







#### TWO-DAY WEBINAR ON

## "MIGRANT WORKERS AND URBAN GOVERNANCE: RESPONSIBILITIES OF URBAN LOCAL BODIES AND HUMAN RIGHTS"

## REPORT OF PROCEEDINGS

ORGANISED BY

CENTRE FOR ENVIRONMENTAL LAW EDUCATION, RESEARCH AND ADVOCACY, [CEERA]

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

in association with

CHAIR ON URBAN POOR - NLSIU,
MINISTRY OF HOUSING AND URBAN AFFAIRS, GOVERNMENT OF
INDIA

&

DIRECTORATE OF MUNICIPAL ADMINISTRATION, GOVERNMENT OF KARNATAKA

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### **ACKNOWLEDGMENT**

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We would also like to thank the CEERA Team - Ms. Madhubanti Sadhya, Mr. Rohith Kamath, Mr. Raghav Parthasarathy, Mr. Vikas Gahlot, Ms. Geethanjali K.V., Ms. Lianne D'Souza. A special mention to the efforts of Mr. Ananya Gupta, who provided the technical support for successfully hosting the Two-Day Webinar through Zoom Video Conferencing Application. We also would like to thank all the Participants without whom this event would not have been possible.

Dr. Sairam Bhat Professor of Law & Coordinator, CEERA, NLSIU

### ABOUT THE WEBINAR

Recent spread of a deadly pandemic like COVID-19 has exposed the foundational lacunas in the system which led to mass exodus of the migrant workers rushing back to their hometowns. Desperate to leave the urban areas and to reach their hometowns the migrant workers have rather resorted to dangerous off routes by walking hundreds of kilometres. Movement of workers in India from across different parts of the country in search of better life and livelihood is not a phenomenon of the recent past. Due to lack of requisite skills, education and training, the unskilled individuals are engaged in hazardous menial jobs for a meagre pay. Migrant workers contribute a major part in the economic development of the country. Rapid urbanisation triggered large scale migration from rural to urban areas. Aspirations of the migrating workers lie in the big urban centres that are emerging as the economic powerhouse in their respective regions. Large urban centres in India for example, Delhi, Mumbai, Bengaluru, Hyderabad, Calcutta, Chennai and other cities have absorbed these migrating workers from remote parts of the country for different activities. But do the cities have adequate infrastructure and facilities for these migrant workers?

A country striving to achieve economic prosperity with abundant potential in terms of resources (both human and natural), imposed an unprecedented lockdown due to the spread of infectious virus which not just manifested the preparedness to tackle an emergency of this sort, but also exposed the frailties in the system. For a country with population of over 130 crores, the public systems including the infrastructure for housing and providing labour entitlements seems out of reach for any Government. Due to the lack of requisite skills and disparity in the pay, the migrant workers form a major chunk in what constitutes the urban poor. Due to limited access to quality essential services like food and healthcare services that the migrant workers are seldom provided, they are always found to be at the rough end of the stick. One of the major issues which is plaguing the major urban centres is providing housing facilities. Increase in land value coupled with spike in commercial activities pushes the underpaid workers to settle in areas which are not suitable for residing. These undeveloped areas, which are often due to encroachments, find large clusters of huts or small shelters accommodating huge number of people in unhygienic conditions or in other terms called 'slums'. Working conditions of the migrant workers, who moved from rural to high growth urban areas in search of employment, has been everything but good. Invisible and isolated, the obliviousness in granting recognition by the Governments despite 'building' the city, the migrant workers have persisted on the margins. Hence, the obvious question that arises is - whether the migrant workers are being neglected? For the protection of migrant workers, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979 has been enacted.

The three-tiered governance structure in our country has led to decentralisation of various responsibilities from the State and Central Government to the Municipalities and Panchayats. Role of Municipalities and Panchayats therefore, becomes crucial in handling the issues of migrant workers. The averseness in considering the migrant workers under the scheme of policy making has left them in lurch triggering a large-scale humanitarian crisis. Tasked with the role of providing basic amenities to the residents, the Urban Local 🤲 Bodies (ULB's) play a great part in protecting the migrant workers within its jurisdiction. The Constitution of India in its Eleventh and Twelfth Schedule have specifically provided for the responsibility of framing plans for towns, housing, poverty alleviation, slum improvement amongst others. Mass migration of the workers could be attributed to several factors like loss of job and consequential loss of earning which leads to a cyclic problem of payment rents, maintenance of family and access to other basic necessities. Apart from the financial instability, there are other natural factors like extreme heat and cold weathers in several states like Delhi, Uttar Pradesh, Rajasthan and other Northern states. The Government of Delhi has provided shelter homes for people seeking refuge during the cold months and this responsibility is taken up in collaboration with the State Government. Providing accommodation to the migrants who are constantly on the move also has to be considered for which the Central Government has introduced a new scheme called Affordable Rental Housing Complexes (ARHC). The role of ULBs, therefore attains prime consideration with the responsibilities laid down in the Constitution and under various other statutes.

Pervasive challenges for hundreds of thousands of migrant workers still remain due to massive logistical and implementation challenges due to the sheer number of population. Increase in the number of infections on a daily basis has posed tremendous challenges to the Local Self-Governments or ULBs. Financial burden on these bodies in terms of collection of taxes and other revenues have taken a hit. ULBs have a history of poor financial health and huge gap in the urban infrastructure and delivery of services. Instead of strengthening the efficiency in delivery of service by Municipal bodies, the parastatals have been brought in to address a specific issue. These parastatals (Authorities or Boards) are controlled directly by the Central or State Government. This results in a conflict in the functioning of authorities resulting in weakening the Constitutional authorities like Municipalities. Providing healthcare services for these workers reflects the infrastructural upgradation with an adequate capacity to handle. To tackle a pandemic or a disaster of this magnitude the Municipalities must be reinforced in terms of finances, technical expertise and manpower. Mass migration of workers and the resultant problems has shown the underlying problems to the administration. Judiciary has played a major role in highlighting the issues for the Government and passed necessary orders and directions for the welfare of migrant workers. The Supreme Court, after facing flak from various corners, took cognizance of the issue of migrant workers. However, much before this, several High Courts took cognizance and passed necessary orders to the authorities concerned.

The policy and legal enquiries followed by Missions, Projects etc., are entirely the role of ULBs in relation to Housing, Infrastructure development, Civic Amenities, Living Conditions, health, hygiene and, in a limited way, quality of life which would marginally include the environmental aspects. This needs broadening both in focus and ambit. The real difficulties experienced by Migrant Workers, over all the above-mentioned aspects, have very little to do with the responsibilities of ULBs and the State Govt., and hence one would find very little legal prescription in the laws taken for enquiry. The plight of the Migrant labour ("the real back-bone and builders of the city") is entirely the handiwork of 🔼 those who bring/draw them to the city and engage them in the work. It may be a Property Developer, Building Contractor, Public Works Contractor and their cohorts. The obligation is entirely upon these players, to provide those "creature comforts" to the migrant workers. In our effort, we may attempt to shed more light on this aspect as to how to strengthen the ULB Laws and their working by incorporating specific provisions that would fix clear obligations on these entities, procedures and institutional arrangements to oversee compliance and initiation action for violations. Such action has to be followed by efforts in aligning other related laws that have something or the other to do with unorganised labour/ industry, Health Care System, Environmental Regulations etc.

The Two-Day Webinar is a collaboration of the Chair on Urban Poor under the Ministry of Urban Affairs and Poverty Alleviation, Government of India; Directorate of Municipal Administration, Government of Karnataka with CEERA-NLSIU.

#### PAPER PRESENTATION AND SUBMISSION

The Webinar invites well researched original research papers, case studies and survey reports are from the academics, practitioners, researchers, students and other stakeholders working and interested in this area. Research papers shall be subject to the approval of Editorial Board for inclusion in the seminar proceedings. All research papers shall be subject to scrutiny of anti-plagiarism software. Selected papers will be published as E-Magazine in IN LAW Magazine, NLSIU bearing ISSN: 2349-624X.

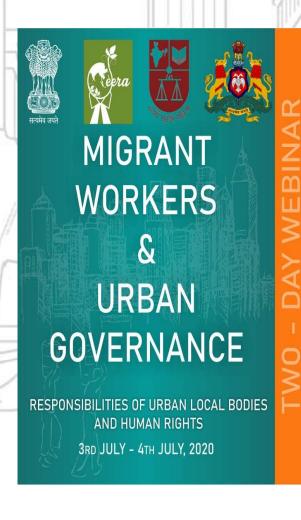
The themes are only illustrative. Participants may select the related topics covered under the main themes -

- 1. Role of Municipality and Governance for Migrant workers;
- 2. ULBs and Quality of life, Healthcare services, Hygiene, sanitation and Environment for Migrant workers;
- ULBs and Housing facilities, Civic amenities and Living conditions for Migrant workers;
- 4. ULBs and Food and adequate nutrition for migrant families;
- 5. Transport and mobility services;
- 6. Economic and financial support;
- 7. ULBs and Labour entitlements of migrant workers;
- 8. ULBs and Protection of Women migrant workers and children;
- 9. Use of technology and tracking migrant workers;
- 10. Smart Cities and Migrant workers;
- 11. Non-state Actors, Gig Economy and plight of migrant workers;
- 12. Urban Missions and Schemes in relation to Migrant workers.

## DAY 1: 3<sup>RD</sup> JULY, 2020

## SESSION 1 - SETTING THE AGENDA - URBAN LOCAL BODIES & MIGRANT WORKERS

The Two-Day Webinar commenced with the session on Setting the Agenda - Urban Local Bodies and Migrant Workers. Mr. Raghav Parthasarathy, CEERA-NLSIU, began the proceedings by introducing the dignitaries present online for the first session of the Two-Day programme. For the first session Prof. (Dr.) R. Venkata Rao, Chairperson, Vivekananda Institute of Professional Studies & Former Vice Chancellor, NLSIU, joined as the Guest of Honour. Along with him Prof. V.S. Mallar, Retired Chair Professor, NLSIU; Prof. (Dr.) K.C. Sunny, Vice Chancellor, NUALS; Prof. (Dr.) Shashikala Gurpur, Dean, Symbiosis Law School; Prof. (Dr.) M.K. Ramesh, Professor of Law & Chair on Urban Poor, NLSIU; and Prof. (Dr.) Sairam Bhat, Professor of Law & Coordinator of CEERA were present. The Webinar took place via Zoom Video conferencing Software application. Subsequent to the introduction and welcoming of Resource Persons, the session began.



## SETTING THE AGENDA **URBAN LOCAL BODIES & MIGRANT WORKERS**

3RD JULY, 2020 (09:30 AM - 11:30 AM)







PROF.[DR.] R. VENKATA RAO

PROF. [DR.] K.C. SUNNY PROF. [DR.] SHASHIKALA GURPUR





PROF. [DR.] M. K. RAMESH

PROF. [DR.] SAIRAM BHAT

JOIN US ON ZOOM MEETING ID: 5600722020 ZOOM LINK: https://zoom.us/j/5600722020 STREAMING LIVE ON f/NLSENLAW

**PROF.** [DR.] R. VENKATA RAO - Chairperson, Vivekananda Institute of Professional Studies & Former Vice Chancellor, NLSIU



The session was graced by Prof. (Dr.) R. Venkata Rao, Chairperson, Vivekananda Institute of Professional Studies & Former Vice Chancellor, NLSIU as the Guest of Honour for setting the agenda. He started the session on Setting the Agenda- Urban Local Bodies & Migrant Workers by discussing the topic of migrant workers and urban governance, he referred the Constitution of South Africa since when Nelson Mandela was given the responsibility of drafting the Constitution of South Africa, Nelson Mandela went through all the constitution of the world and then said that the best constitution of the world is the Constitution of India. With this regard, Nelson Mandela at that time said that the Constitution of India is unique in two respects. Firstly, it enshrines one of the Directive Principles of State Policy lays down under Article-40 of the Constitution which states that the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. This is much before 73<sup>rd</sup> and 74<sup>th</sup> amendments came and this is the only constitution of the world which gives importance to the local governments. Secondly, Nelson Mandela while explaining another unique perspective of the Constitution of India said that the Constitution of India is the first constitution in the world where the international peace and security under Article-51 is given. Article 51 provides that the State shall endeavour to promote international peace and security; maintain just and honourable relations between nations; foster respect for international law and treaty obligations in the dealings of organized people with one another; and encourage settlement of international disputes by arbitration. He discussed the concept of human rights and stated that human right fails where feeling for the right fails. He stated that the post COVID-19-19 world will be a place where there is no institutional appraisal and where people have a feeling that some lives are less important than others and all lives are not equally important. He then further discussed about the issue of migrant workers and referred them as the citizens of our country. He talked about the broad perspective of Article-21 of the Constitution of India and then stated that the migrant workers have also the right to life, right to have a fair treatment and right to live with dignity. However, in this unprecedented situation of COVID-19-19, all these rights available to them have been breached by the Central and State Government. He then puts up a question that how much salary is paid to the migrant workers by the government in this outbreak. Migrants workers are moving back to their hometowns with no jobs and facilities which is a very big issue in this COVID-19-19 crisis as the migrant workers plays an important role in the economic development of our country.S

PROF. (DR.) K.C. SUNNY, Vice Chancellor, National University of Advanced Legal Studies, Kochi.

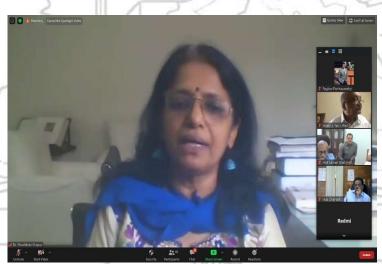


Then, Mr. Raghav Parthasarathy invited Prof. (Dr.) K.C. Sunny to share his perspective on the theme. He started with greeting all the other panellists and congratulating CEERA team for the webinar. He raised the issue of governance where interest of the migrant should be protected and social welfare is to be ensured. In governance, there are policies, programs and priorities.

He focused on policy in India as policy is related to an ideology and ideology is related to a philosophy. So, formulation and implementation of a policy some ideology aspect should be taken into account as it may have a philosophical foundation per se. Coming to the issue of ULBs and migrant workers, three streams of ideology maybe taken into account, first stream is concept of welfare State, which identifies State as a protector, arbitrator, service provider, disburser of social service, etc., hence there are different roles to be played in a Welfare state. Another stream is the ideology of human rights, wherein Prof. Sunny referred that the crux about human rights have been discussed earlier, and moving further he elaborated about Universal Human Rights Declaration wherein there is a terminology that these rights are available to all persons who are in their capacity as being the member of the family of human beings. So, when we are addressing the issue of providing any benefit to an individual or curtailing the rights of an individual, one thing should always be kept in mind that every individual is a member of the family of human beings. This is a significant aspect to be considered whenever we are addressing this issue. The third issue is local governance included through 73<sup>rd</sup> and 74<sup>th</sup> Constitutional amendment. But the issue here is that most of the persons engaged in governance are unaware of the concept of local governance. They are unable to even differentiate between regulatory functions and welfare functions of the local government. During COVID-19-19 period in Kerala, major role is played by the local bodies and government has given full support to them which is a very good sign. Then, coming onto the role of state performing various functions as discussed above, out of which the two most important functions are service provider and dispenser of social service which is ultimately implemented by local government only. But

the executive order is coupled with legislative power, talking about Schedule III of the Constitution, there are eighteen entries out of which at least three entries are relevant in the matter of protecting interest of the migrant labours, planning of economic and social development, how migrant workers may be accommodated or deployed. In concentrating for development, the density of migrant labour may also be considered. Therefore, firstly, while formulating development policies, migrant issue must be taken into account and secondly, the public health, sanitation, solid waste management etc should be placed in priority. India is a country committed to the values of Human Rights since the enactment of the constitution, so basic rights of migrant labour must be fundamental too. While, dealing with basic rights, addressing the issue of health is of paramount importance, especially public health. He gave the example of Kerala, where the COVID-19 issue has been handled effectively due to strong public health system. He suggested that the metropolitan cities throughout the country must focus on strengthening the public health system. Further, the migrant's workers must be included in the weaker sections of the society and benefits must be disbursed to them accordingly. Thirdly, slum improvement and upgradation which is a serious concern in cities like Mumbai must be reformed. Fourthly, dealing with issue of urban poverty alleviation, migrant workers' issues can be included here too. Apart from policy considerations and issue, the measures which can be taken are- a) Maintaining registers at Local Body and State level regarding migrant labour in a particular locality b) Additional standard of life shall be ensured to the workers with proper schemes and planning c) Proper food distribution schemes taking into account large sections across the country. With this, Prof. Sunny concluded his speech with congratulating NLSIU and Prof. Sairam Bhat for organising the webinar.

#### PROF. (DR.) SHASHIKALA GURPUR, Dean, Symbiosis Law School, Pune



Prof. Shashikala commenced the session by greeting all the panellists. She started by mentioning that she has created a course on Public Health Law and Ethic highlighting the position of Vulnerable and why does the research need to focus on them. As 60% of the Population is below the poverty line and has not been given the needed attention.

She quoted some personalities who spoke on the pressing issues of the vulnerabilities and jurisprudence dimensions She went in depth to talk about this pressing issue. She started with explain the meaning of the general term 'Vulnerability' as susceptibility to pain and suffering. She moved forward with the vulnerabilities of the Migrant works whether in the informal or the formal sector is multi-dimensional. It is not just economic and Society based but more of emotional and spiritual vulnerability feeling like an outsider and being

constantly reminded that you are the 'Other'. The issue of Migrant workers is Human Cruelty and vulnerability which cuts across all class boundaries, all ages and locations. She went on to give an Example of a Researcher in Kerala who has been publishing about International Migrants and relating it to the current COVID-19 19 crisis, she said that "International Migration was the cause and Internal Migrants bore the cost " . She also spoke about the Epidemic which became a global pandemic is absolutely no time is due to the human mobility. She gave an example from her personal life citing about her house help who before the lockdown was working double shifts for more income, but now doesn't have anything the jobs due to the economic problems faced because lockdown. She gave another example of her colleague who migrated from one place to another for living his family during these times now within a very short duration of time has to return back to his place of job. She described that these are the situations where people are the most vulnerable emotionally, financially etc. and the rich and big business man are taking these situations for the benefit of themselves and exploiting the vulnerable. She further mentions that, to deal with such crisis, the sufficient law has not been made or brought in place. She quoted some personalities who have written about this issue, which says that there has to be a charter of Rights which have to be developed for these labourers and vulnerable people especially in the fields of Security, health and sanitization. She went on to speak about the problems faced by these people during these uncertain times as nobody gave them any promise of security and they had no rights. Because of these insecurities about their life's being very unsettled, they decide to risk their lives and started to move back to their homes in a different part of the country.

After this she went to the standing of the Law in these times, CDC (Centre for Disease Control) has exclusive work on 'Legal Epidemiology' which means that in cases of Pandemic or Epidemic and its relation to Law. Then she moves to Constitutionality side of this multi-dimensional problem of vulnerability. Article 21, 16, 23 Fundamental Duties, Part IV, public policy directives need to be reconfigured with the development. She stated that, state was more interested in containing the life, policing the matter rather than doctoring it. She mentioned that controlling and doctoring need to have a very healthy balance. After this she mentioned the issues of protecting Human Liberty in this pandemic were the release of the data of the positive patient's violation Privacy and there were also mix-ups in the details of the patients resulting in doing non-responsible governance. They did not give much attention to the constitution and human rights and there was a situation of panic in the Judiciary too especially at the time of migrating Labors. There were also problems arising due to a lot of information available in the market many of which were not even confirmed or verified created a sense of Panic among the people.

Another problem which she mentioned was the personalized approach of some bureaucrats relating and affecting people on a larger scale. The other thing she mentioned were the distributions of food and subsidiaries were very inconsistent and the big companies in the private sector started acting poor and needy when they were actually not. The effect of these problems were directly to the middle class and labourers. Human Rights which compromised in matters like moving to their homes for which they had to complete

documentation resulting them in standing in queues risking their lives and they had to pay money for various things in the time where they did not even have the money to buy food. She also mentioned the causes of their migration. They were (i) Fake Messages and Rumours and Unverified Information in the Market (ii) Scarcity of Food (iii) No Jobs (iv) Lack of Shelters (v) Economic Problems. She further added that some of the State Governments did not take the responsibility of these people as they had special Initiatives and needs, moreover they wanted to go to their families where they felt loved and not a burden. She moved to the positive picture and examples of this scenario. They were:

- (i) The Symbiosis Law School Adopted Certain Migrant families and kept them in decent places
- (ii) School in Pune took care of Families, bought mobile and Internet Connections for Right to education
- (iii) The Symbiosis opened its campus as quarantine camps for patients.
- (iv) Domestic Abuse cases were handled
- (v) Community service

In the end she highlighted some points like the poor the health care budget and it should be more focused on hotspots and basic human rights were violated of Cremations and handling of Deceased Bodies and the Rates of Testing are very Expensive and corruption.

**PROF.** (DR.) M. K. RAMESH, Professor of Law and Chair on Urban Poor, NLSIU, Bengaluru.

The session commenced by greeting all the other esteemed co-panellist and participants. He regarded that the theme selected today is a very challenging issue, in terms of both policy and law. He referred to Prof. Shashikala and Prof. (Dr.) K.C. Sunny upon introducing everyone to various avenues dimensions that are available relating to the urban poor especially the migrant workers. The Economic Survey of 2017



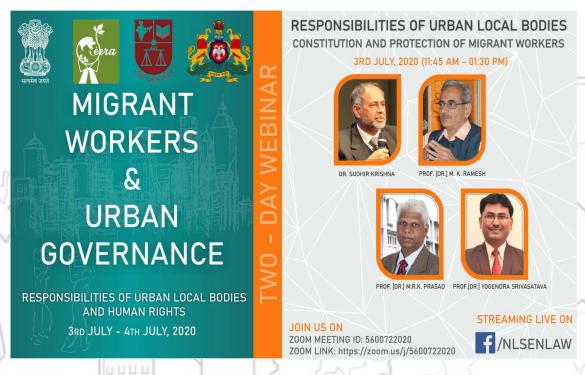
estimates forty crore migrant labour in India, but this is not an exact figure, until now there has been no definite record of migrant workers. He emphasized that we are talking about their rights, but we need to be concerned more about their plight who are the real backbone and builder of the cities. Those who bring them into the cities, employ them or are in immediate neighbourhood of such workers, the law, administration, the courts and the society they are required to be careful towards them and making their life liveable. The role

of an urban migrant labour is essential for national economic integration. The migrant workers come from rural, tribal and backward areas to the metropolitan cities creating disparities in the urban areas but contributing substantially for the prosperity of urban cities being in a helpless and vulnerable state. They face multi-dimensional poverty, inequality and unrealised democratic dividend. It can be seen from the announcement of relief packages since three-four months but the beneficiaries of the same are very low. It is an irony that the contributors towards the economy remain invisible in India due to the absence of proper records. The pandemic has reinforced various aspects- a)the systemic exclusion and disposition of circular or seasonal migrant workers, b) carelessness of their working and living conditions, c) ineligibility of welfare and social schemes, d)survival dependent on daily negotiations with contractors or employers. This clearly highlights that the law and policy fails to include the plight of the migrants workers. The legislators and the policymakers even today have been unable to address the serious questions like who is a migrant labour/migrant worker, is there any clear policy formation or policy pronouncement in that regard or is there any doable administrative orders dealing with the issue effectively. He concluded through digging out the positive dimension provided by COVID-19-19 pandemic in respect of new insights, challenges and how to strengthen the urban governance system which would accommodate the internal life and make urban migrant labour as part of the urban life. He said that the team is looking forward for insightful and innovative suggestions emerging out of the presentations as the issue involves reams of legal literature already available.



The session was followed by a Q & A round from the participants to the panellists. The session was concluded by Prof. (Dr.) Sairam Bhat, by introducing the CEERA team and appreciating the efforts for conducting the webinar. He expressed his sincere gratitude to all the eminent guests for joining and sharing their perspectives and ideas on an important issue.

## SESSION 2 - RESPONSIBILITIES OF URBAN LOCAL BODIES, CONSTITUTION AND PROTECTION OF MIGRANT WORKERS



**PROF.** (DR.) M.K RAMESH, Professor of Law and Chair on Urban Poor, NLSIU, Bengaluru.

The second session for Day I was on the topic "Responsibilities of Urban Local Bodies, Constitution and Protection of Migrant Workers". The session was chaired by Prof. (Dr.) M. K. Ramesh, who is a Professor of Law and Chair of Urban Poor, NLSIU. The panel was shared three other esteemed dignitaries, namely, Dr. Sudhir Krishna, who is the Former Secretary, Ministry of Urban Development, Government of India; Prof. (Dr.) Yogendra Kumar Srivastava, Dean- Faculty of Law, Public Policy and Humanities, Jagran Lakecity University, Bhopal; and Prof. (Dr.) M.R.K Prasad, Principal, V. M. Salgaocar Law College, Panjim, Goa. The session was moderated by Ms. Madhubanti Sadhya, Teaching Associate at NLSIU.

Prof. (Dr.) M. K. Ramesh commenced the session and laid the basis for the discussion on the roles and responsibilities of Urban Local Bodies ["ULBs"]. He explained the dichotomy of the lack of attention to the roles, responsibilities and liabilities of those who have brought migrant workers into a particular city or place –the urban milieu- to work, which leads to vacuum in the laws concerning ULBs. The plight of migrant workers in the present pandemic has raised the burning question as to failure of ULBs, and challenges them to deliberate and propose adequate laws and policies to that effect. His words that "problems are there to handle and find solutions for" rightly laid the basis and need for the second session.

