

Migrant workers in India: What protections do they need?

By Gajal Gupta on 01 June 2021

The Covid-19 pandemic highlighted the plight of India's huge army of migrant workers, as millions lost their jobs in last year's lockdown and were forced to return to their home villages. We asked three experts what needs to be done to improve the health, safety, employment and social security protections for migrant workers.

The Covid-19 pandemic has brought into sharp public focus the plight of migrant workers in India. With most businesses closed during the national lockdown in Spring 2021, millions of migrant workers suddenly found themselves out of work, facing food shortages and being forced to return

to their home villages from major towns and cities.

Television news footage showing migrant workers stranded while attempting to travel home highlighted the huge challenges faced by these informal workers around job security, access to health and social security benefits and basic health and safety rights.

According to Aajeevika Bureau, a non-profit organisation that provides services and security to communities dependent on labour migration in India, as many as 140 million of India's rural poor migrate seasonally to cities, industries and farms in search of work. These migrant workers undertake a wide range of casual work in sectors such as construction, manufacturing, services and agriculture. However, migrant workers face problems such as poor wages, erratic employment, hazardous working conditions and difficulty accessing essential services and rights, such as subsidised food programmes and healthcare, warns Aajeevika Bureau.

Safety Management asked three experts for their views on the health, safety, employment and social security problems faced by migrant workers. We also asked what needs to be done to improve the working conditions and employment rights of migrant workers.

We interviewed:

- **Apoorva Kaiwar**, South Asia Regional Secretary, IndustriALL Global Union
- **K.R. Shyam Sundar**, Labour economist and Professor, XLRI – Xavier School of Management, Jamshedpur, Jharkhand
- **Virjesh Upadhyay**, Chairman, Dattopant Thengadi Foundation, a research organisation of Bharatiya Mazdoor Sangh (BMS), India's largest trade union.

What proportion of India's workforce can be classed as migrant workers? What kind of work do migrant workers carry out and in which industries they are commonly engaged?

Virjesh: Migration is a livelihood phenomenon and migration within and between rural and urban spaces is a central element in all developing countries. The migrant workers are widely scattered in different industries – from managerial level to a daily wage worker based on their education, skill and proficiency. However, the low skilled workers – those who have suffered greatly during the pandemic and the crisis arising from it – are centred in the lower strata of the working order, such as daily wage workers and those working without any security. All these workers largely come under the informal sector. When we talk about migrant workers, it is a broad terminology in which formal and informal workers are equally represented.



Virjesh Upadhyay,
Chairman, Dattopant Thengadi Foundation, a research organisation of Bharatiya Mazdoor Sangh (BMS), India's largest trade union

Shyam: We do not have a reliable and recent estimate of the exact number of migrant workers in India. The data about migrant workers is really fragile. All we have are estimates which varies from 60 million to 140 million.

The government needs to initiate annual surveys to collect data and create a robust statistical system for construction and the services sector, which would account for a good proportion of migrant workers.

A national database of migrant workers should be collated regularly, once in five years. We do not need to wait for Census figures, as there is considerable delay in the release of the Census statistics though they are the best source of statistics on the migrant workers. The new Occupational Safety and Health Code also talks of the construction of a database of migrant workers.

There are certain sectors, which we call migrant worker intensive sectors or industries. Examples include the garment industry in the manufacturing sector, the construction sector, public transportation (like the auto-rickshaws and taxi services), hospitality and care industries in the service sector. It is difficult to say about the agriculture sector as migrant workers shift from agriculture to non-agriculture during non-seasonal times.



K.R. Shyam Sundar,
Labour economist and Professor, XLRI – Xavier School of Management, Jamshedpur, Jharkhand

Apoorva: There is no authentic information to provide an exact count of migrant workers in India.

This is what the Ministry of Labour and Employment said about migrant workers in an answer to a question raised in Parliament. According to the Economic Survey 2016-17, the size of the workforce as per Census 2011 was 482 million (48.2 crores) people and – based on extrapolation – this figure would have exceeded 500 million (50 crores) in 2016.

