITI Aayog’s draft national policy on migrant workers? (2021)* says the draft policy” describes two approaches to policy design: one focussed on cash transfers, special quotas, and reservations; the other which “enhances the agency and capability of the community and thereby take away aspects that come in the way of an individual’s own natural ability to thrive” (Mehrotra,2021). The recommendations enclosed within the report would give a legal basis to produce social protection to safeguard the migrants.

## Conclusion

The new era has created opportunities for people to migrate within the territorial boundaries on a large scale than ever. The clear linkage between migration and development at both origin and destination has ushered improved economic and social conditions in the lives of people and society at large. The improved national GDP is a constant reminder of the labour force contribution to the economic development of India. The contribution of interstate migrants to development is recognised at various platforms and urgency expressed to adopting a human rights-based approach instead of a handout one. Migrant workers are most vulnerable section of migrants facing challenges of claiming political and social rights.

In spite of migrants' contribution to economy, culture and as service providers, they are forgotten citizens of India, their voices remain unheard. Their rights are rarely respected and their dignity is hardly recognised. Though the fundamental rights do not make any discrimination in the provision of rights but the socio-economic milieu of the country has generated specific perception of rights applicable on the diverse section of the population in accordance with their socio-economic position in the society.

The non-portability of social benefits in spite being citizens of India relegates them to secondary citizens to face arduousness in availing health care, ration facilities and other social welfare benefits at the destination place. The non-maintenance of credible database of internal migrants is a further hindrance in framing effective strategy in ensuring benefits of social protection. The NITI Aayog draft policy document highlight on ‘rights-based approach’ is a significant move to include migrants in mainstream society rather than treating them as invisible Indians. The recommendations put forward by the think tank addresses the gap of the sole legal framework adopted in 1979, the Act of Interstate Migrant Workmen (Regulation of Employment and Conditions of Service), covering rights of labour settling in other states, as the flawed provisions are applicable on labours migrating through contractors, leaving others out of its purview. There is no institutional mechanism to identify and collect credible data of migrating labour and consequently resulting in flawed policies.

The recent pandemic revealed the harsh fact of the vulnerability of migrant labour and the dependence of economy especially unorganized sector on their services. The vulnerabilities of these workers make a strong plea for universalising a dignified work agenda. The imposition of nationwide lockdown to contain Covid 19 virus has necessitated an urgency to implement policies providing safety net to the vulnerable section of migrant labour. Universalisation of providing social security benefits to migrant workers without any discrimination makes a strong plea for provision egalitarianism and access to social justice. The ILO International Labour Standards on social protection provides a comprehensive framework for improving social welfare coverage. A policy framework that adopts rights-based approach to enhance the capability of the migrants and its implementation in true spirit is a step towards building an inclusive society admiring the nexus between migration and development.

Migrants are productive assets towards building a sustainable society only if we aim at an inclusive and equitable economy. India is placed at an advantageous position as the demographic dividend will reach its peak at around 2036. Migrant Labour policy should comprehensively create a credible database so as to create comprehensive social security mechanisms and its availability of social protection through continuous tracking and if required interventions can be planned.

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