

Problem of Migrant Work force and protection of Human rights in Jammu & Kashmir State

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Abstract

Migration is a significant feature of human civilization. Migration in India has existed historically, but, in the context of globalization and opening up of the world economy it has assumed special significance for the country and its regions. Social mobility or circumstantial shift from one place to another in search of livelihood and survival is not new, this has been happening since the advent of human civilization. Migrant work force in India is mostly influenced by social structures and developmental patterns. The developmental policies of all most all the regional governments have accelerated the process of migration since Independence. Uneven development is the main cause of migration. This study examines the root cause and severity of migrants in Indian population and the factors associated with the same.

1. Introduction.

The article examines 'the problem of migrant work force and protection of human rights in Jammu & Kashmir (J&K) State' the efforts have been made to explore the geographical location of the Jammu and Kashmir State and its four types of unique cultural blend that differentiate it from the rest of the country. The paper has been justified on the basis of the information collected from relevant literature, census of India 2001, economic survey of the State, some project reports of different organizations on the developmental aspects, news agencies and informal interaction of migrant workers working in Jammu and Kashmir State. This article accommodates contents like Migrant work force containing concepts, perceptions, general views and impact. Influx of migrant work force in J & K indicating both positive and negative aspects of constant migration of labour in the state as authentic data pertaining to the presence of the migrant workers particularly in unorganized sector is not available at government level, miserable working condition of migrant workers in the state involving the nature and place of work and related problems being faced by them. The problems of Human Rights Protection of migrant workers indicating the concept and views about human rights, with the reference of interstate workmen act 1979 of J & K state as well as the Human Rights Commission of the state and related problems of non-implementation of protection of human rights for the migrant workers particularly in unorganized sectors.

The J & K State is situated in the extreme north west corner of India, lying between 32^o-17^o and 36^o -38^o north latitude and 37^o- 26^o and 80^o-30^o east longitude. The State of North India having area of 222,200 sq. km. including area occupied by China and Pakistan with 10,069,900 population (Census 2001), The State has four types of unique cultural blend that differentiate it from the rest of the Country. The Socio-cultural and demographic structure of the State is comprised of four distinct parts namely Jammu, Kashmir, Ladakh and Rajouri-Poonch. First three parts have been constitutionally recognized and designated as three provinces of the State, but on account of the erstwhile backwardness the fourth region couldn't get its due space in the State. Kashmir has been the highest learning point of Sanskrit and Persian, Ladakh on the other side has been the highest living centre of Tantrayan Buddhism, and Jammu has been the axis of Rajas and Maharajas. On the other hand Rajouri-Poonch has been the principalities, ruled by Muslim Rajputs for centuries representing the actual Indian traditional system.

These four regions have their own separate linguistic identity, Kashmir is represented by Kashmiri language, Jammu is represented by Dogri language Ladakh is represented by Ladakhi comprised of Balti, Dardi and Shina and Rajouri-Poonch is represented by Phari comprised of Gojri and Poonchi languages. For interregional interaction Urdu or Hindi is used as Communicative language. A chunk of migrant workers landed in the Jammu and Kashmir State and has almost covered the all the region of the State.

2. Migrant work force

Social mobility or circumstantial shift from one place to another in search of livelihood and survival is not new, this has been happening since the advent of human civilization. In fact, animals did the same even before the advent of humans; with the change of weather, birds and animals shift to find food and a hospitable environment for sheer survival. Migratory birds travel thousands of miles to more congenial atmosphere for reproduction. Migration is a significant feature of human civilization. It reflects, human endeavour to survive in the most testing conditions both natural and man-made. The broader vision of the term Migrant Work Force, involves the workers from out side working in the given area and workers of the given area working out side. In both the cases the mobility of workers refers to the migrant work force. In economic parlance, migration is perceived as when a person is engaged or likely to engage in a remunerative activity in a place of which he is not a native or national. (Hanson, Gordon, 2006). Migration of workers is a human phenomenon which has historical roots and wider implications. The search for the source of survival or quest for the blissful life and comforts have been considered to be inspiring and the dovetailing force of migrations either it is inter regional, national or international. Though migrations have economic genesis but also contains socio-cultural and political ramifications. It is generally perceived that multi cultural contacts has had positive consequences as well as placing strain

on the culture and life of the upcoming society affected in multifarious ways by migration (Sahu 2011). Migration in India has existed historically, but, in the context of globalization and opening up of the world economy it has assumed special significance for the country and its regions. As a consequence of socio cultural, historical and regional diversity, there are serious income disparities, agrarian distress, inadequate employment generation, vast growth of imbalance informal economy and the resultant migration from rural areas to urban, urban to urban and backward to comparatively advanced regions in the most appalling conditions, moreover Under the pressure of International Finance capital, Central as well as Regional Governments are further de-regulating the labour markets and boosting the enlargement of the informal sector (Rao, 2008).

