WEBINAR REPORT

Stakeholder Consultation on Inter-State Migration Policy

27 June 2020
BACKGROUND

Approximately 90 per cent of the entire workforce in India is informal, and 85 per cent of the non-agricultural workforce is informal.\(^1\) 95 per cent of female workforce participation in India is in the informal economy or engaged in unpaid work.\(^2\) The informal economy contributed to 52.4% of the Gross Value Added (GVA) in India in 2017-18.\(^3\) Despite being such important contributors to the country’s economy, informal migrant workers were one of the hardest hit groups in the biggest reverse migration India has seen in recent times. Most of them were not paid their wages during the lockdown; they had no access to ration shops or social welfare schemes because food was being given only to those having ration cards of the destination states. Many did not have bank accounts and also faced discrimination from locals because they spoke a different language.

In the wake of this migration crisis, effective communication between source and destination states is the need of the hour to ensure timely and safe movement of migrants but also to ensure that they can live and work with dignity at the destination states. There must be certain common principles that all source and destination states adhere to while coordinating with each other. Each state must recognise that all states can be source as well as destination states. As per Seventh Schedule of Indian Constitution (Article 246), under entry 81 of the Union List inter-State migration and inter-State quarantine subjects to be governed by the Union Government. Being the primary responsibility of the Union Government, there is also an urgent need for advocacy with Central Government to play an instrumental role in implementation of this policy.

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\(^2\) Deloitte Report, ‘Empowering Women & Girls in India for the Fourth Industrial Revolution’  
\(^3\) S V Ramana Murthy; Deputy Director General, National Accounts Division, Ministry of Statistics and Programme Implementation, National Statistical Office, ‘Measuring Informal Economy in India- Indian Experience’
In this backdrop PRIA along with its Regional Support Organisation Partners [Unnati (Ahmedabad), SSK (Lucknow), Samarthan (Bhopal), CYSD (Bhubaneshwar) and Martha Farrell Foundation, New Delhi came together to draft a model policy framework which can pave the way for inter-state dialogue on inter-state migration issues. On 27th June PRIA along with partner organisations hosted a stakeholder consultation where eminent practitioners, scholars and Government representatives discussed and deliberated on the draft policy, and gave their recommendations on the same.

Jointly moderated by Dr. Yogesh Kumar (Executive Director, Samarthan, Bhopal) and Dr Anshuman Karol (Senior Program Manager, PRIA, India), the consultation was attended by distinguished panellists including Mr. Sonmani Bora (IAS), (Secretary, Labour Department, Government of Chhattisgarh), Mr. Umi Daniel (Director, Migration & Education, Aide et Action South Asia, Bhubaneshwar, Odisha), Mr. Binoy Acharya (Founder Director, UNNATI, Ahmedabad, Gujarat), Dr Manjeet Kaur Bal (President, Samarth Charitable Trust, Raipur, Chhattisgarh), Mr. Ashok Singh (Founder Director, Sahbhagi Shikshan Kendra (SSK), Lucknow, UP), Professor Ravi Srivastava (Professor and Director Center for Employment Studies, Institute for Human Development, New Delhi), Professor Amitabh Kundu (Distinguished Fellow, RIS, New Delhi, Former Professor at JNU, New Delhi) and Ms Bharti Birla (Project Manager, ILO, Delhi). Comments were also given by Mr. C. Nambi [[(Executive Director, Centre for Social Education and Development (CSED), Tirupur, Tamil Nadu)], Mr. S.K. Mishra (Former Chief Secretary, Government of Chhattisgarh), Mr. Anand Mohan Tiwari (Retd. IAS), (Adjunct Professor, IRMA, Anand, Gujarat). Closing remarks were given by Dr Rajesh Tandon, Founder President, PRIA, New Delhi. The consultation was attended by 32 participants.
KEY OBJECTIVES

OBJECTIVES OF DRAFT PROTOCOL FRAMEWORK

01
TO PROVIDE THEM ACCESS TO THEIR RIGHTS AS EQUAL CITIZENS OF THE STATE AND OF THE COUNTRY.

02
TO PAVE THE WAY FOR INTER STATE DISCUSSIONS AND AGREEMENTS ON MIGRATION-RELATED ISSUES.

03
TO PROVIDE FOR AN EMPLOYMENT POLICY WHERE MIGRANT WORKERS’ EMPLOYMENT AND LIVELIHOOD CONCERNS CAN BE INTEGRATED WITH THE DEVELOPMENT STRATEGY OF THE STATE.

