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Migrant Crisis and Economic Reforms during Covid-19 in India: A Critical Analysis

DEEPA SHRISHA¹

ABSTRACT

Global pandemic (COVID-19) creates a socio-economic and health crisis in a country. A real test is placed upon the central and state legislation to overcome these obstacles with adequate mechanisms at hand. Though the Government of India rightly initiated lockdown in the country as a safety measure to combat the virus, it failed to consider the effects on migrants. The country witnessed an exodus of migrants as they lacked adequate means to sustain themselves during the lockdown. As a result of the non-registration of migrant workmen under the Inter-State Migrant Workmen Act, 1979, the government was unsuccessful in catering to the needs of the migrants. Firstly, the paper seeks to analyze the lacunae present in the said Act and puts forth various measures with the help of various reports, such as widening the ambit of the Act, increasing labour inspections and incentive-based regulation in the unorganized informal sector. Secondly, the paper briefly analyses the current trend of State legislatures to suspend the majority of labour laws in the country. The paper explains a correlation between the competitive nature of State legislatures to loosen the regulation and their detrimental effect on labour rights. This creates a situation of 'Race to the bottom' to attract more foreign investment into the state.

Keywords: *Migrants, COVID-19, Inter-State Migrant Workmen Act, 1979, Economic reforms, labour rights.*

I. INTRODUCTION

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (hereinafter referred to as 'the Act') was enacted with purpose to modify the defects present in Contract Labour (Regulation and Abolition) Act, 1970. This was recalibrated to eliminate the exploitative system where labourers were contracted through agents or contractors to work away from their source location (home states/towns). The migrant labourers were in demand because they steered away from the clutches of law in the formal sector². This allowed the employers to exploit them to the fullest, devoid of their basic human

¹ Author is a student at School of Law, Christ (Deemed to be) University, India.

² Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Statement of Objects

dignity. In February 1977, a compact committee was setup (recommended by the 28th Labour Minister's Conference) to make several suggestions and deal with the migrant crisis in India.³ The Act failed in its objective but it was considered a success until the present catastrophe relating COVID-19 India. The failure of the Act came to light when millions of migrants were unaccounted for during the mass excavation and the Government of India was unable to mitigate the crisis under the existing provisions of the act. There was a lack of registration process that could help keep a track of number of migrants travelling back to their homes and help them provide with basic comforts like food, shelter, health and transportation services.

Firstly, the paper shall focus upon the failures of the Act to combat the exodus of migrants back to their hometown owing to sudden health and loss of employment during the lockdown period of COVID-19. The paper seeks to critically analyze the lacunae in the implementation of the Act and by providing suggestive reforms in order to gain control over the migrant crisis after the lockdown. It showcases changes in labour inspection and incentive-based legislation can better accommodate this aim.

Secondly, the paper shall briefly focus upon the labour reforms put forth by various state legislations and their impact upon the condition of the migrant labours. At the outset, the author seeks to clarify that since there is a lack of any official notification relating to labour reforms, the paper shall not evaluate the reforms on constitutional basis but rather focus upon the feasibility of labour reforms in times economic crisis and subsequent effects on the unorganized sector.

II. INTERNAL MIGRANT CRISIS DURING COVID-19

In the present, COVID-19 proved to be fatal in many forms. The Central Government initiated lockdown as a protective measure to control the spread of the novel virus, but failed to foresee the migrant crisis which is also socio-economic in nature. It is an expected reaction or is of logical consequence for the migrants to return to their home/source place to feel safe during a time of crisis. This is accelerated due to the lack of income, housing and safety in place of their employment. Moreover, the migrants have the right to move freely and settle in any region or state in the territory of India, including for employment as imbibed in Article 19(1)(d) and Article 19(1)(g) of Indian Constitution (Right to Freedom).⁴

The failure on the part of the Government to keep a track of the migrants through registration

and Reasons, Acts of Parliament, 1979 (India).

³ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Introduction, Acts of Parliament, 1979 (India).

⁴ INDIA CONST. art. 19 (1)(d), art.19(1)(g).

has made the condition even trickier. It has been reported that lockdown has affected living of 40 million internal migrants⁵. The migration from urban to rural areas has also been fast-tracked leading to numbers around 50,000-60,000 migrants⁶. A similar global impact was felt during the pandemic of Spanish Flu during 1920s. The worst hit countries included China, India, Indonesia, Russia, United States of America causing 50,000 deaths⁷. COVID-19 is on a much larger scale and has cornered the internal migrants of India without any health, public transport services or social security to return back to their homes. Drawing from previous experience of a pandemic, India with better implementation of labour laws could have controlled the situation at hand and provided social security to the poor and needy.

It is also important to note that there has been a shift from the organized sector to the unorganized/ informal sector during the period of globalization and liberalization of economy in the 1990s.⁸ At the advent of development, an inverse effect on labour laws can be appraised of, wherein the growth in development goes hand in hand with narrowing of the labour laws⁹. It is estimated that only 7% of the formal sector is covered by the laws, pushing the informal sector or the unorganized sector (migrants) further outside the strict adherence of these laws.

¹⁰ The workers who have been labelled as unorganized have failed to formulate a mutual goal or objective due to hindrances such as irregularity or unpredictability of the characteristics of work, lack of education, the power dispersed among various small establishments causing the non-formation of work-specific labour unions and the concentration of higher status in the hands of employers¹¹. With global health and economic crisis at bay, the migrants feel most threatened due to lack of employment and daily wages for their survival.

The supreme court and several high courts have taken cognizance suo moto in order to understand the plight of migrants during the lockdown.¹² The supreme court in the case *In Re:*

⁵Ratha, Dilip K.; De, Supriyo; Kim, Eung Ju; Plaza, Sonia; Seshan, Ganesh Kumar; Yameogo, Nadege Desiree on *COVID-19 Crisis Through a Migration Lens (English)*, WORLD BANK GROUP, pp.27 <http://documents.worldbank.org/curated/en/989721587512418006/COVID-19-Crisis-Through-a-Migration-Lens>.

⁶ *Id* pp.27.

⁷ *Id*, pp.2.

⁸ Anthony P. D'Costa, "Geography, Uneven Development and Distributive Justice: The Political Economy of IT Growth in India." 4 CAMBRIDGE JOURNAL OF REGIONS, ECONOMY AND SOCIETY 237 51, (2011a) Anthony P. D'Costa "Contemporary Capitalism and the Challenges for Inclusive Development in India.", 4 CAMBRIDGE JOURNAL OF REGIONS, ECONOMY AND SOCIETY 237 51, (2011b).

⁹ Elizabeth Hill "The Indian Industrial Relations System: Struggling to Address the Dynamics of a Globalizing Economy." 51 JOURNAL OF INDUSTRIAL RELATIONS pp.406-7, (2009).

¹⁰ Gopalakrishnan, Ramapriya, & Lisa Tortell "Access to Justice, Trade Union Rights, and the Indian Industrial Disputes Act, 1947." 22 INTERNATIONAL JOURNAL OF COMPARATIVE LABOUR LAW AND INDUSTRIAL RELATIONS 529 62, (2006).

¹¹ Manjit Singh, "Unorganised Industries: Conditions of Work and Labour Laws." 23 INDIAN JOURNAL OF INDUSTRIAL RELATIONS p.373, (1988).

