

ISSN 2229 - 7642

**VULNERABILITY OF MIGRANTS AND
RESPONSIVENESS OF THE STATE: THE
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IN KERALA, INDIA**

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Working Paper No. 26

November 2011



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N.Ajith Kumar*

Abstract

This paper examines the dimensions of vulnerability of migrant labourers in a sub-national context viz., that of Kerala state in India. The state has been witnessing large inflow of migrant labourers not only from the neighbouring states of Tamil Nadu and Karnataka but also from states in East India (West Bengal and Orissa), North India (Bihar, Uttar Pradesh, Uttarakhand) and North-east (Assam, Manipur). The paper examines how the state and other agencies in the host state (Kerala) responded to reduce the vulnerability of inter-state migrant workers. The paper also makes an assessment of a pioneering welfare scheme for inter-state migrant workers introduced by the Kerala government.

The paper points out that due to limitations in portability of entitlements, the inter-state migrants are not able to enjoy some of the entitlements/benefits from central and state governments they had enjoyed before migration. The paper calls for better coordination among host state (Kerala) and states of origin to ensure that the inter-state migrant workers' rights are transferred from their state of origin to destination state. The Central Government also should consider 'migration' as a criteria for allocation of resources to different states. The paper also observes that a strategy to reach out to migrant workers coming from diverse backgrounds and speaking different languages has to be introduced as the present strategy, whether it is by the law enforcement agencies or the public service providers, fails to reach a significant segment of migrant population.

Key Words: internal migration, inter-state migration, Kerala, vulnerability, state response

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VULNERABILITY OF MIGRANTS AND RESPONSIVENESS OF THE STATE: THE CASE OF UNSKILLED MIGRANT WORKERS IN KERALA, INDIA

1. Introduction

This paper examines the dimensions of vulnerability of migrant labourers in a sub-national context viz., that of Kerala state in India. The state, located in the south-western tip of the Indian Peninsula, has been witnessing large inflow of migrant labourers not only from the neighbouring states of Tamil Nadu and Karnataka (in South India) but also from states in East India (West Bengal and Orissa), North India (Bihar, Uttar Pradesh, Uttarakhand) and North-east (Assam, Manipur). There is also migrant flow to Kerala from Nepal. This has helped to offset the shortage of labour caused partly due to the out-migration to other states and emigration to other countries¹. Higher wages for unskilled labour in the state, large opportunities for employment and shortage of local labour provided the necessary pull. As elsewhere, the migrant workers coming to Kerala were pushed out of their native places because of low wages and unemployment or underemployment in agriculture and other sectors. With signs of rapid growth of Kerala economy and the increase in activities particularly in infrastructure and construction sectors, the in-migration is expected to grow faster in the coming years. Apart from its importance in the economic development of the state, inter-state migrant flow facilitate retaining the demographic balance in a state which has the highest proportion of aged population and where a good proportion of the population in the working age group have migrated out of the state. The paper also examines how the state and other agencies in the host state (Kerala) responded to reduce the vulnerability of inter-state migrant workers.

2. The Setting

Kerala state, which accounts for 1.18 per cent (38863 square kilometres) of the total land area of India, accommodates 3.1 per cent (34 million) of the Indian population. The development experience of Kerala is characterised by high social development disproportionate to the level of economic growth². The experience, often described as the Kerala model of development, has

received world wide attention from both scholars and development agencies. The achievements of Kerala, going at least by macro level indicators of social development, have exceeded those of other Indian states³ and some of the developed countries. The state is ranked first among the states in India on the basis of human development index and rural social development index. The state has also been successful in reducing poverty which is 13.7 per cent and 14.7 per cent in rural and urban areas respectively in 2004-05 while the corresponding figures for India was 28.7 per cent and 25.9 per cent (Tendulkar, 2009). The state's development pattern also indicates relatively low inequalities in health and education outcomes. Nobel laureate Amartya Sen cites Kerala as a case of support led security as against the growth mediated security. The achievements of Kerala are often located by Sen and others in the historical processes including the social reform movements, activities of missionaries and the church, mass mobilizations of the poor and the working class for their rights, public action and political activism. Decentralization of government conferring more autonomy and powers to local governments and provision for peoples' participation in planning at the local level are the recent political initiatives in the State for giving more voice to the people.

3. Methodology

This paper is primarily based on depth-interviews with migrant workers, officials of the state government, agents/contractors/employers, elected representatives, trade union leaders and representatives of the civil society organizations working among migrant labourers and the local community. One Focus Group Discussion was also undertaken with the migrant workers as part of the study. In addition, analysis of the laws pertaining to migrant labour and review of the available documents, newspaper reports and other publications were undertaken. The inputs from an earlier study (Surabhi and Kumar 2007), in which the author of this paper was involved, was also made use of. This study covered migrant labourers in Kerala who have migrated from the neighbouring state of Tamil Nadu. But the focus of the present paper is on inter-state migrants from North, East and North-eastern parts of India.

4. Overview of Inter-state Migration in Kerala

Keralites⁴ have been migrating to other states in India and to other countries for several decades in search of employment. It is estimated that 1.85 million Keralites have migrated to other countries (Kerala 2009) and 0.97 million

people to other parts of India (NSSO 2010)⁵. According to the National Sample Survey estimates for 2007-08, the number of migrants from other states in Kerala is about one million. Thus, the inflow to Kerala exceeded outflow to other parts of the country though not to other countries.

In-migration of workers to Kerala has a long history. But the recent migration is different in terms of the profile of the migrant workers, the occupation they are engaged in and the magnitude of inflow. The migration in the 1980s and 1990s was primarily from the neighbouring states of Tamil Nadu and Karnataka⁶. Labourers from states as far as West Bengal, Orissa, Bihar, Assam, Uttar Pradesh, and Uttarakhand now flock to Kerala. The activities they are engaged in also got much more diversified than earlier. The migrant workers are now engaged as construction workers, casual labourers, agricultural and plantation workers, road workers, domestic workers, carpenters, masons, plumbers, electricians etc. They are also employed in jewellery making, cashew processing units, plywood factories, flour mills, quarries, brick kilns, hotels, slaughter houses, petrol pumps etc. There is also a trend towards allocating more difficult, hazardous and menial jobs to migrant workers.