DR. SUDHIR KRISHNA, Former Secretary, Ministry of Urban Development, Government of India



Dr. Sudhir Krishna first proceeded with his presentation, and started off with discussing various facets of migration, both globally and nationally. In explaining the global migration scenario, Dr. Krishna pointed out that India contributes to the largest portion of global migration, and has an equally diverse situation of intra-country migration. In this context, Dr. Krishna argues for the need to integrate and adjust migrant population into the fabric of society in a particular place, and essentially highlights how the failure to do the same had resulted in the COVID-19 migrant crisis. In arguing for acceptance of migrant population, Dr. Krishna discussed the various positive and negative impact of migration to host cities. He classified the same as economic, social and political impacts, and discussed ways to overcome them. In the contest of the crisis, Dr. Krishna addressed the dual perception of the migrant crisis, where on one hand migrant workers have been the victims of the pandemic, on the other, their haphazard nature of movement have also contributed to the problems of the pandemic insofar as it highlighted the lacking capabilities of towns, cities and villages.

Based on the premise he had established, Dr. Krishna proceeded to advocate for equipping local bodies, be it urban or rural, to handle migration. He based his opinion of the fact that given the sheer magnitude of migration, local bodies are better placed to deal with the same. Before proceeding to discuss his recommendations, Dr. Krishna explained that the primary cause for the haphazard and sudden movement of migrant worked during the pandemic, was because the ULBs of host cities were not equipped to handle the needs of migrant population in exigent circumstances. Such inadequacies essentially pushed migrant workers to seek refuge in the places of origin. Thus, there was need to increase capacities of ULBs. Some of his recommendations for increasing capacities and capabilities of ULBs in handling issues and concerns of migrant population can be listed as follows-

Highlighting the housing concerns of migrant population, especially those of daily-wage earners, and the consequent rise of slums, Dr. Krishna recommended that projects and schemes such as the Pradhan Mantri Awas Yojna (PMAJ) should be transferred to ULBs. At the same time, he proposed that the States and Centre can retain adequate

monitoring powers. Such a model would be better suited for developing regional and urban infrastructure.

- A similar approach was proposed for health and sanitation and drinking water concerns, and states that ULBs should be empowered to enforce a decentralized system of sewage and waste management, disaster management, among others. This would not only be more efficient terms time and resources, it would also be better suited to reduce the gap between recipients of benefits and those responsible for them.
- Since migration is based on movement of the population, there is also a need to improve connectivity of urban areas.
- A novel idea of a city police or security framework was also recommended, which was to be under the control and administration of ULBs.
- Lastly, on an administrative level, it is necessary to reduce bureaucratic burden by reducing size of ULBs and governing bodies, but having large planning bodies at the same. Small bodies with identified powers and responsibilities would increase the capabilities of ULB.

Lastly, in addressing questions during the Q&A part of the session, Dr. Krishna also highlighted the need to modify existing labour laws accordingly, insofar as labour laws happen to be the most extensive laws, but least implemented.

PROF. [DR.] M.R.K. PRASAD, Principal, V.M. Salgaocar Law College, Panjim, Goa



The second presentation was given by Prof. (Dr.) M.R.K Prasad. He started off by explaining the inherent interlinking between migration and urbanization. Where migration, the freedom to move, is a fundamental right under the framework of the Indian

Constitution, rural to urban migration is a key driver of urbanization in India. However, the negative perception towards migrants, especially the poor, has resulted in their structural exclusion and economic marginalization in the cultural phenomenon. This invisibility of the poor and migrants, in Prof. Prasad's opinion, had caused the migrant crisis during the pandemic. Furthermore, the digital divide that exists had also played key role, which can be summarized as follows-

The lockdown resulted in a sudden restriction on movement and a transfer of command
to the police, leaving migrant labors in a state of absences of information and remedy,
and at the mercy of the police. The cases of exercise of muscle power by the police
during this period are testament to this.

- The suddenness of the lockdown had also resulted in lack of rehabilitation or emergency measures in place to secure minimum daily wage, which shows the unplanned nature of the nation's COVID-19 response. This also brings to the forefront the lack of ability to care and to restitute rights and dignity of the entire population.
- In furtherance of negative perception of migrants, there is also the elitist understanding that if migrant workers move to their native places of origin, they will spread the COVID-19 infection. The same doesn't justify inaction on part of the executive, and has only lighted the lack of will to holistically deal with migrant issues.
- The perception of migrants being "violators of curfew" rather than victims of the pandemic has expressly visible in the entire duration of the migrant crisis.

In stating such consequences of the lockdown, Prof. Prasad explained how the benfits of globalization do not always the migrant workers, who enable globalization at the grass-root level. Migration governance is a multi-level process, and that is why ULBs need to be better equipped. Cities are first receivers and are thus, therefore tasked with their integration primarily. This is in line with the democratic and federal set-up of the Indian Constitution, making local self-governance desirable, if not obligatory. This is all the more crucial because states and ULBs cannot curtail the inflow of population. Thus, the strengthening of social cohesion of migrant population, local development, inclusive and decent services and facilities, etc. are the only way to address the issue. In this context, Prof. Prasad also advocated for demarcating increased funds for ULBs and its efficient use.

While concluding his presentation, Prof. Prasad advocates for increasing and spreading awareness of the role and contributions of migrant workers to the economy and society, and that they have an equal right to live life with dignity. Where such a perception is internalized by ULBs, a migrant crisis can be avoided. In that sense, attention was drawn to the fact that states with stronger ULBs, such as Goa and Kerala, had a better overall COVID-19 response.

**PROF.[DR.] YOGENDRA SRIVASATAVA** - Dean - Faculty of Law, Public Policy and Humanities, Jagran Lakecity University, Bhopal

The last presentation was by Prof. (Dr.) Yogendra Kumar Srivastava. In highlighting the place of ULBs, Prof. Srivastava drew attention to the historical importance of ULBs, starting from the Harappan Civilization. Laying the groundwork, he classified migrant workers as an organized minority and an unorganized majority, wherein strong trade unions and political will exists to frame polices for the former, but not for the latter. In this context, Prof. Srivastava sought to present a different outlook of the role of ULBs in the context of migrant population. Although host cities have the primary responsibility to accept and integrate migrant population, it cannot be denied that migrant population also add stress to the existing local population of a particular place. In this sense, ULBs in states from which outflow of migration occurs have faltered in their role, which have pushed people to leave their homes in search for a better life. According to Prof. Srivastava, ULBs first have a primary responsibility in ensuring that basic work and facilities exist that

enable people to live a life of dignity, one that do not push them to become nomads in search of work and opportunity.



The premise laid above consequently raises the question that in states with migrant large population, whether ULBs are obligated to protect interests of migrant population at the cost of the local population. Prof. Srivastava delves into aspect propagates a balanced

approach insofar as states are to be run without discrimination with due consideration given to all sections of society. In this regard, there is a growing importance and need to develop social welfare legislations and framework. Once such a primary duty is discharge, Prof. Srivastava however, goes back to emphasize on the role of ULBs to cater to migrant population. Where migrants have been pushed to migrate back to their states of origin due to lack of basic amenities, the ULBs of such states have faltered in their responsibility and obligation towards the entire population. Furthermore, it was also noted that although ULBs might be constrained due to some reason or the other, labour departments or women departments are not constrained in any manner to take necessary action and measures. Where there has been a failure to do the same, the recent migrant crisis is not a failure of ULBs, but a failure of the country's administrative set-up at large. Moving to the last limb of his presentation, Prof. Srivastava proposed the following recommendations to strengthen ULBs in India-

- Apart from the National Register, there is a need to have a Migrant Workers Register, both at the national inter-state level, as well as state and district level, to keep track of population movement and to help identify new strategies and policies for their benefit.
- The Public Distribution System (PDS) needs to be strengthen for the provision of food grains, and there need to be separate measures in place for emergency situations such as the COVID-19-19 pandemic.
- There exists a separate legislation of construction workers in the garb of the Building and Other Construction Workers Act, 1996 (BOCW Act"), which can be better implemented to protect migrant labour. Similarly, there needs to be sector-wise policies and legislations for migrant workers in other sectors and industries as well.
- ULBs should be strengthened not only to better administration, but also be transformed to perform as "watch-dog" for the betterment of the entire population.
- Specific schemes like Pradhan Mantri Gareeb Kalyaan Yojna to be initiated.

Prof. Srivastava concluded his session and leading the session to Q&As. The session Chaired and moderated by Prof. (Dr.) M.K. Ramesh took some of the interesting questions raised by the participants.

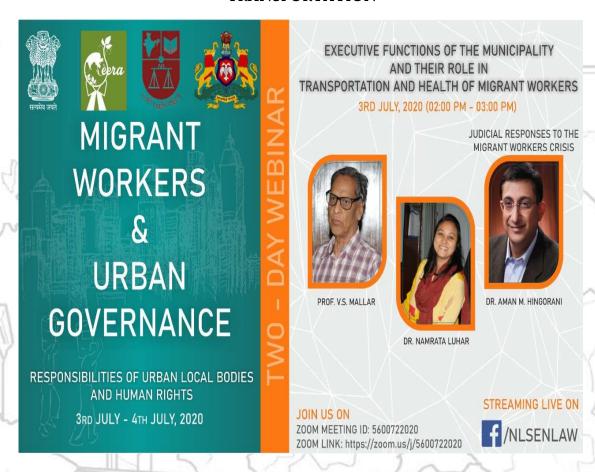


The issue of dilution of the Labour Laws in the State of Uttar Pradesh and changing of working hours from 8 hours to 12 hours would be inhuman and completely against the established principles and prescriptions laid down by various labour laws.

Prof. Prasad also responded to another question about the imposition of Lockdown and gave example of other countries which had given time limit of minimum of 5 days for its population. Whereas, in India the time limit was not sufficient for the migrant workers to get back to their homes. Migration to the cities happen for economic reasons and people come to cities in search of employment.

Another question was raised to Dr. Sudhir Krishna whether there should be an Institutional mechanism for the migrant workers which has ramifications at every corner with reference to the Inter-State Migrant Workers Act, 1979. Dr. Krishna responded to the query by suggesting that the Municipalities must have the data similar to Census and the Municipalities have to be strengthened and when situations like these occur, it is natural for people to question the Government. Since, there is no information of the floating and it has to be known by the local bodies about those people entering its jurisdiction. Dr. Krishna also noted that there has been insufficient pay for the skilled workers which is causing major disparity. With regard to the accountability of Government, Dr. Krishna suggested that the Epidemic Diseases Act has been amended to grant power to the Government to curtail movements. Moreover, it is the Municipality that has to ensure implemented. With other related questions, the session was concluded and Ms. Madhubanti thanked all the Panellists for being a part of the session and answering their queries.

# SESSION 3 - EXECUTIVE FUNCTIONS AND JUDICIAL RESPONSE OF THE MUNICIPALITY AND THEIR ROLE IN THE MIGRANT HEALTH AND TRANSPORTATION



PROF. V.S. MALLAR, Retired Chair, Professor, National Law School of India University

The aim of the Session was to provide the participants an overview of the executive functions, the role of municipality in the amelioration of the health of migrant workers and their transportation, the judicial response with respect to the migrant workers in the light of the Covid-19 situation.

The session commenced with Professor V.S. Mallar, Retired Chair, Professor, National Law School of India University. He highlighted about the constitutional scenario with reference to migrant workers and the incidental consequences. He commenced by saying in life there are two debilitating factors- one is poverty and the second one is pain. The pain includes both physical and mental pain. While alleviation of poverty is dealt with through the polity by the politicians and the economists, pain is looked after by the medical professionals. The situation created by the novel coronavirus sees both the factors coming together instantaneously.

Then he moved on to the definition of migrant workers that are enunciated in following -

- Section 2(1) (e) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979- According to this Section, Inter-State migrant workman means "any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment." The definition provided by this section is a specific definition.
- 2011 Census- According to the website of Census Commission, when a person is enumerated in Census at a different place other than his/her place of birth, he/she is considered a migrant. This definition acknowledges that migration is not restricted to employment only, but may be due to marriage also.
- International Labour Organisation (ILO) ILO instruments defines migrant workers as a person who migrates from one country to another country (or who has migrated from one country to another country) with a view to being employed other than on his own account, and includes any person regularly admitted as a migrant for his employment.

He noted that though the definition provided under the 2011 Census, the ILO and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 of migrant workers are different from one another, in some cases they might coincide. According to the Speaker, the migrants are generally, but not necessarily or unusually involved in menial job and leading more often than not the life of precarious existence. They work for long hours in debilitating surroundings and are paid low wages. They include domestic servants, construction or agricultural labourers, street vendors, rickshaw puller, auto-rickshaw driver, watchmen, electrician, garbage picker, lift operator, carpenter, mason, plumber, street vendor, delivery men. This list is only illustrative and nonexhaustive in nature. Under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 provides for licensing, registration and under Section 210f the 1979 Act, entitles the migrant workers to certain benefits that are listed in the Schedule like the Workmen's Compensation Act, 1923, The Payment of Wages Act, 1936, The Industrial Disputes Act, 1947, The Employees' State Insurance Act, 1948, The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and The Maternity Benefit Act, 1961. He further noted that migration may be of various types- from rural to urban areas, from one state to another state (inter-state migration) and within the state (intra-state migration). For unifying the concept of migration, vulnerability of the migrant workers should be taken into account. No distinction should be made between the inter-state and the migrant. According to the Speaker, the definition in Section 2(e) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 should be changed from inter-state migrants to migrants and provide them with the benefits that are provided only to inter-state migrants under the Act. The Speaker discussed the factors which make the migrant workers (especially the inter-state migrants) more vulnerable than that of the others. He discussed the following actors which are attributable to the vulnerability of the migrants:-

- I. Language as a barrier in communication- The inter-state migrants may face a language problem when they migrate to a place where the language that is spoken is unknown to them. For instance a person migrating from Bihar to Kerala or Tamil Nadu may face a language problem.
- 2. Unfamiliarity with the legal system- The migrants may be unfamiliar with the legal system of the place where they have migrated to. For instance, Kerala has abolished Hindu Undivided Family (HUF), but the rest of India has not. So a migrant who has migrated from any other part of India to Kerala, might be unfamiliar with the legal system there. There might be difference in the legal protection, social setting and culture.
- 3. Loss of the traditional support- The migrants loses the support from their surrounding community and from their own family which finally leads them to be treated as an outsider.

#### **IDENTIFICATION OF PROBLEMS**

- There are too many schemes of the Central government and several schemes by the State governments which are peculiar to that particular state. According to the Speaker, these schemes need to be unified so that the migrants are familiar with it and may benefit from it.
- Another problem is that though there are so many schemes by the state government in place, there is lack of coordination between the various departments like the health, police, labour department and diverse welfare goals for the implementation of the schemes.
- The third problem is the overhauling of labour laws, criminal laws and IT laws with special reference to Covid-19 situation. The key labour laws state that minimum number of workers in the establishment must be 10 or 20 if certain provision is to be applied. This restricts the law to be applied to everyone in the factory or establishment.
- Section 2(1) (e) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 defines inter-state migrants as any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment. Therefore, the benefits that are provided under Section 21 of the Act are available to those migrants too who are not employed directly by the employer. However, sometimes the law distinction is made between the migrants and non-migrants. This would weaken the collective bargaining power which is one of the basis of the about labour jurisprudence. Thus, according to the Speaker, the labour laws, criminal laws and IT laws should be amended in the light of the experience that is gathered in the Covid-19 situation. Certain outdated laws like the colonial Epidemics Act, 1987 should also be updated and amend the laws which has faced problems in its implementation like the Disaster Management Act, 2005.

The Speaker then moved on to the Indian Constitutional provisions which guarantee certain rights with respect to the Covid-19 situation. They are as follows:-

- Article 19(1) (d) and 19(1) (e) of the Indian Constitution guarantees the fundamental right to the citizens to move freely throughout the territory of India and to reside, settle in any part of the territory respectively. These two articles are subject to the reasonable restriction under Article 19(5) which talks of imposing, or preventing the State from enacting any law imposing, reasonable restrictions on the exercise of any of the rights conferred by Article 19(1) (d) and 19(1)(e) either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.
- Article 16 ensures equality of opportunity in the matters of public employment and no distinction in the public employment on the basis of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State. He noted that the Article does not make a distinction between temporary and permanent employment.
- Article 23 prohibits forced labour.
- Article 14, 15 and 21(right to life and personal liberty which includes right to live with dignity) of the Indian Constitution.
- According to the Speaker, there are so many fundamental rights in the Constitution, but now there is a need to insert another one- right to human right.
- Certain articles in Part IV of the Constitution like the organisation of the village panchayats by the state under Article 40, payment of fair wages under Article 43. The Municipal Corporation, the Municipality and the District Board of the Panchayat fall under the definition of state under Article 12 and 36 for the implementation of fundamental rights and directive principles respectively.
- The seventy third and the seventy fourth constitutional amendments through which the local-self governance was introduced in India which had changed the stature of the local authority. Schedule eleven and twelve specifically includes the subjects of health and sanitation. Similarly, Entry VI of List II gives the powers to the State to enact laws relating to public health and sanitation. Thus the people who amended the Constitution were of the opinion that the local authorities should have a power to deal with the public health and sanitation.

Examining the fundamental rights and the directive principles of state policy that are guaranteed to create a welfare state, the Speaker suggested a creation of a Migration Commission that is through a constitutional amendment that is in same lines with that of the Scheduled Caste and Scheduled Tribes Commission under Article 338 A and 338 B of the Indian Constitution. The functions of the Commission would be to look into the investigation, monitoring the situation relating to the migrants, examining the safeguards with respect to the migrant workers under the Constitution/law/rules and engage the migrants in the planning process required for the socio-economic development of the migrants and overall protection of the migrants. The Commission may be given the powers of the Civil Court.

The Speaker also suggested that in the light of the Covid-19 situation affecting the entire country, the is a need for a fourth type of emergency, which is the health emergency other than the existing provisions on national emergency under Article 352, state emergency under Article 356 and financial emergency under Article 360. There are two consequences of an emergency- some of the fundamental rights might be violated under Article 358 and 359 read with Article 32(4) of the Constitution. Therefore, there should be something to protect that. Secondly, the federal structure of the Constitution reduces down to a centralised structure. There are situations where the provisions of cooperative federalism cannot succeed. It is difficult to declare a national emergency without a bright support of the majority party. It is necessary for the Centre and the legislative competence and the executive power must subserve the eradication of such pandemic, if a Covid-19-like situation again arises in future.

DR. AMAN M. HINGORANI, Advocate on Record & Mediator, Supreme Court of India



The next Speaker was Dr. Aman M. Hingorani, Advocate on Record & Mediator, Supreme Court of India. He elaborately discussed about the judicial response to the migrant workers in the Covid-19 situation. He started by citing para 7 of Madras High Court order in Suryaprakasam v. Superintendent of Police (2020 SCC Online Mad 1004) of 15<sup>th</sup> May 2020 in to provide a clarity on how the courts have defined what the migrant crisis is. The Court noted that nothing was being done from March 2020 till May with respect to the situation of the migrant workers. He questioned that what were the Constitutional Courts doing for the two months? By the time the Court had intervened, the damage has been done-people have died, suffered of starvation. He sought the attention to the chronology of the intervention of the Court. High Courts of Karnataka, Gujarat (suo moto case) followed by Bombay, Allahabad, Telengana and Andhra Pradesh also intervened only in May. The Speaker pointed out that if this is the position of the High Courts, then we can imagine the position of the Supreme Court with regard to taking up the cases regarding to the migrant workers. The Speaker pointed out what kind of cases the Supreme Court was dealing with during those two months:

• Alakh Alok Shrivastava v. Union of India, (W.P. 468 of 2020) which was disposed on 3<sup>rd</sup> April came before the Supreme Court where the court was involved in dealing

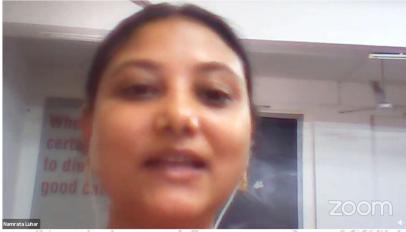
with the matters of fake news creating a panic instead of doing something for the migrant workers.

- Arun Roy v. Union of India (W.P.(CIVIL) Diary No(s). 10846/2020), which was taken up by the Court on 8<sup>th</sup> April, 2020 which was regarding the payment of wages made under the MNREGA. The matter was adjourned to be listed two weeks after the lockdown.
- Mahua Moitra v. Union of India (W.P. (Civil) No.470/2020), in which a letter was written stating the condition of the migrant workers where people starved to death. The Supreme Court took cognizance of it and then dismissed it without giving any reasons on 13<sup>th</sup> April 2020.
- Harsh Mander v. Union of India (W.P (CIVIL) Diary No(s). 10801/2020) and Swami Agnivesh v. Union of India (W.P (CIVIL) Diary No(s). No(s).10802/2020) which were both disposed off on 21<sup>st</sup> April 2020, where the plight of the migrant workers were brought before the Court, the Court directed the Union of India to look into the issue raised in the petition to see what they can do about it.
- Jagdeep S. Chokkar v. Union of India (W.P (CIVIL) Diary No(s). No(s).10947/2020), where the petitioners prayed to allow migrant workers across the country to return to their hometowns and villages after conducting necessary testing for COVID-19-19 and to arrange for their safe travel by providing necessary transportation. The case was disposed off on 5<sup>th</sup> May 2020.
- Sagheer Ahmed Khan v. Union of India (W.P (CIVIL) Diary No(s). 11312/2020), in which a migrant lawyer from Uttar Pradesh wanted the court to issue direction to deposit 25 lakhs rupees to transport the migrant workers so that they can be brought back to Uttar Pradesh.

It was only on 26th May that is almost after two months that the Supreme Court has taken suo moto cognizance of the matter of migrant workers. This being the state of affairs of the Supreme Court, the Court on 11th May in a Civil Appeal No. 4070 of 2016 in the case of The Director, Department of Archaeology & Museums, Jaipur & Anr v. Ashish Gautam & Ors., the Court in its judgement talked about how to beautify a monument in a palace in Jaipur. The Speaker pointed out that the Court found time to pronounce a judgement on this matter but not on the matter of migrant workers. At least on seven occasions, the Court could have done something on the migrant workers. Then the Speaker discussed about the issue of subjective exercise of power. He said that the traditional judicial function of a court is to decide cases, the function of adjudication in an event of a conflict. In the common law system, there are certain checks and balances on the judge calculated to ensure that there is no subjective exercise of power that is arbitrary exercise of power. For example, the judge is bound by the pleadings, issues, admissible evidence produced before it, cannot intervene in the policy matters, and cannot legislate. The Supreme Court had from time immemorial tried to follow the adversarial common law system. Within the common law system, the Supreme Court could have followed the positive law school or the natural law school. The Supreme Court started on a positivist note with the case of A.K. Gopalan v. State of Madras (AIR 1950 SC 27) came to the natural law school in I.C. Golaknath v. State of Punjab (AIR 1967 SC 1643) and reverted back to the positive school in ADM Jabalpur v Shivkant Shukla\_

(1976)2SCC 521 and again came back to natural law school in Maneka Gandhi v. Union of India (AIR 1978 SC 597). All these cases were within the adversarial common law system of the checks and balances of the Court. It was in 1979 that PIL was first conceived in the case of Hussainara Khatoon v. Home Secretary, State of Bihar (AIR 1979 SC 1369) which concerned with the release of the under -trial prisoners in the State of Bihar and the Court realised the need of taking the case under Article 32 of the Constitution to protect the fundamental rights of the under trial prisoners. Similarly, in the Court in Rudul Shah v. State of Bihar (AIR 1983 SC 1086), where the petitioner was detained in prison for more than 14 years after his acquittal and he prayed for his release on the ground that the detention was unlawful. These are the cases where the Court had intervened where there was no dispute. It is these kinds of cases where the PIL was conceived with a collaborative dedication which is a remedial jurisprudence where the Court, the State and the petitioner tried to find a solution to a social problem. The Court in those cases transcends adjudication to monitoring. The Court in certain cases laid down guidelines like in the case of Vishaka v. State of Rajasthan (AIR 1997 SC 3011). In these kinds of cases, the common law restrictions of the judges are removed where the judge is not bound by the pleadings and it can do systemic reform, can legislate. Therefore, a judge can do much more in a PIL where the Court simply tries to protect some fundamental right. The Supreme Court in the case of S.P. Gupta v. President of India and Ors. (1982 AIR SC 149) expanded the scope of PIL to include those actions which could have been dealt under the CPC as class actions within the adversarial common law system. Thereafter, the Court included environment, rule of law issues like banning smoking in public. The implication of the Court to bring these cases under the scope of PIL is to assume grave critical power minus checks and balances of the common law system. Since each judge comes with his own subjective condition and thoughts, therefore taking up these cases leads to arbitrary exercise of power where different Court would give different orders for the same matter. The PIL was for certain purpose for the marginalised, the vulnerable like the migrant workers and was not conceived for middle-class interests. What we see today is a dilution of the PIL jurisprudence and the migrant crisis symbolises that. The vulnerable, the migrant workers are the causality of the Court as an instrument to so widen the scope that everything will come into it, and then it is expected that there were will cases of fake PIL and other misuse of it. The Court has expanded the scope of PIL so fast through a blunt instrument for the people for whom it is conceived. The Court has to decide whether it wants to open its doors for cases like State of Uttarakhand v. Balwant Singh Chaufal (Civil Appeal Nos.1134-1135 of 2002), where the Supreme Court laid down guidelines telling that the High Court should lay down rules like the Court should be sure of the credentials of the petitioner or it wants to protect the fundamental rights of the marginalised. The Focus of the Court should not be on the credentials of the petitioner, but rather the violation of the fundamental rights. However, if the focus is on the petitioner according to the Supreme Court to first prove the credentials of the petitioner, then why would the petitioner go to the Court? The Speaker suggested that these guidelines need to be clarified. According to the Speaker, the situation of the migrant workers is an opportunity for the Court to revisit the PIL entire jurisprudence so that if another pandemic like Covid-19 19 occurs, then the Court would know when to intervene and when not to.