¹² Alakh Alik Srivastava v Union of India, , A.I.R.2018 S.C.2.440 (India); Preetam Singh Vs.Union of India and

Problems and Miseries of Migrant Labour, has observed that there has been a blunder in registration of migrants and due to this primary reason migrants unable to receive basic food, shelter supplies. It was detected that even after registration of migrants, it would take months for them to reach home.¹³

The Central Legislation has failed to adequately provide basic amenities, despite there being several legislation to 'protect' the migrant workers. One of the primary legislations implemented in order to protect these workers is the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 that follows registration of establishments and licensing of contractors, who employ inter-state migrant workers from both host and home state of the worker.¹⁴ The proper implementation and strict application since its enactment would have formed a record of present migrants and their state of living in India.¹⁵ It is also important to modify the scope according to the dynamic socio-economic conditions of the country so that the weaker sections of the society is uplifted. Moreover, it is axiomatic that had there been proper registration and licensing process under the Act, allocation of resources towards migrants could have taken place providing them with security, thus preventing their exodus towards the home state to pursue protection.

III. SUGGESTIONS TO IMPROVE THE IMPLEMENTATION

1. Scope of application:

The ambit of the Act is restricted to few specificities, for instance every establishment or contractor where five or more inter-state migrant workers are employed on any day of the preceding twelve months. Here, the meaning of establishment includes both private and public sectors like railway, banking, insurance company etc of the Government or local authority¹⁶. Protection against discrimination, payment of wages, displacement allowance and healthy working conditions is provided to the workmen by the contractors¹⁷. The definition of Inter-state migrant workman is limited only to persons employed indirectly either through a contractor in the host state, home state or any other state of the employer¹⁸. Further, the

Ors, MANU/UC/0085/2020 (India); *Suo Motu Vs. State of Gujarat and Ors*, MANU/GJ/0777/2020 (India) ; *The Human Rights Alert and Ors. Vs The State of Manipur and Ors*. MANU/MN/0063/2020 (India).

¹³In Re: Problems and Miseries of Migrant Labourers, MANU/SCOR/28285/2020 (India).

¹⁴*Supra* at 1.

¹⁵Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Chapter VII, S.23, Act of Parliament, 1979(India).

¹⁶Sangeeta Mandal, *Emerging Trends of Inter-State Migrant Workers in India: A Study of Legal Framework*, 7 INDIAN J.L. & JUST. 106 (2016).

¹⁷Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Section 15 and Section 16, Act of Parliament, 1979 (India).

¹⁸Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, S. 2(3)(e), Act of Parliament, 1979 (India).

application is limited by the word 'recruitment' relating only to form of an agreement or an arrangement between the contractor and workman.¹⁹ Since the Act application is narrowed down to number of workers in a firm, the employers taking advantage of the lacunae, can merely customize their firm size to avoid being crippled by various regulations

Unfortunately, the Act fails to revitalize itself for the present market conditions. The migrant workers no longer work with an intermediate to come in contact with a job. They drift between states without a contractor because of their fluctuating position at workplace. This blanket legislation which included all kinds of migrant workers from the unorganized sector failed to consider the independent nature of migrant workers. There are several legislations which address definite sections of unorganized sector such as construction workers²⁰ but the funds managed for their protection seldom reach the required.²¹

The Working Group of Migration formed by the Ministry of Housing and Urban Poverty Alleviation recommended to widen the scope of application and transcend beyond the sector-based traditional workmen, owing to the lack of any primary difference between migrant and non-migrant labours in the urban market. The legislation could also strive to include 'seasonal' or 'floating' migrants²² through appropriate housing, sanitation and education facilities. This in turn ensures that migrants are comfortable settling down regardless of the economic nature of the country along with the benefits provided by the host state (Public Distribution System). This requires a revised study of the market to blur the lines of information asymmetry. Though COVID-19 has surfaced several problems relating to migrant workers, it is suggested that legislatures understand the labour market and the stakeholders involved like the employers, employees and the government. It is considered to be the best time to bring reforms to improve the state of migrants in India.

2. Labour Inspections:

Monitoring in the hands of labour inspector is wide-ranged and is codified under Sec.20 of the Act. Labour inspections provide with a system of checks and balance in several labour legislation. In developing countries such as India, the lack of resources and trained personnel results in erroneous and ineffective monitoring. According to GOI, 2015 Report, in the last 10

¹⁹ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Sec 2(3) (h), Act of Parliament, 1979 (India).

