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Migrant Women Workers Rights and Their Protection in India: A Study

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Abstract

A household member whose last usual place of residence, any time in the past, was different from the present place of enumeration was considered as migrant member in a house hold[1] and it is the women workers silently contribute to the national economy and further women also might not able to move and migrate as freely as men , and fact several barriers to migration when it comes to work and in the recent past there only has been marginal increase in the population of the rural women working in urban areas increased to 0.46 from 0.22 % , be that as it may ; on the migration of women for the purpose of work and The Hon'ble Supreme Court of India being the guardian of protecting the fundamental rights of the citizens, has stretched expansively in defining and redefining the fundamental rights under Article 21 for making it meaningful and to prevent it from becoming a mere existence. There are several cases laws[2] which give a complete cover to the meaning of life and makes in meaning full in a dignified manner The gender disparity in India's workforce has been well-documented, and there are numerous projects and papers that analyses India's low female labour participation. But there has been little by way of meta studies that examine public policies, programmes, data, and research across various parameters to motivate a better understanding of why female labour/workforce participation (FLWP) in India is so poor, and what can be done to change this. The entire human beings under the migration depend on various factors for survival and it is states obligations which are implied obligation and duty to protect the citizens specially the migrant women's. There is a danger that due to rapid urbanization and overall economic boom being witnessed in the urban areas, the Government may fail in its promise for women migrants, hence a study to investigate the social justice of women migrants.

Keywords: *women law, migrants Constitution of India, rights, policy, legal frame,*

Introduction

"Gender" refers to the roles, behaviors, activities and attributes that a given society at a given time considers appropriate based on biological sex. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources and decision making opportunities. In patriarchal societies, political, economic and social power lies with men and attributes associated with manliness are valued over those associated with women[3] Gender equality is a fundamental human rights principle enshrined in binding human rights treaties, and a goal to which governments and international organizations have committed.

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Gender equality means that the rights, responsibilities and oppourtinies of individuals will not depend on whether they are born male or female, stipulates the equal right of women and men to opportunities and resources irrespective of their gender or the sex with which they were born[4]. Achieving gender equality includes a positive obligation to address the underlying causes and structures of gender inequality (transformative equality), including discriminatory norms prejudices and stereotypes, and the transformation of institutions that perpetuate discrimination and inequality. In the context of the justice sector, gender equality means that women and men should have equal opportunities to participate in the development and application of the law, to have their rights equally protected and promoted and to have their needs equally addressed,[5] The position of women in India has transformed over the decades. Great strides have been made in ensuring equality for women in Indian society. However, contradictions and gaps in protecting certain basic rights of women continue to exist. The Government has actively both through law and policy sought to improve the status of women. Keeping in mind the regional variations, religious, caste and class-based differences that have a definitive Impact on women in India;[6] The Government of India adopted a National Policy for the Empowerment of Women in 2001 to bring about gender justice and gender equality. Several State Governments have also formulated similar policies for women's empowerment. Efforts to set up effective institutional machinery to address women's issues are prevalent both at the national and state level.

I --Gender & Rights

Gender equality is a fundamental human rights principle enshrined in binding human rights treaties, and a goal to which governments and international organizations have committed. In addition, integrating a gender perspective in the justice sector improves security and rule of law by facilitating equal access to justice. The status of any given section of population in a society is intimately connected with its economic position, which itself depends on rights, roles and opportunities for participation in economic activities. The economic status of women is now accepted as an indicator of a society's stage of development. This does not, however, mean that all development results in improving women's economic status. Patterns of women's activity are greatly affected by social attitudes and institutions, which stem from the social ideology concerning basic components of status in any given period.