**DR. NAMRATA LUHAR**, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda



The last Speaker of the session was Dr. Namrata Luhar, Faculty of Law, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda. She discussed on the plight of the women migrant workers and the children.

She started her presentation by highlighting the constitutional provisions which gives certain rights to them. Article 14, 15(3), 21, 39(f), 42. 43, 43A, 45, 46, 47. According to the Speaker, Article 42 is very important right that is to be focused on for the relief of the women migrant workers. When a migrant worker migrates from one place to another, she is not supported by her family to look after her through her reproductive stage. This makes them fall within a separate category from the other women. Then she talked about the following binding international instruments for protection of women and children

- The Convention on Elimination on All Forms of Discrimination against Women, CEDAW, 1979 It specifically defines discrimination, provides for education, employment and economic rights, provides for right to dignity and decency, right to protection from exploitation and right to health.
- Convention on the Rights of Children, 1989- It provides for a broader framework of rights which may be put into 4 categories- the right to survival, right to development, protection and participation.

If we take the case of India, we have enough laws to protect the rights of the children and women those are mentioned in the above international instruments. However, there is a vacuum in the case of migrant women and children of the migrant workers in a situation of pandemic.

The Speaker then moved on to identify and discuss the specific problems that are faced by migrant women workers either during the pandemic or otherwise:-

• Health Problems- It includes issues about poor reproductive health, lack of menstrual hygiene especially during disaster when the sanitary napkins might not be available to the women migrant workers, poor mental and physical health, nutritional deficiencies and non-availability of preventive health care.

- Risk of Voyeurism- This problem is faced by the women migrants as they lack private space and are thus forced to bath and defecate in open.
- Risk of Sexual Abuse-This includes sexual abuse both at the workplace and off the workplace. However, we lack a mechanism to raise their voices. The migrant workers may be appointed by the contractors. This makes the women migrant workers susceptible to sexual abuse in the hands of the contractor.
- **Protective Measures-** The migrant workers face a lack of protective measures like inadequate shelter and exposure to odd weather conditions.
- The roles that are to be played by the women migrant workers in the family and social life are totally different from that of the men migrant workers. The women migrant workers has to face domestic violence, social pressure and expectation, the stereotypical roles and the orthodox cultural patterns leads to the misery of the life of the migrant workers.
- A large number of the illiterate women migrant workers work in the unorganised sector. There is a dearth of law for regularising the unorganised sector. The only law that we have with respect to this is the Unorganised Workers Social Security Act, 2008. However, it dies not talk much about the health and safety of the migrant workers. Those people are exposed to risk like wage discrimination, extended working hours, job insecurity, economic pressures, lack of participatory role, social security and lack of maternity and child benefits.

The Speaker then discussed about the specific problems that are faced by the children of migrant workers. They are as follows:-

- Survival problems- The children of the migrant workers face certain problems
  affecting their right to survival like exposure to hazardous environments like
  construction sites etc., malnutrition problems, lack of parental care and support,
  unavailability of food, inadequate housing conditions, psychological health issues,
  and unhygienic conditions.
- Other types of problems include developmental issues like interrupted education due to migration, lack of quality education, recreation time, lack of access to schools. These leads to increased dropouts from the schools, difficulty in coping with the studies, gaining entry in the peer group and being engaged in unmonitored activities.
- Lack of protection- This leads to the sexual, physical and emotional abuse of the children of the migrant workers. Another problem that arises out of the lack of protection is the issue of child labour which again leads them to be exploited at the workplace, do underpaid jobs, engaging in unskilled environments and inherent risks and even indulge in begging and soliciting.
- **Negligence in participation-** Lack of decision -making power and knowledge about the culture and traditions of that place adds on to their risk. They lack any choices for life and lack education and aspirations.

The Speaker then discussed the problems that were specific to the women migrant workers that have been faced during Covid-19 19. The problems are as follows-

- The single women were more vulnerable.
- Women had to exceed their physical capacities to walk back to their natives coupled
  with lack of hygienic environment at shelter home, inadequate food and potable
  water, lack of adequate shelter, delivery of babies on the road, job insecurity,
  economic and health crisis, sexual abuse and the burden of the family and children.

The Speaker then discussed the suo moto order of the Court on June 2020 with respect to the women migrant workers to provide the following:-

- Menstrual hygiene products should be provided to all the women migrant workers in the country. However, there is no mechanism through which these products would be delivered.
- Proper functioning of shelter homes for pregnant women, lactating mothers and children and elderly persons.
- Setting up of migrant helpdesk and counselling centres
- Seasonal hostels for children of migrant workers
- Strengthening of anti-human trafficking cells
- Availability of food and water for those who are travelling
- Providing them with medical benefits
- Providing monetary compensation to meet the ends
- Creation of National Portal for Registration of database of migrant workers
- Identify avenues of employment and benefits which can be availed by them under the different schemes.

The Speaker pointed out where can the children of the migrants be provided shelter in the shelter homes in every district that are built to accommodate the juveniles under the Juvenile Justice Act, 2015?

Then the Speaker went on to discuss the role of the ULBs in mitigating the problem of the women migrant workers. She pointed out the following

- Data and Registration- The ULBs should engage in the work of compulsory registration of the migrant workers. They should make efforts for online/offline registration from home and host cities, coordinate among other ULBs to trace migrant workers, collect data from the employer. Moreover, they should identify employment opportunities for the women migrants, monitor the ingress and availability of opportunities, creating special cell for women migrant workers.
- Social and Health Benefits- The ULBs should provide social and health benefits by
  providing health cards having special focus on reproduction, engage counsellors for
  dealing with mental health issues, issue identity cards, provide housing facilities
  nearby the place of employment, Train ASHA workers and designate them for the
  migrants, provide employment insurance and other insurance and look after the
  social security benefits available to them.

- Economic Support- The economic support includes providing them with credit facilities, providing training for skilled livelihood, conducting savings and interest awareness programme, preparedness and planning and gender-sensitive programmes. For the organised sector, the ULBs may impose fines on employers or contractors for flouting the rules, transfer wages in bank accounts and monitor employments. For the unorganised sectors, the ULBs may engage in identifying such sectors, analyse the risks associated with it, prohibit the work in the hazardous industries, assure social security benefits and create certain mechanism for economic support during the crisis.
- Logistics during disasters and disaster management- The ULBs should involve in providing transportation facilities, supply essentials in the shelter camps.
- The Disaster Management Cell should have a special focus on migrant women and children, conduct gender sensitive awareness programmes, analyse the vulnerability of the migrant women and protect their children, formulate action plan for quick action during disasters.

The Speaker then pointed out the following challenges that are faced by the ULBs while dealing with the situation of disasters

- Inadequate funding by the government
- Lack of manpower and infrastructure
- Lack of preparedness for exigencies
- Inadequate consultation with stakeholders
- Lack of coordination among departments
- Coordinating with the NGO and the use of CSR funding

The role of ULBs can be more positive with respect to ameliorating the plight of the women migrant workers during a disaster.

The Speaker then moved on discuss the following role of ULBs in mitigating the problem of the children of migrant workers:

- The ULBs should ensure them education
- Address the nutritional needs by issuing health cards and regular health check-ups
- Engage special counsellors for children
- Address juvenile delinquency
- Deliver skills for vocational training
- Create community spaces for recreational activities across the city
- Sensitise the children about sexual abuse and human trafficking
- Address the problem of child labour in the unorganised sectors by taking quick actions

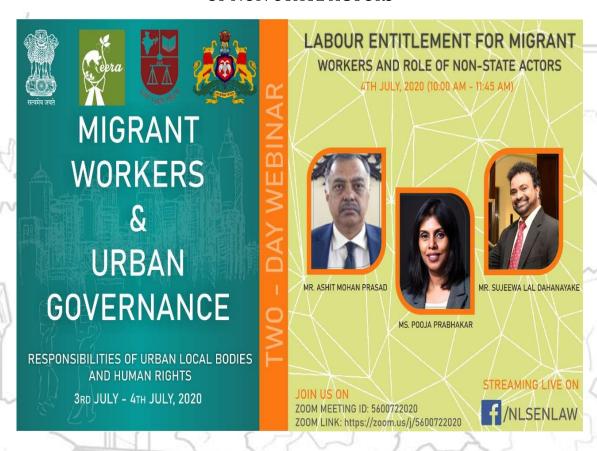
Finally, the Speaker made the following suggestions for the improvement of the condition of the women migrant workers and the children of the migrant workers.

- Adopt a rights based approach to the problem
- Do policy changes that are required in the labour law and other certain welfare legislations and make a specific policy for migrant workers and also focus on that on women migrant workers
- Labour Code may specifically focus on the women migrant workers
- Emphasising more on the regulation of the unorganised sectors by amending the Unorganised Workers Social Security Act, 2008. The entire result of whether the migrant workers will get the benefit of Act depends on the execution of the governmental action, which might be difficult to ensure.
- The Juvenile Justice (Care and Protection) Act, 2015 should include a specific provision for the children of the migrant workers. The shelter homes may be used to provide shelter to the children of the migrant workers, provide them meal and ensure education.
- Amending the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 with regard to the following provisions:
  - a) Broaden the definition of the inter-state migrant workers to include all those people who migrate from one place to another without being recruited through a contractor.
  - b) Make the legislation applicable irrespective of the number of people working in the establishment and include small industries and unorganised sectors within its ambit.
  - c) Provide specific provisions like maternity protection, reproductive healthcare, and childcare facilities to the women migrants
  - d) Stringent punishments to be imposed on the contractors/employers for violating the Act
  - e) Inserting some specific provisions with respect to disasters

After the lectures from Resource Persons and Panel Discussion. Several students had registered in the programme for presenting their papers. More than 60 Participants presented their papers on the various themes and over 40 papers were presented during the Four Parallel Sessions.

## DAY 2: 4<sup>TH</sup> JULY, 2020

# SESSION 4 - LABOUR ENTITLEMENT FOR MIGRANT WORKERS AND ROLE OF NON-STATE ACTORS



The session was moderated by Ms. Geethanjali and she introduced the panellists for the session.

MR. ASHIT MOHAN PRASAD, Director General of Police, Karnataka State Police



The session was graced by Mr. Ashit Mohan Prasad, Director General of Police, Karnataka State Police. He started the session on Labour Entitlement for Migrant Workers and Role of Non-State Actors by discussing that the issue of migrant workers in this crisis is right in the forefront for which their home-guards and

civil defence personnel are actively involved and helping the migrant workers both in

Bangalore city and in the state of Karnataka for arranging food, logistics, and also to transporting them to various destinations when railways have started the special trains.

He further stated that the issue with the migrant workers is the data that is insignificant as we do not know how many are there, where are they located and how to bring them so as to start the rehabilitation part for the migrants. This is the first challenge that the government face and also as an operational force that we are heading here.

He then focused on the efforts of the government in the issue of migrant workers. In this regard, the Ministry of Home Affairs sanctioned a lot of funds on May 27, 2020 to provide food and shelter to migrants. Subsequently, the government responded in various ways possible for the migrant workers like landlords were asked to not charge rents, employers were asked to pay wages and *National Migrant Information System Online Data* created by National Disaster Management Authority to help in the movement of migrant workers. Also, as per the Government of India directive, state governments set up thousands of camps to house migrants both in Karnataka and outside Karnataka. The Delhi Government provided free food to 4 lakh people every day over 500 hunger relief centers opened by Delhi Government. By April 5<sup>th</sup>, 75 lakh people were provided food across the country run by the government and various NGOs.

Government of Karnataka used civil defence and volunteers with laptops to register the migrant workers in *Seva Sindhu App* to overcome their language barriers. On May 1<sup>st</sup>, Government of India permitted Indian railways to launch *Shramik Special Trains* for migrants and other standards. So far as per the figure both from Karnataka and from India, 44,277 Shramik Special Trains had transported about 60 lakhs people as on June 12.

He then stated another issue with the migrant workers that comes before the Labour Department is the documentation of migrant workers since the migrants are not only from other states but there are within the state migration like district to district migration within inter-state migration. Further, he defined the term migrant as the person who changes his place of residence to an occupation in search of an occupation. He then referred that as per the 2011 Census, India has 45 crores inter-state migrants mostly from states like U.P., Bihar, Rajasthan, Madhya Pradesh and Jharkhand. And in the state of Karnataka, the rough estimate is 1 crore and that's why a lot of people utilize the portal of Seva Sindhu and got themselves registered.

He described that the most of the migration are seasonal in nature and mostly people are in the age group of 16-40. These migrants come to the urban cities for semi-permanent or temporary jobs and their duration may not exceed 60 days or even beyond one year. This is the main issue because the documentation of such migrants becomes very difficult even for the Labour Department. He stated that the most of the migrants are in construction, domestic work, textile, brick manufacturing or in any other related activities. U.P. and Bihar has the maximum contribution in the Bangalore city. He then stated the issues of the migrant workers as:

- i. The basic documents of migrants is missing that is why it is difficult to register them and make the government schemes available to them. The basic document is the birth certificate but however, migrants from U.P. and Bihar does not have it since the extent of birth registration in U.P. and Bihar is just about 6.5% and 1.6% respectively. That is why the migrants are not getting any benefits in the form of ration card, aadhar card or voting card and its a greatest challenge because they are not able to access either the financial services or food grain services.
- ii. There is a issue of rampant exploitation as the middle man and contractors who employs the migrants are not responsible for their welfare. They just use and throw as long as their utility and that is another challenge.

He discussed two studies that some of the NGO's has done with respect to the migrant workers. There was a serious constrain in framing an effective policy for migrants due to lack of credible data on incidence of seasonal migrations. He referred one NGO named as Indus which is a policy implementation organization that seeks to breach the gap between the law and action conducted. This NGO conducted a survey over a month during the lockdown across 15 major states involving 3,400 families and speaking with over 11,000 migrant workers from various districts. It was found in the survey that 19% did not have enough food to satisfy their hunger, majority of others have limited food stock although eligible for free ration, some were forced to buy ration due to complete shutdown, a few who were able to use the ration cards complained about receiving lesser portion than what were eligible. Only rice was being distributed to them whereas dal, oil and sugar were out of reach.

He then discussed another survey conducted by Standard Workers Action Network that covered about 11,000 migrants. As per the survey, 89% did not receive salaries or payments. Even Indus reported that 20% did not receive any benefit due to non-registration of Aadhar card and Voter ID card.

He then further discussed the legal provisions that deals with the welfare of the migrant workers. He talked about *Unorganized Workers Social Security Act*, 2008 that was enacted for the welfare of unorganized workers and to implement the National Security Social Scheme. He then added *Contract Labour Act*, 1917 which claims to safeguard the interest of laborers who indulge in all contract labour in certain establishment and its abolition in certain circumstances. He referred the most important act for the migrant workers that is *Inter-State Migrant Workers Workman Act*, 1979 that was brought to deal with the issues of contract workers but this act was failed to curb the malpractices indulge in by principal employer and the contractor.

He cited the Supreme Court judgment came in 2018 on *The Building and other Construction* Workers Act, 1996 in which the Supreme Court issued the following directions:

- i. the registration machinery should be strengthen;
- ii. machinery of collection of data from the contractor must be done in a proper way;



- iii. the Ministry of Labour and Employment must frame composite model schemes for the benefit of construction workers: and
- iv. social audit of the implementation of the building act should be done in a proper way.

And with this, he concluded his remarks by giving some suggestions that *firstly*, universalization of the public distribution scheme for all the migrant workers. *Secondly*, providing safe and hygienic shelter facilities to all the migrant workers until the lockdown does not becomes successful. *Thirdly*, security for single woman migrant as 70% of the migrants are female workers. And *lastly*, he suggested that the migrant groups should be allowed to live together with their communities because then the urge to get back to their hometown will be reduced to an large extent, circular workers must have access of urban healthcare system and new legislation must entirely remove the burden of providing documentation.

#### MS. POOJA PRABHAKAR, Managing Partner & CEO, BCP Associates



session continued by another panellist Ms. Pooja Prabhakar. Ms. Geethanjali, welcomed Ms. Pooja to share her perspective on the theme. She started with greeting all the other panel members congratulating CEERA team for the webinar.

She started with the perspective of non-state actors and labour entitlements. She stated that Inter-State Migrant Workers Act is available to the migrant workers since it regulates the conditions of service for migrant workers and seeks to provide protection to them, but there is need of implementation and enforcement of such safeguards.

She stated that there is a high exploitation level of migrant as well as the local workers. In large factories, the law is being implemented but, in smaller industries, it definitely go under the radar. If a worker happens to be registered, only then they can get all the benefits and the entitlements in all the labour laws available for them. In terms of strength of implementation in our country, she stated that the state of Kerala has been a model implementer because a lot of laws as well as schemes are in place and most importantly, they are enforced adequately in Kerala.

She described that urban poor are actually much worse of than their rural counter-parts as they are denied access to basic entitlements like housing, sanitation, employment, income, healthcare, space, cleanliness, free mobility and freedom of violence. This is because our society is sedentary bias since our system favors those who have permanent residence and domicile and therefore, universalization and portability is incredibly essential.

She then stated that even the people who are just above poverty line did feel vulnerable. She gave an example of an organization named as *Indian Institute of Human Settlement (IIHS)* that works on urban governance and planning. In Bangalore, IIHS ran an SOS ration alert service in collaboration with the government as they have a good connectivity but the issue was with the people who were not able to be reach and who were actually left starving.

She talked about one of the positive aspect of the migrants in this global crisis by referring a company named Starworth. This company actually came up with a plan very early on to see how best they can protect the interest of the workers that they have and how safely can they get back them home. Starworth, in this regard, did a lot of awareness for the migrant workers daily either on health, sanitation or food. Their goal was to see if they could retain atleast twenty-five percent of their labor force in this crisis and take care of them during the entire pandemic for which they even provided some cash incentives to the migrant workers. And as a result, by virtue of all the efforts that they did, they were able to achieve that twenty-five percent goal and their work continues with no such disruption.

She gave another example of an NGO named Azim Premji Foundation that did a wonderful job for the migrant workers. They had two focus areas that is humanitarian and healthcare. They took up the cause of hunger and provided food to the migrants. They had an outreach of about 2 crore people across 400 locations in which 1 crore were migrants and 1 crore were the urban poor and sanitation workers. But they were not able to spend the entire money that they had ear-marked for this because their capacity is limited, therefore, the potential of collaboration is immense. Hence, public-private partnership are crucial and it is almost a compulsion rather than a choice to have maximum outreach and to make it work in a broader manner.

She stated that the framework, guidelines, policies and best practices must be published by the government in a few ancillary bodies that work with them and implementation must be jointly done both by the private sector as well as the NGOs who are aligned and have the same integrity. But it is critical for the government in the PPP ecosystem to understand why a public-private partnership model is being used.

She then concluded that there are lot of laws are in place, some of the schemes are there and the PPP model is in action so the combination of all is essential. The top has to regulate whereas the bottom has to implement it so if implemented well, the spirit of law will be sufficient. And as far as the business scenario is concerned where production output is reduced, all the stakeholder should come up together and work on the trouble sections of the society.

MR. SUJEEWA LAL DAHANAYAKE - Attorney at Law, Sri Lanka



Mr. Sujeewa greeted all the panelists and the delegators. He started the session on the topic of economic impact of labour migration in Sri Lanka context. He stated that migration plays a key role in the overall development of More country. than Sri Lankans 2,50,000

migrated for work in the year 2019. Remittance have become the key source of foreign exchange earnings as well as a source of nearly one-third of the population.

Labour migration has had an impact on economic activity such as recruitment, airline services, banking and insurance. On the other hand, there is a large mismatch between the international demand of jobs and the supply capabilities of Sri Lanka. Even though the demand is mainly for skill labors, Sri Lankan migration is concentrated on house-mates and low-skill workers. The Government of Sri Lanka has placed particular emphasis on increasing the migration of skill workers in better vocational training but low-skill workers are more likely to face human right violations including harassment and abuse in the workplace.

He then talked about Chapter-III of the Constitution of Sri Lanka which is dedicated to the fundamental rights. According to Article 12(1), no citizen shall be discriminated against on the ground of race, religion, language, caste, sex or any one of such ground. At the same time, Sri Lanka Bureau Of Foreign Employment Act (No. 21 of 1985) is the primary piece of legislation that applies to Sri Lankan workers migrating for oversees employment. It cover several important areas such as promoting and developing employment opportunities for Sri Lankans outside Sri Lanka, regulating the business of foreign employment agencies, issuing licence to foreign employment agencies, entering into contracts with foreign authorities and undertake the welfare protection of Sri Lankan employed abroad. But the said act does not cover migration to Sri Lanka and it does not have the strong human right basis to protect the rights of the migrants. Section-4 of the said act clarifies the membership of the board of directors however, there are no representatives from any migrant worker association or trade union representing such migrant workers or any other recognized nongovernmental or civil society organization working with migrant workers for their families.

He stated that as a part of a civil society organization, they have made their recommendations to the government to repeal the act accordingly. The family background report (FBR) introduced in 2013 with the aim to prevent various difficulties and social problems resulting from the migration of woman for employment. The FBR effectively bans woman with children under the age of 5 from migrating for foreign employment. The

FBR has been a controversial document in the context of labour migration in Sri Lanka. On one hand, FBR has been criticized for violating the rights of woman and at the same time, the same report is commended for taking into account the protection of children belonging to migrant female worker.

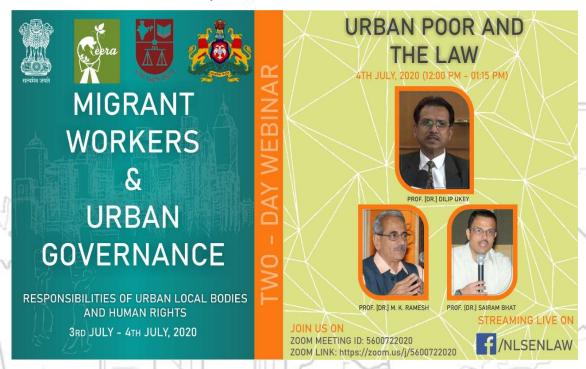
He described that the Sri Lanka labour migration policy and its sub-policy on re-integration on returning migrants is recognized as a model for several other countries. Within the said period, several gaps have been identified as a policy recommendations such as:

- Monitoring of bilateral agreements and MOUs with destination countries is not happening regularly and effectively;
- ii. There is a limited awareness of welfare services available for migrant workers and their families as migrant workers do not know such insurance schemes, housing loans, scholarship schemes and other support available to them.
- iii. In reduction of age ban and restriction such as FBR without consultation with the stakeholders can have serious impact.
- iv. Increasing the capacity and resources of labour sections of diplomatic missions to respond effectively to migrant workers issues.
- v. Increase recruitment schemes which have proved to be effective and more protective towards workers.

He further talked about the decentralization of services to the district level, in the mid 19s, development officers have been providing information to prospective migrant workers and their families. In the year 2013, this service was enhanced when the graduates were recruited by the *Ministry of Foreign Employment* to provide further outrage to the rural level. Other than providing information, they promote skilled and semi-skilled jobs and support reintegration of returned migrants.

He then concluded that the civil society organizations have been played a vital role during this COVID-19-19 pandemic crisis as the migrant workers in the countries of destination have lost their income to support themselves and their families due to the business loss and lockdown. Many workers who have completed their employment contracts who have been terminated from work are still standing without adequate food, shelter, no means of returning to their home countries and they have limited or no access to COVID-19-19 testing and healthcare. In this regard, many of the Sri Lankan civil society organization in the countries of destination as well as in the countries of origin assisting migrant workers and their families to continue their share to assist migrant workers through direct humanitarian aid, public interest litigation and given legal assistance to them.

### SESSION 5 - URBAN POOR AND THE LAW



PROF. [DR.] DILIP UKEY - Vice Chancellor, Maharashtra National Law University



Prof. (Dr.) Dilip Ukey started his speech on implementation of the national lockdown and its implications towards migrant workers. He started off by posting a question from the basic root level as to who is a migrant worker. He claimed his quest from the Cambridge

dictionary quoting "Migrant workers are those who travel from their own native place which is either within the district or outside district or even outside the state for the purpose of work, livelihood and survival." The concept of migrating from one place to another arises when there is lack of work in their respective native places. The major reason for migrating and on this issue gave rise to the question of rights. The possession of rights by these migrant workers is whether those human rights or fundamental rights under Part – III of the Constitution of India or culmination of all was another query answered by him.

Dr. Dilip had pin pointed this as an issue of human rights and it was under the ambit of Section 2(d) and 2(f) of the Human Rights Act, 1998 which was basically enacted by the

Parliament of India. The meaning and definition of human rights held that the conditions which are essential to live like a human being with dignity. He jotted down the essentials and conditions which he had mentioned in the interpretation and said that all the essentials such as food, clothing, shelter are considered to be human rights. It had unanimously concluded on obtaining these essentials as mentioned above its source would be wages for migrant workers. For instance, in the state of Maharashtra where many migrants had lost their lives in the railway track and other cases which was precisely pertaining to this issue.