Migrant flows are often distinguished by 'geographical categories' (i.e. internal, international, rural, urban etc.). Waddington (2003) points out that such classification "overplay the difference between internal and international migration in terms of how porous the borders are. Some borders are certainly less porous than others but these may include the borders of internal provinces and restrictions, just as much as the borders separating countries." It is likely that the permeability of the borders is affected not only by restrictions the state imposes on mobility but also is dependent on the social, cultural and linguistic differences between geographical regions as is the case with Indian states. Such differences between states in India, particularly between North, East or North-east India and South India, may be comparable to the differences between different countries in Asia. Moreover, in many cases, the distance the inter-state migrants have to traverse (between the origin state and the destination state) may be more than the distance one has to travel to cross country borders. Kerala is located far off from North, North-east India or eastern parts of India. The distance to Kochi in Kerala from Kolkata in West Bengal is about 2360 kilometres and from Patna in Bihar is 2581 kilometres. People from Assam will have to travel about 3500 kilometres to reach Kerala. This is almost equal to the

distance a Keralite will have to travel to migrate to Dubai (2787 km) or Abu Dhabi (2817km) in West Asia.⁷ The distance the people of the states of West Bengal, Bihar or Orissa have to travel to migrate to countries in West Asia is also not much higher. It is also not much different from what people of Bangladesh have to travel to migrate to West Asian countries (Dhaka- Dubai: 3551 km). Needless to say, it is much more than the distance between Dhaka or Chittagong in Bangladesh and Kolkata in India. It may also be interesting to note that the cultural and linguistic differences between a resident of West Bengal in India and one in Bangladesh is much smaller than the same between the former and a resident of Kerala. Similarly, people of North-eastern states of India are culturally and linguistically closer to Bangladesh or Myanmar. There is also some cross border migration to Kerala as seen earlier. Table 1 provides a snapshot of the social, demographic, cultural and linguistic dissimilarities between Kerala and some of the states from where migrant workers flock to Kerala.

Table 1: Selected Indicators of Kerala and States of origin

Sl. No	Indicator	Kerala	West Bengal	Orissa	Bihar	Assam	Tamil Nadu
1	Language	Malayalam	Bengali	Oriya	Hindi, Urdu	Assamese	Tamil
2	HDI- Rank among states in India (2006) ¹	1	15	26	28	19	9
3	Literacy Rate (%) ²	93.91	77.08	73.45	63.82	78.81	86.81
4	Sex Ratio (2011) ² (females per 1000 males)	1084	947	978	916	954	995
5.	Religious composition (% in 2001) ³						
	Hindus	56.2	72.5	94.4	83.2	64.9	88.1
	Muslims	24.7	25.2	2.1	16.5	30.9	5.6
	Christians	19.0	0.6	2.4	0.1	3.7	6.1
	Others	0.1	1.6	1.1	0.2	0.5	0.3
6	Rural Poverty Ratio (2004-05) ⁴	20.2	38.2	60.8	55.7	36.4	37.5
7	Per capita income (Rs.)* (2008-09) ⁵	49316	36322	29464	13663	23993	45058
8	Infant Mortality rate (2008) ⁵	12	35	69	56	64	35
9	Life expectancy at birth ⁵ (2002-2006)	74.0	64.9	59.6	61.6	58.9	66.2
10	% of households with access to toilet facility ⁶ (2005-06)	96.0	59.5	19.3	25.2	76.4	42.9

Source: 1. <http://wcd.nic.in/publication/GDIGEReport/Part2.pdf> (accessed on 20-7-2011);
2. Census of India 2011; 3. Census of India 2001; 4. Tendulkar (2009); 5. Government of India (2011); 6. IIPS (2007); 7. <http://labour.nic.in/wagecell/Wages/> (accessed on 25-7-2011)

The linguistic, social and cultural differences between the states of origin and Kerala and the large distance the migrants have to travel to reach Kerala makes the inter-state migration to Kerala more similar to international migration than with the intra-state migration. Of course, there exist differences between international migration and inter-state migration in terms of visa requirements⁸ and restrictions on mobility imposed in some countries⁹. The point emerging is that the inter-state migration in a large country like India is different from the internal migration within a state in the country.

5. Vulnerability of Migrant Workers

Bustamante (2011) points out that "migrants are inherently vulnerable as subjects of human rights from the time they leave home to initiate their migration. In other words, any human being is less vulnerable at home than right after he leaves it to become a migrant. The same applies to the sociological extension of the notion of home to a community of origin. The same person that migrates had more resources, both material and human, to defend and/or protect, himself, when he was at home, prior to moving elsewhere, than after the outward movement had taken place." According to Derosé *et al* (2007), vulnerability is shaped by many factors, including political and social marginalization and a lack of socioeconomic and societal resources. Varennes (2003) states that "living in host states where they (migrants) may not master the official language(s), are unfamiliar with the workings of the legal system and administration, detached from traditional support and family networks, exposed to a society with ways of life or cultures which they may find at times alien, they may face trials that can leave them disoriented and disturbed." Thus, vulnerability of the migrants arise because of living in a place which is different in culture, language, social settings, legal protection, entitlements and consumption habits from their native places and the loss of the traditional support system they enjoyed before migration. Though these aspects are usually discussed in the context of international migration, the situation is more or less the same when migrants cross borders of states within large countries like India. In view of the host state's failure to acknowledge their presence, inter-state migrants are barely considered in policy making in the state where they live. It is also possible that their voices may not be heard in the states of their origin. The widely held feeling among local community that they are 'outsiders' adds to their vulnerability. As voiced by a migrant worker "Here wherever we

go, people start telling - "bhaimaar"¹⁰ have come-such as when we go in bus. We do call each other bhai-bhai, that is ok. But when we go outside and Malayalees see us they say-there, bhaimaar have come. That we don't like."