²⁰ The Building and Other Construction Workers (Regulation Of Employment and Conditions of Service) Act, 1996, No. 27. Acts of Parliament, 1996 (India).

²¹ Ministry of Housing and Urban Poverty Alleviation, *Report of the working group on migration*, pp.26 (January 2017) <http://mohua.gov.in/upload/uploadfiles/files/1566.pdf> (last accessed on 6 May 2020).

²² SMITA & PANJIAR P, 'LOCKED HOMES, EMPTY SCHOOLS : THE IMPACT OF DISTRESS SEASONAL MIGRATION ON THE RURAL POOR' New Delhi, Zubaan, (2007).

years labour staffs have reduced drastically.²³ Therefore, the labour inspectors are expected to maintain high degree of performance with limited funds and support from government while understanding to deal with several complex labour legislations amounting to 40 classes regarding payment of wages, health and conditions of workplace etc.²⁴.

Migrant workman covered under poor labour inspections are bound to be exploited. Lack of stringent sanctions to impose the obligations often incentivizes businessmen to escape the reins of law. Furthermore, under the Inspection Policy of Government of India²⁵, inspections are conducted only when there is a complaint to provide for ease of business. They are allowed for inspection if they are credible and authorized by higher officials. The fear of termination of employment forces the migrants to conceal incidents of oppression and exploitation at workplace. The business requires them to file returns under 10 Central Rules (including Inter-state Migrant Workmen Act, 1979) and acquire self-certification to avoid inspection in the beginning years of starting up business²⁶. Though such a policy was drawn to increase employment, it reduces the number of complaints that may have surfaced with physical inspection.

By virtue of the distribution of powers under the Constitution of India, State Governments can form labour reforms and make amendments to central legislations. Therefore, different states have diverse regulatory systems. Kerala constantly steps in for the benefit of informal sector.²⁷ While other states, ease labour monitoring, absolve economic sectors from laws protecting them.²⁸ In Delhi during Common Wealth Games of 2010, the living conditions of several contract labours came into light²⁹. The workers were not issued Identity cards affixed with passport size photo indicating several particulars under the Act. Moreover, there was no inspection or to cross check the claims of abuse, since the site was closed for outsiders including journalists. Labour inspection can take place only if there are credible complaints.

²³ Ministry of Labour and Employment, Labour Bureau Chandigarh, Government of India, *Report on the working of the Minimum Wages Act, 1948 for the year 2013*, (2015) http://labourbureaunew.gov.in/UserContent/MW_2013_final_revised_web.pdf (last accessed on 6 May 2020).

²⁴ *India Wage Report: Wage Policies for decent work and inclusive growth*, INTERNATIONAL LABOR ORGANISATION (20 August 2018) https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_638305.pdf (Last accessed on 5 May 2020).

²⁵ Ministry of Labour and Employment, Government of India, *Improve ease of doing business* <https://labour.gov.in/policies/improve-ease-of-doing-business> (Last accessed on 6 May 2020).

²⁶ *Id* at pp.5.

²⁷ Louise Waite, 'Kerala's Informal Labour Market Interventions: From Work to Well-being?' *ECONOMIC AND POLITICAL WEEKLY*, 36(26), pp. 2393-2397 (2001).

²⁸ Sundar, K.R. Shyam., 'Emerging Trends in Employment Relations in India' *INDIAN JOURNAL OF INDUSTRIAL RELATIONS*, 45(4), pp. 485- 49, (2010).

²⁹ Pudr Team., "Violation of Workers' Rights at the Commonwealth Games Construction Site." *ECONOMIC AND POLITICAL WEEKLY*, vol. 44, no. 24, pp. 10-12. (2009).