Migrant work force in India is mostly influenced by social structures and developmental patterns. The developmental policies of all most all the regional governments have accelerated the process of migration since Independence. Uneven development is the main cause of migration. In addition to it, the disparities, inter regional and amongst different socio-economic classes. The landless poor who mostly belong to lower castes, indigenous communities and economically backward regions constitute the major portion of migrants. In the very large tribal regions of India intrusion of outsiders, settlements by the outsiders displacing the local tribal people and deforestation also played a major role in migration (Sahu, 2011). According to a study 77% of the population i.e. nearly 840 million Indians live on less than Rs.20-40/day. Indian agriculture became non remunerative, taking the lives of 100,000 peasants during the period from 1996 to 2003, i.e. a suicide of an Indian peasant every 45 minutes. Hence, the rural people from the downtrodden and backward communities and backward regions such as Bihar, Orissa, Uttar Pradesh travel far a field seeking employment at the lowest rungs in construction of roads, irrigation projects, commercial and residential complexes. The pull factors of higher wages caused external migration to particularly in northern regions of J & K and Punjab. (Hindustan Times, 14th October 2007).

3. Influx of migrant work force in Jammu and Kashmir

Migrant workers express two major factors prompted them to travel to J&K State. First, the J & K employers are kind enough and never treat them as bonded labour, as in other states of the country. Secondly, wages were much higher than other states. Undoubtedly migrant workers from Bihar and other regions of the country have been instrumental in keeping alive the economy of Jammu and Kashmir State. They carry out sowing and harvesting of crops, including paddy, work in brick kilns, construction work and pack fruit to be exported to other states (Kak, 2000). The rapid flow of migrant workers in state has an effective role in the developmental sphere on one hand and putting a huge pressure on the basic amenities on the other, which may become a future threat for the long term economy of the state. Another problem is that authorities in the state are unaware of the actual number of migrant workers in the state. It is generally believed that the quantification of the migrant work force present in the state is a prerequisite for the proper planning and management of resources and amenities in the state. The constant increase in the migrant work force by placing strain on the basic amenities available in the state could lead to the trepidation of inhabitants as well as the local labour. A study indicates the figure of migrant labour is four lakhs in Kashmir Valley alone. Some estimates suggested that migrant labour only in Srinagar is more than 60000. It constitutes a ratio much higher in comparison of any other place in India (Bhat 2007).

Most of the times we observe the situation through single perspective that the money of the state goes outside the state, however we overlook the current growth in the constructions and developmental aspects, which are mainly because of migrant work force in the state. Over the years the labour wages have not increased much and the main reason for that is free availability of migrant labour in the state. A noted economist of the state said, "Ours is the labor shortage economy". The local labour prefers leisure to work despite work availability in the open market. In unorganized labour market the local labour opts to remain unemployed at a given wage rate while the non-local labour accepts the low-wage employment. It has also been observed that influx of migrant workers is constantly increasing day by day; in 1978-79 the presence of migrant workers was expected to be more than 80 thousand now it has gone as high as 4 lakhs only in valley of Kashmir. They are simply taking away capital from J&K and are contributing to their own states' economies (Ali, 2007).

4. Analysis of Working Condition of Migrant Workers in the State

The social structure of all round the world is in the process of mobility due to constant increase of industrialization and urbanization. It has brought similar impact in different parts of the country. Both the processes involve heavy construction work. Factory buildings, accessory and ancillary buildings, government offices, roads, railway tracks and entire township need to be constructed. This developmental process involves various kinds of skilled and unskilled workers. On the similar pattern we observe the migrant workers are spread across the width and length of the J&K state, however, they are drawn in large numbers, through pull and push factors to the emerging and flourishing the development of rural as well as urban areas. It has been observed that during study (100%) respondents agreed that migrant workers in the state being highly disorganized and fragmented state of working hampered their bargaining power due to which they are unable to fight against injustice that prevails in the process of their working. Majority of the workers (89%) indicated insecurity as well as instability in job perspectives, neither their job nor their particular work site is permanent or of a perennial nature. When construction starts at any place, these workers are hired on daily or monthly or may be on contract basis. The duration and security of their employment depend upon the kind of employment they enter into. It may last for days, for weeks, for months or for a year. After that they need to look for another site and employment. They have to manage their own sources of networking and channel of information for employment, but this pattern of employment debilitates their work efficiency and contemplation. This predicament creates lot of hassles for them and provides sufficient grounds for their exploitation in the hands of employers. Majority of the respondents (67%) expressed their views about exploitative deals of some employers and stated that they are not paid minimum wages; even some times the agreed wages are not