5.1 Limited Access to Entitlements

Movement of people from one state to another can lead to loss of certain entitlements they enjoyed in the state where they lived before migration. In the Indian federal system, people derive their entitlements through the fundamental rights conferred on them by the Indian Constitution and the various laws enacted by the Union government and the state governments. Apart from these rights and legal protection, people are eligible to make use of various programmes/schemes executed by the central and state governments. Most of the central government schemes are applicable throughout the country. Even in central government schemes, the benefits reach the people through the state or local government. Unless otherwise specified, such benefits are available only to the permanent residents of the respective state. In such a situation, the inter-state migrants lose their entitlements when they cross borders of their native state. For instance, a migrant labourer from states like Bihar, Orissa, West Bengal or Assam who has been availing rice or wheat and other provisions at subsidized price through the Public Distribution System (PDS) in the home state is unlikely to benefit from the PDS in Kerala. Though Kerala is known to have one of the most elaborate public distribution systems in the country, none of the migrant workers we met have a ration card¹¹ in Kerala which is the document required for availing the benefits under the subsidized PDS as they do not have the residential status necessary for getting the benefits. The state has also been providing essential consumption items at subsidized rates through its outlets managed by the Kerala State Civil Supplies Corporation, an apex federation of cooperatives for which also a ration card is necessary. Thus, the migrants have to depend solely on the open market and become more vulnerable to the price differences in the open market compared to the local community. In the open market, some instances - where migrants were asked to pay more than what is demanded from the local population were also reported.

A similar situation exists in accessing the benefits of *Rashtriya Swasthya Bima Yojana* (RSBY), a health insurance scheme for poor¹² families implemented throughout the country by the Central government. At an annual fee of Rs. 30, the scheme provides for annual coverage for inpatient care of up to Rs. 30,000

to five members of a family. To cater to the needs of the workers belonging to BPL families who migrate, there is a facility to split the card which is given to RSBY beneficiary families. The smart card issued under the RSBY can be split at the time of first issue or subsequently at a district level office. But the families of migrant workers appear to be not making use of this facility and therefore are unable to avail the benefits of the scheme. In a taluk level government hospital in Perumbavoor, a town in Central Kerala well known for very high presence of migrant labourers, there was not even an enquiry by the migrant workers to avail of the facility. Thus, in practice, the portability of benefits of RSBY scheme remains an issue.

Usually, benefits of the schemes run by individual state governments are available to persons having resident status in the respective state. Migrants, in general, do not have resident status in the destination state. 'Comprehensive Health Insurance Scheme (CHIS)' is a scheme initiated by the Government of Kerala to extend coverage of health insurance to families which are not covered by the RSBY. The scheme benefits the 'additional poor', identified by the Kerala government¹³ who are ready to pay Rs. 30 and to non-poor if they are willing to pay the full premium of Rs. 778. Migrant labourers are not covered by this scheme also as they are not eligible for state specific schemes. It is clear that many of the entitlements one has in his home state are unavailable once he cross borders of state even when they are within the same country.¹⁴ This is despite the fact that the Indian federal system envisages full portability of the benefits across the country at least in the case of central government schemes. It appears that there is a need for better coordination between the governments in the host state, states of origin and the central government to make sure that the entitlements of inter-state migrants are not lost on account of migration. The initiative to provide unique identity¹⁵ to citizens which is underway in India may help to address the issue by synergizing it with entitlements of the citizens so that migrant labourers can enjoy their rights wherever they are.

5.2 Language Barriers

One of the major problems that migrant workers face when they reach Kerala is related to the differences in the languages spoken by the migrant workers and that of the host society. As noted earlier, though migration is between regions within the same country, language spoken by the migrants and the local people are different. The official languages of the country are

Hindi and English. But Keralites speak Malayalam. This is different from the language spoken by people in West Bengal (Bengali), Orissa (Oriya), Bihar (Hindi) or Assam (Assamese)¹⁶. All these languages belong to the Indo-Aryan language family while Malayalam is a Dravidian language. Being unable to speak to the local community or the service providers in their language makes them vulnerable on many occasions as may be seen later.¹⁷

In view of the newly emerging situation of having to meet the requirements of people speaking different languages, the local trading community and private service providers have slowly started speaking Hindi. The migrant workers speaking Oriya or Bengali have started learning Hindi after coming to Kerala. Some of them also have started picking up Malayalam words. The private sector also has started to respond to the situation in many other ways. For instance, films in Oriya language are shown in the migrant concentration areas. The advertisements of such films are also in Oriya language. Shops in such areas also sell Video CDs of Oriya, Bengali and Hindi films and film songs. The restaurants in these areas display menu in several languages to cater to the needs of migrants from different states. There have been some attempts by the public service providers also. Public health personnel whom we met explained to us how the situation is dealt with.

"Many of our staff have learnt Hindi and can converse or understand it. Secondly, labourers who do not know Malayalam at all are accompanied by their supervisors. Thirdly labourers who have been in Kerala for long, say 8-9 years are now quite fluent in Malayalam".

When enquired about the problems that they face in accessing the services of post office or banks, one of the labourers who came from Orissa told us:

"small-small problems are there. But now they can understand a bit of Hindi and we can also understand a bit of Malayalam. Moreover, big brother (a labourer who came to Kerala a few years back) was here before. He gave instructions as to how to fill up the forms".

5.3 Health and Safety Risks

Migrants are vulnerable because of crowded and unhygienic living conditions and inadequate provisions for their safety at the worksite. The

limitations to access health care due to language barriers, lack of time, lack of knowledge about the public provisioning of health care etc. exacerbates their vulnerability. However, one advantage the migrants in Kerala is that they may be able to benefit from the relatively better health system and health care seeking practices in the state.

