

Seasonal Migrants: An Excluded Population from Government Legalisation

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Abstract: Seasonal labour migration, is now an essential part of the livelihood strategies pursued by a large number of poor people in developing countries, but it has been ignored not only in public policy but our statistical system are currently not adequate to capture such flow of labour. They have insufficient personal assets and suffer a range of deprivations in the destination areas. There is extensive legalisation to protect the rights of labour, but when it comes to broadly cover migrant workers, there are serious inadequacies in this legislation. The enforcement machinery is insufficient and a worker is expected to find readdress independently through other agencies namely the unions. Penalties are inadequate and participation of the workers in the enforcement of the law is totally absent. Thus here an attempt has been made to capture this seasonally migrated population's exclusion from government legalisation.

Key Words: Seasonal Labour Migration, Legalisation, Enforcement Machinery, Penalties versus Participation.

1. INTRODUCTION:

Seasonal labour migration (also known as short duration/temporary/circular migration) is one of the important types of labour migration that has evidently increased rapidly in recent times. Although seasonal labour migration, is now an essential part of the livelihood strategies pursued by a large number of poor people in developing countries, but it has been ignored not only in public policy but our statistical system are currently not adequate to capture such flow of labour. Since the Census data are not useful in this regard because it provide results only on migrants who have changed location either permanently or semi-permanently (Liu and Chan 2001, Hugo 2003, Gazdar 2003).

According to the NSSO (2007-08), there were 324 million internal migrants in India, of whom 140 million were workers. And most of them employed in unorganized sector (cultivation and plantations, construction sites, brick-kilns, mines and quarries, agro-processing industries, service or transport sectors etc.), which is characterized by extreme seasonality of employment, occurrence of casual and contractual employment and absence of social security measures and welfare legalization. If we look state wise intensity of seasonally migrated labour, Bihar has highest number of seasonally migrants labour (20,85,600) followed by Uttar Pradesh (18,96,500) West Bengal (15,28,400) and Madhya Pradesh (12,36,900) (Keshri and Bhagat 2012). These short duration migrants move from less developed states (Uttar Pradesh, Bihar, Madhya Pradesh, Orissa and Rajasthan) to comparatively developed states (Uttarakhand, Haryana, Punjab, Maharashtra and Gujarat). Despite the macro level data, a large number of micro level village studies show that seasonal mobility has increased tremendously (Mosse *et.al* 1997, Rao 2001, Wandschneider and Mishra 2003). The evidences reviewed so far, states that though seasonal migration is increasingly contributing in the development of both sending and receiving areas but is still neglected in the policy agenda of government.

Seasonal migrants generally prefer moving for shorter distances and for shorter time period. Seasonal migration is primary channels through which poor migrants are able to not only improve their living conditions, but also the pattern of growth and development in the source and destination areas (Murphy 2002, Deshingkar 2004, Bhagat 2011, Awuse and Offin 2014). Seasonal Migration brings both positive (provide employment and credit, food sufficiency and fulfillment of other requirement) and negative (increased dropout rates, health problems etc.) They have insufficient personal assets and suffer a range of deprivations in the destination areas. Seasonal migrants work whether in agricultural or non-agricultural activity, their working and living conditions are severely exploitative and inadequate (Ghosh 2004, Smita 2007, Singh and Ebenezer 2012).

There is extensive legalisation to protect the rights of labour, but when it comes to broadly cover migrant workers, there are serious inadequacies in this legislation. The enforcement machinery is insufficient and a worker is expected to find readdress independently through other agencies namely the unions. Penalties are inadequate and participation of the workers in the enforcement of the law is totally absent. Apart from labour laws, they are also excluded from government services and schemes related to food, health, education, banks and employment. A number of studies pointed out these legislation failures and exclusion from government schemes and services (NCRL 1991, Srivastava 2005, Ghosh 2004, Borhade 2011). Haryana is one of the economically progressive states of India which is witnessing large inflow of seasonally and permanently migrated labourers from Bihar, Uttar Pradesh, Madhya Pradesh, Orissa

and Rajasthan. Thus in our study we tried to capture this seasonally migrated population's exclusion from government legalisation.

2. OBJECTIVES

The major objectives of the study are:-

1. To capture Labour's awareness towards government labour's acts and rights.
2. To check out existing Labour Registration situation.
3. To find out foremost complaining authority and labour's satisfaction with it's working.