This is one of the major drawbacks of labour inspection policy in India.³⁰

In the case of *Labourers Working on Salal Hydro-electric Project v State of Jammu and Kashmir*³¹, the Supreme Court pointed out the non-compliance of labour due to lack of effective implementing system. The court directed the central legislation to tighten the inspection machinery and reports are drawn frequently by senior inspectors. The court was right in acknowledging that unless there is constant attentive enquiry and adherence of labour law, the court may not even enter the picture as there will be no complaints against exploitative employers of the unorganized sector.

In other developing countries such as Brazil and Costa Rica, the growth of labour inspection services into a powerful sector allowed for greater success in implementing the labour laws.³² The government must extend the availability of labour inspector along with the present electronic logging system which is based on the United Arab Emirates Model.³³ The deficiencies in the present system of monitoring and inspection can be cured with assessment of performance by the labour inspectors. They must be given knowledge about the objective behind the law and the importance of enforcement. They must be regularly encouraged with awards, incentives and sanctioned with disciplinary action if their powers are abused.³⁴

3. Incentive Based Compliance

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 has several provisions relating to revocation of registration and non-employment of inter-state Migrants without registration of the workmen. Moreover, the workmen are eligible to receive displacement allowance at the time of recruitment. Every contractor employing the migrant workmen must also pay 'journey allowance' from his home state to host state and vice versa.³⁵ Under Section 16 of the Act, the contractor must make arrangements for a suitable

³⁰ Team, Pudr. "Violation of Workers' Rights at the Commonwealth Games Construction Site." *Economic and Political Weekly*, vol. 44, no. 24, 2009, pp. 10–12. JSTOR, www.jstor.org/stable/40279100. (Accessed 4 June 2020).

³¹ *Labourers Working on Salal Hydro-electric Project vs. State of Jammu and Kashmir*, (1984), A.I.R.1984 S.C.177

³² Gindling, T.; Mossaad, N.; Trejos, J.D. 'The consequences of increased enforcement of legal minimum wages in a developing country: An evaluation of the impact of the Campaña Nacional de Salarios Mínimos in Costa Rica, Mimeo, (2013).

³³ *Report of the Human Rights Council on its nineteenth session*, United Arab Emirates. Human Rights Council, A/HRC/WG.6/15/ARE/1 (Geneva, 16 August 2012), https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-2_en.pdf (Last accessed 30 April 2020).

³⁴ *Report V(1), Transitioning from the informal to the formal economy*, International Labour Conference, 103rd Session, 2014, INTERNATIONAL LABOUR ORGANISATION https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_218128.pdf (Last accessed 1 May 2020).

³⁵ Sangeeta Mandal, 'Emerging Trends of Inter-State Migrant Workers in India: A Study of Legal Framework', 7

residence, medical facilities and defensive clothing suitable to working and climatic conditions of his workplace.³⁶ All these provisions substantially increase the costs of the employer to recruit inter-state migrant workmen. Using the abusive position, the employer tries to fully exploit migrant workers regarding working hours, conditions of workplace and payment of minimum wages to gain the lost funds on allowances to the migrant workers.³⁷ This is made possible due to weak labour inspections. This situation of exploitation is particularly high in developing countries where the gap between law and practice is boundless with large informal sectors, limited administrative and judicial competence.³⁸

To combat these, different approaches to ensure compliance to the letter of law must be applied in India. The approaches must ensure structured and systematic shift of unorganized migrant labours to formalized economy. Constructive enticements like grants and subsidies must be given to the employers along with education regarding implementation of the law. The employer must also be made aware of the reasoning or jurisprudence behind the law to recognize and clinch best suited methods to apply it³⁹. Positive incentives are more likely to succeed than negative incentives such as imprisonment, revocation of license and fines etc⁴⁰. To reduce the percentage of undeclared workers in developing countries, incentives for ordinary work like tax-free income for employees and for recruiter's non-wage costs accompanying legal employment⁴¹.