The debate regarding women's economic role and the need for equality of rights and opportunities for economic participation has cantered round three basic arguments:

1. Human rights and social justice. Women's economic subjugation or dependent position is the result of a right distinction in men's and women's roles in society and leads to exploitation.
2. Utilisation of human resources: it is in the interest of a society to make full and most effective use of its human resources. The full benefit of development can only be realized with people's participation and the economic role of women cannot be isolated from the total framework of development,
3. Implications of social change: socio-economic and political change creates a need to extend the spheres of knowledge and activity of all members of a society.[7]

Constitutional frame work in india

The doctrine of equality is a dynamic and evolving concept having many dimensions. The embodiment of the doctrine of equality, can be found in Articles 14 to 18, contained in Part III of the Constitution of India, dealing with "Fundamental Rights". These Articles of the Constitution, besides assuring equality before the law and equal protection of the laws; also disallow, discrimination with the object of achieving equality, in matters of employment; abolish untouchability, to upgrade the social status of an ostracized section of the society; and extinguish titles, to scale down the status of a section of the society, with such appellations. The embodiment of the doctrine of equality, can also be found in Articles 38, 39, 39A, 43 and 46 contained in Part IV of the Constitution of India, dealing with the "Directive Principles of State Policy". These Articles of the Constitution of India contain a mandate to the State requiring it to assure a social order providing justice - social, economic and political, by inter alia minimizing monetary inequalities, and by securing the right to adequate means of livelihood, and by providing for adequate wages so as to ensure, an appropriate standard of life, and by promoting economic interests of the weaker sections. In view of the afore-stated constitutional mandate, equity and good conscience, in the matter of livelihood of the people of this country, has to be the basis of all governmental actions.[8] Constitution of India guarantees freedom of movement under Article 19 for all its citizens. The foundational principles of free migration are enshrined in clauses (d) and (e) of Article 19(1) of the Constitution, which guarantee all citizens the right to move freely throughout the

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territory of India, and reside and settle in any part of the territory of India.[9] Women as an independent group constitute 48% of the country's total population as per the 2001 Census. The importance of women as a important human resource was recognised by the Constitution of India which not only accorded equality to women but also empowered the State to adopt measures of positive discrimination in their favour. A number of Articles of the Constitution specially reiterated the commitment of the constitution towards the socio economic development of women and upholding their political right and participation in decision making.

Now, we can discuss about the concept of migration. The problems of migrant workers have become very important in many developing countries of the world. The process of theorization of migration began in the 19th century. It has been discussed by many researchers, who have emphasized social and cultural, distant and economic factors as causes of migration. Migration of labour started in India during the period of British colonial rule. It was aimed at meeting the requirements of capitalist's development both in India and abroad. The labour was moved from the hinterland to the sites of mining, plantation and manufaftories.It was recruited from the rural areas and regulated in such a manner that women and children remained in the villages while males migrated to the modern sector. Generally, there are two basic factors of migration: i) Distance ii) Duration. From the distance point of view, migration can be classified under four categories: i) Rural to Rural ii) Rural to Urban iii) Urban to Rural iv) Urban to Urban. Besides, migration can be divided into following categories: i) Intra-district, ii) Inter-district iii) Intra-state iv) Inter-state v) National and International. From the duration point of view migration can be studied under three categories: i) Casual-temporary ii) Periodic-seasonal iii) Permanent. tried to explain migration in developing countries in terms of push and pull factors,respectively.Therefore, the motives of migration are classified as push factors(which emphasize on the situation at the origin, that is, place from which migration started) and pull factors (which emphasize on the situation at the destination). Unemployment, 6 flood, earthquake, drought, (i.e., natural calamities) etc, are the push factors. Pull factors that determine migration such as attraction of citylife, for education, health, development of backward community, job opportunities and. training facilities and so on. The push and pull factors of migration among a tribal and lower income group's of population are categorized under the following heads (i) Ecological factor (ii) Demographic factor (iii) Social and Cultural factors. Migration of labour in India: [10]The problem of seasonalisation in agro-based industries can be found in a large number. Even more challenging is to define is internal migration, whereby migrants stay within country borders but move across provinces, states, or municipalities, or to or from rural and urban settings. The parameters become unclear as cities grow and consume satellite towns, or as satellite towns develop to support and provide residence along the outskirts of cities. The boundaries established to determine internal migration may depend on classification by government entities, as well as the independence and fiscal structure of the various settings. According to Census 2011, there were 454 million migrants in India. This had risen by 139 million from 315 million in 2001 in Census 2011 and 220 million in 1991, a doubling over 1991-2011.[11]that of the 40% of all internal migrants (309.4 million) across all durations who constituted rural to rural marriage migrants (123.9 million of which 122.3 million were female).