The presence of a public health care system which is responsive to the needs of the migrants is a necessity in states which have significant presence of migrant population. Such a system should be sensitive to the cultural, linguistic and social backgrounds of the migrants. Treatment is expected to be made available from the government hospitals almost free of cost to residents of Kerala who are poor which is ascertained by the hospital authorities on the basis of the type of a ration card they hold. With no ration card, these migrant labourers are not eligible for free/subsidised treatment in government hospitals. But it appears that public health system has slowly started responding to the requirements of the migrants. In some of the government hospitals, health care is provided to the migrant workers free of cost. But they may have to buy some of the medicines and conduct test from labs outside the hospital for which it is paid from their pockets. Inconvenient timings of the government hospitals may be one of the reasons why they depend more on private hospitals.¹⁸ If they have to consult a doctor in a government hospital, they have to forgo work for the day which the migrant workers usually do not want to in their quest for maximizing the earnings. Migrants depend more on private clinics and hospitals compared to public hospitals. They prefer to consult physicians who can communicate with them at least in Hindi. When migrants who arrived recently have to seek treatment, often a Malayalee supervisor or worker accompanies them and communicates with the physician about the illness or the injury. In view of the limited ability of the Malayalee supervisor or worker to communicate with the migrant labourers in their language, all the necessary details of the illness or accident may not be communicated to the doctor. Moreover, the migrant worker has no way to ensure that his/her illness or accident is properly communicated. Our study among migrant workers from Tamil Nadu (Surabhi and Kumar 2007) found that nearly one-third of them usually approach a local chemist for treatment. The doctors of a Government Medical College in Kerala who examined a group of about 200 migrant labourers in a work site in 2011 found that the labourers showed a "dangerous tendency

to buy medicines of their choice from medical stores directly without consulting a doctor."¹⁹ The public health staff in a government hospital in an area with migrant concentration told us that "before going to the hospital, they take some medicines from the medical shop. They are very keen on taking medicines and are quite familiar with the medicines available such as Corex. They buy the Corex cough syrup²⁰ and have it."

While migrant labourers avail themselves of curative care, though often not at the desired level, the temporary nature of their employment and stay limits the chances of being covered by preventive care. However, of late, the public health system in the state is slowly realising the implications of not addressing the health issues of the migrant population as it has started affecting the health of the local population also. The incidence of Malaria has been reported among migrant workers in different parts of Kerala, a state which has long back eradicated the disease.²¹ This has prompted the authorities to initiate interventions to prevent the spread of such diseases. Some efforts to create awareness among the migrants through pamphlets printed in Hindi, Oriya and Bengali have been undertaken. However, public health personnel agree that only a section of the migrants is reached through such interventions. They attribute it to inadequate human resources available at their disposal. The availability of public health staff for field work has not changed even in pockets where migrants are concentrated in large numbers. Also, the strategy employed is to reach out to the migrant labourers through their employers where the willingness of the latter is a major determinant. Moreover, such a strategy will not help to reach out to casual labourers, domestic workers and those employed in small establishments. In response to the increasing presence of migrant labour and in view of the current attention on the link between migration and spread of HIV/AIDS, state-funded AIDS Control Society is implementing targeted intervention programmes among the migrant workers. The project titled 'Migrant Suraksha Project' is implemented with the help of non-governmental organizations.

The migrants are more vulnerable to safety risks at work place. Instances of migrant workers working at dangerous heights without necessary protection have been reported in the media. Often the local community accept this by saying that "they are willing to climb any heights and work there dangerously". The necessary precautions to ensure the physical safety of workers in the

industrial units also leave much to be desired. Added to this, the poor language skills prevent them from understanding the safety precautions that the employer or his supervisor gives them verbally. In the event of an accident at worksite, the migrant worker is usually taken to a private hospital of the employer's choice. Usually the employer meets the hospital expenses. However, such accidents seldom get reported. According to the hospital staff in a government hospital:

"The private hospitals usually support the employers, such a nexus is essential in such areas. Whenever an accident or any work-related injury occurs, the employers prefer taking them to the private hospitals so that it goes unreported. There are also cases wherein the workers are deserted at the hospital or deported back to their homes."

It is well known that living environment plays a crucial role in determining the health of its occupant. In May 2011, the team of elected representatives and officials from the urban local body of Kochi city visited a few construction sites to inspect the living conditions of the migrant workers. According to the Mayor of the city, the living conditions of the workers are found to be poor with no proper toilet facilities.²² Most of the migrant families live in shanty houses/rooms often on a sharing basis. The unmarried workers from West Bengal, Assam, Orissa etc., live in rooms with hardly any ventilation and are shared by 10 or even more workers. Inadequate sanitation facilities and inadequate usage of water pose health risks. The poor living conditions of migrant workers was reported in our earlier study among workers from Tamil Nadu (Surabhi and Kumar 2007), who are considered to be relatively better off among the migrant group.

5.4 Limitation to Access Education

The children of migrant workers usually stay back in their home villages. Large majority of the newly coming migrants from distant states are young and unmarried. Of the children staying in Kerala, language barriers pose problems in availing the educational facilities here. A few single teacher schools have been started under the national school education programme viz., Sarva Shiksha Abhiyan. A single teacher school for the children of Bengali migrants, started in Central Kerala, was closed down as the Bengali teacher left Kerala to get married. The difficulty to recruit teachers with knowledge in languages such as

Oriya, Bengali or Assamese is one of the problems related to the education of migrants' children. A migrant labourer from Uttarakhand who sends his four year old child in a private pre-school in Kerala told us that he will leave Kerala when the girl attains the age of six. He feels that the language (Malayalam) and curriculum the child learns in Kerala may not be good for her future as she has to live the rest of her life in Uttarakhand.²³

5.5 Unequal Wages

Unskilled migrant labourers get Rs. 300-350 for a day's work. If accommodation and provisions for food are given, there is a cut on their wages to the tune of about Rs.100. These wages are lower than the wages for local labour by about Rs. 100. But in large scale construction as well as infrastructure works, migrant workers are generally recruited through contractors or agents who settle wages, after retaining part (Rs. 20-50) of their earnings from the payments received from the employer. Even if they do not come through contractor or agent, some of them pay money to the labourers who have come to Kerala from the same state earlier to find jobs and provide necessary support. One of the migrant labourers said "When we come, we know nothing. So we call up people already here and ask them to find job for us. When they help, we give them some money. What else can be done? Otherwise we will be absolutely lost as we don't know the language."