Apart from this, third-party inspection option with certified agencies can be given to organization with consistent compliance with labour regulations as an incentive. For example, Occupational Health and Safety Standard (OHSAS 18001) by the British Standard Institute and Social Accountability Standard (SA 8000) by Social Accountability International, USA and corresponding standard developed by Bureau of Indian Standards (BIS).⁴² This allows

INDIAN J.L. & JUST. 106 (2016).

³⁶ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, S. 16 Act of Parliament, 1979 (India).

³⁷ International Labour Conference, 103rd Session, 2014, Report V(1), Transitioning from the informal to the formal economy, ISBN 978-92-2-127755-2 (Web pdf).

³⁸ Gordon Betcherman, 'Labor Market Regulations: What do we know about their Impacts in Developing Countries?', 30, 1, 124–153 THE WORLD BANK RESEARCH OBSERVER (2015), <https://doi.org/10.1093/wbro/lku005>.

³⁹ LOUISE MUNKHOLM, 'RE-INVENTING LABOUR LAW ENFORCEMENT: A SOCIO-LEGAL ANALYSIS'. OXFORD: HART PUBLISHING, BLOOMSBURY COLLECTIONS. WEB. (1ST ed, 2020).

⁴⁰ J Van der Heijden, 'The Long, but Promising, Road from Deterrence to Networked Enforcement' in S Drake and M Smith (eds), NEW DIRECTIONS IN THE EFFECTIVE ENFORCEMENT OF EU LAW AND POLICY (Cheltenham, Edward Elgar Publishing) 81–82, (2016).

⁴¹ European Parliament Resolution on stepping up the fight against undeclared work, (9 October 2008), INTERNATIONAL LABOUR ORGANISATION [http://ilo.org/dyn/natlex/docs/ELECTRONIC/82835/108652/F1196691838/EEU-82835%20\(EN\).pdf](http://ilo.org/dyn/natlex/docs/ELECTRONIC/82835/108652/F1196691838/EEU-82835%20(EN).pdf) (last accessed on 1 May 2020).

⁴² Report of Working Group on Labour laws and other labour regulations, NITI AAYOG (2011)

firms to be kept away from 'inspector raj' pictured as corrupt and abuse of power detrimental to economic growth in the hands of labour inspectors⁴³. Third party inspections was also suggested by the latest ordinance suspending the labour laws in Uttar Pradesh⁴⁴.

Government policies must be formulated to encourage ethical employment to include migrants in the formal sector and extend the legislative protection to them. COVID-19 has presented with an opportunity to reform labour legislation to provide migrant workers with better facilities and simultaneously encourage the employers to come forward with the recruitment of migrant workers. The real obstacle for the policy-makers is to identify the perfect balance of incentives for the formal sector and sanctions for choosing to remain informal. The Inter-State Migrant Workmen Act, 1979 can be customized to the current market scenario based on social, cultural and economic challenges faced by the informal sector comprising of migrant workers. This has proved to be befitting than the traditional approach of 'command and control' since incentive-based regulation have been all-encompassing and hands-on in nature.⁴⁵

IV. LABOUR REFORMS DURING ECONOMIC CRISIS AND ITS IMPACT ON MIGRANT WORKERS

In the wake of COVID-19 and anticipated economic crisis, several states have taken plethora of measures to improve economy. As a result, Uttar Pradesh, Madhya Pradesh, Gujarat and few other states have suspended major labour laws with an exception to three or four laws for a period of 3 years.⁴⁶ This in turn created shock waves among the trade unions since the blanket suspension results in non-prevalence of the protective measures, paving the way for worker's exploitation in India. The reasoning dished out by the state governments are to revive the economy after lockdown period by welcoming foreign direct investment. These notifications and ordinances are yet to receive presidential assent under Art. 246 and Art.254 of the Indian Constitution. Two discussions possibly arise out of such a situation. Firstly, relating to the constitutional validity of such ordinances or secondly, the impact of such labour 'reforms' on the unorganized sector. The paper streamlines the former.

https://niti.gov.in/planningcommission.gov.in/docs/aboutus/committee/wrkgrp12/wg_labour_laws.pdf (Last accessed 30 April 2020).