Through above objectives present research work tried to capture following hypotheses:-

3. HYPOTHESES: Government's labour legalisation fell short in providing social protection to seasonal migrants.

4. RESEARCH METHODOLOGY:

Due to lack of secondary data most of the research work on seasonal migration is usually based on primary data which separately covers such migration. To fulfill the objectives of the present study, we largely used the primary data which has been generated through a comprehensive questionnaire filled by the seasonally migrated labourers and employers through survey method. To select a representative sample of seasonally migrated labour in Haryana's context the study has used multistage stratified random sampling. On the basis of literature reviewed and pilot survey, two sectors (Brick-Kiln and Agriculture) which consist seasonally migrated labourers in huge numbers were selected. After this, four administrative divisions (Hisar, Ambala, Rohtak and Gurgaon) were divided into two parts; one was representing agriculture sector (Ambala and Rohtak) and other was representing Brick-Kiln sector (Hisar and Gurgaon). In the second stage, two districts were selected by using stratified random sampling method from each selected divisions. At the third stage, two blocks from each of the eight selected districts were randomly selected. After this; three villages or brick-kilns were randomly selected from each of the two selected blocks. At the fifth stage, 10 seasonal migrants were randomly selected for survey from each of the selected village or brick kiln. In this manner, a total sample of 480 seasonal labour migrants was surveyed for gathering the information required to fulfill the objectives of the study.

5. LABOUR'S AWARENESS TOWARDS LABOUR'S ACTS AND RIGHTS

This section tries to examine labour's awareness and outlook towards variety of legal instruments that are meant to protect the migrant's rights (Inter-State Migrant Workmen Act (1979), The Minimum Wages Act (1948), Contract Labour System (Regulation and Abolition) Act (1970), The Construction Workers Act (1996), Employees State Insurance Act (1948), The Equal Remuneration Act for Women (1976), The Bonded Labour System (Abolition) Act (1976) The Child Labour (Prohibition and Regulation) Act (1986), Unorganized Worker Social Security Act (2008)

In spite of having a legal framework to protect the migrant workers, none of the above-mentioned acts was being followed in the study area. In fact, either labourers were not aware of any of the provisions of these acts or the employers avoided all the acts by using different kinds of tricks. 77.7 percent of migrant labourers did not have any clue about government legalisation (Table1).

When their awareness for different acts checked separately (Table 2), only 35.5 percent labourers accepted that they have some idea about the Minimum Wages Act. Brick Kiln Sector labourers showed more awareness towards this act (47.1 percent). Followed by 8.1 percent labourers who accepted awareness towards the Child labour (Prohibition and Regulation) Act.

Table 1

(Awareness towards Migrant's Acts/Rights)

| Response | Agriculture Sector | Brick Kiln Sector | Total |
|----------|--------------------|-------------------|------------|
| Yes | 25(10.4) | 82(34.3) | 107 (22.3) |
| No | 215(89.6) | 158 (65.8) | 373 (77.7) |

Source: Field Survey

(Figure in parentheses indicate percentage)

Table 2

(Awareness towards different Labour/Migrant's Acts)

| Acts \ Response/ Sector | Agriculture sector | | Brick Kiln Sector | | Total | |
|---|--------------------|-----------|-------------------|-----------|-----------|-----------|
| | Yes | No | Yes | No | Yes | No |
| Inter State Migrant Workman Act | - | 240(100) | - | 240(100) | - | 480(100) |
| The Minimum Wages Act | 57(23.8) | 183(76.2) | 113(47.1) | 127(52.9) | 170(35.5) | 310(64.5) |
| The Contract Labour Act | 11(4.6) | 229(95.4) | 6(2.5) | 234(97.5) | 17(3.5) | 463(96.5) |
| The construction worker Act | 1(0.4) | 239(99.6) | - | 240(100) | 1(0.2) | 479(99.8) |
| The Employees State Insurance Act | - | 240(100) | - | 240(100) | - | 480(100) |
| The Equal Remuneration Act for Women | - | 240(100) | - | 240(100) | - | 480(100) |
| The Bonded Labour Abolition Act | 1(0.4) | 239(99.6) | 9(3.8) | 231(96.2) | 10(2.1) | 470(97.9) |
| The Child labour (Prohibition and Regulation) Act | 17(7.1) | 223(92.9) | 22(9.2) | 218(90.8) | 39(8.1) | 441(91.9) |
| Unorganised worker social security | 1 (0.4) | 239(99.6) | - | 240(100) | 1 (0.2) | 479(99.8) |

Source: Field Survey

Figure in parentheses indicate percentage

Only 2.1 percent labourers found having idea of the Bonded Labour Abolition Act. But awareness towards other acts almost negligible. They were neither aware of the different acts nor the provisions of any acts.

Table 3 represents the sources of awareness among those who were aware of different acts. Co-workers found to be major source of legal awareness among seasonal migrants as 38.3 percent migrants reported them as major source of awareness. Interestingly, 23.5 percent who were aware came to know about the act from media. Trade union seems to play minor role only in Brick Kiln sector as 30.8 percent brick kiln labourers accepted labour union role in making them aware about government legalisation. But in Agriculture Sector presence of labour union found to be absolutely nil. While 8.4 percent labourers accepted that, they came to know about these acts through their relatives. Rest there was no role played by Labour Department, Labour Contractor and Employer in legal awareness. They were unaware of their rights and entitlements and had no access of any kind to social security.