The earnings of the workers after migration is about 3-4 times their earlier earnings in home state. It is also much higher than the minimum wages fixed by the state government for unskilled workers. While there is substantial difference between the monetary wages for casual work in Kerala and in their home villages, it is important to note that the difference in real wage rates to the migrant workers may not be as high, as they have to incur much higher costs for living in Kerala than in their native places (eg. rent, cost of food, transportation, communication etc.). Our study among labourers from Tamil Nadu mentioned earlier showed that about one-third of the workers had to work for more than nine hours, a restriction fixed under Factories Act. According to anecdotal evidences and newspaper reports, the workers from the state of Tamil Nadu are relatively better off in terms of wages and living and working conditions compared to workers who have migrated recently from other states in the country. The wide network of Tamil workers in the region and their concentration in some places help them in finding jobs and also provides them

considerable bargaining power. Some of the contractors and employers opine that workers from Orissa, Bengal, Assam etc. are more tolerant to poorer working and living conditions and it is easier to extract labour from them.

5.6 Identity and Police Surveillance

Migrants are sometimes being branded as 'unreliable outsiders' and criminals by some local people. The Police also have contributed to fostering of this branding. No doubt, there are migrants from other states in the Criminal List published in the website of the Police Department. To distinguish the migrant workers from the criminals who have migrated to Kerala from other states, there is a need to have some identification documents for the workers. The Grameen Vikas Trust (GVT) initiated one such programme in Madhya Pradesh. GVT worked closely with the local governments of source villages and has developed an informal system of identity cards for migrants. With these cards, migrants have some protection against official harassment (Deshingkar and Grimm 2005). As may be seen later, the state government has initiated a scheme to issue identity cards to migrant workers by enrolling them in a welfare scheme. The lack of documents to prove their identity has been hindering the enrolment in this welfare scheme.

The Police have justification for keeping the migrants under surveillance. Some of the incidents such as the arrest of a Maoist leader of Andhra Pradesh state from a hideout among migrant labourers in 2007 and the arrest of two migrant workers in connection with the killing of a fellow local worker resulted in giving more attention to the migrant labourers. The Police have been collecting details such as photograph, residential address of the labourer, nearest police station to his residence and also names of contact persons to verify the information given by the migrant labourer. Some instances of how the police respond to the situation is worth citing. In a meeting of one of the residents' associations in the city, a Police Officer in the local police station is reported to have warned the residents of the need for taking additional precautions while renting out the premises to the migrants. While, it may be justifiable to some extent seen from the crime detection angle, the message that is passed on to the local people can act against accessing houses by the migrants. The researcher and a few other local people were having tea in a wayside tea shop. Two migrant workers from North India were also waiting for tea. A police jeep stopped in front of the tea shop and the inspector singled out the migrant workers and

questioned their whereabouts. Bewilderment and shame were visible in their faces. The incident did not evoke any sympathy among the local residents.

In terms of physical safety outside the work place, the migrant workers are relatively safe though a few incidents of minor clashes between local people and migrants have been reported recently. But it appears that there is a need to improve their sense of security. A labourer from Orissa told us "We need to be cautious always. When someone goes out we tell them to be careful, come back soon and all. We have not gone out in the night much. When someone gets delayed, we get worried as to whether some problem has come up." Another migrant worker told us "our friends have told that they have been asked for the identity card. Sometimes, if they are not able to produce the card, they are then sent back. But we want to stay here for the money. We stay here but are a bit afraid."

Unlike international migration, where the number of legal migrants is known with their country of origin, such information is not available in India about inter-state migration. This is different from the situation in China where internal migration is to be registered (Bhagat 2005). Even the decennial census does not provide data on inter-state migrants below the level of district. We find concentration of migrant workers in some places and a sprinkling in many others. The absence of data on the availability of number, type and state of origin of the migrant labourers below district level makes it difficult for the local governments to understand and respond to the needs of migrant workers. The state, a front runner in decentralising administration and governance, has earmarked a quarter of its budgetary allocation to rural and urban local bodies. But the local bodies are yet to respond in any significant way to the presence of a large number of migrant labourers in their localities, their conditions of living and new issues of governance. The absence of data specific to their localities may be one of the reasons for not considering their presence in planning and local governance.

6. Legal Protection

Till now, we have been discussing about the different dimensions of vulnerability faced by the migrant workers and how different agencies including state agencies responded to the situation. This section examines a variety of legal instruments that are meant to protect their rights which are derived from

the legislations of the central and state governments. Among them, the most important one is the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act (1979). The Act is intended to regulate the employment of inter-state migrant workers and to provide for their conditions of service. The Act specifies that equality of wages should be ensured between migrant labourers and others. The Act also provides for displacement allowance equivalent to half month wages. They are also entitled to get journey allowance to meet the travel from place of residence to place of work as also wages during the period of such journeys. The Act states that it shall be the duty of every contractor to "provide and maintain suitable residential accommodation". Prescribed medical facilities also have to be provided free of charge. It is also the duty of the contractor to ensure suitable conditions of work. The Act also stipulates that in case of fatal accident or serious bodily injury to workers, the contractor has to intimate the specified authorities of both the host state and state of origin and also the next-of-kin of the workers. Contractors and establishments are required to be licensed and registered by a notified registering authority. The contractor is required to issue a passbook to every worker, giving details about the worker, including payments and advances. The Act is applicable only to establishments and contractors employing five or more inter-state migrant workers.

Almost all laws applicable to local workers also cover the inter-state migrant workers. Such laws include:

- o Minimum Wages Act- Meant to determine the minimum wages in industry and trade where labour organisations are non-existent or ineffective.
- o Contract Labour (Regulation and Abolition) Act- The Act applies to every establishment in which 20 or more workmen are employed. The Act has laid down certain amenities to be provided by the contractor and to make arrangements for sufficient supply of wholesome drinking water, latrines and urinals, washing facilities and first aid facilities.
- o Equal Remuneration Act- which stipulates payment of equal remuneration to men and women workers for same or similar nature of work

- o Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act-The Act is meant for regulation of employment and conditions of service of the building and other construction workers as also their safety, health and welfare measures in establishments employing ten or more building workers. Under the Act, the employers have to provide, free of charges temporary living accommodation to all building workers.
- o Workmen's Compensation Act- To provide compensation for workers in cases of industrial accidents/occupational diseases in the course of employment resulting in disablement or death.
- o Payment of Wages Act - Meant to ensure regular and prompt payment of wages and to prevent the exploitation of a wage earner
- o Factories Act- An Act to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories using power and employing 10 or more workers.