The rights, however categorised by various legislations like fundamental, basic, natural, statutory all are posed to come under single head of right. They are claimed to be fundamental prerequisite for every human being to lead his life. The reference of Articles 14, 19(1)(g) and 21 of the Constitution of India on regard with the rights were made per se. The United States constitution on its fifth amendment had included that no person shall be deprived of rights, on right to life and liberty. In the Indian context, Article 21 posed that no person shall be deprived of any such without the due process of law. Even though the context of both the countries was different, their text to which they have addressed the issue of rights is the same text.

A relevant case law which was passed in the year 1877 was discussed, Munn V. Illinois, Chief Justice Morrison Remick Waite from the US Supreme Court held that right to life gives more meaning and scope to humans which ought to be utilised correctly such as maintaining human dignity by materialising the essentials. The abovementioned case was reiterated by the Indian Supreme Court in the year 1963 according to the concept of right to life by the Constitution of India. There has to be certain progress in human's life with certain basic common goods. This was sub-categorised into seven basic common good which are possessed by the humans. Those were life, knowledge, play and work, aesthetic experience, social ability and friendship, practical reasonableness and religion. Out of these, basic methodological requirements were necessary in order to implement those into the lives and they are need, capacity and function.

This had made a viable sense as to the basic needs which brings up with the minimum wages in respect of migrant workers was held by the Supreme Court of India in the matter of PUDR (People's Union for Democratic Rights) V. Union of India, where Justice Bhagwathi and Justice Krishna Iyer decided the case matter in relation to the Article 23 & 24 of the Constitution of India and the Minimum Wages Act, 1948. The case posed as the organisation has not violated any fundamental rights and there was no locus to face the hon'ble Supreme Court of India, but the division bench had outrightly rejected the contentions made and held that right is recognised, protected and enforced by law. The reference to the Asiad Workers case was also made which was again held by the Supreme Court.

The judges to the abovementioned case law had claimed that the minimum wages which are necessary to be paid for the fulfilment of basic bare minimum daily needs of the workers such as food, shelter and clothing. The court had mentioned that the right to life does not

mean the mere living but to live with human dignity which ought to be provided for the migrants and this is viewed as a violation of fundamental rights by the Supreme court. finalised right to life as uncompromised as made by Justice Khanna under the matter of ADM Jabalpur case. The insertion of Article 38(2) under the Constitution of India in the 44th Amendment explained about the state's elimination of inequalities in different origins and held that rights cannot be contended. He had also touched Article 39(a) & 39(e) in citizens who are men and women equally how the right on the adequate means of livelihood.

Article 41 explains about right to education and right to work as mentioned in the matter of Mohini Jain V. State of Karnataka, 1992 as it was invoked in the Part – IV of the Constitution. The law declared by the Supreme Court under Article 141 is to be considered as the law of the land which has to be followed mandatorily. He had also touched upon the Inter-state Migrants Workmen Act, 1979 and held that in case of loss of work in this aspect has to hold the contractor or the respective establishment or the state liable. The contractors or the establishment has to submit the list of workers who have migrated from one state to another namely intrastate migration, which shall include their duration of stay and relevant factors. The list must also contain the wages given to these migrant workers who were working under the contractors or establishments and the duty lies to the state government on distributing the lists pertaining to the wages.

Thus, in case of loss of work or livelihood of the migrant workers the state shall be held liable for them and more importantly it must be accountable for food, water and shelter. The state which has the migrant workers shall provide all the basic necessities for their stay such as food, housing and if they wanted to move to their own native place, the state shall also provide them the necessary transportation to them without any costs. The Mahatma Gandhi National Employment Rural Guarantee Act, 2005 (MGNERGA) has assured the minimum 100 days of work to improve the livelihood security in the rural areas which is the duty of the state to provide such. The Unorganised Workers Social Security Act, 2008, migrant workers were covered under and comes under the said ambit, and it is the duty of the state to maintain as there are various other schemes available for them.

There lies a statutory, constitutional and ethical obligation of the state to contain and maintain the migrant workers and it shall not depend on the legislations to encroach its authority into these aspects since the rights are basic, fundamental to every human. The state must learn from the present current experiences such as the pandemic as to what are all the things needed to be focused such as social economic justice in relation to unorganised sectors and migrant workers. It is held that there are various mandates from various legislations in order to provide food, shelter which is to be given to the unorganised sectors by the welfare state, it is also held that the duties which were provided by the Constitution are also to be adhered to as fundamental rights. They do not cease to exist as a basic right and are ranked either as statutory or fundamental or ethical or moral. For the abovementioned lacunas present, there need to be authorities to be taken care of and this

gives rise to the Interstate Migrant Authorities or Committee to manage and monitor the guidelines of basic rights of migrant workers.

PROF. [DR.] M. K. RAMESH, Professor of Law & Chair on Urban Poor, NLSIU.



The session was continued by Prof. [Dr.] M.K. Ramesh on the claim and entitlement of rights, law from the general sense is an empowering process. Here, the previous session was enticing with rights as the migrant workers possess those rights and are able to realise any particular rights available to them. It was explicitly mentioned that the Inter-state Migrant Workmen Act, 1979 was implemented and it was worked out for the concerns of the state.

Out of this current pandemic situation, there was a sudden realisation of the state as to the gap between the migrant workers and its meagre actions for them. This gave rise to the question of a system of law available to the urban poor which ultimately acts as a judicial catalyst. The apex court had given a direction and addressed the issue of urban poor to the lawmakers and this was also taken note by the central government and formed a separate ministry for urban poor, poverty allegations and housing rights. The state had carried out a number of programmes with regard to slum clearance and upgradation. Even from the Rajiv Gandhi Awas Yojana started with the housing rights of the urban poor and this gave rise that there must be some legal support in any form provided to them. Thus, this created a chair in the National Law School in India University, namely Urban Poor and the Law and the chair came up with the draft bill housing the rights of the urban poor. Similarly, in the year 2008 the government has drafted the bill which also dealt with the housing rights of the urban poor which unfortunately faced wide critics which was further sent to the chair regarding this issue. The chair made some vital inclusions in the draft bill and held that there need to be a clear conceptualisation of rights, the way in which these mechanisms where the rights needs to be realised has to be heritable rights and not alienable rights. In the year 2013, the government had accepted the draft bill passed by the chair with the inclusions made by them. Under the revision of law contained the necessary legal advice over issues concerning rental housing, RERA and slums. There are various schemes which address the concerns of the urban poor, their hygiene and housing.

The discussion made on the subject of urban poor falls on the issue of migrant labours right that have moved towards them. There is some kind of legislations for the urban poor as mentioned above and there needs a proper implication of those. But when it comes to migrant labourers, they are even given any sort of recognition by the government though.

they are claimed to be the backbone of the state's or nation's economy. In context, there are various schemes for them which is for their survival but not for their everyday livelihood with the concept of dignity. When the thought of migrant labours accustomed with there are only two possibilities i.e., he is drawn into the city for various other reasons. It can be due to poor background he is forced to work in the other state due to lack of employment in his own native state. The other circumstance is when a talented person when he does not get the expect recognition and wages for his survival, the urban wants his services and it is ready to encash him. There are many a circumstance in which the people force them to move into cities for cheap labours which is accountable either directly or indirectly. When a situation arises as to who are responsible for the migrant workers who come into state and earn their daily wages whether is it the developers or contractors or state itself. These are the basic common human rights in which the everyday migrant workers face and in most of the cases they don't even have the necessary insurance to hold their backs. The main issue addressed over here is lack of proper migrant data available to the persons contracting them such as the contractors or the state even in the present regime. It is also claimed that the migrant workers contribute most to the general economy of our nation and their population lies in between 13crore to 17crore and there isn't any record of the same. This arose the need and necessity of having a proper record of information about the migrant workers and its various merits. Having information data about these migrant workers is claimed to be essential as there would be track of all the workers and their employers and can hold them liable in cases of need.

## PROF. [DR.] SAIRAM BHAT, Professor of Law & Coordinator of CEERA, NLSIU



The session was further taken and concluded by Prof. [Dr.] Sairam Bhat on the topic of 'Migrants and the Urban Poor'. The topic commenced on starting with international migration which was opted on a large scale by Indians in search of jobs in various other nations. India was considered to be amongst the top for the number of people migrating in search of various other reasons. The first set of migration was generally on

international migration and in the topic of migrant workers they can be sub-categorised as interstate migration and intrastate migration. The former topic of migration was seen as a current issue in the present regime of COVID-19-19 where the people in various other states such as Kerala, Maharashtra, Karnataka were in need of going to their respective hometowns which were Bihar, Assam, Nepal etc. This type of migration is considered to be interstate migration where people travel within a nation but to different states. The latter\_

and the last kind of migration was said to be intrastate or known as people who are migrating within the state borders, when it comes to a city like Bangalore people from all over Dharwad, Mysore, etc. This city has received people from all over other states as well as people from their own state. When the concept of migration arises, employment is the key driver for people to select or move from one place to another. This also includes better employment from native place meaning better wages and better scope of living.

One of the other factors which was seen when it comes to the topic of migration is that, people find the base of industry to be well-established when compared to their home place which in turn has a better recognition and better scope of wages. For instance, when it comes to a city like Bangalore, the city has a well-established scope for industry like construction and the wages given in the particular city is much more than what is provided in other metropolitan cities in and around the nation. This serves as an enticing option for many people to move into the state as there is a scope to move into the city. Another question arises as do people migrate for climate change scenarios also as there are many agricultural occupations taking place in a specific climatic condition and here the chances of moving are very high. During the rainy seasons migrated people tend to move to their respective places whereas in the other seasons they are compelled to move in a favourable climatic conditioned place.

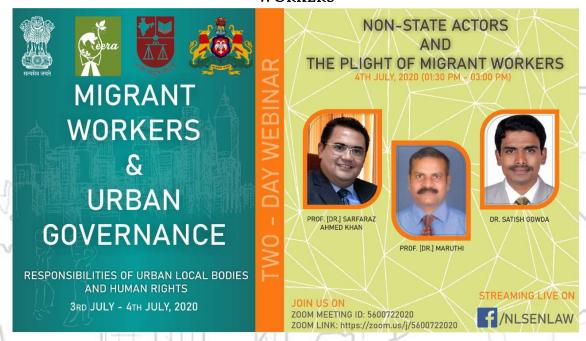
This has to be addressed in a serious manner as these people are temporary migrant workers as they only stay-in for that particular season. Another aspect to the issue of temporary migration is forced migration due to the developmental activities happening in the urban areas. This can also be known as a state induced migration where the state has forcibly brought the migrant workers into the state. In the earlier times where, The Land Acquisition Act, 1894 was used to people and they had to surrender their lands forcibly and leave the migrant place by acquiring meagre compensation provided by the government. This Act was considered draconian and instituted Rehabilitation and Resettlement Act, 2013 was regulated by the Parliament of India which lays down the procedure and rules for granting compensation, rehabilitation and resettlement to those affected persons. In the study of migration, there are all kinds of responsibilities which have to take place for instance the study of the labour market. In our nation, the labour market is one of the major reasons for the economic growth, and the market actively searches for skilled labours and the government is providing various schemes in order to create more skilled labours in our nation.

There is a current demand in the present labour market for skilled labours for instance, there is a high demand for Kerala Nurses all over the globe in the current regime. This has opened a new market for Indian Nurses and their scope has increased drastically over the course of time. The labour market also focuses on cheap labour and it is interesting available outside the state most of the time. The main reason is new people to the state are not comfortable in many aspects like food, language, shelter etc and people take time to settle down in the new state. Thus, these barriers pave way for exploitation in the labour market and people from the other state generally have the fear imbibed in regards to their protection of rights and interests. When usually under these circumstances people tend to

accept the minimum wage rate provided by the employer and this does not arise when people are appointed inside the state. There are no specific regulators or departments for these migrant workers in respect of their protection of interests and rights. Here, the municipalities and the Urban Local Body may have a role to play and they have the need to understand the importance of the labour market for the nation's economy to flourish.

There arises a need for the municipalities to bear the role of protection of interests and rights of migrant workers is that these workers are of floating population as mentioned earlier. There are many temporary workers who move into the state and for a particular purpose and generally they are not permanent. Under these circumstances, regulation and maintenance of a proper database for them becomes quite difficult. The role of municipalities arises as to know the number of temporary and permanent residents according to proper study. It has the threshold to provide all the basic civic amenities like water, food, road, electricity, shelter etc to the citizens of the state and they are bound to provide so to the migrant workers as well. The municipalities in the current regime focus on the people who are permanent in nature and ignore the temporaries as they are the ones who provide everything to everyone. In terms of basic infrastructure and the basic needs, it is their responsibility to provide the basic human rights and they are bound to be indiscriminate amongst the people. There lies an obligation to the municipalities and this has to be the mindset of the state governments as well. And thus, the session had concluded and the panelists received several questions which was posed by the participants and due to time constraint only few were addressed by Ms. Geethanjali. One of the participants had related the topic with the current issue of pandemic and asked whether the implementation of national lockdown had ceased the movement of migrant workers was deprivation of basic fundamental rights and the availability of remedies for them. Prof. [Dr.] Dilip Ukey had addressed the query raised by referring to Part - III of the Constitution of India in respect of freedom of movement, freedom to take any occupation at their own will. The issue was accepted but then the source of the issue to be taken has analysed and addressed the larger goal of community interest. The ultimate aim and goal for the national lockdown imposed by the central government was for the general welfare of the citizens of India and survival against the deadly disease spreading all around the globe. The first and foremost thing to be kept in mind is survival unless there is no survival, there is no fundamental right to be exercised. The national lockdown was imposed for welfare and hence it is not a question of violation of fundamental rights whereas it is of survival and community interest.

# SESSION 6 - NON-STATE ACTORS AND THE PLIGHT OF MIGRANT WORKERS



The session commenced with the introduction of the Resource Persons. Mr. Rohith Kamath introduced the panelists for the session, Prof. (Dr.) Sarfaraz Ahmed Khan, Director, Symbiosis Law School, Hyderabad; Prof. (Dr.) T.R. Maruthi, Professor of Law, University of Mysore; Dr. Satish Gowda, Assistant Professor of Law, Bangalore University.

# PROF. [DR.] T.R. MARUTHI, Professor of Law, University of Mysore

Prof. Maruthi spoke on the topic "Migrant Workers in International Perspectives". He gave a historical perspective on international migration, he stated that migration depended on a number of factors such as Climate Change, persecution, poverty, environmental degradation, war etc., and that people only choose to migrate in search greater security for themselves and for better wages and opportunities.

Prof. Maruthi opined that the issue of migrant workers has seriously reflected the apathy of the Governments and shows how they are treated. United Nations Convention on the Protection of the Rights of Migrant Workers and the Members of their Families has been ratified by several countries including Mexico, Brazil and Philippines which supply the migrant workers to the developing countries. Whereas, countries like India and South Africa has not ratified this Convention and it is essential that our country ratifies this Convention. Millions of migrant workers are stranded in Gulf Countries who are struggling to meet their needs. He mentioned that currently there were more than 200 million migrant workers globally and with the coming into force of the United Nations and the International Labour Organization there were a number of International Conventions which protected the rights of the migrants.



However, since these Conventions had not been ratified by the host countries, there was no implementation of the same. He mentioned that there were different approaches taken by different nations on the migrant issue, there is a US centric approach, a Euro centric approach and a Afro Asian centric approach to

migrant issues. This was because of different governing setups of these countries, some are democratic, some socialist, communist, dictatorship, military rule etc., thus it becomes necessary to develop a common global approach on the migrant crisis. Dr. Maruthi then presented some of the challenges in ensuring the protection of human rights of the migrants, such as the lack of ratification of international conventions, lack of implementation of these conventions at the local level and a lack of awareness of these obligations in the state agents. Dr. Maruthi then concluded his presentation by giving his own suggestions on the issue which are –

- a. Wider application of the ILO standards;
- b. Implementation of the ILO agenda;
- c. Ratification of International Conventions;
- d. Recognition of mutual benefits on the receiving states and the migrant workers
- e. Promotion of International cooperation in protecting rights of migrants

The Constitutional Law and International Law has to be balanced especially in terms of the Migrant workers. There are so conflicts which has to be looked at from the perspective of the migrant workers. He also suggested that there should be improved measures towards labour migration and stated that there should be recognition of mutual benefits to both origin and destination countries. This will help and ensure the workers decent standard of living. Several international instruments are already in place and they should be implemented to protect the rights of the migrant workers as provided.

# DR. SATHISH GOWDA, Assistant Professor, University Law College, Bangalore University

Dr. Gowda began his presentation by saying that the problem wasn't a lack of laws protecting the migrant workers, but the lack of implementation of the same. Dr. Gowda pointed out that the right to information of the workers was foremost, without which all their rights remained only on paper, till the workers are not made aware of their rights under the various legislations then they can never avail the benefit of the same. Dr. Gowda then illustrated the roles that the NGOs had played in developing the jurisprudence on Article 21 through PILs and how this has led to the indirect implementation of the Directive Principles of State Policies.



Dr. Gowda then spoke about the roles that the NGOs had played during the present pandemic and how the same has even been recognized by the Supreme Court in its recent order on the plight of migrant workers. According to Dr. Gowda, the lack of implementation of these directives and legislations

was for various reasons such as the lack of literacy among workers, lack of finance for the municipal corporations, lack of coordination between the different agents of the state, lack of accountability of the agents and lack of digitalization. He then talked about how the NGOs can assist the local bodies with his own example, and how he had managed to create awareness through his publications in the vernacular languages, how he had collected data on migrant workers and organized multiple seminars to spread the word to concerned citizens. He concluded his presentation with the following suggestions -

- a. Promoting bureaucratic activism
- b. Promoting the use of technology
- c. Proper implementation of MNREGA by the Panchayats
- d. Coming up with practical solutions instead of an academic approach
- e. Appointment of independent bodies to study the implementation of different labour laws

PROF. [DR.] SARFARAZ AHMED KHAN, Director, Symbiosis Law School, Hyderabad

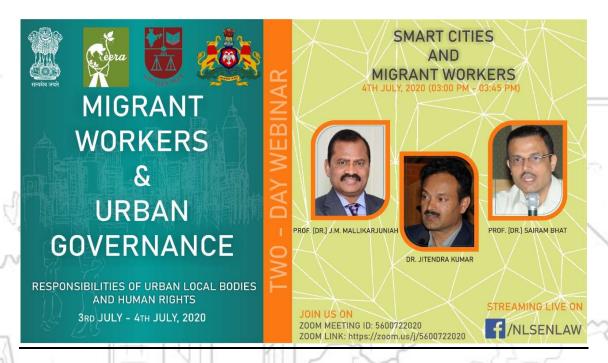


Dr. Khan's presentation focused on the responsibility of the state to ensure that the migrant workers rights are not violated by non state actors. Dr. Khan began his presentation by illustrating the various atrocities that the migrant workers face such as sex trafficking and bonded labour, and that it was the state's responsibility to exercise

due diligence to protect the workers from such atrocities. Dr. Khan then talked about the international conventions protecting the basic rights of the workers and how under the ICCPR, the state had an obligation to ensure that a person's rights are not violated by any non state actor as well. He then pointed out that a states obligation would not end with the passing of the legislation, the state had to ensure the proper implementation of the same, the state had to ensure proper investigation is conducted for violation of the legislation and also that the aggrieved persons have effective judicial recourse to enforce their right. Dr. Khan concluded his presentation by pointing out that this responsibility of the state to

protect against violation of human rights by non-state actors was also established under the Indian Constitution in the form of Articles 21 and 23.

# SESSION 7 - SMART CITIES AND MIGRANT WORKERS



# PROF. [DR.]. J.M. MALLIKARJUNIAH, Principal, KLE Law College, Bengaluru



Dr. Mallikarjuniah shared his thoughts on how to protect the working conditions and interest of migrant workers and ULBs role in this connection. He focused on the mandate of the State to take care of working class including

the migrant workers. He stated that the kind of the globalisation embraced is not as envisaged by the Indian Constitution drafters. He argued that the social security and welfare of the people must be prioritised over the economic development and progress of the Country. He mentioned the international mandate of India for the protection of migrant workers including the International Labour Organisation, Convention on the Protection of Rights of All Migrant Workers. He discussed the domestic mandate of the States enshrined in the Directive Principles of State Policy under the Indian Constitution. He then talked about how pursuant to the Directive Principles of State Policy, various legislations were enacted such as, Unorganised Workers Security Act (Registration of Unorganised Workers), 2008. He stated that this Act was enacted as most of the migrant workers were from the unorganised sector, and so, their social security and welfare must be ensured as they do not have trade union support to resolve their issues with their Employers. He then discussed in detail the various social security schemes and mechanisms

under this Act. He stated that this Act failed in to reach the majority of migrant workers due to reasons including lack of awareness, apathy and negligence on part of the workers. He then discussed how these issues are addressed especially for the contract labours, through the Contract Labour (Regulation and Abolition) Act, 1970. He also discussed the Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 which covers some of the issues not addressed by the Contract Labour Act. He raised a query as to why the Interstate Workmen Act only focussed on interstate migrant workers excluding the intrastate migrant workers and then discussed the various aspects of this Act. He also pointed out that the registration of workers under this Act is dependent on the Contractors. According to him, adjudicatory mechanisms under the Act are insufficient to resolve the issues of migrant workers as there is considerable delay in referring the cases to Authority by the Government. He further elaborated on the Building and Other Construction Workers Act, 1996, however, he pointed out that the Act is not yet implemented, Rules under the Act have not been framed. Further, the failure of the establishments involved in constructions to register, establishment of the fund, and constitution of the Board have frustrated the purpose of the Act. He argued that the effective implementation of these Acts would have been beneficial to tackle the migrant issues during the COVID-19-19 pandemic dilemma. He also gave his views on how the ULBs can play an effective role in addressing the challenges of how to take care of migrant workers, ensuring that the benefits under the Act reach them and effective implementation of the social security measures. By taking the example of BBMP, he suggested that the ULBs can ensure that there must be a proper utilisation of funds, mobilisation of funds and monitoring the disbursement of funds. Second aspect, he dealt with was that the lack of proper data to identify the migrant workers and suggested that the ULBs are best equipped and so must proactively register the migrant workers which ensures that benefits reach the migrant workers. He suggested that BBMP can monitor these data collection, and also pointed out the local residents might be averse to the benefits given to migrant workers, which must also be addressed. He stressed the role of ULBs to register the migrant workers due to the varied types of migrant workers not covered by the Acts by giving the example of tribal Bengali workers in Bangalore. He suggested that lastly, once identification of migrant workers completes, the disbursement of benefits must be ensured and not to stress on identification documents for disbursement. He also suggested that the ULBs must have separate establishment to take care of the Migrant workers exclusively. He concluded on a positive note that conscientious efforts by labour department, ULBs and trade union will effectively ensure the welfare of migrant workers.

#### DR. JITENDRA KUMAR, Director, Bangalore Bio-innovation Centre

Dr. Jitendra Kumar commenced his presentation by discussing the plight of migrant workers during the COVID-19-19 pandemic. He pointed out that cities are ill-equipped to handle migrant workers issues such as transportation and welfare. He observed that there is a lack of mechanism to track the migrant workers and their economic benefits. He also pointed out these migrant issues make them loose a sense of belongings which is essential to secure their social security. He then discussed in detail the concept and objectives of 🔾 smart cities in Karnataka. He also observed that the smart city concept does not address the issues of Migrant workers and the existing legislations were also ineffective to address their issues.



According to him, the ULBs do not have the wherewithal or technical capability to implement smart city programmes. He identified funding as the major challenge for ULB and suggested that through a legal framework or otherwise, the ULBs should be allowed to raise funds

through tax, non-tax charges etc. He also suggested that ULBs can start a technological entrepreneur partnership with start-ups in the respective cities through which technological solutions to the various issues can be identified and also incentivises the start-ups through a revenue sharing partnership. He also pointed out the need for innovative concept of 'Smart Villages' which according to him, is complimentary to smart cities, and reduce the inflow of migrants into cities. He also stressed the need for citizen involvement in smart cities and pointed out that unfortunately it has remained ceremonial. He also pointed out the need for the development for indigenous technology in the city to address the challenges which had been missed out under the smart city concept. To achieve this he suggested that an institutional mechanism must be set up and also encourage grand challenges competitions to encourage solutions. He also suggested the live business plan challenges where technology shelved in public research labs are utilised by entrepreneurs and nurtured by ULBs. To achieve all these, he suggested through examples the need for setting up a network connecting ULBs with research institutions and stakeholders especially where technologies are generated. He also advocated and stressed the need for the use of technology and telemedicine. He then suggested that Government can tap into the mobile literacy for creating database for migrant workers. He concluded the presentation by identifying that ULBs are faced with the bottleneck of technology capabilities and suggested training programmes for ULBs to overcome it.

#### PROF. [DR.] SAIRAM BHAT, Professor of Law, NLSIU

Prof. Dr. Sairam Bhat concluded the two day webinar by thanking the distinguished panelists. He also spoke about his conversation with the officer of Directorate of Municipal Administration, who had raised the interesting concept of smart statistics. He also pointed out that data is a critical component of any planning and database should include the collection of information pertaining to age, professions engaged in Bangalore or in other Cities. He also observed the lack of data identifying the refugees and migrant workers and

stressed the need for classification of refugees and migrants workers to ensure the effective operation of various welfare measures. To highlight this issue, he gave the example of Bengali refugees posing as migrants in the absence of proper identity documents. He concluded by saying that the governance models must be fortified to prevent magnification of existing challenges in view of the porous borders with Bangladesh

The session concluded with the distinguished panellists addressing the questions posed by the participants and moderated by Mr. Rohith Kamath. With this the Two-Day Webinar concluded and Prof (Dr.) Sairam Bhat thanked the Ministry of Urban Affairs, Government of India; Directorate of Municipal Administration, Government of Karnataka; all the Resource Persons and Participants for taking part in the Webinar.











