

GIVING MIGRANTS THEIR DUE

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Often migration has been seen as a symptom of distress and something to be forestalled. However, it can equally be an instrument of economic and, especially in India, social emancipation.

In India, the constitution guarantees freedom of movement and migrants are an integral part of India's workforce, across a range of sectors. However, they remain unable to access many benefits that are due and owed to them, even as our social protection architecture is becoming stronger. Some element of portability and convergence is being introduced, but many benefits continue to be place-specific, notably food security provided through the targeted public distribution system (TPDS). Based on the migrant-inclusiveness of social protection schemes we suggest that clearer legal articulation, inter-state collaborative frameworks, sensitisation of the ground level bureaucracy and involvement of civil society organisations are all necessary to address this issue. We conclude with specific recommendations for the construction sector.

INTRODUCTION

According to the Census of India, the number of migrants has doubled in the period 1991-2011, currently standing at 454 million, i.e., about 37% of the country's population. This migration is a complex phenomenon, comprising

different streams, across different distances and durations of time. While in the past, rural to rural migration was dominant, the initial data from Census 2011 - detailed migration data is yet to be released - indicates that urban to urban movements are increasing. Concomitantly, there appear to be a shift in reasons for migration as well, with work and employment being replaced by family related reasons. The Working Group on Migration (MoHUA, 2017) has interpreted this as a possible sign of households consolidating in urban areas. There is also significant movement from city to rural areas. In 2011, while 32.1 million persons moved from rural to urban areas, 11.5 million persons moved in the other direction, consistent with a phenomenon of return migration.

MIGRANTS AND WORK

The Constitution of India guarantees freedom of movement to all citizens (Box 1). It is thus not surprising that migrants are an integral part of our workforce. While the latest Census data on migrant workers is still awaited, in 2001, they were 35.5% percent of the workforce -- important contributors to the economy.¹

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They are well represented across sectors, in manufacturing, construction and modern services², and ubiquitous in the informal sector. Work related migration is often inter-state, though there is substantial movement within districts also. While the improvement in transportation infrastructure, including the Pradhan Mantri Gram Sadak Yojana (PMGSY) has facilitated commuting, which accounts for over 10% of our urban workforce (Chandrasekhar & Sharma, 2015), our data collection systems are not designed for capturing short-distance and short-term migration, which are largely for work. The NSS in 2007-08 estimated short-term migration to be about 13.6 million, while Srivastava (2011: 422) guesstimates that “[c]onservatively, 40 million labourers could be seasonal migrants”. The Economic Survey 2016-17, notes that using changes in same-age cohorts “yields an annual inter-state migration of about 5-6.5 million between 2001 and 2011 [while] Railway passenger data analysis suggests an annual inter-state migration flow of close to 9 million” over 2011-16. (Government of India 2017, p. 264). Other studies have suggested even higher numbers, up to 100 million (Deshingkar and Akter, 2009). A related phenomenon is the use of migration by households as a risk distribution strategy, whereby some members of the household migrate (to cities or other rural areas) while others remain in the village. But, even

as they contribute to building India, migrants are often unable to access the benefits that are due and owed to them.

Box-1 : The Economic Advantage of Freedom of Movement

From time to time, the question is raised as to whether restricting migration is good policy. However, the Constitution of India guarantees freedom of movement to all citizens. This is enshrined in clauses 19(1)(d) and 19(1)(e) of the Constitution; in addition, Article 15 prohibits discrimination on basis of place of birth, among other criteria, and Article 16 guarantees equality of opportunity for all citizens in matters of public employment and prohibits the denial of access to public employment on the grounds of place of birth or residence. This constitutional right to free movement contrasts sharply with the formal Chinese system, which has used the concept of *hukou*—a place-based household registration system that links social benefits like education, healthcare and employment rights to place of registration—to restrict movements within the country till about 1980. However, since then, it has been relaxed and de facto, there are now over 200 million migrant workers, from interior provinces to the coastal regions, in China, who are working outside their place of registration. It is they who power the export-led economic growth model. China is currently reforming its *hukou* system to provide more access to social services for migrants and mitigate the inequalities that it generated. Restrictions on migration are thus not only unconstitutional, and wrong in principle, they also hurt economic growth.