Understanding the intricacies of gender and migration can result in programs and policies that enhance the benefits and decrease the economic and social costs for female migrants, who make up half of the global migrant population. Many international conventions, declarations, and laws have been established to protect women and migrants. All the Countries have taken their own measures to improve the benefits of migration and decrease the risks and vulnerabilities for migrants. Although these efforts are laudable, migrant women continue to face risks, and the full benefits and opportunities of migration to advance gender equality are yet to be realized. The benefits of migration can be enhanced and the risks decreased in many ways. In addition to ratification and accession to treaties and conventions promoting the rights and protections of migrant women, governments can participate in bilateral, multilateral, and regional dialogues and agreements on migration. Partnerships, consultation, and involvement of all stakeholders should be strengthened, and gender-sensitive, rights-based, and nondiscriminatory laws increasing safe migration for women should be promoted. Furthermore, promotion of nondiscrimination in and access to labor markets will increase women's economic opportunities. Jobs associated with women, such as domestic work, should be regulated. To best advance migrant women's rights, women's political participation should be supported. Migrant women's human rights must be protected, and migrants must have access to services and resources, such as health,

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legal, and financial services. Resource centers can be made available through embassies and consulates. Immigration officials and recruitment agencies must be regulated, monitored, and trained on gender sensitivities and human rights. Similarly, the public can be better informed and educated about the benefits and contributions of migration, thereby decreasing xenophobia and discrimination. The inter-State migrant workmen are generally illiterate, unorganized and have normally to work under extremely adverse conditions and in view of these hardships, some administrative and legislative arrangements both in the State from where they are recruited and also in the State where they are engaged for work are necessary to secure effective protection against their exploitation.[12]

Conclusion:

Migration plays a significant role in today's world. Understanding the intricacies of gender and migration can result in programs and policies that enhance the benefits and decrease the costs for female migrants. For such an understanding to be developed, analysts and experts need reliable and accurate data and in-depth gender analysis in migration studies. Women are increasingly migrating on their own, often to enhance economic opportunities by seeking jobs or education. Data indicate that the rate of female migration is growing faster than male migrants in many countries that receive high levels of migrants. This trend is commonly referred to as the "feminization of migration." The International Labour Organization estimates that women are half of the global migrant population but in some countries account for 70–80 percent of migrants. Migration can improve autonomy, human capital, and self-esteem, as well as women's authority and worth in their families and communities. Migration can change traditional norms as women gain access to education and economic opportunities. The introduction to more equitable social norms can also improve women's rights and access to resources. When migrant women return home, they often maintain their newfound autonomy and bring new norms, skills, and expertise. With these new skills, returning migrant women often start their own businesses. [13] Although migration is largely beneficial, many constraints—such as restrictive social norms or laws, gender or racial discrimination, or gender-specific vulnerabilities—limit the opportunities and benefits. Migrants may struggle to have their professional credentials and expertises recognized abroad, and encounter language, race, or cultural barriers and discrimination. Legal restrictions impede migration for women more than men. In some countries, women's employment and mobility from their homes, communities, or countries is legally restricted. The extent of empowerment of women in the national hierarchy is determined largely by the three factors – her economic, social and political identity and their weightage. These factors are deeply intertwined and interlinked with many cross cutting linkages which imply that if efforts in even one dimension remain absent or weak, outcomes and momentum generated by the other components cannot be sustained as they will not be able to weather any changes or upheavals. It is only when all the three factors are simultaneously addressed and made compatible with each other can the woman being truly empowered. Therefore for holistic empowerment of the woman to happen - social, economic and political aspects impacting a woman's life must converge effectively.[14]

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Conflicts of interest

The authors declare that there are no conflicts of interest regarding the publication of this paper.

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