In spite of having a legal framework to protect the migrant workers, instances of violation of the existing laws do happen in the state. While the wages received by the migrant workers are usually higher than the minimum wages in the state, there exists difference in the wages received by the migrant labour and the local labour. However, the most important issue is the failure of the employers and contractors to honour their commitments to provide 'decent' working and living conditions. For instance, The Hindu dated January 7, 2007 reports about the pitiable accommodation provided to the migrant workers by a contractor in Kochi. About 30 workers were provided accommodation in three portions of a small house. The Hindu dated March 10, 2005, reported another instance of violation of the rules pertaining to migrant workers working in Thiruvananthapuram city. The report says that the Labour Department has initiated action against a construction firm involved in the City Roads Development Scheme in Thiruvananthapuram on the charge of violating the provisions of the Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act. The action was initiated on the basis of reports that migrant labourers were being denied minimum wages and proper living

conditions in the labour camps run by the firm in the city. The department found that the wage registers, muster rolls and particulars of migrant workers were not being maintained properly. The company did not adhere to the welfare clauses in the Act, such as free medical care, proper living conditions and journey and displacement allowances. According to the report, several firms were employing migrant labourers without Government sanction. The law stipulates that labour contractor recruiting more than five migrant workers should get a recruitment licence from the home State of the labourer and an employment licence from the Labour Department of the State where they are to be employed. The report says that the firms and also contractors ensure that no records of the worker related transactions are maintained to prevent any scrutiny by law enforcers. In the absence of a comprehensive enforcement mechanism, the employers and contractors are able to violate laws. There are several government agencies to enforce the legal rights of the workers. They include the Labour Department, Police Department, Department of Factories and Boilers, Health Department and different welfare boards. These agencies have not been geared up to meet the increasing flow of migrant workers from diverse backgrounds. There is also only limited cooperation among them.

7. Welfare Scheme for Migrant Workers

In India, social security is listed in the Directive Principles of State Policy and is one of the subjects in the Concurrent List in the Constitution of India, which is federal in nature. Kerala state has been a front runner among the states in India in initiating social security schemes for different vulnerable sections of the society. These schemes, implemented mainly through different welfare boards, have been successful in extending social security to a limited extent to majority of the vulnerable groups. Extending the coverage of social security net to workers in the unorganised sector is identified as one of the major priorities of the state government (Government of Kerala, 2009).

The state government introduced a welfare scheme for the migrant workers on the May Day of 2010.²⁴ Under the scheme titled 'Inter State Migrant Workers Welfare Scheme', a membership card is issued to each migrant worker who gets enrolled. Each registered worker would get up to Rs. 25,000 as healthcare assistance for in-patient care in empanelled hospitals in case of accidents or chronic diseases. However, the worker is eligible to get only Rs. 100 per day and the maximum limit fixed per episode of disease is Rs. 2000. If the

labourers become incapable of undertaking jobs for more than six months due to accidents or chronic diseases, they are eligible to get a special assistance of up to Rs. 25000. The labourers who have registered in the scheme continuously for three years are also eligible to enjoy a retirement benefit of Rs. 1000 per year subject to a minimum of Rs. 10,000 and a maximum of Rs. 25,000. Financial assistance to the tune of Rs. 50,000 in the event of death in accident at work site and Rs. 10,000 in the event of natural death is provided to the dependents of the migrant labourers. An additional assistance of Rs. 5000 to Rs. 15000 (depending on the distance to the state of origin) is also given for transporting the body to their native places. There is also a provision for assistance of Rs.3,000 per annum for the education of the children of migrant labourers who are studying beyond Class X in Kerala. The scheme is implemented through the Kerala Construction Workers Welfare Fund Board which is also running a scheme for the welfare of the construction workers. The migrant worker will be required to pay an annual contribution of just Rs. 30. The Welfare Board, which is financed mainly from the cess on construction activities, will credit twice that amount in her/his account. The government will provide the rest of the money needed for the welfare measures. The welfare fund package is in addition to the assistance available to inter-State migrant workers under the Inter State Workmen (Regulation of Employment and Conditions of Service) Act and the rules framed under it. The welfare fund scheme would be monitored by an advisory committee chaired by the State Labour Commissioner and comprising representatives of various trade unions.

The scheme, though pioneering, has certain inherent weaknesses. The programme targets to enrol half a million workers which is much lower than the total number of migrant workers in the state. That the actual number of workers registered in the first 18 months of its existence is only about 18000 indicate that most of the migrant workers remain outside the protective umbrella. One reason for the failure to enrol most of the migrant workers is the lack of awareness about the welfare scheme among the target group. During one of the Focus Group Discussions we had with migrant workers, none of them were aware of the scheme, though they felt that such a scheme is attractive. There was no strategy to communicate directly with the migrant workers coming from different regions of India and speaking different languages and dialects. Most of the communication was through advertisements in the print media which was in

Malayalam, the local language or English which is also different from the language of the migrant workers. There is very little chance that migrants take note of these advertisements.

As noted above, the scheme is administered by the Board which operates the welfare scheme for construction workers. As of now they are primarily targeting the builders. They contact the builders and ask them to enrol the migrant workers working with them. For registration, the workers have to furnish copy of the identity cards, which majority of whom we met did not have. Obviously the builders register only migrant workers who have a proof of their identity. Another reason for exclusion of a significant section of the migrant population arises from the stipulation that the employer has to certify that the worker is working with him, which many of the employers are unwilling. A large section of the migrant workers are employed in the Plywood industry. But the Owners of Plywood Units are not willing to certify the employment of the worker for registration under the scheme. The above requirements also prevent the casual migrant labourers who do not have a permanent employer from availing the benefits of the scheme. Similar is the situation with domestic workers and seasonal workers employed in plantations, agricultural farms etc. As a result, the enrolment which is only less than two per cent of the estimated migrant labour force in the state 18 months after the initiation of the scheme.