04
TO PROVIDE DECENT STANDARDS OF LIVING FOR MIGRANT WORKERS AND TO ATTACH DIGNITY TO THEIR WORK.

INTRODUCTION
Setting the context to the consultation, Dr Yogesh Kumar suggested that migrant workers have multiple identities and that these identities have to be recognised. They have identities as domestic workers, as industry workers, as street vendors and each of them have different needs that require consideration. Migrants also struggle with eligibility criteria for acquiring social security benefits, subsidised ration, public health care, education and other safety measures. Eligibility criteria such as domicile conditions exclude large number of migrants from gaining access to social security and other support services. Finally, they are scattered in different locations and therefore their access to support systems also differs according to the region they are placed in.

States can be a mix of source and destination states in the sense that many states have in and out migrants at the same time. States which are primarily source states must create access to employment opportunities; must engage in skill building for workers to have better bargaining capacities with employers; and coordinate with local bodies and Panchayati Raj Institutions (PRIs) to collect and map data as well as
for facilitating registration of workers. Destination states must focus on digitalising compliance; facilitate workers' housing needs; education for migrant workers children in vernacular languages; mental health of workers as well as special provisions for female workers including medical pop-up stores and provision of menstrual hygiene kits. Some important legal statutes in place for migrant workers which must be implemented in the right spirit by States include National Food Security Act, 2013; Right to Education 2009; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013; Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (also referred to as “ISMW Act”) and Building and Other Construction Workers Act, 1996. Some quick action areas for states include the issues of digital transfer of wages; making schemes interoperable such as RSB/PDS/BOCW Act; setting up Migrant Resource Support Centres for information, legal and service support; monitoring compliance done by welfare boards under the BOCW Act and integrating provisions of SFURTI.

PANEL DISCUSSION

What is the role of source states during and after the Pandemic towards migrant workers?

Giving opening comments on the role of source of states, Mr. Sonmani Bora pointed out that during lockdown phase 1 and 2, Chhattisgarh had a mechanism in place to reach out to migrant workers. In the first phase, 1.3 lakh workers outside Chhattisgarh contacted the Government through different sources asking for support. In the second phase of the lockdown, both mechanisms were ready- through helpline as well as online portal. Through these two mediums, 2.75 migrant workers registered for return journey. Today, the number has gone up to over 6 lakh workers in distress. Three categories of workers return to Chhattisgarh; the first is seasonal migrants who leave after harvest and return before sowing season begins while the second entails semi-skilled workers who are involved in brick-kiln and other industries. The third category of workers entails those who left the state long back, but have now returned due to lack of jobs and the fear psychosis surrounding Covid-19.

Umi Daniel highlighted the lack of segregated data available on migrant workers at the State and National level. He stated that they are seen as one holistic group accounting for a numerical figure; however, their families and children are totally ignored in data collection. He suggested that the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 missed out many important protections that must be granted to migrants. Looking at the Orissa Government’s initiatives, he shared that the key to protecting rights of migrant workers lies in registering the workers at the Panchayat level. Further, in terms of
protecting migrant workers’ fundamental right to move and work in any region they choose to, the portability of social welfare schemes is crucial. This is because most migrants who are registered in one State work in other states and since their entitlements are domicile based, they cannot avail of welfare measures and food security measures which they are entitled to. The Governments of Orissa and Telangana have been working together to establish schools in vernacular languages of each of the two states for migrant workers’ children.

Binoy Acharya spoke about new initiatives to improve economic conditions of migrant workers. He emphasised that the Department of Micro, Small and Medium Enterprises has developed important schemes such as Scheme of Fund for Regeneration of Traditional Industries (SFURTI) under which skills of workers will be strengthened, and they will be supported with infrastructural and informational know how to become competitive on the economy of scale. NGOs should take this opportunity to contribute to this initiative and it must be actively implemented by stakeholders to achieve desired results.

Bharti Birla discussed important measures that should be taken up by source states such as social protection; skill development; better recruitment systems for migrant workers. Source states must give workers informed choice about mobility and reduce information asymmetries, by giving women migrants options for making their own decisions about migration.