paid in time. After the construction work is over, substantial due remains with the builders or the contractors, who are always on the look for devouring their due wages. Moreover, their working time and hours are not well regulated. They are not provided extra wages for excess work. Majority of the respondents (73%) have shown their agreement with the statement that the migrant workers in the state work under very hazardous conditions. The working conditions and the facilities provided at work place are far from satisfactory and further stated that Safety conditions and measurers are uncertain some time they work in militancy affected and snow bond areas of the state. In case of accident, generally there is no provision for financial and medical aid. It is up to the workers themselves to arrange for the treatment. There is no scheme of social security coverage for them. In the extreme cases like death, no body owns the responsibility.

Majority of the respondents (89%) agreed that there are no recreational facilities, non availability of drinking water, toilets, canteens etc. If the workers are females, they face more problems at work place if they are pregnant or having small children. There is no system to take care of these children at work site. And they just cannot take leave out of work during this period lest they should face extreme financial problems. Majority of the workers (96%) have shown their agreement with statement that they are unaware of the legal provision of the migrant workers particularly J & K interstate migrant workmen (regulation of employment and condition of service) Act 1979, due to which maximum disputes remain unattended by them in the state. They remain in unhealthy environment, so dense, dingy living conditions, long working hours and an oppressive work environment make the lives of many migrant workers miserable. The location of their slums is determined mainly by proximity to the worksite, available patches of land along roads and railway lines, open spaces adjacent to factory walls, low-lying areas, and the banks of rivers and canals.

5. Human rights protection

The concept of Human Rights Protection is not new, it can be found as far back in time as the age of the Greek philosophers Socrates, Plato and Aristotle. Their writings on the idea of natural law contain many of the same principles that are associated with human rights. The Magna Carta (1215) is considered a milestone in the history of human rights protection and several great thinkers such as Grotius, Hobbes, Locke, Rousseau and Kant talked about human rights. Some religious texts also are said to reflect the principles of human rights. The *Rig Veda* promotes conduct that is based on equality; even certain Bible passages have similar content. For instance, in the Old Testament, when the midwives of Pharaohs disobey his order to kill all male babies, they do so on the basis of higher and more fundamental laws that they felt bound to follow (Henkin, 1979).

Human rights are most fundamental to the stability and the development of every nation around the world. International conventions and their implementation are evoked in order to ensure adherence to a universal standard of acceptability. With the advent of globalize new technology, these principles gain importance not only in protecting human beings from the ill effects of change but all should have the share of the benefits. The fact is that the human rights are violated as well as human dignity is disregarded in all the countries directly or indirectly on account of certain political consideration or tribal set up of some societies. When such violations remain unchecked, their intensity and frequency increases. A human right is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human simply because he is human (Augender, 2002).

Different views on Human rights have been developed to understand the nature of the society and level of implementation

i) The Natural law approach

This perception focuses on a natural law that is higher than positive law (law created by man) and to which the latter must conform. Natural law is based on equality. However, since it employs means such as the revelation of divine will, transcendental cognition and participation in natural reason, none of its claim can be conclusively confirmed or rejected (McDougal, 1906).

ii) The Historical approach

This approach views human rights as a function of culture and environment and inculcates space and time factors as well. However, it has three distinct drawbacks. Firstly, it sometimes does not consider the individual as an entity outside of the community. Secondly, it gives more importance to language, religion etc. than the actual views of people. Thirdly, by focusing on the differences between societies, it undermines the universality of human rights (McDougal, 1906).

iii) The Positivist approach

This approach views law as enacted by an authoritative sovereign and deriving sanction from coercion. The main disadvantage here is laws would not stem from the will of the people but from that of the sovereign. Obedience would be more easily obtained if sanction came not from force but from laws being based in the values of society. Positivists also see only nations and not individuals as subject to international law, a view that would render ineffective a number of instruments available today (McDougal, 1906).