Trade unions were in the forefront of ensuring the rights of local workers. They also acted as pressure groups to make changes in the regulatory framework to protect workers from exploitation as also to initiate welfare schemes. The support of trade unions may enable socially marginalized groups like the migrant workers to claim their rights at par with the local workers. The migrants who are often not aware of their rights, however, get very limited support from the trade unions. Though trade unions in Kerala are strong in the organized sector and in the unorganized sector, they are yet to make their presence felt in any significant way among the migrant labourers. Similarly, the political parties appear to be not aware of the complex issues involved in large scale in-migration. There have been some attempts by non-governmental organizations to take up issues of migrant labourers, but their reach is very limited.

In the case of other labour welfare schemes in the state, trade unions played a major role in enrolment. A study of the construction workers' welfare fund²⁵ in Kerala (Nair, 2004) reveals the important role played by the trade

unions in bringing the workers into the fold of the welfare scheme. The necessary promotional work and support to enrol the workers in the scheme was done mostly by the trade unions. Large majority of the workers covered by the study also reported that they became members with the assistance of trade unions. Such an approach was not possible for the enrolment of inter-state migrant workers mainly because the trade unions do not have any significant presence among them.

A feature of the welfare boards in Kerala is that they are contributory in nature. The nature of contribution from government, employers and workers varies from fund to fund. The employer's contribution is higher than that of the workers in all the funds (ibid). Whenever both contributions are meagre, government makes up the shortfall. The worker's contribution (as also benefits) varies from fund to fund and is dependent on the ability to pay. But in the case of the welfare fund for migrant labourers, employers' contribution comes only in the form of building cess collected from the construction companies. Since construction industry is only one of the sectors in which migrant labourers are employed, in effect, there is no contribution from employers in other sectors.

The initiative of the state government to institute a welfare scheme for migrant workers, in spite of its weaknesses, needs to be appreciated. It also indicates that the visibility of this 'invisible people' has increased in administration and governance aspects in the state. The state government, in the future, may have to think about constituting a separate mechanism to implement the scheme as presently the scheme is faced with constraints due to inadequate personnel. Currently, the staff of the Construction Welfare Fund Board is implementing this additional scheme with out any change in the staffing pattern. They are also constrained because of the non-availability of vehicles and other facilities necessary for undertaking the field work. It is also important that the representatives of the migrant labourers are present in the monitoring committee. Kerala, a state known for participatory democracy, can not shed its responsibilities to involve the beneficiaries in the implementation of the scheme.

8. Conclusion

This paper examined the dimensions of vulnerability of migrant workers in Kerala, a state in India known for its social development and implementation of social protection mechanisms for labourers. Due to the limitations in portability of entitlements, the migrants are not able to enjoy some of the

entitlements from central government and state governments they had enjoyed before migration. Thus, even when the migrant workers are from the same country, the host state fails to extend them all the protection that is available to the local labour. This being a national level problem, it has to be addressed for the country as a whole. But the introduction of a unique identity viz., Aadhaar may help to transfer the rights of migrants from one state to another provided a better coordination is worked out among host states and states of origin. The additional entitlements or benefits in the destination state are not provided to migrants as permanent resident status is necessary to become beneficiaries. So even if a state is relatively better off in terms of legal and social protection, the benefits are not automatically transferred to the migrant workers. However, such an environment will have some demonstration effect.

The overall environment in the host society may also influence the employers to be not as exploitative as elsewhere. When local labour and migrant labour are working in the same premises, the employer may not have the same freedom they enjoy elsewhere to exploit migrant labourers. Moreover, at least a section of the media has also been sensitive to the issues of the migrant labourers.²⁶ This again puts pressure on the employers and contractors to minimise unfair labour practices. All these might have affected the perceptions of the employers and contractors about the limits of exploitation. Hence, it is likely that the factors that lead to vulnerability of migrant labourers in Kerala may not be as strong as in many other parts of the country. In spite of all these, they are not able to enjoy the 'decent' working and living conditions they are entitled to though they earn much more than what they could have earned by working in their native places.

Reaching out to migrant workers is problematic because of their temporary status in the destination state (Kerala) and the floating nature of migration. Therefore, strategies which are successful for the local labour may not be appropriate for migrants. For instance, the enrolment for a welfare scheme for local construction workers was successfully conducted through trade unions and employers. But such a strategy may not work in the case of migrant workers. A strategy to communicate directly with them has to be introduced as the present strategy, whether it is by the law enforcement agencies or the public service providers, fails to reach a significant segment of migrant population. The institutions and establishments such as banks, post offices, petty shops,

hotels, theatres where the migrant workers frequently visit may be made use of to communicate with the migrant labourers about their rights, entitlements as also duties. The awareness about the importance of keeping their premises hygienic, precautions against communicable diseases, availability of public facilities etc., can also be increased by making use of this network of institutions.

Inter-state migrants are faced with language barriers in accessing health care and in protecting their rights. Though there has been some response to address the issue both by the migrants as well as the host society including public agencies, many of the problems remain unattended. Though the officials accept that the communication should not be in the local language (Malayalam) or English, there is an erroneous perception among many that it is sufficient to have it in Hindi, the national language. As mentioned earlier, many of the migrant workers cannot speak or read Hindi. The state has to initiate information dissemination in the mother tongue of the migrant workers. Such a communication strategy can be undertaken with the cooperation of governments in the states of origin. Coordination between host state, states of origin and the central government may be necessary in other aspects such as extending the benefits of the public distribution system, sharing of information on migrant workers who are sent back to home state when infected with contagious diseases like Malaria, incidence of such diseases in the states of origin etc. There is also a need for considering migration as one of the criteria in central allocation to states. Some of the programmes for creating awareness about the rights in destination state can be organised in the states of origin. It is also possible that the states of origin can contribute to the welfare funds for migrant workers implemented in the destination state to make it more attractive. At present, only the host state contribute to the funds.

The state agencies and the rural and urban local bodies in Kerala have to revamp their enforcement mechanism to make sure that the migrant workers are able to enjoy 'decent' living and working conditions as also to help them benefit from the public service providers. There is also a need to strengthen the public facilities taking into account the increasing need of the migrant population. Trade unions also have to get involved in ensuring the labour rights of the migrant workers, to pressurise the government agencies to enforce the legal provisions and to make sure that the benefits of the welfare schemes reach them.