# PROGRAMME SCHEDULE OF TWO-DAY WEBINAR

# "MIGRANT WORKERS AND URBAN GOVERNANCE: RESPONSIBILITIES OF URBAN LOCAL BODIES AND HUMAN RIGHTS"

#### **ORGANISED BY**

CENTRE FOR ENVIRONMENTAL LAW EDUCATION, RESEARCH AND ADVOCACY, [CEERA] NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

in association with

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&

Directorate of municipal administration, government of Karnataka  $DATE: 3^{rd} - 4^{th} JULY, 2020.$ 

WEBINAR ON ZOOM : ID 5600722020

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# PROGRAMME SCHEDULE

	1	. 7/2	
	DAY ONE: FRIDAY, 03 <sup>rd</sup>	¹ JULY, 2020	
9.30 AM TO 11.30 AM SESSION - 1 SETTING THE AGENDA - URBAN LOCAL BODIES & MIGRANT WORKERS	LOCAL BODIES, CONSTITUTION AND	2.00 PM TO 3.00 PM  SESSION - 3  EXECUTIVE FUNCTIONS OF  THE MUNICILAPITY AND  THEIR ROLE IN  TRANSPORTATION AND  HEALTH OF MIGRANT  WORKERS	3.00 PM TO 5.15 PM PAPER PRESENTATION
GUEST OF HONOUR: PROF.[DR.] R. VENKATA RAO, Chairperson, Vivekananda Institute of Professional Studies & Former Vice Chancellor, NLSIU  PROF. [DR.] K.C.SUNNY, Vice Chancellor, National University of Advanced Legal Studies, Kochi  PROF. [DR.] SHASHIKALA GURUPUR, Dean, Symbiosis Law School, Pune  PROF. [DR.] M. K. RAMESH, Professor of Law & Chair on Urban Poor, NLSIU  PROF. [DR.] SAIRAM BHAT, Professor of Law & Coordinator, CEERA, NLSIU	S Professor of Law & Chair on Urban Poor, NLSIU  I DR. SUDHIR KRISHNA, Former Secretary, Ministry of Urban Development, Government of India  B PROF. [DR.] M.R.K. PRASAD, Principal, V.M. Salgaocar Law College, Panjim, Goa A  E A	CHAIRPERSON: ROF. V.S. MALLAR, Retired Chair, rofessor, National Law School of India University  R. NAMRATA LUHAR, Assistant Professor, Faculty of Law The Maharaja Sayajirao University of Baroda  JDICIAL RESPONSES TO THE MIGRANT WORKERS CRISIS  DR. AMAN M. HINGORANI, Advocate on Record & Mediator, Supreme Court of India	MODERATORS: MS. MADHUBANTI SADHYA, Teaching Associate, NLSIU  MR. DIVYESH PRATAP, Research Scholar, NLSIU  MR. ANANYA GUPTA, Advocate, Bengaluru  MR. ROHITH KAMATH, Consultant, CEERA  MS. GEETHANJALI, K.V., Legal Associate, NLSIU  MR. RAGHAV PARTHASARATHY, Teaching Associate, NLSIU  MR. VIKAS GAHLOT, Teaching Associate, NLSIU  LIANNE D'SOUZA, Research Fellow, NLSIU

# MODERATOR: MR. RAGHAV PARTHASARATHY, CEERA-NLSIU

# MR. ANANYA GUPTA, Advocate, Bengaluru

- > Assisting Migrants: Public International Law and the Role of Urban Local Bodies - Tejas Rao
- > State's Ostensible Duty of Care Towards Migrant Labourers in Covid-19 - Raagya Priya Zadu and Shivansh Soni
- Primary Healthcare Facilities for the Urban Poor and Migrant Workers - Abhishree Manikantan
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- Locating 'equity' in the endless journey of the migrant workers -Shruthi Poddar
- Role of Urban Local Bodies in the rehabilitation of the migrant workers - Pranav Narsaria

# MODERATOR: MR. DIVYESH PRATAP, CIPRA-NLSIU

# MS. GEETHANJALI, K.V., CEERA-NLSIU

- The Use of Technology During the Pandemic: The Need of the Hour - Drishya B. Shetty
- An Analysis of 74th Constitutional Amendment and Challenges to Urban Local Governance Vis-à-vis Pandemic and Migrant Workers - Rahul Tiwari
- ➤ Mental Health of Migrant Children in Kerala Chandini K.S. & Dr. Lizy P.J.
- Role of Urban Local Bodies, Transport and Mobility Service -Mahek Jain
- Quality of Life and the Challenges of Migrant Labourers -Aishwarya K. Raj & Dr. Lizy P.J.
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- Covid-19: A Curse for Migrant Workers in India Divyae Patel
- Migrant Workers of India Snehlatha Chaturvedi and Aishwarya > A critical review on Consequences of urbanization and sustainable solutions for quality healthcare - Swapnil Nimkar
  - Socio-economic, legal situation of the migrant Adivasi labourers -Arunima Sharma
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# MR. ROHITH KAMATH, CEERA-NLSIU MS. LIANNE D'SOUZA, CEERA-NLSIU

- The Vulnerable Amongst the Vulnerable- Analysing the Impact of Natural Disasters on Migrant Workers in India Manju Priya S. and Kusumika Sen
- ➤ Health seeking behaviour and self-reported morbidity patterns of migrant labourers Joyshree Mondal & Dr. Lizy P.J.
- ➤ Women on the move- Migration, Quality of life, Gender equality and the 2030 Agenda for Sustainable Development Sr. Bincy C.C.
- Amelioration of Migrant Workers' Quality of Life and Role of Urban Local Bodies in Karnataka – Lekshmi Priya
- > Plight of Migrant workers amidst Covid-19 Sruthi Kannan
- Urban Missions and Schemes in Relation to Migrant Workers Nitesh Mahech
- Urban Local Bodies and Welfare of the needy people Abhinesh Soni
- Shramik special trains and Migrant Labourers: a special focus on Bihar Dr. S Kannan
- ULBs and Protection of Women migrant workers and children –
   Shubham
- ➤ Exploitation of Migrant workers in Smart Cities: The Continuing Violation of Human Rights Sanyukta Moitra & Sukla Saha

# MODERATOR:

# MS. MADHUBANTI SADHYA, CEERA-NLSIU MR. VIKAS GAHLOT, CEERA-NLSIU

- ➤ Barriers to Health Care Services for Hospitalized Migrants Rajendra Ambudas Shendage & Dr. Lizy P.J.
- Unending plight of Migrant Workers: COVID-19 and the
   Suspension of Labour Laws Milind Rajarathnam and Srishti
   Bhargav
- ➤ A study on The Social wellbeing among the Migrant Workers at Vazhakulam Panchayat, Ernakulam District Anjana Balaji and Dr. Sr. Sunirose IP
- Analysing Labour Welfare in India: with respect to Inter-State
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- ➤ Predicament of Migrant Workers vis-a-viz Pandemonium of Gig Economy – Aishwarya Pandey & Som Dutt Vyas
- 'Gig Economy': Legal Status of Migrant workers in India -Shaguftha and Madhu
- ➤ Inadequate Relief Packages for Migrants of COVID-19 Dr. R. Anthony Raj
- ➤ Migrant Crisis: Classification of Workforce in a Gig Economy & Proposal for a Regulatory Framework Shristi & Trushita

10.00 AM TO 11.45 AM SESSION - 4 LABOUR ENTITLEMENT FOR MIGRANT WORKERSAND ROLE OF NON-STATE ACTORS  CHAIRPERSON: MR. ASHIT MOHAN PRASAD, Director General of Police, Karnataka State Police MS. POOJA PRABHAKAR, Managing Partner & CEO, BCP Associates MR. SUJEEWA LAL DAHANAYAKE, Attorney at Law, Sri Lanka  DAY TWO; SATURDAY, 04th JULY, 2020  12.00 PMT O 10.15 PM SESSION - 6 NON-STATE ACTORS AND THE PLIGHT OF MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] DILIP UKEY, Vic Chancellor, Maharushitra National Lew University S NATIONAL Lew University of Mysore PROF. [DR.] MARUTHI, Professor of Law, University of Mysore DR. SATISH GOWDA, Assistant Professor of Laws, NLSIU  PROF. [DR.] SAIRAM BHAT, Professor of Laws, NLSIU  R R R R SSSION - 5 NON-STATE ACTORS AND THE PLIGHT OF MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] SAFARAZ AHMED STESSION - 7 SMART CITIES AND MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] SAFARAZ AHMED STESSION - 7 SMART CITIES AND MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] SAFARAZ AHMED STESSION - 7 SMART CITIES AND MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] MARUTHI, Professor of Law, University of Mysore DR. JITENDRA KUMAR, Director, Symbiosis Law School, Hyderabad Law College, Bengaluru  DR. JITENDRA KUMAR, Director, Bangalore Bio-innovation Centre PROF. [DR.] SAIRAM BHAT, Professor of Law, NLSIU  PROF. [DR.] SAIRAM BHAT, Professor of Law, NLSIU  R B A K  R SSSION - 6 NON-STATE ACTORS AND THE PLIGHT OF MIGRANT WORKERS  SARAT CITIES AND MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] SARATE ACTORS AND THE PLIGHT OF MIGRANT WORKERS  SESSION - 7 SMART CITIES AND MIGRANT WORKERS  CHAIRPERSON: PROF. [DR.] SAFARAZ AHMED  CHAIRPERSON
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### **BOOK OF ABSTRACTS**

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   & Dr. Lizy P.J
- Smart Cities and Migrant Workers Tanishka Grover & Bhawna Gandhi
- Covid-19: A Curse for Migrant Workers in India Divyae Patel
- A critical review on Consequences of urbanization and sustainable solutions for quality healthcare Swapnil Nimkar
- Socio-economic, legal situation of the migrant Adivasi labourers Arunima Sharma
- Inadequate Relief Packages for Migrants of COVID-19 Dr. R. Anthony Raj

#### Parallel Session 3:

Mr. Rohit Kamath, CEERA-NLSIU

Ms. Lianne D'Souza, CEERA-NLSIU

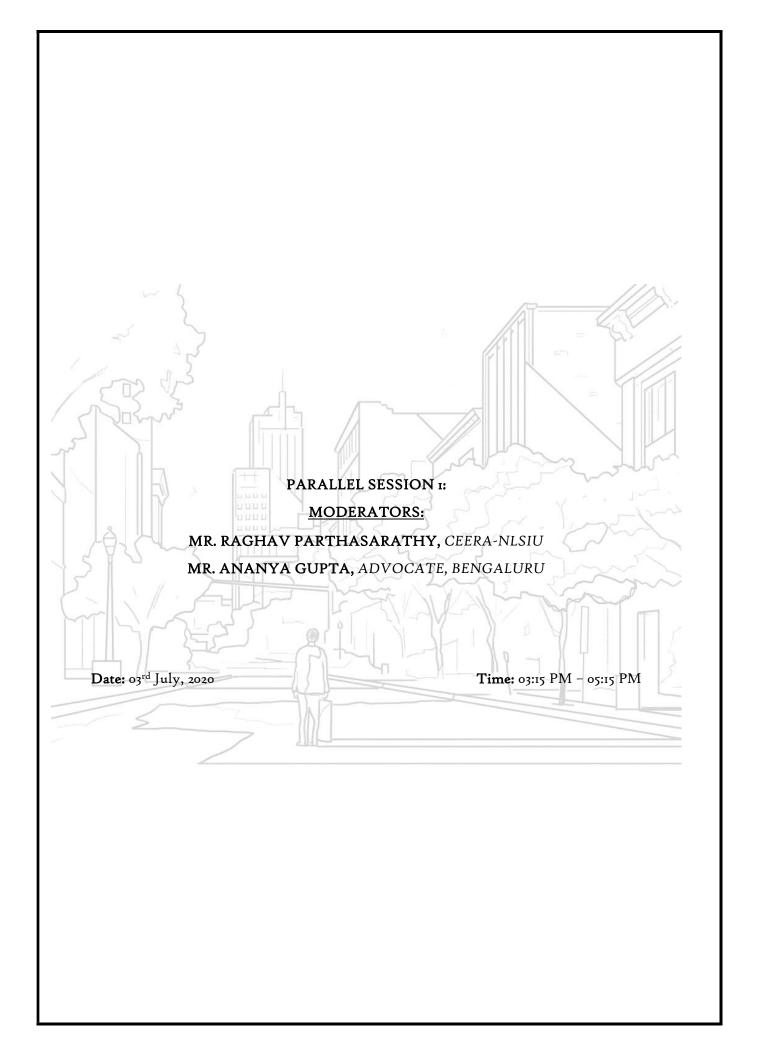
- The Vulnerable Amongst the Vulnerable: Analysing the Impact of Natural Disasters on Migrant Workers In India Manju Priya S. and Kusumika Sen
- Health seeking behaviour and self-reported morbidity patterns of migrant labourers Joyshree Mandal & Dr. Lizy P.J
- Migration, Quality of life, Gender equality and the 2030 Agenda for Sustainable Development Bincy C.C
- Plight of Migrant workers amidst Covid-19 Sruthi Kannan
- Urban Missions and Schemes in Relation to Migrant Workers Nitesh Mahech
- Urban Local Bodies and Welfare of the needy people Abhinesh Soni
- Shramik special trains and Migrant Labourers: a special focus on Bihar Dr. S Kannan
- ULBs and Protection of Women migrant workers and children Shubham
- Exploitation of Migrant workers in Smart Cities: The Continuing Violation of Human Rights - Sanyukta Moitra & Sukla Saha
- Amelioration of Migrant Workers' Quality of Life and Role of Urban Local Bodies in Karnataka – Lekshmi Priya

#### Parallel Session 4:

# Ms. Madhubanti Sandhya, CEERA-NLSIU

# Mr. Vikas Gahot, CEERA-NLSIU

- Barriers to Health Care Services for Hospitalized Migrants Rajendra Ambudas Shendage & Dr. Lizy P.J
- Unending plight of Migrant Workers: COVID-19 and the Suspension of Labour Laws Milind Rajarathinam and Srishti Bhargav
- A study on The Social wellbeing among the Migrant Workers at Vazhakulam Panchayat, Ernakulam District - Anjana Balaji and Dr. Sr. Sunirose IP
- Analysing Labour Welfare in India: with respect to Inter-State Migrant Workers - Ahana Bag
- Urban Local Bodies and Protection of Women migrant workers and children Vaishnavi Naik
- Transforming Urban Governance through Right to the City: A Legal Tool for Ameliorating the Rights of Migrant Workers Manohar Samal
- Predicament of Migrant Workers vis-a-viz Pandemonium of Gig Economy
   Aishwarya Pandey & Som Dutt Vyas
- 'Gig Economy': Legal Status of Migrant workers in India Shaguftha Anjum and Madhu
- Implementation of Interstate Migrant Workers Act,1979 during Pandemic - An Analysis - Dr. Shilpa M L
- Migrant Crisis: Classification of Workforce in a Gig Economy & Proposal for a Regulatory Framework Shristi Borthakur & Trushita Shrivastav



#### PARALLEL SESSION -1

### Assisting Migrants: Public International Law and the Role of Urban Local Bodies

-Tejas Rao

#### **Abstract**

Urban local bodies are institutions integral to local self-governance, taking care of administrative issues and concerns within a particular area or community. Municipalities find themselves designated as Constitutional bodies, within Article 243G of the Constitution of India, as well as being a State legislative subject featuring within List II of the Seventh Schedule. The ongoing pandemic has casted a fresh perspective to the role of urban local bodies, specifically in terms of sustaining the lives of the migrant population carrying out labour within their jurisdiction. This includes being able to look at the continued, accessible provision of medical and healthcare services. Additionally, urban local bodies have a higher role to play in carrying out their functions to ensure that infrastructure is maintained appropriately in order to facilitate a clean, hygienic environment for the migrant population.

Given these circumstances, this paper seeks to carry out a study of the applicable international law in respect of urban local bodies, and the obligations placed upon them as constituent organs of the State. It seeks to examine comparative literature from States which have similar structures of governance, such as the United Kingdom, and look at how these obligations have been implemented at large across those nations. Subsequently, the paper will examine the specific international guidance issued to assist migrants in light of the pandemic, and look at the manner in which the Indian State and specifically the State of Karnataka have enforced them. Finally, the paper will conclude with an assessment of whether the pandemic presents an opportunity to re-examine the role of urban local bodies in governance, protection and enforcement of internationally protected rights, offering suggestions based on best practices studied.

#### STATE'S OSTENSIBLE DUTY OF CARE TOWARDS MIGRANT LABOURERS IN COVID-19

Raagya and Shivansh Soni

#### **Abstract**

A sudden haste amongst the migrant labourers after the announcement of the nationwide lockdown paved ways for the recognition of rights for ever-unacknowledged forces of the economy, industries and enterprises. This lockdown, which suspended work, shut down the factories, markets etc. made the situation for the migrants' graver and especially for those depending upon the daily wages, this in turn led to issues which could not have been pre-empted. However, the pandemic did highlight the hollow systems, lack of accountability on the part of state governments. The migrants who are either involuntarily displaced or have voluntarily moved across the territory for livelihood opportunities or for security, remain at the social, political and economic margins in their host states however, during the pandemic the fact that their status as 'migrants' in the host state where they work deprived them of all sense of belongings to the state they seek their livelihood from, which has pushed these menial

migrant workers to the point of an insurmountable crisis. A pandemic in this sense does not only trigger the public health concerns but also the social, economic and political crisis in any country. Notwithstanding the normative economy, the dual imperative of the state's role as a custodian of legitimate coercive power along with its responsibility as a caregiver failed to look after migrant labourers in an effective manner. This paper, therefore, entrenches upon the impacts of Covid-19 on India with particular emphasis on the migration (the state's duty of care) and its likely fallout on the plight of labourers in such unprecedented calamities.

Keywords- COVID-19, Migrant Labourers, State responsibility, etc.

# Primary Healthcare Facilities for the Urban Poor and Migrant Workers

Abhishree Manikantan

#### Abstract

The World health Organisation defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. In order to keep a population healthy, having a robust healthcare system is of utmost importance. The 2011 Census found that of the 377 million people living in urban India, about 97 million live in poverty – most of whom are workers who have migrated to urban areas hoping for better jobs. A state of poverty inevitably leads to poor and unhygienic living conditions, food insecurity, and non-access to safe drinking water. This creates an ideal scenario for diseases-causing organisms to breed and attack already compromised immune systems.

Since Independence, India has suffered from the chronic neglect of public health infrastructure. While some amount of focus was upon the healthcare systems in rural areas, the planning of urban healthcare facilities was never a priority. Even though India has increased its expenditure on the healthcare sector over the last few of years (from 0.93% of the GDP in 2016 to 1.28% in 2019), it is not enough to provide appropriate coverage to those who cannot afford private healthcare facilities. A number of studies, such as that conducted by practitioners at Department of Family Medicine and Community Health, Bangalore Baptist Hospital and that by professors at Aligarh Muslim University, have shown that the existing urban healthcare infrastructure is insufficient to deal with the still-growing urban population. A large number of urban neighbourhoods lack proper primary health facilities, while the secondary and tertiary care centres face massive overcrowding and subsequently, long queues for basic care. The lack of a proper referral system often results in underutilisation of available equipment and machinery as well.

This paper will discuss the issues and challenges faced by the urban poor, including migrant workers, in availing basic healthcare services. It will then attempt to suggest reforms in the present system by scrutinising the approach used in Kerala as well as developed nations. The aim of the paper is to define methods to update and modernise the present system of healthcare by involving urban local bodies more heavily so that this basic service is accessible to all who require it, regardless of their monetary status.

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#### The face of Gig economy during the lockdown and the development of a legal

Nandini Goyal

#### **Abstract**

The gig economy has become the new employment opportunity in India and has provided opportunities to several migrant laborers but it yet remains the most vulnerable source of jobs. Although the importance of gig workers rose with the outbreak of the pandemic and the norms of social distancing it also brought to fore how the absence of a legal system affects such workers. The stark reality during the lockdown was that the workers involved in delivering the essential commodities were left out on their own without any social security and protective equipment's and exposed to risks, on the other hand, the workers involved in the activities shunned in the lockdown like OLA and Uber drivers were left out without any financial security and even could not take the advantage of government relief programs as were ineligible. It brought out the plight of such workers and made us realize the importance of developing a legal regime for the gig economy, although in the year 2019 the code on social security 2019 mentions it. This research paper will study the conditions of the gig workers during the lockdown by conducting an empirical and doctrinal study and focus on the role of the urban local bodies in providing social and financial security to such workers. To understand how the legal framework in India can be developed will do a study of laws for the gig economy in the USA and the UK.

# Migrants: The 'Outsiders' of Smart Cities

Bhanu

#### Abstract

India is a country where the majority of the population is dependent primarily on agricultural activities. However, there has been a trend of increase in the level of urbanization. According to the census of 2011, India's level of urbanization has increased from 27.81% in 2001 to 31.16% in 2011. This is primarily a consequence of rural-urban migration which is a result of poverty as well as demographic explosion.

As per the Economic Survey of India of the year 2017, the inter-state migration in the country was almost 9 million annually between the years 2011 and 2016. On the other hand the Census of 2011 estimates that the total number of internal migrants in the country is 139 million. The states of Uttar Pradesh and Bihar are the biggest source of rural to urban migration which is followed by Punjab, Madhya Pradesh Rajasthan etc. The destination states are usually Delhi, Maharashtra, Tamil Nadu, Gujarat, Andhra Pradesh and Kerala. These migrants trying to make a better life for themselves in the cities however still get stuck in the vicious cycle of poverty.

<sup>&</sup>lt;sup>1</sup> "Trends in Urbanization," CENSUS INDIA.<<a href="https://www.censusindia.gov.in/2011-prov-results/paper2-vol2/data-files/Mizoram/Chapter-4.pdf">https://www.censusindia.gov.in/2011-prov-results/paper2-vol2/data-files/Mizoram/Chapter-4.pdf</a>

Even before the virus (COVID-19) hit the world these people were struggling to manage their day to day lives but the pandemic completely crippled these families. India announced a countrywide lockdown coming in effect from March 24, 2020, to slow down its steadily growing COVID-19 positive cases. The citizens were given a four-hour notice to prepare for the coming days. The short notice led to the chaos that later unfolded.

With the announcement of all the institutions, offices, workplaces, shops, etc. shutting down with the exceptions of medical services and basic necessities, thousands of migrant workers were stranded with no work, no food, and no money in the cities, away from their homes. This was the start of a long journey for the migrant workers on their feet from metropolitan cities such as Delhi and Mumbai to their villages in states like Uttar Pradesh and Bihar.<sup>2</sup>

This lockdown revealed the sorry state of the migrant's lives in smart cities and proved that these cities, whose backbone is the migrants from rural areas working in all the sectors from construction to rickshaw pulling, would never be accepted by its residents.

ULBs and Quality of Life, Healthcare services, Hygiene, sanitisation and Environment for Migrant workers

Farah Naaz

#### Abstract

India being a vast and overpopulated country is facing a lot of governance issues, not only in the sociopolitical and religious sphere but at the federal governance from the top to the municipal level. One such issue is the regulation and governance of municipal corporation. Local government agencies / municipalities are created for metropolitan area management and economic growth. The goal is to ensure that the people have access to appropriate standards of facilities and services. The standard of life in metropolitan areas in many parts of India is poor and the people are living a tough existence. To address this issue, the Indian government has implemented a set of reforms to improve accountability at the community level. The primary function of this theological study is to explain the significant form of environmental policy making and also to define a few significant issue for urban local government organizations in India throughout the wake of contemporary reform proposals in the public centers during the epidemic time frame, with a special emphasis on migrants, women and their kids, who are most vulnerable groups. At first the paper will explain the role and function of the urban local bodies and will go into the legal detail from the enforcement of 74<sup>th</sup> amendment to the present reform made. It evaluates the situation of the migrant's workers, women, children, their problem, their access to the basic amenities and how the urban bodies function to fulfil their needs. It highlights present dismal conditions of migrant's women and their children in the urban areas and how the present urban bodies deal with their problems, ranging from healthcare, sanitation, food etc. it will also explore the reason for the migration of the workers from the State of

<sup>&</sup>lt;sup>2</sup> Biswas, Soutik. "Coronavirus: India's pandemic lockdown turns into a human tragedy." BBC <a href="https://www.bbc.com/news/world-asia-india-52086274">https://www.bbc.com/news/world-asia-india-52086274</a> (accessed on April 23, 2020)

UP, Uttarakhand, Bihar, Jharkhand, Assam, West Bengal, Odisha to Delhi NCR, Punjab, Haryana, Gujarat, Karnataka, Tamil Nadu, and Maharashtra. The paper highlights lack of urban bodies, scope of livelihood, economy and their dismal state in their native states, which forces them to migrate to other States for better amenities. The results of this study suggest that urban local governments in India proceed to be riddled by various issues affecting their efficiency in performing their duties effectively. These issues relate to both the extent to which the municipal decision-making process involves involvement and the legal system, accountability in the formulation and management of construction projects, and level of efficiency in local police accounting and business exercise. It is suggested that just to fix the issue facing urban local governments in India, new thought is required. In addition, the author has provided several proposals, creative solutions to addressing gaps in management and building policy, and the time periods of urban slums that the legislation should take into account while dealing with the protection of rights of migrant women and children and the role of urban bodies accordingly.