There must be a transparent and accountable recruitment process for migrant workers and support systems in place along migration corridors. Identifying and understanding the kinship networks surrounding the recruitment process and the informal channels of recruitment can help streamline it.

Anand Mohan Tiwari was optimistic that migrant workers condition was bound to improve once the health crisis ends. He discussed how states can play an active role in abolishing unnecessary forms and procedural formalities for registration of migrant workers where they have the powers to do so.

S.K. Mishra focussed on implementation of the existing labour statutes by state governments. It’s essential to simplify registration and digitise availability of Aadhaar cards and ration cards.

What is the role of destination states during and after the Pandemic towards migrant workers?

For destination states, Bharti Birla stated that they must ensure timely payment of wages to workers, safe working environments, awareness about rights and access to entitlements. She highlighted important MOUs that have been signed between States, ranging from Andhra Pradesh- Orissa MOU in 2012 to MOU signed between Bihar, Jharkhand, Chhattisgarh and Uttar Pradesh in 2013, the latter even receiving Presidential Assent. She added that
migration should be seen as a rights-based approach. Destination states must recognise migrant workers as equally entitled citizens vis a vis local workers. Social dialogue must be created to include voices of workers in discussions on protecting the workers’ own rights. States must also identify good business practices and deliberate with employers to push them into adopting such practices in their workspaces can go a long way in creating sustainable safe work environments for migrant workers.

*SK Mishra* suggested that in destination states, nodal officers from the labour department should be appointed who are easily approachable for migrant workers. Destination states should coordinate with source states to provide rental accommodation to workers.

*Anand Mohan Tiwari* suggested that unskilled and semi-skilled workers are largely ignored by source and destination states. These workers need proper training and informational knowhow in order to improve their livelihoods.

What challenges lie in the road ahead for implementing measures for source and destination states?

*Umi Daniels* stated that future MOUs that are drawn between states on migration issues must ensure that measures taken are sustainable and workable for the state parties. Finally, economy of labour recruitment must be closely analysed to regulate labour trafficking taking place in the labour market through informal channels.

*Manjeet Kaur Bal* characterised workers taking refuge in shelter homes in Chhattisgarh into two broad categories—factory workers who had not been paid wages by contractors; and those workers who were recruited for daily chores through the migrant labour market. She stated that both these categories of workers had one thing in common—no access to bank accounts, due to which they did not have access to cash transfers nor could they receive wages through account transfer. Their children did not have any IDs to avail ration or other benefits. She further suggested that there is a need to streamline the recruitment, registration and skill identification process for the informal labour market, as well as to scale up financial inclusion of migrant workers through banking channels to ensure speedy transfer of benefits to these workers.

*Ashok Singh* dealt with policy issues confronting Jharkhand. He shared that although Government of Jharkhand was focussing on registration of migrant workers and wished to coordinate with destination states to create a mutually workable migration policy, it is still unsure how to grapple with challenged faced by individual migrants who reside in different regions of the country. He discussed how registration of workers is still lacking at the local Panchayat level which must also provide some skill certification to the migrants. Lastly, he also emphasised on the need for State Governments to coordinate with municipalities for including migrant
worker’s concerns such as healthcare, education for migrant workers’ children, crèches, etc. in urban planning.

*Ravi Srivastava* argued for the need for source states to lay more emphasis on job creation, and lay out specific resources for employment generation and development projects with a focus on regeneration of rural areas and Micro, Small and Medium Enterprises, using skills of migrant workers. Where large scale migration takes place along migration corridors, States are encouraged to enter into Memorandums of Understanding with each other in order to lower the cost of migration; to facilitate migration between States and to ensure compliance with migration-related laws, since most of the laws require intervention of more than one State. Outlining the role of Central Government, he stated that as per Seventh Schedule of Indian Constitution (Article 246), under entry 81 of the Union List, inter-State migration and inter-State quarantine are subjects to be governed by the Union Government. Being the primary responsibility of the Union Government, there is a need for advocacy with central government to play a instrumental role in implementation of this policy. Wherever there is issue of coordination between states and centre in matter of inter-state migration, centre has an upper hand. Without Centre’s coordination, we will not be able to set up a central registry nor be able to have effective templates for coordination.