A well intentioned scheme for the welfare of migrant workers was initiated in Kerala in 2010. Though it is too early to understand the impact of the scheme, the available evidences indicate that there is much scope for improving the scheme and its implementation. Unlike in the case with Punjab state where a migrant welfare board was constituted, Kerala has not constituted any separate welfare board for migrant workers. Instead, the welfare scheme for migrant workers is implemented by an existing welfare board for construction workers. In such a situation, issues of migrant workers such as their rights to public distribution system, membership in community health insurance scheme, conflicts between local people and migrants do not receive attention. The absence of a representative of the migrant workers in the monitoring committee eliminates the possibility of their voices being heard in the implementation of the scheme.

This paper has examined only a few dimensions of vulnerabilities of migrant labourers who have come from different states in India. Many of these dimensions are worth exploring further and there are many others too. Therefore, to understand vulnerability of migrant workers in a much more comprehensive manner, a multi-institutional and multi-dimensional study covering both destination state and states of origin is necessary.

Notes

- ¹ For a discussion on the importance of emigration to the state's economy, See George K.K and Remya S. (2008). Both out-migration and emigration has helped to ease the population pressure in a state which has the third highest density of population among states in India (Devi Radha D. and N.Ajith Kumar, 2011).
- ² But from the late eighties, the state has also been witnessing significant economic growth. As a result, the state's per capita income now is one of the highest among states in India. For a discussion on the challenges faced by the Kerala model of development see George K.K (1999) and Tharakan (2006).
- ³ The state's achievements include having the highest life expectancy, lowest infant mortality, lowest fertility rate and highest literacy rate among Indian states. Near universal school education and reduction of consumption poverty are other achievements. The state also has the distinction of being the only state in India where females outnumber males.
- ⁴ People of Kerala are usually referred as keralites or malayalees (as they speak Malayalam, the local language).
- ⁵ The other source of data on migration is the Census. Both Census and NSS capture permanent and semi-permanent migration but fails to capture fully the short duration migration. For a discussion on reasons for the under-estimation of migrants, see Srivastava and Sasikumar (2003).
- ⁶ When the plantation sector was being established in the 18th and 19th centuries in the western ghat region of Kerala, there was large scale in-migration from the present day Tamil Nadu state. Most of them got settled in Kerala.
- ⁷ Majority of the international migration from Kerala is to the West Asian countries.
- ⁸ Migrants from Nepal do not require visa to enter India.
- ⁹ Of course there is always illegal migration as happened in the case of early migration from Kerala to West Asia through Dhows.
- ¹⁰ "Bhai" literally means brother in Hindi. But the term is used in Kerala in reference to the migrant worker community from the states in North, North-east, East. Bhaimaar is stated as plural of Bhai. While Bhai is a Hindi word, *maar* is Malayalam.
- ¹¹ Ration card is a document issued by the government making families eligible to make use of the PDS. Two types of cards are issued; a BPL (below poverty line) card for the poor and an APL (above poverty line) card for the non-poor. BPL card holders are eligible to get rice, wheat, sugar, kerosene etc., at highly subsidised rates. The APL card holders are eligible to get these items but at a higher price, which also is lower than the market price.
- ¹² Defined as those living below a poverty line fixed by the Planning Commission of India.
- ¹³ The Kerala government has identified an additional group of poor people on the basis of different indicators of vulnerability. Subsidies and schemes of the Union government for poor people are usually extended to this 'additional poor' using state funds.
- ¹⁴ A similar observation was made by Rogaly *et al.* (2002) about West Bengal. Their study points out that one public provider of free nutrition supplements for pre-school children does not deliver it to migrants because of their temporary residential status.
- ¹⁵ A unique number, named Aadhaar, is currently being issued to the citizens of India. The number will be stored in a centralized database and will be linked to the basic

demographics and biometric information-photograph, fingerprints and iris-of each individual. It is verifiable in an online mode. Once the unique identity database comes into existence, the various identity databases (voter ID, passports, ration cards, licenses) that already exist in India are planned to be linked to it. Aadhaar may help in giving migrants mobility of identity.

- 16 The Eighth Schedule of the Indian Constitution recognizes 22 Indian languages. Even within a state, different languages are spoken by different groups. For instance, though Hindi and Urdu are the official languages of Bihar, a good section of the people speak Angika, Bhojpuri, Magadhi, Maithili and Bajjika. In certain parts of Kerala, people speak Tamil, Kannada or Tulu.
- 17 The language barriers were not strong in the case of migration from the neighbouring state of Tamil Nadu as people who knows Tamil can communicate in Malayalam and vice versa to some extent.
- 18 Outpatient consultation in the state government hospitals is from 8am to 1pm.
- 19 Quoted in *The Hindu* (Kochi edition) dated 29-3-2011.
- 20 Corex is a prescribed medicine and can only be bought with a prescription from a general physician. But the migrant workers are able to buy it from the local chemists without prescription.
- 21 Migrant workers may also act as carriers of many diseases which had been contained in the state due to the public health initiatives of the government and health consciousness of the local people. Spreading diseases in Kerala to the states of origin may also happen.
- 22 Quoted in *The Hindu* (Kochi edition) dated 9-5-2011.
- 23 It is interesting to note that Kerala is ranked first in educational development index among the states in India and Utrakhnad is ranked 15th (NUEPA, 2011).
- 24 Though Punjab has constituted a Migrant Welfare Board (Parvasi Bhalae Board) in 2009, it was meant mainly to resolve issues related to the migrants. It is expected to take up routine problems faced by the migrants like police harassment and help in their integration with the local society. In future, the Board is envisaged to develop social safety net for the migrant labourers. The first Chairman of the Board is a migrant from Uttar Pradesh who migrated to Punjab in 1979.
- 25 The coverage of the Construction Workers' Welfare Fund is impressive. About 70 per cent of construction workers in the state had got registered in Welfare Fund which started in 1990 (R.P.Nair 2004).
- 26 On the other hand, a section of the media has shown a tendency to generalise from a few criminal activities in which migrants were caught by the police.

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