If the share of migrants in the workforce is estimated to be even 20 per cent, the size of the migrant workforce can be estimated to be over 100 million (10 crores) in 2016 in absolute terms. However, the real number could be much higher. By far the construction industry employs a large number of migrant workers. Having said that, almost every sector involving labour-intensive activity in industrial areas, and special economic zones, employs large number of migrant workers.



Apoorva Kaiwar,

South Asia Regional Secretary, IndustriALL Global Union

What kind of health and safety risks are migrant workers exposed to? Are migrant workers at greater risk of exploitation – such as a greater risk of being underpaid, lacking social security coverage or become victims of modern slavery?

Virjesh: Migrant workers who are associated with the formal sector are covered with different social security benefits. However, those working in the informal sector – despite being the stakeholders of urban development – are mostly overlooked in terms of being provided with security, health benefits and liveable conditions during the time of crisis.

When we speak about exploitation, migrants are not just under the risk of structured issues or problems, they are also left alone without the minimum living requirements along with the perceived forms of exploitation.

However, the term slavery cannot be an appropriate term as migrant workers either in the formal or informal sector have no legal force to be in the job and can leave the job whenever they want to. However, they are compelled to be there because they don't have any savings or alternate jobs or anything to fall back upon.

Also, they are working under a clearly defined framework that is not being appropriately followed because of three reasons: knowingly bypassing them, unawareness and being incapable of following them.

Shyam: Migrant workers are highly exploited in India, mostly in the unskilled sector. All the sectors they are hired in are mostly the sectors in which locals don't want to work due to several reasons, such as health and safety risks. The informal workers in general and migrant workers in particular are more likely to be exposed to the risk of injury as they are less likely to be given the protective gears and training, as they are employed due to a labour-cost reducing strategy by employers.

Apoorva: The Covid-19 pandemic has resulted in reverse migration of large number of workers from destination states to their states of origin.

According to the data compiled by Ministry of Labour and Employment, more than 1.06 crores migrant workers – including those who travelled on foot during the lockdown – returned to their home state. This could be a gross underestimate.

In the absence of social security and a lack of state support, migrant workers faced a massive crisis as they lost their jobs and livelihoods. There have been government efforts to provide relief to workers in the informal sector, including migrant workers, but they were not adequate. In terms of the government's new labour codes, on many counts they fall short of protecting migrant

workers' interests.

The government recently passed four new labour codes. Will the new laws adequately protect migrant workers from all forms of exploitation?

Virjesh: The labour codes have specifically put the focus on the welfare of the workers. The Occupational Safety, Health and Working Conditions Code, 2020 has special provisions to prevent health and safety risks, such as occupational disease and injury. Also, a free annual health check-up and a reasonably practical working condition free from a hazardous environment is being emphasised.

These attempts through the OSH Code are an attempt from the government to ensure safety and absence of risk to health at the workplace – such as through the safe storage and transportation of articles and the provision of the training, instruction and supervision that are necessary to ensure the health, safety and security of workers.

Shyam: The new labour codes don't support migrant workers much – even after the considerable deprivations these workers underwent and are still undergoing during the Covid-19 pandemic.

The OSH Code missed an opportunity to strengthen OSH for all kinds of workers in all industrial establishments. However, by erecting thresholds, it has excluded rather than universalised OSH.

These codes have in general made it possible for employers to obtain more hours of work, hire and fire more easily and lower their social security liability. These codes do not address worker issues like workers' safety and universal social security for the unorganised workers.

The migrant workers will be more at risk because migrant workers need a livelihood and a source of income. They are far more vulnerable and precariously placed than the other privileged workers.

Are the laws designed to protect migrant workers from health and safety risks and all forms of exploitation adequate? Are the laws being properly enforced?