Table 3

(Sources of Legal Awareness)

| Sources | Agriculture Sector | Brick Kiln Sector | Total |
|-------------------|--------------------|-------------------|----------|
| Trade Union | - | 46(30.8) | 46(19.3) |
| Co-Workers | 8(9.1) | 83(55.4) | 91(38.3) |
| Labour Dept. | 2(2.3) | - | 2(0.8) |
| Labour Contractor | 2(2.3) | 1(0.6) | 3(1.3) |
| Employer | - | - | - |
| Media | 46(52.3) | 10(6.6) | 56(23.5) |
| Friends/Relatives | 11 (12.5) | 9 (6) | 20 (8.4) |
| Other | 19 (21.5) | 1 (0.6) | 20 (8.4) |

Source: Field Survey

Figure in parentheses indicate percentage

6. LABOUR REGISTRATION:

According to government legalisation, each labour should be registered his/her name with the department of labour for receiving identity card as well as workers welfare schemes. In present research work, out of 480 labourers only 8.3 percent found to be registered (Table 4). Rest 91.7 percent labourers even didn't have any idea about labour registration (Table 5). Major reasons for not registration as reported by them were illiteracy, lack of address proof, complicated registration process and lack of interest of employers/contractors. Almost on all brick kiln sites, employers did not even register all the workers in their own registers to hide the actual number of labourers.

Table 4

(No. of Registered Labour)

| Response | Agriculture Sector | Brick Kiln Sector | Total |
|----------|--------------------|-------------------|------------|
| Yes | 12 (5) | 28 (11.7) | 40(8.3) |
| No | 228 (95) | 212 (88.3) | 440 (91.7) |

Source: Field Survey

Figure in parentheses indicate percentage

Table 5

(Reasons for not Registration)

| Reasons | Agriculture Sector | Brick Kiln Sector | Total |
|---------------------------|--------------------|-------------------|-----------|
| Unaware | 228(100) | 212(100) | 440 (100) |
| Not Eligible | - | - | - |
| Application Under Process | - | - | - |

Source: Field Survey

Figure in parentheses indicate percentage

7. COMPLAINING AUTHORITY:

Seasonal Migrants are mainly engaged in the informal sector where labour laws and safety measures and minimum wages stay unimplemented. Since migrants mostly illiterates, they remain unaware of their legal rights. It is seen that there are no organizational activity or collective voice against employer/contractor, which leaves them open to further exploitation. All these factors create their too much dependency on the employer/contractor.

Table 7

(Major Complaining Authority of Migrated Labourers)

| Complaining Authority | Agriculture Sector | Brick Kiln Sector | Total |
|--------------------------------|--------------------|-------------------|------------|
| Employer | 152(63.3) | 169(70.4) | 321 (66.9) |
| Police | 2(0.8) | - | 2(0.4) |
| Trade | - | 30(12.5) | 30 (6.3) |
| Labour officer /Govt. official | 6 (2.5) | 1 (0.4) | 7(1.5) |
| Other (Specify) | 28 (11.7) | 40 (16.7) | 68(14.2) |

Source: Field Survey

Figure in parentheses indicate percentage

In present research work, also when they were asked about major complaining authority, 66.9 percent labourers reported that they rely only on employers for any help or problem solution (Table 8). Followed by 6.3 percent labourers who reported that trade union was major complaining authority. But they complained that there has been

absolutely no effort from the union in trying to organize the workers or to hear their problems. While only 1.5 percent labourers found to be depended upon labour officer/government official. Due to absence of labour officer/government officials, the employers/contractors were openly flouting all laws/acts.

Table 8**(Concerned Authority Action)**

| Response | Agriculture Sector | Brick Kiln Sector | Total |
|----------|--------------------|-------------------|-----------|
| Yes | 30(15.9) | 44(18.3) | 74(17.3) |
| No | 158(84.1) | 196(81.7) | 354(82.7) |

Source: Field Survey

Figure in parentheses indicate percentage

But 82.7 percent labourers who complained reported that concerned authority didn't take any action against their complaint (Table 9). The workers of Brick Kiln sector reported that their only demand was about fixing wages prior to season. But neither the employers nor the trade union showed any interest and took any action. Due to non-cooperative behavior of the employers and trade union 72.9 percent of seasonal migrants showed their dissatisfaction about them (Table 9).

Table 9**(Labour Satisfaction with the concerned Authority Action)**

| Response | Agriculture Sector | Brick Kiln Sector | Total |
|----------|--------------------|-------------------|----------|
| Yes | 4(13.3) | 16(36.4) | 20(27.1) |
| No | 26(86.7) | 28(63.6) | 54(72.9) |

Source: Field Survey

Figure in parentheses indicate percentage

8. CONCLUSION:

In short, we can say that no attempt has been made by any authority to connect the labour force with the better wellbeing of the workers. There was no role played by Labour Department, Labour Union, Labour Contractor and Employer in legal awareness and social protection. In the absence proof of identity and local residence, rules and organizational procedures prohibit migrants from access to legal rights, public services and social protection programmes. As a result, internal migrants face barriers in accessing subsidized food, housing and banking services.

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