**Keywords**: migrant women, vulnerable, pandemic, urban local bodies, livelihood, healthcare, nutrition, sanitation

# Providing Healthcare Facilities to Migrants: Role of ULBs Amidst the Pandemic

Shivangi Pandia

#### Abstract

Ever since the lockdown, owing to the COVID-19 pandemic, was imposed in the whole country, we have been a witness to ill-treatment of the migrant community at the hands of the administration, both local and national. Initially, they were not provided sufficient time to return to their native homes before imposing the lockdown, then when the lockdown was imposed, they were not provided sufficient transport facilities for them to return back to their homes. The ones who got stranded were also not provided sufficient accommodation by the local administrations. There was dearth of medical and other healthcare facilities provided to the migrant. Many weren't even given proper meals for them to survive. We were witness to hundreds of migrants dying on their way to return back to their homes. We were witness to many migrants starving to death and many walking thousands of miles to reach their home. The fact that the administration politicized the whole matter to support the views of their political parties adds to the worry. The administration justified their acts by arguing that they intended to control the outbreak, but we are well aware that due medical facilities and healthcare services were not availed to the stranded migrants which posed a threat to their safety during the COVID-19 outbreak in India. We were witness to a health crisis management which was utterly biased and politicized, and lacked considerate efforts to safeguard the lives of the migrants. Vide this paper, the author attempts to lay down the faults that we all witnessed during this health crisis and also attempts to highlight the duties that the local administration ought to have fulfilled. The aim is also to make everyone aware about the role that the Urban Local Bodies play in the regular administration of our country. It has been argued that the prime consideration of the Urban Local Bodies, especially during times of such crisis, ought to be to safeguard the interests of the migrants who form the less privileged part of our society. What must also be borne in mind is the prime reasons why these people migrate, which is to provide better lifestyle to their families and a quest for more income to support their livelihood. If in times like these the local administration tempts to show cold shoulder to these migrants, then who is to come to their aid? One of the reasons why adequate measures were not taken is the limited human and financial resources. It must also be considered that these public health workers perform a high risk job and they ought to be covered by relevant and sufficient social protection measures. This paper thus attempts to highlight the duties of the local administration while referring to their failures during this hour of much need, and then suggests some ways and considerate efforts by which the outreach and success of these administrative bodies can be enhanced.

# The Contribution of ULBs in Providing a Dignified Life to Migrant Workers of India

- Snehlata Chaturvedi and Aishwarya Jain

The concept of migration has evolved gradually over ages. Ever since the human civilization came into existence our ancestors have wandered in search of food. The migrating patterns and purpose have changed drastically over the period and where at the time The Aryans or The Mongols invaded India, the emigrants were considered as victors. Today the Indian citizens who migrate to urban areas or into areas with better employment perspective are nothing more than migrant laborers.

India's total population is at 1.21 billion. And the internal migrants constitute 28.5% of total population that is 326 million internal migrant workers as per NSSO 2007-2008.

This paper aims to highlight the challenges faced by Inter State Migrant Workers and the contribution of Urban Local Government in overcoming the same. It gives an overview of rights as per Article 22 of UDHR,, Article 19 ( to move freely, reside and settle in any part of India) and DPSPs as per the constitution of India and standards for migrant labour as given under the ILO Conventions ratified by India like minimum age convention 1919, Right to Association ( Agricultural workers ), workmen's compensation 1925, Equal Remuneration convention 1951, etc.

The objective of the paper is to map migration trends and policy support by the government of respective states and examine the socio-economic conditions of the workers as a comparative study between lead sources like Bihar, West Bengal, Rajasthan and Madhya Pradesh and key destination states like Delhi, Maharashtra and Karnataka, with respect to the Inter State Migrant Workmen (Regulation and Conditions of Services) Act.

In past couple of months, the world witnessed an unprecedented pandemic, this has widely affected the nation and the nationwide lockdown also highlighted a big loophole in the system, which demanded for an introspection. Soon we might be looking at the long awaited 4<sup>th</sup> phase which will focus on living conditions of migrant workers. The government has taken few steps in order to provide the migrant workers proper houses for dwelling. But the steps taken are not enough to solve the situation of dwelling needs of the workers in India.

It aims to define the contribution of administrative sources to ensure dignified living conditions and employment to migrant workers post COVID-19 under schemes like 'Garib Kalyan Rozgar Abhiyan'

and MGNREGA. It makes some policy recommendations to sensitize ULBs to include migrants in city development by including them in decision making and city development. Reform discriminatory urban policies and design special outreach strategies for migrants within public services. By including their needs and concerns in policy documents such as JNNURM and city development plans. To improve institutional preparedness and build capacity for facilitating and promoting migration.

The opening of work limitations for women, right to education for children, the "one nation, one ration card" scheme, universal minimum wage, concessional rental housing and the conversion of government-funded housing into affordable rental housing complexes are steps in the right direction. However, to ensure that these schemes reach their intended beneficiaries, we need a critical appraisal of the current housing conditions of labour migrants.

# Locating 'equity' in the endless journey of the migrant workers

Shruthi Poddar

#### **Abstract**

Main Theme: ULBs and Quality of life, Healthcare services, Hygiene, sanitation and Environment for Migrant workers;

It has been observed that there are over 200 state laws and close to 50 central laws. And yet there is no set definition of "labour laws" in the country. The author in this paper tries to understand and promote the principles and rights mentioned in the ILO Declaration on Fundamental Principles and Rights at Work Adopted in 1998. The paper discusses about the entitlements that relate specifically to the role of being a worker. Further, the author in this paper aims to see whether The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 has been implemented effectively or not in the current plight of migrant workmen amid the nationwide lockdown.

The author intends to study the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Adopted by General Assembly resolution 45/158 of 18 December 19. The author aims to analyze: How this law helps the migrant workers. Further the paper focuses to analyze whether the registration of the establishments deploying the migrant labours creates a system of accountability?

Currently, there are 44 labour laws in the country. The Central Government want these 44 laws to be coded under 4 laws—Wage Code, Industrial Safety and Welfare, Social security and Industrial relations. Are the 4 laws enough in protecting the rights of all migrant workers?

It has been noticed that The Occupational Safety, Health and Working Conditions Code, 2019 was passed in Lok Sabha on July 23, 2019, and was referred to the standing committee on October 9, 2019, and a report was made by the standing committee on February 11, 2020. The Code is still pending to be passed in Rajya Sabha. This Code repeals 13 out of 44 labour laws related to safety, health and working conditions. The Interstate Migrant Workmen (Regulation of Employment and Conditions

of Service) Act, 1979 is also be included under this code. The paper aims to highlights whether the 2019 code and 1979 Act must be merged together and must be implemented strictly for improved conditions of the migrant workers.

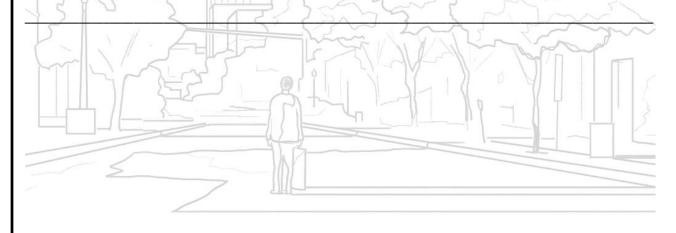
Keywords: ILO Declaration, Migrant workers, Nationwide Lockdown, Accountability, Conditions, etc.

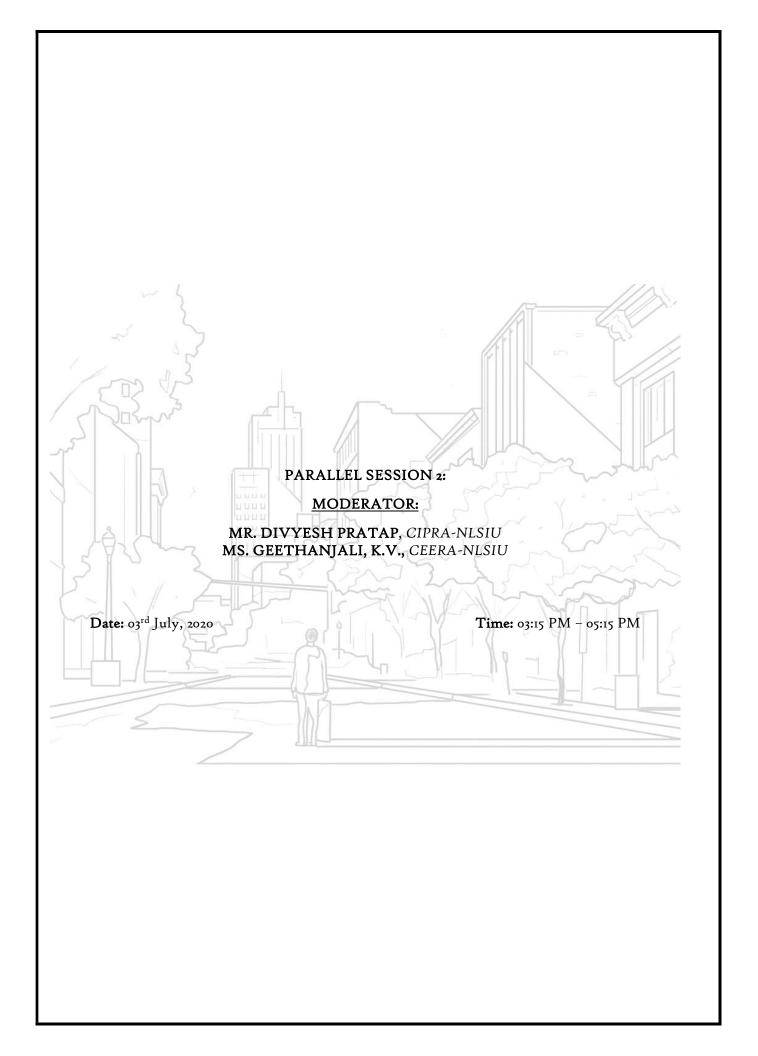
### Role of Urban Local Bodies in the rehabilitation of the migrant workers

Pranav Narsaria

#### **Abstract**

The Covid pandemic has brought about the largest migration of people in India since the Partition. While the Government and various NGOs have successfully ensured that the workers go back to their home state, the policy for rehabilitating them and providing them with employment opportunities in their home state is still very much in the nascent stage. The Prime Minister has announced the Garib Kalyan Rojgar Abhiyan which aims at rehabilitation of the migrant workers with in 116 districts of 6 states and the Supreme Court has also ordered all the states to submit their plans for rehabilitation of the migrant workers returning to their states. For the successful implementation of any of these policies, the Municipal Corporations and other local bodies are bound to play a crucial role. In this paper the authors will take a look at the rehabilitation schemes of the government and give their opinion on how the urban local bodies can play a more active role in enforcement of these schemes and take other measures to ensure rehabilitation of the migrant workers in their home states.





### The Use of Technology During the Pandemic: The Need of the Hour

Drishya B Shetty

#### **Abstract**

Haven't we all opened Google Maps and typed in an unreachable location just to laugh about how long it would take us to walk till there? This hilarious situation however became a reality in the months of March and April, 2020 in India when a nationwide lockdown was announced by the government due to the outbreak of the coronavirus, forcing millions of migrants to travel on foot for days on end to reach their home towns. Being forced out of the homes in the cities where these workers had migrated to, and without the resources or means to afford transport to their hometowns, the migrants had no choice but to cover hundreds of kilometers by foot while weathering the hot summer. Their stories covered the newspapers, on one hand the government had to find ways to ease their commute by providing transport, food and shelter. While on the other hand, they had to avoid the crowding of the migrants at bus and railway stations so as to avoid the spread of the disease.

The government, was doing its best to try and ease the situation, NGOs, health workers and Samaritans joined hands to distribute food packets and set up temporary shelters for the migrants along their journey. However, this wasn't enough as several states had closed their borders making it difficult for the migrants to cross over into them. The states that did allow the migrants to enter, faced the additional difficulty of tracking the number of migrants that have entered and left the state in order to identify the number of COVID infected individuals that have travelled through the state.

While the Home Ministry did launch an online portal to track the number of migrants moving across the country, there is no information whether states are updating information onto the portal and whether the government is actually using the information on it to curb further spread of the disease or ensure that the migrants reach their hometowns. By the look of the worsening condition of the migrants, it seems the online portal was an unsuccessful attempt by the government to try and resolve the crisis. This paper, will try and analyze how technology can be used by the government to try and track the migrants more efficiently. The author will be proposing the idea of using trackers at the borders of every state that will identify the number of migrants that have entered the state, which will be forwarded to various Ministries of the government, such as the Ministry of Health, in order to check the spread of the disease and the Ministry of Agriculture, in order to ensure viable employment opportunities to these migrants once they return to their hometowns. During the crisis of this pandemic, one this has been made certain, that technology has helped resolve a number of issues, so why not use technology to resolve the issues of the migrants as well?

# An Analysis of 74<sup>th</sup> Constitutional Amendment and Challenges to Urban Local Governance Vis-àvis Pandemic and Migrant Workers

· Rahul Tiwari

#### **Abstract**

In India, the term urban local government signifies the people's control of a metropolitan region by their voting representatives. Across India, there are millions live across abysmal environmental and sanitary circumstances, lacking sufficient facilities and unpredictable incomes. Slums are scattered throughout the country's industrial centers, with such households responsible for 63 per cent of the formal residence. To improve the role of urban governance in a coordinated manner, the Indian government has taken a significant step by enacting the 74th Constitution Amendment Act. Urban regions and their administration have long been a topic of national concern and have managed various domains, often shaky, often strong, yet often a question of discourse and a preference of policy making. This doctrinal paper is divided into two parts.

The first part deal with the legal aspects of the municipal corporation as specified in 74th Constitutional Amendment act, its legalities, its function, and the challenges faced by them in urban planning and public policy. This part precisely focusses on the healthcare and Hygiene part, which is goo in the major urban areas but is in very dysfunctional state, the moment situation of tier 2 & 3 cities comes into horizon. In this article, the author has provided a crucial study of the history to urban development in India, not just in cities of Tier 1 but also in cities of Tier 2 and Tier 3. This paper reflects thoroughly on numerous topics relating to the key features and standards of selected cities' growth plans and growth control legislation, facets of public planning concerned, and rules for urban planning. In this article, the author has attempted to discuss numerous concerns that need particular attention to be given to making smart cities regulations a reality including water access and sanitation, solid waste disposal, the commitment needed. Regrettably, rapid urbanization has also given rise to poverty and crime.

The second parts will into more practical aspects, regarding how the migrant's workers from Bihar, UP, Jharkhand, West Bengal, living in the areas of Delhi NCR, Maharashtra, Karnataka and Gujarat are the worst sufferers, especially in the sanitation and healthcare facilities. This part explain how even after the enactment of the laws, these migrants workers did not receive proper benefit of the law, depriving their constitutional rights, which was exposed during the pandemic (covid-19) outbreak and lockdown situation, which at the end forced them to walk back to their native place on leaving behind the urban areas and their source of livelihood.

Furthermore, the author has presented numerous recommendations, innovative approaches to resolve the deficits in management and building regulation, coordinated growth of small and medium-sized towns, planned megacities, and cultural destination of urban slums, which can be taken into consideration by legislature and executive in future not only for the urban planning, but for the migrants' workers in future pandemic situation. In the conclusion this paper

Keywords: Seventy-fourth constitutional amendment, governance, public services, India, urban poverty, urban infrastructure, migrant workers, pandemic

# Mental Health of Migrant Children in Kerala

- Chandini K S & Dr. Lizy P J

### Abstract

Migration is the process of movement of people from their own home to another city, state or country for a job. Migration from rural areas to urban areas has increased in past few years in India. Migrant families today face many of the same issues as they travel in search of work. Families deal with substandard housing, low wages and difficulty finding jobs. The working and living conditions of migrant farmworkers generate unique health hazards, due to both occupational challenges as well as injury and illness that stem from the conditions imposed by the culture of migrant framework, including dependency and poverty. Migration and migration-related processes are widely regarded as having an effect on the psychological health of children and adolescents. Few studies that have compared the mental health status of migrant children with their local peers have shown that migrant children are at high risk of developing mental health problems such as higher depression, fewer social connections, and lower self-esteem. Children are affected by migration in all regions of the globe, but the understanding of its effects is highly limited. Children of migrant workers experience extreme poverty and parental unemployment which contributes to unhappy childhood experiences, deficiencies in personality development, stagnation of basic primary education.

The present study was conducted among sixty migrant children in the age group of 10 to 18 years studying in two government schools in Kalamassery. Research tools of the study include Rosenberg self-esteem scale and self structured interview schedule. **Results** show that 55% of children have low self-esteem and 50% of them have low level of wellbeing. It was also found that 61.67% of them have felt that they have been excluded for the other groups of children, which is an important mental health issue. Feeling of inclusion, well - being and self-esteem are critical factors affecting the life satisfaction of migrant children. Hence, it is high time to intervene in this issue of migrant children.

Key words: Mental health, migrant children, self-esteem, social inclusion.

## Role of Urban Local Bodies, Transport and Mobility Service

Mahek Jain

## Abstract

The pandemic has scorned the livelihoods of people, disrupted the economy and dismantled the hopes of migrant workers voyaging to their destinations. It has crumbled the economy, shattering the vocation and leaving the vulnerable section at the brim of unemployment and poverty.

Migrant Workers and Urban Local Bodies - Urban Local Bodies are the foundation of local self-governance instituted for local planning, development and administration in the urban areas. The Municipalities (Urban Local Bodies) entitled under the 74th Constitutional Amendment Act, 1992 provides constitutional status to local urban bodies.

The Disaster Management Act, 2005, Section 41 "local authorities' including panchayats, municipalities and cantonment boards are mandated to carry out "relief, rehabilitation and reconstruction activities" under the "directions of the District Authority".

The Act assigns civic powers to the Urban Local Bodies to take due care and measurements regarding prevention and control of epidemics, welfare centre and provide the citizens with basic amenities.

Central and the State Governments - The first nation-wide lockdown was imposed by the Government and curbed the movement of crowd domestically and internationally. 29<sup>th</sup> March, 2020 on apprehension of the situation the Government of India, Ministry of Home Affairs permitted the movement of migrant workers stranded at different places. On 2<sup>nd</sup> May 2020, announcements of Shramik trains for movement of migrant labours to their destinations by the Ministry of Railways were made.

<u>State Disaster Response Fund</u> - The States were authorised to utilise the SDRF to accommodate migrant workers and affix relief camps and medical facilities.

MGNREGA - The scheme focuses on providing wage employment to the Job Card Holders dispersed in distress. Work covers water conservation, harvesting, agriculture, rural infrastructure sector in rural area.

<u>Financial Assistance</u> - The State Governments have announced the allowance of Rs 1,000 transferred directly to the accounts of migrant workers.

Supreme Court Order on Workers Issues - Shramik trains were to transit migrant workers with no travelling fare. Registration and identification, profound details and skills of workers, counselling centres were to be formulated by the local authorities at village, block and the district level.

Inter-State Migration Workers Act - The Act provides protection to the workers. Labour contractors recruiting migrants are required to render license, passbooks, registration under local authorities, accommodation, free medical facilities, protective clothing. The Act fails to protect the rights of workers due to non-compliance of the laws by the contractors and authorities.

**Constitution -** Article 21 illustrates "Right to life with dignity", however, migrant workers have been deprived of their fundamental rights and forced to peddle home with no food and shelter. The NHRC has taken a cognizance action regarding the inhumane treatment to the workers.

With complete disregard for Article 19(1)(e), the migrant workers are bereaved of social security, health benefits, safety standards, lack of portability of state-provided benefits, access to affordable housing and basic amenities.

The pandemic has displayed inadequate management in the country. To overcome this plight, the authorities shall adopt:

- Decentralization of power and formulation of Interstate Council.
- Single Portable Card for workers under Public Distribution System.

# Quality of Life and the Challenges of Migrant Labourers

- Aishwarya K Raj & Dr. Lizy P J

### **Abstract**

The term migration generally refers to movement of people across a political boundary. The main reasons for migration are urbanization, industrialization, better employment opportunities and living conditions, attractive remuneration etc. Labourers from different states like Kolkata, Bihar, Orissa, and Karnataka migrate to Kerala and settled for improving their family economy where local economy offer limited livelihood alternatives. When the migrant workers enter the local labour market and are willing to work at a lower wage, and/or under less regulated conditions, there is less scope for the local workforce to demand for wage revision/ better working conditions etc. Migrant workers are recognized to be among the most vulnerable members of society. The present study is an effort to find out the quality of life of the migrants and the different challenges they face in their work place. The study was conducted among 60 migrant laburers living in Perumbavoor, using interview schedule and Quality of life scale of WHO as research tools. major findings show that 41% of the migrant labourers face difficulty in sleeping while 13% of them have sad feelings and are depressed.One third (32%) of the migrant labourers felt extreme difficulty in handling the amount of pain they experience. Three forth (75%) of the migrants are not aware about the basic health and safety training measures and did not had medical security in the work place. A large percentage (69%) of them face financial difficulties.

Key Words: Migration, quality of life, challenges, migrant labourer.

# Smart Cities and Migrant Workers

Tanishka Grover & Bhawna Gandhi

### Abstract

As the nations around the world grapple with the global pandemic COVID-19 by imposing lockdown, the dynamics of social security are changing. The aftermath of lockdown has brought to the fore the humanitarian crisis and inter-alia, the hardships caused to the vulnerable, the shortcomings in implementation of social security legislations, like The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The daily basis bread earners were left jobless and others in unorganised sector faced lack of job security, limited or no access to banks or insurance sector and under developed public healthcare further added their grievance towards bare minimum survival. The Smart Cities Mission for comprehensive development by improve of quality of life, creation of employment and enhance of income especially for poor and disadvantaged, fails miserably to draw up a plan inclusive of migrant labour issues. Therefore, post six years of the mission the COVID-19 regime unfolded the lopsided nature of growth, and the authors will be critically analysing the efficacy of the Smart Cities scheme w.r.t informal labour sector. As a sentinel on the qui vive, the Supreme Court In Re: Problems and Miseries of Migrant Labourers took suo moto cognizance of the migrant workers issue and issued various guidelines to alleviate their sufferings. The Central Government acting as the parens patriae has launched various welfare schemes for the migrant workers including the Garib

Kalyan Rojgar Abhiyaan which endeavours to provide employment opportunities for 125 days. The Occupational Safety, Health and Working Conditions Code, 2019 which is presently under legislative review, aims to amalgamate the major labour laws including the 1979 Act and attempts to strengthen migrant labour rights.

The fundamental aim of the paper is to throw a light on the issue of migrant workers and analyze the government schemes with special impetus on Smart Cities Mission.

Keywords- Migrant Labour, Smart Cities, Urban Reforms, Migrants Exodus, Labour Welfare

# Covid-19: A Curse for Migrant Workers in India

- Divyae Patel

### Abstract

With the declaration of a nationwide lockdown on 23rd March 2020 in order to control the spread of COVID 19, the 1.3 billion people of India saw a huge wave of change in the Country. Shops and factories were shut down, businesses stopped operating, and no vehicles were visible on the roads. In between these changes the community of migrant workers was ignored. Among all the masses, the migrant workers were the ones who were most impacted by this sudden nationwide lockdown.

With the implementation of the lockdown, the underprivileged migrant workers started facing various challenges such as; loss of jobs and wages, shortage of food and other basic amenities, non-availability of public transport to return to their homes and ill-treatment by people and public authorities. Other than these challenges a huge population of migrant workers went through psychological and emotional trauma, all this led to an exodus of migrant workers, large masses of migrant workers started walking towards their homes on foot.

One of the major reasons for the sufferings of the migrant workers was the poor implementation of the ISMW Act, 1979 and Labour Laws in the country. During such hard times the Municipalities and the Panchayats play a significant role in providing basic amenities and protection to the migrant workers, but the Urban Local Bodies are itself in a huge mess, the finance of the Urban Local Bodies is in a poor state because of a variety of reasons. However there were various steps taken up by the Centre and the State Government to aid the migrant workers, certain guidelines were issued by the Central Government to the Urban Local Bodies on the movement of migrant workers. Even the Judiciary also stepped in this matter and the Supreme Court of India laid down certain directions for the Centre and State Government while reviewing the situation of migrant workers.

Even though the government took various steps to aid the migrant workers, the steps weren't effective. The Government could've adopted some more effective and spontaneous measures to deal with issues of migrant workers. The superior authorities need to make some long term policies for recognizing and providing ration and residence to the migrant workers so that such a problem does not arise in the coming future.

Key words: Lockdown, Migrant workers, exodus, Urban Local Bodies, ISMW Act 1979, Labour Laws

# A critical review on Consequences of urbanization and sustainable solutions for quality healthcare

· Swapnil Nimkar

## **Abstract**

**Context:** By 2050, 6.5 billion people are expected to live in urban cities with two-thirds of the projected world population in south East Asia and Africa regions. More than 2.5 billion urban dwellers are expected to be added to the world's population by 2050. 90 % of them are

considered to be in Africa and Asia. According to India 2020 publication recently, the unorganized sector in India accounts for 97 per cent of the workforce and the majority of them are migrants. Because of high density of these migrated individuals, provision of affordable housing to slum population is endemic challenge for cities in developing countries. Mumbai city constitute about 9.5 % of its slum area and 42 % urban poor population for whom the housing choice is not affordable. This situation hampers the quality of housing conditions in such places. On the account of this, urban rich and middle class population is more prone to non communicable diseases. Similarly, the urban poor are more prone to communicable diseases. This will lead cities to turn in dual wave of epidemics. The population density is the integral part of the globalization to achieve economic growth. The lack of basic services in urban slums has exacerbated the challenge to respond pandemics such as COVID 19 in many cities in India. There is strong possibility that global COVID 19 pandemic have set up to halt the trends of globalization with the fact of separating the population leading to increase the gaps and disinvestments. This may create the non conducive and non sustainable environment with less security and lack of international cooperation as well as less choice and higher price to people. On other side, the reverse migration will have impact on the scheduled health care services such as antenatal checkup, immunization and other essential services and lead people to get deprived of their basic human rights of availing quality health care services.