C *Nambi* cautioned that skill training centres must be regulated since such centers are the biggest exploiters of workers. Lastly, he stated that the Centre and States have to work together to bring about such legislative reforms.

*Nandita P Bhatt* highlighted that we have to be mindful of the fact that we are asking for services for women workers not because they are women, but because they are workers, and all discussions on their entitlements should be in the ambit of labour rights. For instance, lactating women must be approached as lactating workers.

**Legislative Reforms**

*Amitabh Kundu* emphatically argued for better implementation of ISMW Act as well as other migration-related acts and policies. He mentioned that the spirit of the Constitution must be implemented in existing framework rather than creating more laws. Right to equality and right against discrimination (Article 14 & 15, Constitution of India), right to freedom of movement and freedom to practice ones profession (Article 19, Constitution of India) are fundamental rights guaranteed to every citizen by the Constitution of India which must be put into practice. Second the provisions in the ISMW Act are exclusionary in nature; banking documents etc. required for registration and various formalities to be
completed make it expensive, extremely time consuming and consequently even harder for migrant workers to complete the registration process. Statues and policies for domestic workers have turned out to be counter-productive by creating more complications for the workers, rather than making it easier for them. Regional equality has reduced amongst states over the decades; some states are trying very hard to push up their growth rate and generate employment, but this has not reduced the rate of out-migration from these states. He finally opined that all migrants coming into source states during the lockdown will not get absorbed in these states and many will return back to the cities which have a larger demand for informal workers. He said that any provision in a statute which require special permission from state governments to allow the worker to migrate to or from one state to another infringes her fundamental right to free movement. Any such conditionality for migration of workers is unconstitutional.

C. Nambi proposed legislative changes in the ISMW Act to impose higher onus on employers instead of just making the contractor liable for violating provisions of the Act. He informed that a large number of adolescent girls are migrating for work to destination states and there is a need to define an age bracket for migrants in order to protect adolescents from exploitation. In terms of formalisation of the informal economy, he proposed that the nature of recruitment has to acquire an element of permanence in order to provide security to workers.

Anand Mohan Tiwari vehemently argued that ISMW Act can never be implemented in its current form, where all the onus is on the contractor to provide amenities to workers. Therefore there has to be a change in the chain of accountability, where principal employers who are the ultimate beneficiaries of the worker’s efforts are held accountable for providing basic support systems to workers.

**CLOSING REMARKS**

Mr. Sonmani Bora stated that traditional skill-training programs must be revisited and redesigned. Skill-building must be sensitive to the workers’ cultural context. Source states must include workers in the gig economy in skill-building programs. He shared Chhattisgarh Government’s initiative to host recruitment drives for migrant workers. 2 lakh workers have already been mapped and results show that 51% are part of the construction sector. Financial inclusion, food security and portability of social welfare schemes are crucial elements to be considered by state governments. Chhattisgarh government has also decided to provide operators at helpline desks with professional training so that they can function as efficient support systems for migrants in distress. In the near future Chhattisgarh government needs to focus
on gender issues, disability and simplifying registration by implementing self-registration mechanisms and offline modes for workers at panchayat level.

Dr. Rajesh Tandon gave the closing remarks on the way forward for state governments on migration related policies. He stated that data collection and registration has to begin at the local body level, which should serve as a common platform, from where the data should be linked to all other departments of the State Government. He further differentiated between skill training and skill certification. He encouraged state governments to conduct prior recognition of skills of workers and their Certification through standard operating procedure while simultaneously conducting skill mapping. He emphatically suggested that the word “unskilled” should not be used as a category to define workers by calling it synonymous to a caste system. He opined that it is the most dehumanizing concept which should be avoided at all costs. In terms of short run solutions for providing workers basic minimum social protections, he proposed that destination states must be held accountable to make services possible. There are millions of migrants living in informal settlements whose identities are unknown and unregistered. These informal settlements must be the focus of municipalities and local bodies to provide basic health and sanitation services of clean drinking water, housing, education and health care. Finally, he urged state governments to consider piloting independently-run migrant resource support centers for migrants. These support centers will provide information, ensure registration, provide helplines and other amenities and services. He emphasized creation of such centers for creating capacities independent of the employer and the state.