SOCIAL PROTECTION AND MIGRANTS

India has, in the recent past, established a growing architecture of social protection. This ranges from the employment guarantee scheme (MGNREGS) in rural areas, to health insurance under Rashtriya Swasthya Bima Yojana

(RSBY), the right to education, the right to food security to an expansion of old age pensions and social security for unorganised workers. But the integration of migrants into this architecture is far from seamless. Some aspects of social protection, like education and health, are philosophically agreed upon as universal in coverage, while others like the targeted public distribution system (TPDS) are designed to be household-specific and are delivered in a place-specific manner, and need to be made portable. For such services, a further challenge is delivery of benefits when only some members of a household migrate. In this section, we look at how migration could affect access to key social services and the challenges of implementation of social protection schemes (Box 2).

Health

Our public health system is accessible to all, but is heavily overburdened, especially in cities. It has been supplemented by the RSBY, which provides insurance coverage for some key health conditions. The architecture of RSBY is among the few that has tried to incorporate portability at both levels. Persons enrolled under the scheme can use their smart cards in any empanelled hospital across the country to avail treatment and further, individual members of the household can avail services at different locations. This is a useful model to study for replication in other schemes.

Child and Maternal health

The Integrated Child Development Services (ICDS), which focuses on maternal and child health, has no restrictions of domicile, thereby easing, at least in principle, the access to benefits by migrants. However, district administrations need to ensure that additional services necessary for migrant families are budgeted for in their annual planning exercises and anganwadi workers and ANMs need to be sensitised to expand their outreach to migrant women and children.

Education

In education, a similar situation prevails. The Right of Children to Free and Compulsory Education Act 2009 reinforces the access to schooling for all children. Indeed, recognizing that special efforts are required towards the education of migrant children, the Sarva Shiksha Abhiyan (SSA) provides for flexible institutional arrangement facilities under the Education Guarantee Scheme (EGS) and Alternative and Innovative Education (AIE) components. Migration intense districts can therefore utilize these components, but, in practice, local action is required to access funds and operationalise these efforts. For example, the Department of Education, Government of Gujarat has worked to integrate children of seasonal migrants in schools via the Migration Card initiative, enabling intra-State child migrants to avail of hostel facilities at source and inter-

State child migrants to avail of temporary schools set up near their parents' worksites. A similar initiative involving Education Guarantee Cards (EGC) for migrating children and support for hostels, food, etc. for children whose parents have migrated has also been implemented in Maharashtra, as a pilot by UNICEF.

An additional aspect in providing education to migrant children at destination is the language of education. Inter-state collaborations to provide education in the mother tongue for migrant children is being explored by some states, e.g., through an inter-state memorandum of understanding (MoU) such as one between Odisha and erstwhile Andhra Pradesh. Volunteers trained in Odiya have helped to bridge the language gap for children of brick kiln workers in Andhra Pradesh.

Food

India's Public Distribution System (PDS) is the largest food security system in the world. While the National Food Security Act 2013, integrates the legal framework for access to food under a single legislation and places no bar on portability, the identification of beneficiaries is still carried out by individual states and these beneficiaries are further attached to specific Fair Price Shops. While there have been some attempts at portability of PDS within states, these have remained sporadic. Entitlements are individually

specified and it is currently not possible for individuals to be delinked from their households when they migrate. This is true a fortiori for inter-state migrants. *Enabling migrants to access their rights to food security thus remains a major challenge.*

Benefits related to social deprivations

A number of benefits are available related to housing, skill development, employment, etc. to persons from specific social categories, such as Scheduled Castes (SC), Scheduled tribes (ST) and Other Backward Classes (OBC) in different states. These lists are prepared at state level and inter-state migrants from these groups stand to lose access to them if their status varies across states. Indeed, because of these issues of classification, the Census of India does not record any inter-state migration by social category and one curious outcome of this is the absence of any person classified as belonging to a scheduled tribe in the census population of Delhi!

Political inclusion

Elections in India are a place-based activity. Migrants are legally entitled to transfer their voting rights to their destination, but many may not choose to do so, given the nature of migration in India, where only a part of the household may migrate and migrants thus remain linked to their place of origin. If they want to exercise their franchise in their place of origin, they would have

to physically travel back to do so, since there is restricted access to postal ballots, primarily for members of the armed forces. The Election Commission has been looking into this issue and some studies have been commissioned in this area.³

Housing

Migrants, especially those in low-skilled low-wage work, can often afford to stay only in inadequate housing. Many live in informal settlements, where insecurity of tenure affects both the quality of infrastructure as well as investment by landlords. Renters are additionally vulnerable on account of the informal nature of their tenancy contracts, which are usually oral agreements. They are also at a disadvantage when it comes to accessing public sector rehabilitation and redevelopment schemes for slums, because of the use of 'cut-off dates' in many urban areas. The upgradation of slum infrastructure on the lines of earlier schemes such as the Environmental Improvement of Urban Slums (EIUS) and the Bustee Improvement Programmes could be a useful strategy in this area.