**Objectives:** To understand the consequences of urban development on migrants and to develop sustainable solutions for quality healthcare in Indian cities.

Methods: Around 10-15 articles were collected from various databases for making literature review. Articles were reviewed critically to assess the effects of migration on urban development with context to healthcare. Indian urban health is governed by multiple stakeholders such as Ministry of Health and Family Welfare, Urban Local Bodies, and respective state governments. As health is a state subject, and urban areas are major hubs of private healthcare delivery apart from government health facilities, it is superficially regulated due to existing complexities at ground level.

Recommendations: Municipal bodies and policy-makers need to plan for mitigating the impacts of urbanization on poverty, inequality, employment, services, transport, climate change and politics effectively by addressing interconnected issues. There is need to rethink about climate change and to invent the new model for urban health which may be replicable across the world. Additionally, there is need to fulfil the requirements of health facilities in the context of infrastructure and human resource deficits for strengthening health systems. It suggests policymakers to innovate the COVID responsive framework for all health programmes and recommend states to build strategic plans for mitigating the urban health inequalities in the view to achieve sustainable development goal II.

Key-words: urbanization, migrants, human rights, healthcare

# Socio-economic, legal situation of the migrant Adivasi labourers

Arunima Sharma

### **Abstract**

In the 21st century, the economic and infrastructural development is at its peak in India. And it would not be incorrect to say that the backbone of these urban developments is the millions of migrant workers who travel from their homes in rural areas to the urban India looking for minimum pay and a way to sustain their livelihood thus forming an informal, unorganised labour force. The contribution of footloose workers is not only seen in the urban areas but also in the Agricultural sector which observes a seasonal migration of workers depending on the type of crop grown. A large portion of these migrant workers include the Adivasi community. 'Adivasi' is used as an umbrella term for nomadic tribes in India. They indulge in footloose work which is arduous, low-status and of a menial pay at farms in the rural areas as well as construction centres in the urban areas. This paper primarily focuses on the socio-economic factors which induces the Adivasi community to migrate for work and the unequal and unjust treatment faced by them due to their low society status. Multiple legislations have been made for the protection of the labour force but these legislations are essentially for the benefit of the organised labour force. To fill this lacuna in the law, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979 was enacted which imposed a duty of handling the issues of the migrant labourers on the Central government, State government as well as the municipal bodies. But after almost 30 years from its enactment, the provisions seem to have a little impact in satisfying the needs of the migrant labourers. This paper analyses how the political and bureaucratic manner of implementation of the provisions of the Act does not placate the woes of the workers and the lack of accountability creates an environment of indifference towards the plight of the migrant labourers, in this case the Adivasi community, leading to failure of providing even the basic work requirements to them. There are also situations where the law officers regard the Adivasi labourers with a generic look of contempt and disdain due to their status in the society thus creating another barrier between the Adivasi community and their right of fair and just treatment. This not only violates the very principles of the Migrant workers Act but is also unconstitutional under Part III of the constitution which gives a set of fundamental rights including equality and nondiscrimination on the basis of caste, creed, etc. to every citizen of India.

# Inadequate Relief Packages for Migrants of COVID-19

Dr. R. Anthony Raj

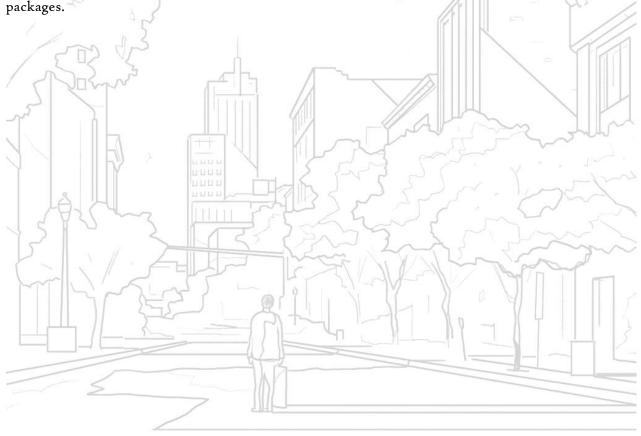
## **Abstract**

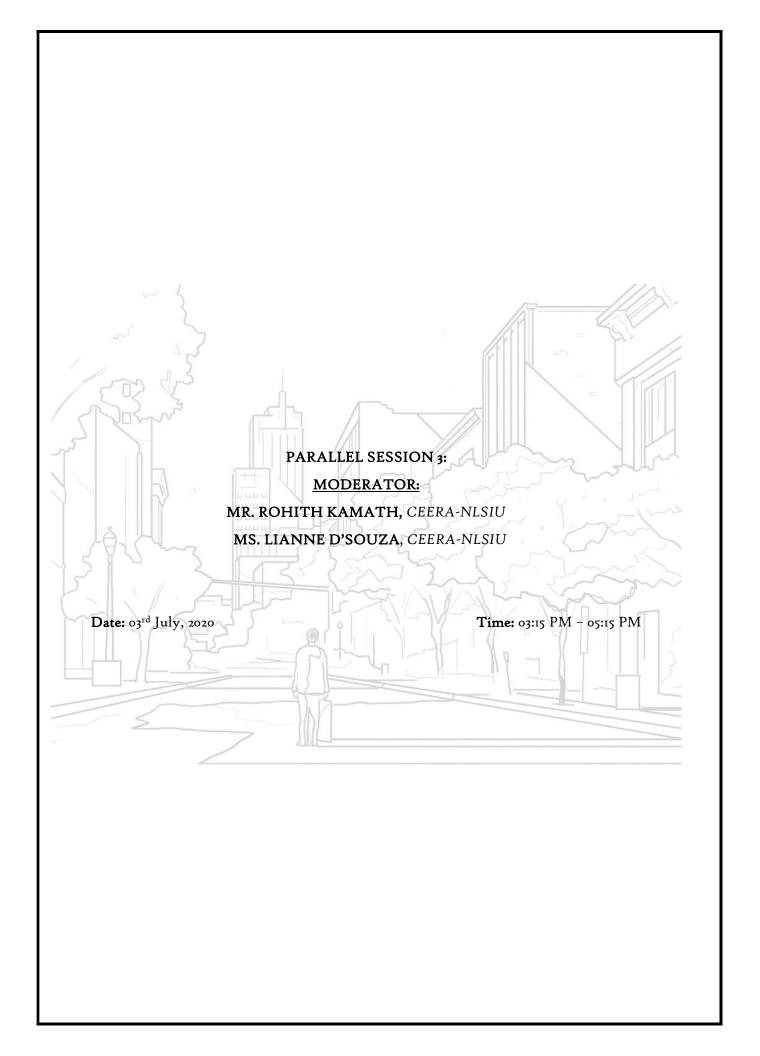
After a stressful lockdown period, thousands of Migrant workers have returned to their villages. They no longer yearn to get back to their work in the cities due to their terrible living condition in the cities and the shocking treatment meted out to them during the lockdown period.

NGOs and cooperative e federations, agencies such as the National Cooperative Union of India and labour unions can intervene and provide an opportunity to rebuild economic production through different institutional arrangements. Arrangements that can provide an optimal solution to the workers as well as contribute to the GDP must be made. It will also rebuild an India where cities are not congested and where the standard of living in rural areas will improve.

The return of the migrants brings to the source States an economic shock as there are no compensatory sources of livelihood. The poor States may find it difficult to sustain themselves without the remittances. This will not only cause demand side setbacks but also impact nutrition, health, education and the wellbeing of the older population

This paper describes how the migrants will not benefit from the Rs. 1.70 Crore relief package announced by the Central Government. Hence the State needs to think out of the box in delivery





# The Vulnerable Amongst the Vulnerable: Analysing the Impact of Natural Disasters on Migrant Workers In India

- Manju Priya S & Kusumika Sen

### Abstract

Sustainable Development focuses on meeting the needs of both present and future generations. The Sustainable Development Goals (SDG) that is adopted by the UN attempts to achieve a better sustainable future by 2030. Climate change poses as a challenge to achieve the goals of sustainable development. One of the inevitable effects of climate change is the increasing vulnerability of the world to natural disasters. When natural disaster occurs in an area, the entire population of that area is affected. However, the effects of natural disasters on the masses are not equal. This is more prominent in the places where the society is characterized by pre-existing structural inequalities and unequal power relations among the population. Migrant workers are one of the most vulnerable sections of the population and thus are affected more than the others. In that sense, the disaster is not the event of the natural hazard itself, but the process in which the disaster is mishandled.

The states have a general duty to frame a law or a policy that would attempt to make the population resilient to the effects of a disaster. This state intervention should be directed at increasing the capabilities of the vulnerables during a disaster and facilitating recovery and rehabilitation of those who are affected by the disasters. The paper would examine the specific vulnerabilities of the migrant workers before, during and after a natural disaster and the role of urban local bodies in increasing their capabilities. The authors argue that the current legal framework of disaster management and the role of the urban local bodies are inadequate to provide adequate protection to the migrant workers in an event of a natural disaster. It also draws focus on the plight of the women migrant workers who are in a more disadvantageous position in an event of a disaster. The article is an attempt towards a comprehensive analytical study of the Disaster Management Act, 2005, various local disaster management plans, government policies and the implementation of the same with respect to increasing capabilities of the migrant workers during a disaster in India.

This paper would address the following research questions-

- 1) Do the urban local bodies within the Indian legal framework increase the capabilities of the migrant workers during a disaster? If it does, whether it is implemented in reality or not?
- 2) If not, what modification can be made in the laws or efforts to increase the capability of those migrant workers?

## Health seeking behaviour and self-reported morbidity patterns of migrant labourers

-Joyshree Mandal & Dr. Lizy P.J

## **Abstract**

## Background

Migration occurs when people move from one place to another and when they intend to settle down temporarily or permanently in the new place for various reasons. Kerala has witnessed a large inflow of migrant workers from various parts of India. Higher wages, better job opportunities as well as shortage of local labourers the reasons for this situation, which has become the need of the hour and also become an integral part of the state.

Migration is a complex phenomenon and is changing rapidly. It changes from state to state in India. People migrate to have more opportunities in life but mobility results in poor continuity of care and simultaneously increases the health related issues. According to Rural Health Information Hub, Migratory and Seasonal Agricultural Workers (MSAWs) and their families face unique health challenges which result in significant health disparities. MSAWs experience serious health problems including diabetes, malnutrition, infectious diseases, pesticide poisoning, and injuries from work-related machinery. These critical health issues are exacerbated by the migratory culture of this population group, which makes it difficult to develop a relationship with a healthcare provider, maintain treatment regimens, and track health records. When the poorest migrate, in the context of limited resources and choices they often face conditions of vulnerability. Moreover, migrant labourers have limited protection from labour laws and face problems of social integration in Kerala which makes their life miserable. This study was designed to understand the health seeking behavior and the self-reported morbidity pattern of workers in unorganised sector.

Methods: This is a descriptive cross-sectional study of 128 interstate migrant labourers with the help of semi structured interview and two focus group discussions and one case study in Ernakulam district.

Results: The health condition is highly influenced by the health seeking behaviour. The study shows that 46.1% of the migrants approach medical/drug store for treatment instead of hospitals which is a very dangerous tendency among migrants. The main reason the migrants have reported is language problem and ignorance about the government health care facilities due to their low educational qualification. The use of smokeless tobacco products (43.7% pan masala) and consumption of alcohol (67.2%) is also high.

The self-reported morbidity pattern says almost 73.4% them suffers from fever, general body pain (63.3%), abdominal pain, dental problems and many. When enquired the duration of suffering from cough 92% of them reported in less than 2 weeks. Skin problem is one of the common problem in migrants, 51.5% of them suffered due to Rashes and 26.5% got allergies which is due to poor living and sanitation.

Key words- Health Seeking Behaviour, Self-reported Morbidity, migrant labourers

## Migration, Quality of life, Gender equality and the 2030 Agenda for Sustainable Development

Bincy C. C

## **Abstract**

Migration is becoming a global phenomenon having both positive and negative effects on multiple sectors. People migrate to overcome poverty, escape conflict, or cope with economic and environmental shocks. In the words of the UN Secretary-General, migration is 'an expression of the human aspiration for dignity, safety and a better future. Migration impacts on both the place left behind, and on the place where migrants settle. However, migration is very much a gendered phenomenon; gender norms and expectations, power relations, and unequal rights shape the migration choices and experiences of women as one of the most vulnerable group in the society. The quality of life of migrant women, whose physical, economic and social well-being is undermined by intersecting forms of discrimination linked to ethnicity, race and poverty. Women globally migrate at a rate similar to men but migration affects them differently, though their needs and issues are seldom considered in government policies or schemes (LeVoy, 2016). Every year, the migrant worker population in the state of Kerala increases by 2.35 lakh people (Rejimon, 2017). The study focuses on both discrimination and support encountered by migrant women in the host State. The present study utilized a socio-demographic profile and two standardized measures - Multidimensional Scale of Perceived Social support (Zimet, Dahlem, Zimet & Farley, 1988) and WHOQOL to assess the quality of life and social support in 100 sample from a district of Kerala. Migration is one of the defining features of the 21st century and can contribute to achieving the Sustainable Development Goals (SDGs). This paper discusses the relationships across the 2030 agenda and the impact of migration on female migrants because they are most likely to be 'left behind' in progress towards the 2030 Agenda. The paper suggests the needed changes to be adopted to provide better well-being amenities for the women migrant workers, thereby being able to reduce the threat of discrimination as well as to improve the quality of life.

Key words: Women migrant workers, Quality of life, social support, Sustainable Development Goals

Amelioration of Migrant Workers' Quality of Life and Role of Urban Local Bodies in Karnataka

Lekshmi Priya\*

## ABSTRACT:

The State of Karnataka is heavily depended on the migrant workers especially in the Construction sector and this dependency has made it a key destination site for migration. However, the hands that helped build Karnataka, ushering it into the path of development and comfort are living in slums ostracised with no basic amnesties. The COVID-19 pandemic has thrown their plight into limelight. As part of an unorganised sector, majority of them lack access to health and sanitary or better housing facilities and often are unable to bargain for fair wages, working hours or any other social security measures. Many of the Government policies or employments are unavailable for them due to

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stringent domicile or local language requirement showing their unfavoured status in the light of the common knowledge that the construction migrants move from place to place with the flow of their construction jobs. Further, the responsibility to provide them with better housing and living conditions falls on three actors, one is on the ULB or State Governments in general as they owe responsibility to the construction migrants for improving their welfare as they are also human beings with fundamental rights and basic human rights guaranteed by the State. They also owe a responsibility to the general public for better quality of life by ensuring better living conditions to the migrants and thus containing any spread of infectious disease due to unsanitary and other conditions prevalent in migrants' slums or colonies. Sates or ULBs have proactively tried to remove encroachments rather than acknowledging and providing a solution to their housing problems. Secondly, the responsibility lies on landowners renting their vacant lands and premises to the migrants neglecting basic sanitary or housing needs. Thirdly, it is the responsibility of employer to assure basic living conditions and quality of life to the construction migrants employed by them. State and Urban Local Bodies intervention is the only key to alleviate their living conditions. This paper attempts to critically analyse the living conditions of this invisible background population and the reason for their continued existence in demeaning environment identifying, inter alia, the lack of equity in welfare schemes and general apathy. The paper also attempts to lay down measures that can be adopted by Urban Local Bodies and State to assure them with basic human rights.

Keywords: Construction sector, Migrant Workers, Social Security Measures, Health conditions, Sanitation, Fair wages, Domicile, Slums, Quality of Life, Housing, Urban Local Bodies, Diseases, Encroachments, welfare schemes

# Plight of Migrant workers amidst Covid-19

Sruthi Kannan

## Abstract

In the wake of the COVID-19, the most affected is the marginalized section of the society which majorly includes migrant workers. The paper throws light on the major issues faced by these workers relating to food, shelter, healthcare, financial crisis, the fear of getting infected and spreading the disease. It highlights all the major remedies provided by the Indian government to help the migrant workers and critically analysis their enforceability. The paper will also deal with the loopholes in the applicability of these remedies and the lacunas on government's part in their application.

The paper will explore the viewpoints of the migrant workers on their pitiful plight by assessing the interviews conducted by various news channels and other mediums. Many of these workers are stuck on State borders due to different set of reasons. It also focuses on outlining the major difficulties that this class of citizens will face as the labor laws have been revoked for longer durations in many parts of the nation so as to bring back the acceleration in the economy and development of the States. These laws protected these laborers from exploitation at their respective workplaces which are now evidently revoked hence, opening the doors of discrimination and exploitation at workplace for these workers.

These workers migrate from their native states or districts in search of work and a source of income. Due to lockdown, their daily wages have been ceased leading to anxiety and mental stress as their families are completely dependent on these wages, leading to many psychological issues faced by these workers amidst the lockdown period.

Towards the end, the paper points out major loopholes in the present remedies and required amendments to make these remedies more effective and beneficial to the migrant workers. It would also suggest Alternate measures that can be taken up by the government to ensure speedy recovery of the working environment for these workers and various other significant actions that can be implemented by the government to eradicate the issues faced by these workers and to supply them ample job opportunities.

# Urban Missions and Schemes in Relation to Migrant Workers

Nitesh Mahech

## Abstract

"The recent spread of COVID-19 virus in a developing country like India has affected very badly with exploding population, increasing urbanization rate and regional disparities. In order to control this virus, many lockdown have been imposed by various government of different states. In this unprecedented situation, COVID-19 has also exposed the foundational lacunas in the system which led to mass exodus of the migrant workers rushing back to their hometowns. The migrant workers are often known as the red back-bone and builders of the city since they contribute a major part in the economy development of the country. However, due to sheer number of population, there have been various challenges faced by the government to provide housing facilities to the migrant workers in urban areas amidst increase in the number of infections on a daily basis. This research paper would elucidate the concept of urban missions for migrant workers and the policies available for them. Further, this research paper would be dealing with the analysis of various schemes launched by the government in this outbreak for the migrant workers affected by coronavirus lockdown. And at the end, this research paper would highlight the real difficulties faced by the migrant workers and the challenges concerning with the implementations of schemes."

Keywords: Urban Missions, Coronavirus, Migrant Workers and Schemes for Migrant Workers.

# Urban Local Bodies and Welfare of the needy people

Abhinesh Soni

# **Abstract**

In the recent unprecedented condition, it is evident that India is a vast country and cannot be governed by one centralized power and thus these situations call for a decentralized approach in fighting the menace of Covid-19. There is dire need that these conditions are tackled with a measure of cooperation and coordination between the centre, state and local government. The paper essentially focusses on

how to enhance a relationship between centre and state and further focuses in devolution of responsibilities and power and effectively implementing Constitutional Amendments 73 and 74. The paper has used Kerala government 'Kudumashree program to explain the importance of delegating and distributing program and how urban local government and other local entities have worked together in dealing with the crisis and improving the life of migrant and the people in need. The paper attempts to provide as to how these can urban local bodies can be used to improve the conditions of migrants labours and how they can use these bodies to provide them the essential amenities and how the urban local bodies be empowered and view as independent powerful government and not as an extension of the state government. The paper further points out the importance of improving the life of people working in these local bodies and emphasizes the care needed for these people under the different scheme of the government. Also the importance of transparency for allocation of resources in these local bodies is a must and lastly the paper also figures out the reason for unsuccessful use of amendment 73 and 74th over the years since their inception and inclusion in the constitution and importance of improving the local bodies for the present fight and post covid. The paper concludes that 73<sup>rd</sup> and 74<sup>th</sup> amendments are very imperative for the countries effective functioning and coping up from the unforeseen crisis. Thus, the paper suggests for instituting and implementing these amendments in the true sense and empower the local governments.

# Shramik special trains and Migrant Labourers: a special focus on Bihar

Dr. S Kannan

## Abstract

In view of COVID-19 pandemic, many stranded migrants and their family members unable to reach their native place due to stoppage of trains and other modes of transport all over India to stop the infection of COVID-19 virus. Ministry of Railways in association with the state government facilitated to send them to their native places by arrangement of special trains referred as Sharmik special express. The guidelines was published to book train tickets and the concerned state should take of necessary arrangements for the requirements. In this context, the present study will analyse the secondary sources information released by the Railways Protection Force to analyse the region-wise movement of migrant labour and the problems faced by them with few case studies collected from standard newspaper. The study also focus on the problems faced by the government and also the state and its impact on the receiving states. At the end the study suggest few measures to handle the migrant labourers and their employment prospects to manage their livelihood.

# ULBs and Protection of Women migrant workers and children

Shubham Gade

## Abstract

Marathwada from Maharashtra is the largest region to provide migrant cane-cutter workers throughout the state. Food, clothing and shelter are the essential requirements for every human being. A migrant woman majorly feels the need of clothing and shelter to maintain hygiene during their

menstruation period. They couldn't manage their hygiene due to insufficient water and lack of sanitation facilities. If these women miss their work during their periods their wage is deduced. Therefore, to avoid such deduction they continue to work in spite of maintaining their hygiene. These unhygienic habits lead to the white and red discharge from their body. Doctors due to the commercial interest spread the rumour that a white or red discharge would result in cancer. To maintain their work efficiency, the contractors give them an advance for the surgery and that money is recovered from their wage. Women are made to believe that womb is useless part after giving birth to children; Therefore, village after village is found where hysterectomy is being done on the women at the age of 21-23. Researchers in the present research paper aims to focus on social security legislations providing working conditions and health facilities to the migrant women and insight into evil of hysterectomy and legislative framework to eradicate it.

# Exploitation of Migrant workers in Smart Cities: The Continuing Violation of Human Rights

Sanyukta Moitra & Sukla Saha

## Abstract

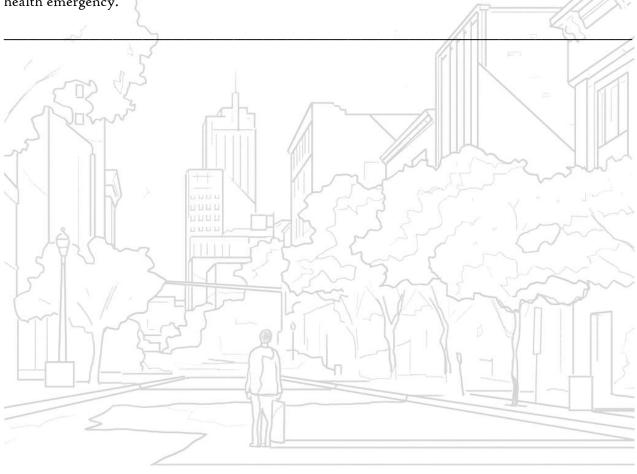
The emergence of the concept of smart city as a benchmark for development and reforms led to the creation of high rise buildings, malls, shopping complexes, townships with modern amenities. The urban planners who aim at developing their entire ecosystem often fail to value the contribution made by these vulnerable groups and violate their rights.

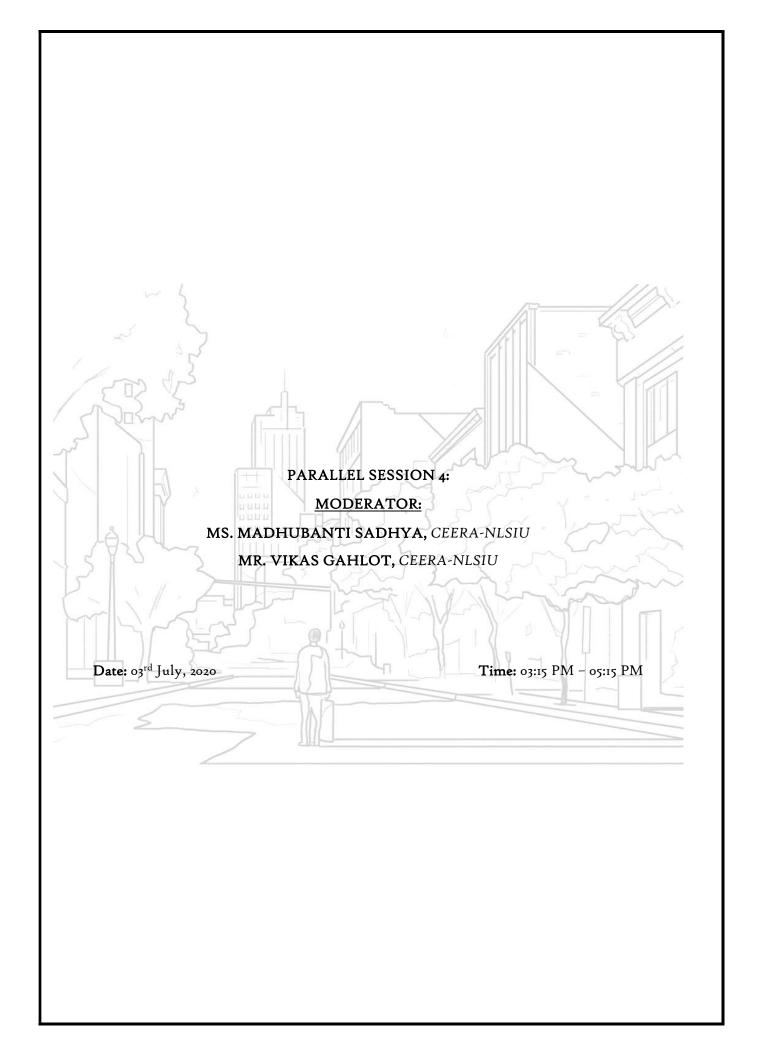
Today across the world, the magnificent structures that we admire are built on the blood and sweat of the workers migrating from poor countries working in extreme weather conditions, and often end up getting trapped in the ambiguous work contracts. These displaced migrants are huge in number, and most of the times there aspirations of a better life remain unaccomplished and they are further thrown into the den of uncertainty grief and disentitlement and seldom get chances to unite with their families again.