Shyam: There are laws and acts in existence but they need to be universalised and updated with time. There is the fault of three parties: firstly, the government; secondly, the employer, who is naturally prone to reduce the cost; and thirdly, the trade unions, which have not taken care of the critical issues like OSH and have not paid much attention to the migrant workers.

If I'm asked what are the two basic existential needs of workers as a whole I would pick two: minimum wages and workers' safety. The trade unions must prioritise these two issues in their struggle agenda which would lend their struggles much-needed legitimacy. Other issues – though they are important – can be tackled differently.

As part of the four new labour codes, the government has promised to introduce a helpline for the redressal of problems faced by migrant workers. It also plans to create a national database of migrant workers to help migrant workers get jobs, map their skills and provide social security benefits. Will these measures improve working conditions and employment rights for migrant workers?

Virjesh: Both of the measures are crucial to employ the existing policies.

Speaking of a national database, it will help the government as well as the migrant workers to achieve a better implementation and penetration of policies into the beneficiaries.

Schemes, such as One Nation One Ration Card, State Insurance Corporation and Employees Provident Fund, Credit Guarantee Scheme for MSMEs (Micro, Small & Medium Enterprises), Kisan Credit Card and Direct Benefit Transfer Scheme, require an extensive database.

The helpline number to address the migrant issues on the other hand will help to solve the qualitative issues of migrants while participating in the workforce. This will provide a one-stop grievance portal to understand and correspond the nature of the problems faced by the migrants to the concerned states.

In both of the solutions, the implementation is the key to solving the problems of the working population, whether in the formal or informal sectors. If these policy measures are implemented properly, they will be of great help to the migrant workers.

What impact has the Covid-19 pandemic had on the health, welfare and living standards of migrant workers? Have migrant workers been badly affected by the pandemic?

Virjesh: The informal sector – with uncertain job conditions, low wages, lack of social security provisions and poor living conditions – have set the background on which the migrant workers have faced the pandemic and the crisis related to it. The unpleasant economic conditions at the time of the pandemic have further aggravated the difficulties of the migrant workers working in the informal sector on daily or low wages.

The situation for informal migrant workers is not new – however, it has just come to the surface due to the pandemic. From the fear of getting infected with the virus to insufficient medical support; from survival to shelter and essentials – these are some of the issues faced by migrant workers after the complete lockdown.

Also, without proper implementation of the existing labour policies, the welfare schemes did not smoothly reach the migrant workers. This caused them an uncomfortable situation, and a lack of proper amenities caused serious repercussions to the migrants.

Nonetheless, the attention it is getting is much awaited and needed. As I am associated with a trade union organisation, we have provided assistance, medical aid and help to the workers who are struck in the lockdown period.

Shyam: The migrant workers were the first to get affected by Covid-19. It made them risk their lives and move back to rural areas or villages from the urban spaces due to the unemployment after the complete lockdown.

This depicts the miserable state of social security coverage in India, even though laws exist to protect the workers' welfare. Sadly, these laws were not implemented by the governments.

Now, the new Social Security Code once again fails to address these issues comprehensively. So migrant workers will continue to be at the mercy of the market and other forces to earn their meagre wages for bare subsistence.

Apoorva: The issue of migrant workers is a vast and complex issue. It is about millions of workers who are denied their rights and the subject needs to be dealt with using more sensitivity. The Covid-19 pandemic has exposed the vulnerability of migrant workers and the apathy of government. The migrant workers suffered immensely as the Indian government implemented the lockdown abruptly.

What else needs to be done to ensure the health, welfare, employment rights and living conditions of migrant workers?

Virjesh: From creating migrant data to providing helpline numbers and launching different schemes related to the welfare of migrant workers, I think implementing the policies is the key to ensuring maximum benefits to the beneficiaries.

Hence, it's important that the OSH Code, and the Social Security Code, are implemented fairly. However, the transparency in the implementation process would provide credibility in the existing legislature.