CONCLUSIONS

Often migration has been seen as a symptom of distress and something to be forestalled. However, it can equally be an instrument of economic and, especially in India, social emancipation. This role becomes predominant as the transition out

Box-2: The Challenge of Implementation

Even when there is an adequate legislative framework and funding available, inclusion is not automatic. Under the existing legislative framework, States must establish a Building and Other Construction Workers' (BOCW) Welfare Board with representation from workers, employers and the government.⁴ This Board manages a BOCW Welfare Fund, which receives a cess of 1 percent levied on the value of all construction projects above 10 lakhs. The Board has to register workers in construction and allied sectors like brick kilns and promote their welfare through facilities.

Despite its promise, most of the states were tardy in forming the BOCW Welfare Board (Roy, Manish, and Naik, 2017). Registration, a prerequisite to accessing benefits, varies widely by state. Accounts from civil society organisations reveal a low level of awareness among officials at the district level and there is not much effort to spread awareness among construction workers themselves. In some cases such organisations have made it possible for migrant construction workers to register and get benefits, e.g., in Ghaziabad, the Sahbhagi Shikshan Kendra (SSK) convinced the district level labour department to permit workers to submit self-certified affidavits for the purposes of registration and organised registration camps with the department officials to cut down processing time for registration and access to benefits. Such efforts remain sporadic, and expenditure in most states remains low, with a total unused corpus across states of over 22,000 crore as of October 2016.⁵

This shows that in order to include migrants within the ambit of social protection schemes it is necessary for state level rules and institutions to be unambiguous on the language of inclusion, and district officials need to be adequately trained, sensitised and willing to reach beneficiaries, e.g. through aggressive outreach and partnering civil society organisations.

of agriculture, whose workforce share is reducing at about 1% per year, accelerates. This is a phenomenon that must be embraced and managed, even as safety nets are put in to mitigate distress migration. This shift in attitude can be seen in the recent report of the Working Group on Migration and the latest Economic Survey. There appears to be increasing awareness both of the numbers and types of mobility and of the contribution of migrants to economic growth.

At the same time, with the improvement in digital databases, including the use of Aadhaar,⁶ India is moving to portability and/or universality in social

protection architecture, making it easier to include migrants. It is possible for state governments to demonstrate this shift to a more migrant friendly outlook through concrete actions. One low hanging fruit is the utilisation of the money in various BOCW Welfare Funds. About 10% of non-farm migrant workers and about 40% of all short-term migrants work in construction. Many live in wretched conditions on work sites (Figure 1a). The considerable unused funds could visibly improve on-site housing for such workers, something akin to the pre-fabricated construction dormitories (Figure 1b) that are the norms for Chinese construction sites (Wang, et. al.



Figure 1a : Construction worker housing in India



Figure 1b : Construction worker housing in China

2016).⁷ A beginning can be made in large public sector projects of NBCC, the various Metro Rails, etc. This can spur similar efforts in providing accessible housing to migrant workers in other sectors, especially labour - intensive manufacturing. This would truly be a signal that migrants are finally being given their due and also be a visible contribution to improved habitat.

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NOTES

- ¹ The National Sample Survey (NSS) 2007-08 estimated that migrants comprised 28.3% of the workforce.
- ² See Table II.4 of the *Report of the Working Group on Migration* for a break-up of the share of migrant workers in the total workforce by major sectors
- ³ See *Inclusive Elections in India: A Study On Domestic Migration And Issues In Electoral Participation*, a report submitted

by the Tata Institute of Social Sciences, Mumbai to Election Commission of India November 6, 2015 accessed at http://www.shram.org/reports_pdf/eci_report.pdf

⁴ This legislative framework is defined by the Building and Other Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 and the Building and Other Construction Workers (BOCW) Welfare Cess Act, 1996. However, many have constituted the board much after the Act was passed.

⁵ See answer to Unstarred Question No. 2509 in the Rajya Sabha on 7 December 2016 (session 241) accessed from <http://164.100.158.235/question/annex/241/Au2509.pdf>

⁶ Aadhaar is a scheme to provide every Indian resident with a unique biometrically verifiable (using fingerprints and iris scans) numeric identification number.

⁷ Migrant construction workers' quarters in China are usually made of polystyrene board, steel board, wood board, and a steel frame. A typical unit is approximately 12-30 sq. m, containing three to eight bunk beds. Such prefabricated units are colloquially called K-houses and cost around 300 to 350 per square foot. The material can be reused multiple times.