Indian cities are also not far behind in exploiting migrant workers who leave their villages with the hope of a better life and expect increase in the standard of living. Inter-state migration is in practice since late seventies and today 10 % to 20% of the workforce in megacities come from villages. According to Census, 2011, the migrant workers in cities provide vital economic support to villages and create an undeniable rural-urban link.

Although the constitution places labour laws in the Concurrent List, making both the Central and the state governments competent to enact legislations on the labour force, these legislations have not significantly improved their situation. Moreover, the contractors, employers and policy makers have often overlooked their priorities. The treatment meted out towards the migrant workers by these so called smart cities have ruined generations depriving them of their basic human rights. The children accompanying these workers are often engaged in the workforce and are paid as a family unit. They experience poor nutritional and health outcomes as a result of poor conditions at their parent's workplace depriving them of their childhood.

To make matters worse, the outbreak of the lethal COVID-19 pandemic has given rise to human rights violations across the country. The nationwide lockdown was a big blow to these workers who were denied transport to return to their villages. Families of these workers were found helpless stranded in railway stations, bus stands begging for their safe return to villages. In due course around 10 million migrant workers fled India's megacities, afraid to be unemployed, hungry and far from their families. Their absence from work is likely to reduce the amount of remittances their families received from city and already poor families will be even worse off and burden the states. With the uncertainty of future prospects and fear associated with the virus, the migrant workers are placed at greater risk. The present paper is a modest attempt to delve into these areas and seek remedies to ensure protection of these vulnerable groups from further exploitation in the megacities amidst the health emergency.





# Barriers to Health Care Services for Hospitalized Migrants

Rajendra Ambudas Shendage & Dr. Lizy P J

## **Abstract**

Migrants are working in high-risk areas like construction, chemical industries, transporting, which will have higher chances of affecting their health and well-being. They are exposed to multiple health risks and may also have different disease profiles than residents of the host population. They, particularly those in marginalised situations, face significant barriers in access to quality health care. In the context of the migration health, migrant workers are underprivileged and weaker sections in society. Hospitalized migrant workers are facing difficulties in communication and also face economic and accommodation problems in the hospital. Appropriate treatment in hospitals depends on the successful communication between hospital staff and patients. Consequently, migrant patients can be particularly challenging for hospital staff. They don't have sufficient support mechanisms for getting proper health care facilities and thereby improving health. Management of migrant healthcare is a significant challenge. The World Health Organization considers the right to healthcare as a fundamental human right, although utilization and access to healthcare differs for migrants and non-migrants. The needs and access to healthcare of migrants may be affected by their adverse living and working conditions, discrimination, and diminished socio-economic opportunities.

Aim: This study is aimed to explore the barriers to health care services to the hospitalized migrant workers and to analyse the support mechanisms that are available to them. It was conducted among 60 migrant workers who were hospitalized in 7 hospitals in Ernakulum district in Kerala, which includes 3 government hospitals and 4 private hospitals. Data was collected through a self-constructed interview schedule. Results: Analysis of the data showed: there are multiple barriers and challenges that emerge in the care of migrant patients. These challenges influence each other and appear at different moments in the hospital stay. 73% migrants faced communication problems and 71.7% of them do not benefit from health insurance schemes. 91.7% of them feel that health expenditures is an extra burden for family economy. A considerable proportion of migrants reported having difficulties in accessing healthcare services, where legally these barriers are non-existent. There are increased need for professional intervention to support the migrants and their families.

Key words: Hospitalized migrant worker, health care services and barriers.

# Unending plight of Migrant Workers: COVID-19 and the Suspension of Labour Laws

· Milind Rajarathinam & Srishti Bhargav

## Abstract

Rapid industrialization has contributed to the migration of a significant part of the working population from rural to urban areas. According to the 15th Indian Census (2011), India has a total

migrant population of 454 million<sup>3</sup>. Although there is no official data on the inter-state migrants, some studies based on the 2011 census estimate that there more than 65 million inter-state migrants in India, out of which 33 percent are workers<sup>4</sup>. The majority of these migrant workers are unskilled, illiterate and unable to understand the urban labour market as most of them belong to vulnerable communities and backward regions. Owing to these reasons, they are often trapped in exploitative labour arrangements where they are subjected to indecent working environment, violence, abuse and victimization at the hands of their employers.

In order to improve the conditions of these workers, the Government of India has enacted more than 40 central legislations aimed at the welfare of workers, but most of these legislations have benefited only the workers in the organized sectors and left out those in the unorganized sectors. It is pertinent to note that more than 90% of the laborers in India work in the unorganized sectors but despite this, the current policies have largely failed in providing any form of social or legal protection to these vulnerable sections of the society<sup>5</sup>. Although India has a special legislation, viz. the Inter-State Migrant Workers Act, 1979, aiming towards safeguarding the interest of migrant workers, it has become obsolete and is rarely enforced anywhere. To add to their sufferings, the sudden announcement of nationwide lockdown, with the short notice of 4 hours on 24<sup>th</sup> March 2020 due to COVID-19, left them unemployed and led to the overnight exodus of these migrant workers from cities to their hometowns across various states in India.

All these migrant workers make a significant contribution to the economy, but during this phase of the migrant crisis, instead of providing them with sufficient support, many states, such as Madhya Pradesh, Uttar Pradesh and Gujarat have suspended most of their labour laws to incentivize economic activity and attract more investment to their states<sup>6</sup>. Since India is one of the founding members of the International Labour Organization (ILO) and has ratified 47 ILO conventions, the ILO has expressed its deep concern over the suspension of these labour laws. The ILO has asked the concerned authorities of these states to ensure adherence to the international labour standards while suspending their labour laws, or else it will not only enhance the exploitation of these workers but also cause them additional distress<sup>7</sup>.

In this paper, the authors analyze the existing legal framework for the welfare and protection of the rights of migrant workers in India in the light of international labour standards. Furthermore, the

<sup>&</sup>lt;sup>3</sup> Data on Migration 2011, Office of the Registrar General & Census Commissioner, India, (June 23, 2020, 10:04 AM), <a href="https://censusindia.gov.in/2011census/migration.html">https://censusindia.gov.in/2011census/migration.html</a>

<sup>&</sup>lt;sup>4</sup> A Review on India's Migration Issue, Immigration Policy and Solutions, The Policy Times, (June 23, 2020, 10:10 AM), <a href="https://thepolicytimes.com/a-review-on-indias-migration-issue-immigration-policy-and-solutions-i-prof-amitabh-kundu-i-ris/">https://thepolicytimes.com/a-review-on-indias-migration-issue-immigration-policy-and-solutions-i-prof-amitabh-kundu-i-ris/</a>

<sup>&</sup>lt;sup>5</sup> Informal Employment Trends in the Indian Economy, International Labour Organization, (June 23, 2020, 10:10 AM), <a href="https://www.ilo.org/wcmsp5/groups/public/---ed">https://www.ilo.org/wcmsp5/groups/public/---ed</a> emp/---ifp skills/documents/publication/wcms 734503.pdf

<sup>&</sup>lt;sup>6</sup> India: Suspension Of Labour Laws Amidst Covid-19, Mondaq, (June 23, 2020, 10:24 AM), <a href="https://www.mondaq.com/india/employment-and-workforce-wellbeing/935398/suspension-of-labour-laws-amidst-covid-19">https://www.mondaq.com/india/employment-and-workforce-wellbeing/935398/suspension-of-labour-laws-amidst-covid-19</a>
<sup>7</sup> India & the ILO, Ministry of Labour & Employment, (June 23, 2020, 10:30 AM) <a href="https://labour.gov.in/lcandilasdivision/india-ilo">https://labour.gov.in/lcandilasdivision/india-ilo</a>

constitutionality of the suspension of labour laws along with its impact on the migrant crisis is also discussed.

# A study on The Social wellbeing among the Migrant Workers at Vazhakulam Panchayat, Ernakulam District

- Anjana Balaji & Dr. Sunirose IP

## **Abstract**

Background: The aim of the study is to understand the social wellbeing among the migrant worker at Vazhakulam Panchayat, Ernakulam district. Social wellbeing involves the ability to form satisfying interpersonal relationships with others. It also relates to the ability to adapt comfortably to different social situations and act appropriately in a variety of settings. The study focuses if the determinants of the social wellbeing such as Social Integration, Social Contribution, Social Coherence, Social actualisation and Social Acceptance is present and satisfied among the migrant workers in Ernakulam district. The backwardness of migrant workers in Kerala stems from limited employment opportunities and acceptance. The lack of social connection and education has kept the migrant workers out of the commendable livelihood development in Kerala. This is an empirical analysis of the determinants of social wellbeing practices among the migrant worker.

**Methodology:** This is a descriptive study of the social wellbeing among the migrant workers at Vazhakulam Panchayat, Ernakulam district. The key objective was to understand the social wellbeing determinants among the migrant workers. The study was conducted among sixty migrant workers from Vazhakulam Panchayat.

Result: The determinants of social wellbeing are social Integration, Social Acceptance, Social Actualization, Social Coherence, Social Contribution. It was found that 17% of the migrant workers have very high social wellbeing, 33% of the migrants have high social wellbeing, 37% of the migrant workers have low social wellbeing and 13% of migrant workers have very low social wellbeing.

Conclusion: The above result discloses that the migrant workers are bounded with various social factors that affect their social relationships. But it is also found that there is a positive attitude towards the migrant workers and progression in their lives and discrimination towards them is declining. Keeping in mind that migrant workers contribute largely to the unskilled labour force in Kerala, there must be relevant measures to protect them and their rights. This study focuses on the Importance of social wellbeing, which is very important in each of our lives as it plays a major role in contribution of good mental health, good physical health and the ability to form meaningful relationships with other people and interact in a healthy and positive manner.

**Key words:** Migrant workers, Social wellbeing, Social Integration, Social Integration, Social Contribution, Social Coherence, Social actualisation and Social Acceptance.

# Analysing Labour Welfare in India: with respect to Inter-State Migrant Workers

## Abstract

In a span of a few decades India has been through a litany of social and economic changes, many of which stem from the phenomenon of globalisation and the age of information, and others are merely signs of disproportionate developments and misplaced bureaucratic intentions. This climate of uncertainty has broken down age old, stable economic ecosystems of the rural India, forcing millions to venture out in search livelihoods. However, even with this historic surge in the numbers of interstate migrant labourers, the present Indian legal scenario has rendered them more vulnerable than ever. Governments overs the years have strived to instil several welfare schemes for the growing army of migrant workers, such schemes and legislations have often been deemed as a strangulating force for growing industries and small business, yet, they remained to provide the migrant workers a legal cushion from exploitation. The outbreak of the coronavirus, and the hasty implementation of a nationwide lockdown, has laid bare all the underlying flaws and inconsistencies of the welfare system. It can be argued that the circumstances presented were unprecedented, but the differential treatment meted out the different classes of Indian citizens, reveals an intentional blind spot in bureaucratic response. So, the schemes and the reality lie at odds with each other. Migrant labourers, especially in the informal sector, have a particularly vulnerable disposition as they lack all means and forms of economic, social and legislative bulwarks, and hence, rely heavily on the promised welfare. In a pathbreaking attempt at reforming labour laws, the Occupational Safety, Health and Working Conditions Code of 2019, was tabled at the Parliament which proposed to merge thirteen labour laws into a single concrete legislation, among the thirteen was the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979, the effects of this legislative change can be for the better or for the worse. This paper attempts to analyse the reasons for interstate migration, the development of legal frameworks and welfare mechanisms in place, their execution thereof, and the changes that will be brought about by the implementation of the Occupational Safety, Health and Working Conditions Code of 2019, changes that can potentially transform the landscape of Labour Welfare in India.

Keywords: Migrant workers, Labour Welfare, Labour Law, Occupational Safety, Health and Working Conditions Code of 2019

# Urban Local Bodies and Protection of Women migrant workers and children

Vaishnavi Naik

# **Abstract**

Migration of Labour in search of employment and improved livelihood in India has been a crucial issue. Ninety-two per cent of the 20 million domestic workers in the country are women and children, and 20% of these females are under 14 years of age.<sup>8</sup> Migration is an impediment for

<sup>&</sup>lt;sup>8</sup> Banerjee A, Raju S, Gendered mobility: women migrants and work in urban India, 54 Econ Pol Wkly, 115-23 (2009).

accessing education, particularly for children. Migrants do not constitute a homogeneous category, and they are segmented along gender, class, ethnicity, language and religion. Women and children remain among the most invisible and vulnerable groups among migrants. A gender perspective on migration is imperative, since women have significantly different migration motivations, patterns, options and challenges from men. The integration of a gender perspective is, therefore, essential to the analysis of the position of female migrants and the development of policies to counter discrimination, exploitation and abuse.

Children are entitled to legal protection, Education, basic amenities, health care and proper sanitization. However children of migrant workers are often engaged in occupations which are as dangerous as those in which the adults are engaged. Thus, the children are exposed to health problems and occupational hazards similar to those faced by the adults. This hampers the overall growth and development of the child.

In this regard urban local bodies (ULB) play a pivotal role in protecting the women migrant workers and children. They are the main actors of governance at local level. The objective of ULBs is to ensure that suitable levels of infrastructure and services are available to the citizens. The discrepancies faced by migrant workers can be effectively addressed by implementing laws and schemes by the ULBs.

Labour laws aiming to protect migrant workers have remained largely on paper. This research paper will address the lacunae's in Labour Laws, the issues faced by women migrant workers during the corona virus pandemic. This paper also attempts to get a close view of the functioning of urban local bodies towards protecting women migrant workers. Reasonable suggestions that can be adopted include creation of inter-district and inter-state coordination committees to jointly plan institutional arrangements between administrative jurisdictions of sending and receiving areas to ensure service delivery. Equip worksites with on-site or near-site mobile crèches, integrated child development services and day care centres for children (for example, Mobile Crèches, Delhi), hostel and accommodation facility for unaccompanied women migrants and civic amenities for basic sanitation and hygiene.

Adopting pro-poor development strategies in backward areas, promotion of public private partnership to aid migrant workers, increased access to land, providing them with sustainable livelihood and promoting more programmes such as MGNREGA, food security programmes. Establish migrant labour cells in each state labour department with the support of the Labour Ministry.

Keywords: Women migrant workers, Urban Local Bodies, Children, Protection.

# Transforming Urban Governance through Right to the City: A Legal Tool for Ameliorating the Rights of Migrant Workers

Manohar Samal

**Abstract** 

The right to the city was formalised in the international sphere through the Habitat III Policy Papers. It is a right possessed by all the inhabitants of a city, to occupy, use and produce inclusive, just and sustainable cities covering all the aspects which are essential to the quality of life. The right to the city also implies responsibilities upon governments which includes local self-government institutions and also the general people, to claim, defend, and promote the right. This right has close ties with urban governance, human rights and sustainable sciences. In the Indian context, the Delhi High Court has already traced the existence of the right to the city under Article 21 of the Constitution while providing relief to informal settlers who faced illegal destruction of their settlements in the case of Ajay Maken & Others v. Union of India & Others, Writ Petition (Civil) No. 11616/2015 along with Civil Miscellaneous Applications No. 31234/15, 3033/16 and 10640/17 (2019) (Del.).

It is indeed undeniable that the present conditions in which migrant workers have to survive in urban areas are extremely deplorable and any form of access to basic urban facilities which is indispensable for basic living and survival have been snatched away due to lackadaisical urban governance. The present research will be aimed at envisaging how the right to the city can fit into the current legal system in India to facilitate the protection of urban and basic human rights of migrant workers. This will be done by showcasing how the right to the city can be accommodated in the Indian Constitution and as well as how it can be formalised in statutory law form, keeping in mind the functions and responsibilities of urban local bodies, provided under the Twelfth Schedule of the Constitution. Therefore, concomitants of the right to the city will be discussed such as housing, access to basic urban services such as sanitation, water, electricity and domestic waste disposal, access to public transport, safety and health of migrant workers alongside urban governance by the Central and State Governments and subordinate legislation adopted by urban local bodies to highlight the lacunae and provide suggestions for achieving sustainable urban development and simultaneously, the preservation of basic human rights of the migrant workers. In order to ensure effective results that will enable the implementation of the right to the city, not only the theoretical and substantive aspects of the right's implementation, but also the ground realities of urban governance will be highlighted so as to ensure a balance between resolution of problems faced by urban local bodies and as well as to maximise the preservation of the rights of migrant workers.

# Predicament of Migrant Workers vis-a-viz Pandemonium of Gig Economy

- Aishwarya Pandey & Som Dutt Vyas

### **Abstract**

Amidst the global pandemic of the Novel Corona Virus, the government of India took a dauting and unprecedented move of introducing a series of Nation-wide lockdown which began from 24<sup>th</sup> March, 2020. Unsurprisingly, our elocutionist demagogues did not pay any heed to the consequences and predicaments the common man of this country would suffer through, due to their rhetorical nature of haphazard plans to combat a staggering stallion which came crashing down on the impoverished populace.

The worst hit section of the social start were the migrant workers of this nation. At the stroke of Midnight, migrant workers became aliens in double sense. With the abrupt imposition of lockdown

as a contraceptive measure against the dreaded virus, India became witness to the mass exodus of migrant workers at the end of march. The hands that fed us became the hand to mouth, the hands who built for us were rendered homeless, the hands that helped us were rendered hapless.

Such was the misery of the migrant workers that they were stripped off their one of the basic and most pristine right of which is guaranteed to each and every citizen of this nation i.e. right to life. These workers lost their basic human dignity overnight due to the ill planned lockdown as they were alienated from the very industries they were serving in and were shunned away by their employees. Furthermore, due to the nature of their economic schemes i.e. the gig economy, they were steered away to oblivion during such testing times and were practically left jobless and were soldered to the lands which provided them with an eerie and obscure future.

Some of these Migrant Workers were deployed in seasonal metier i.e. they shuffled their livelihood with industrial services in urban areas and deployed in agriculturally based services in their native lands. Due to the harsh and unfavourable nature of lockdown they were stuck unwillingly in urban jungles with hungry bellies and no hand to feed. With this prima facie exordium of my topic, we would now like to include a basic layout of what we are going to discuss in detail with the aid of this research paper. Following are certain key pointers which we would focus in depth with our research work to provide a comprehensive understanding about the said topic. Furthermore, out research work would not be only limited to these pointers.

- In depth outlook over the concept of gig economy with its pros and cons in the current scenario.
- Analysis of predicaments faced by Migrant Workers during the testing times of a global pandemic.
- Certain Lacunas with respect to the concept of gig economy along with the current state of
  affairs regarding the plight of migrant workers.
- Role of Urban Local Bodies and Certain non-state actors to combat the adverse effects of lockdown which caused massive rifts in the lives of migrant workers
- Certain in-depth studies regarding certain models incorporated by state and central government in pursuit to combat Covid-19 which were either effective or adversely negative for the migrant workers
- Legal rights of migrant workers which were thwarted apart by the very government they
- Lastly, while considering the rampant rise in corona virus cases I will include certain suggestions and model as in pursuit to aid the irrefutably wronged migrant workers, so that the future they see is that of beaming radiance rather than being tenaciously murky.

<sup>&</sup>lt;sup>9</sup> Article 21 of the Constitution

# 'Gig Economy': Legal Status of Migrant workers in India

- Shaguftha Anjum and Madhu

### Abstract

In India, nearly 56 % of the workforce comes under the umbrella of the Gig Economy. Gig Economy is known as Freelancer economy/ Platform economy/ the sharing economy is a new concept in the world of work that operates through a web-based platform or location-based platform. This type of temporary employment runs on the motto of *providing service on demand for hire*. Some of the key players in this market are Non-State Actors such as Ola, Uber, Airbnb, OneFineStay, HopSkipDrive, ParkingPanda, AmazonFlex, etc. Due to the unregulated market and short-term engagement with the hiring Organization, this informal sector gets deprived of Social Security benefits under labour legislation and fundamental rights under the Constitution of India. Internal migrant workers who are an integral part of the Gig workforce suffer from dislocation, anxiety, the taint of being migrant workers/illegal occupants in the State of employment, human rights violations, and lack of government support. Since hiring is done as a *quick-fix* mode to suit elastic lifestyles of clients, these workers get underpaid with less job security, long working hours, inhumane work conditions, physical or mental abuse, incentives based on an unreasonable target to achieve, lack of health benefits, lack of formal contracts, and absence of legal recourse in case of adversities.

Lack of credible data on seasonal or circular migrants, inefficient legal machinery to streamline, State's neglected approach has worsened the social, cultural, economic, psychological, physical, and overall development of this wandering class. Further to add to their agony, these internal migrants don't take an active part in the formal electoral system as they are denied right to the adult franchise due to domicile issues. The pandemic lockdown 1.0 that triggered reverse migration opened the plight of migrant workers such as loss of livelihood, deplorable sanitary conditions in the shelter homes, food insecurity, right to live with security, ostracism, the stigma of the potential carrier of the infection and denial of the right to freedom of movement from State of employment to the State of residence. The Hon'ble Supreme Court through beneficial construction has provided reliefs to this marginalized class by directing speedy means of transport to return home, welfare programs, freehealth screening, job opportunities, and withdrawal of prosecution proceedings or complaints of such returnees under the Disaster Management Act.

Hence, it becomes a paramount duty on the State under Directive Principles of State Policy and under the Guiding Principles of Internal Displacement known as Deng Principles to regularize Gig sector – Migrant Workers under Labour laws and ensure Socio-Economic Democracy.

Key words: Gig economy, Migrant workers, Labour laws, Constitution of India, Supreme Court, International Conventions.

# Implementation of Interstate Migrant Workers Act,1979 during Pandemic - An Analysis

Dr. Shilpa M L

## **Abstract**

Since the past few months it has been noticed that the migrant workers are moving back to their hometowns after a sudden lockdown which took place in India due to the pandemic Covid-19. This situation has led the migrant workers in crisis which is promptly a challenging consequence. On one side the lock down is a first step to arrest spread of deadly virus but on the other hand it took the lives of many migrant workers where majority of them who were daily wage earners took high ways to get back to their villagers on foot for several hundred kilo meter, some dead in road accidents, a few due to fatigue brought by the perilous journey under the scorching sun.

This sad incident puts a question as to the efficacy of Interstate Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979 and the role of the Chief Labour Commissioner (CLC) in its enforcing. The vision over the recent plight of the migrant workers ascetically evidences that the provisions have proved to be inadequate to address the migrant labourers social and economic marginalization. In this background the researcher in the present article makes an attempt to know the responsibility of the Central and State government to protect the rights of the migrant workers as enshrined in the Interstate Migrants Act, 1979 during pandemic and also the lacunas that prevails in the Act which will not rescue of the migrant workers during pandemic and many pros and cons.

# Migrant Crisis: Classification of Workforce in a Gig Economy & Proposal for a Regulatory Framework

Shristi Borthakur & Trushita Shrivastav

### Abstract

Every moment in time that we move ahead, the human civilization constantly evolves and changes the very definition of life, which leads to an ever-changing way of living. The understanding and the functioning of the economy and the workforce has not shied away from evolution. With rapid technological advancements and changes in patterns of consumption, there has been a changing labour requirement couples with change in methods of earning money. This essentially has laid down the groundwork for what is understood as a "gig economy", which as the name suggests, refers to temporary or freelance employment. In the recent migrant crisis, the concept of a gig economy is come to the limelight. Although it is viewed as something that is here to stay, the migrant crisis brought to light the inherent lacunas in the framework, coupled with a peculiar absence of meaningful policy and legislation.

Based on the premise laid down above, the present paper, primarily, seeks to define the gig economy, in contrast with the traditional workforce. In doing so, it is the proposal of the authors that workers in a gig economy are differently placed, although they are subject to similar terms of employment. The paper proposes a classification of workers in a gig economy, as skilled, or semi-skilled, on one hand, and unskilled on the other, and elaborates on the degree of dependence on the economy. Placing

migrant labour in the latter category, the paper presents the varying perceptions of the economy in these two categories. The former category has the privilege of participating in the gig economy as a life choice, or as a bridge course to equip themselves with the needs and skills of permanent employment. However, the migrant labours falling in the latter category, the gig economy is the ultimate destination that fosters their exit from abject poverty or other social woes in their place of origin, but at the same time closed any other chance of rising further ahead. The gig economy to them, essentially present itself as "double-edged sword" which delegates them to an intermediary social class comprising of the urban poor. For this class of workers, the gig economy has the potential of becoming a trap that takes away any further possibility of financial and economic growth. The embellishments and advantages of a "gig" that prevalent in the former category is absent in the latter.

The above laid down distinction, explains how the absence of adequate policy and regulatory framework under the umbrella labour framework has resulted in the failure of gig economy, and ultimately in the breakdown of modern economy itself. It seeks to explain how such absence is the sole cause of the migrant crisis, and its effects are still continuing. In proposing adequate measures and polices, the paper calls for a new labour framework that is developed keeping in mind the classification explained in the preceding part. The authors seek to balance the chances that the economy afford to both these categories of workers, which an aim to avoid such similar crisis in the future. The paper concludes with the notion that the flaws do not exist in the idea of gig economy, but in the framework, or rather the lack of one, in which it plays out. With the changing nature of the labour market and consumption, as explained in the introduction, a gig economy cannot be done away with, which all the more necessitates the need for evolved labour law and policies.