iv) The Marxist approach

This view comes from the writings of Karl Marx in the context of the 19th century industrial revolution. It posits that in capitalist societies, human rights do not exist. They only come into being in a classless society where there is public ownership of the means of production. This approach too suffers from defects one of which is that it views the development of human rights in a communist society as inevitable and not problematic. According to Marx, human rights are the “rights of the egoistic man,

separated from his fellow men and from the community". They are the rights of man as an isolated, inward looking, self-centered creature (Younis, 2004).

v) The Social Science approach

This approach locates human rights in the context of larger social processes, dwelling on the community's role in shaping principles. It uses scientific and empirical methods, models and techniques to estimate the degree of success/failure of human rights. It fails however, to provide a clear link between social processes and the law. Different Countries ensure these rights in different way. In India they are contained in the constitution as fundamental rights, i.e. they are guaranteed statutorily. In the UK they are available through precedence, various elements having been laid down by the court of law. In addition, international law and conventions also provide certain safeguards.

6. Problem of Human Rights Protection of Migrant Workers

The J & K State has full-fledged department for regulating the labor force in the state. Jammu & Kashmir interstate migrant workmen (regulation of employment and condition of service) Act 1979 envisages for regulating the employment of interstate workmen and their condition of services, the act applies to every establishment in which 5 or more interstate workmen are employed. Moreover, State Human Right Commission has been established to watch human rights in the state. But it seems the serious issue of mammoth growth and existence of migrant labour coming to J&K from impoverished states like Bihar, UP, Chatisghar etc, working in unorganized sector have not been registered any where and still proper quantification of migrant labour has not been made at Government level which is most important for facilitation and protection of human rights of the migrants labour in the state. In spite of the fact the state government has decided to carve out safe places for the protection of life of migrant workers following the massacre of 27 labourers from other states by the militants. When more than 450 labourers from Bihar, UP, MP, Rajasthan and Himachal fled from the Kashmir valley. Under the plan it was decided by the state government that these labourers working in brick kilns would be divided into separate clusters. A group of 200 labourers would be given accommodation. These clusters would be set up close to security pickets. In addition to this between three to five brick kiln owners have been directed to provide safe accommodation for the labourers near the kilns. The local people have started taking measures to ensure protection to these labourers. Other than this the J & K state is unable to protect the human rights of the large army of migrant workers due to recent past political turmoil in the state and their unplanned and unorganized shift from the place of origin.

7. Conclusion and Suggestions

From the above interpretation it can be concluded that the J & K state is comprised of diversified geographical regions. And in quest of earning for livelihood the migrant workers of different states of India are toiling hard for their survival in all types of circumstances either peaceful, or in trepidation show their presence. The migrant work force has major role in the developmental sphere of the state of Jammu and Kashmir on one hand and a huge pressure on the basic amenities available in the state on the other. The strain on the basic amenities available in the state could lead to suffering of inhabitants and the local labour as the state has a major lot of unemployed youth. The actual data about the total number of the migrant labour force present in the state is not available at Government level due to which migrant work force cannot be contemplated properly and incidence of human rights violation among the migrant workers can be taken place any where in the state as, still the J&K State is under the security threat.

It is true that there are various reasons behind the plight of migrant workers especially in J&K State but it is not impossible to overcome these problems if certain implications are taken in to consideration for improving socio economic condition of migrant workers. It is suggested that every migrant worker should be registered with labour department and the state government should keep track record of the number of migrant workers present in the state and departmental authorities should issue them digital I cards storing therein all the requisite information and details. Information like blood group, address details, specific skill, and other necessary details, which could be very useful to the city planners and other concerned agencies should be given in the cards. It would be convenient for the state to ensure the protection of human rights to the migrant labour in the state.

Special groups should be formed to conduct skill enhancing and awareness generation campaign and they should be made responsible to contact all the registered workers. If possible, a permanent institute should be set in each district and compact classes should be organized to provide the workers theoretical knowledge as well as their rights with concerning laws and acts. Formation of trade union should not only be the rights of settled workers but it should also be made for migrant workers to highlight their problems. Revision of wages rate for casual workers should be made time bound and proper dearness allowance should be fixed to avoid any decrease in their earnings. States should be instructed not to fix minimum rate of wages lower than the Central Government fixation. NGOs or other Social Institutions should be encouraged to conduct social awareness programmes to establish the dignity of manual labour in the societies to work for the protection of human rights. Some specific rules should be introduced to avoid tension between local and outside workers. Keeping in view the gravity of the problem of migrant workers' plight, especially in J&K state should take every step to effectively implement the Act, of 1979.

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