⁴³ KR Shyam Sundar "*The Much-vilified Labour Inspector Raj*," BUSINESS LINE, (August 9 2015), <https://www.thehindubusinessline.com/opinion/the-muchvilified-labour-inspector-raj/article7519064.ece>.

⁴⁴ *Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance (2020)*, GOVERNMENT OF UTTAR PRADESH, LABOUR DEPARTMENT, https://www.livelaw.in/pdf_upload/pdf_upload-374550.pdf (Last accessed on 30 April 2020).

⁴⁵ *Supra* at 23.

⁴⁶ Krishnadas Rajagopal *Plea in Supreme Court challenges changes in labour laws*, the hindu, (May 20, 2020) <https://www.thehindu.com/news/national/plea-in-supreme-court-challenges-changes-in-labour-laws/article31622334.ece>.

Though the central government have taken considerable measures to protect labour through various reforms like ‘The Code on Wages, 2019’⁴⁷, drastic measures are usually taken by the state government towards liberalization in labour laws and this affects the migrants in several ways for three main reasons⁴⁸. Firstly, competition among state governments to enact laws and bring change deviates from the path of uniform system of national reforms. Secondly, the governments in order to attract investment in their state would begin to pass reforms easing the course of business for them. This includes reducing inspections and extending working hours etc. COVID-19 has created such instance, where several states are suggesting reforms to increase working hours from 8 to 12⁴⁹. Migrant workers are mistreated despite having specialized central laws protecting them. Suspending one of the few legislations catering towards the need of migrants, i.e Inter-State Migrants Workmen Act, 1979 will further degenerate. Thirdly, with different labour reforms in different states, the collective bargaining power of union and opposition may gradually vanish. These reasons, independently or collectively encourage other state legislatures to initiate such reforms.⁵⁰

There are two major theories regarding foreign investment and its effect on human rights in the developing country.⁵¹ First, the liberal neo-classical school suggests that due to foreign investment and globalization, the economy projects itself various ways to get involved and stabilize their position in the social and political strata of the country. The second school of thought, the dependency theory portrays a view that multinational companies seeking shelter of developing countries, often threaten to leave if there are stringent labour regulations.⁵² This creates an unequal bargaining power between the two parties.⁵³ As discussed earlier, due to the competition the states are conditioned to weaken labour regulations and limit the scope of laws in formal sector. Therefore, workers are pushed towards unorganized sectors.

The suspension of labour laws by various states in the country as a consequence of economic

⁴⁷ Ministry of Labour and Employment, Government of India, *The code on wages 2019* no.29 of 2019 , (August 21,2019)

<https://labour.gov.in/sites/default/files/THE%20CODE%20ON%20WAGES%2C%202019%20No.%2029%20of%202019.pdf> (Last accessed on 29 April 2020).

⁴⁸ Richard Mitchell, Petra Mahy & Peter Gahan, *The Evolution of Labour Law in India: An Overview and Commentary on Regulatory Objectives and Development*, 1 ASIANJLS 413 (2014).

⁴⁹ *Supra* at 45.

⁵⁰ *Supra* at 46.

⁵¹ David L. Richards, Ronald D. Gelleny and David H. Sacko ‘*Money with a Mean Streak? Foreign Economic Penetration and Government Respect for Human Rights in Developing Countries*’, VOL. 45, No. 2, INTERNATIONAL STUDIES QUARTERLY pp. 219-23, (Jun., 2001).

⁵² Stephan Haggard, Sylvia Maxfield, *The Political Economy of Financial Internationalization in the Developing World.* INTERNATIONALIZATION AND DOMESTIC POLITICS CAMBRIDGE UNIVERSITY PRESS, ed.,R. Keohane and H. Milner, pp. 209-242. (1996).

⁵³ Furtado, C. *Development and Underdevelopment.* by R. W. de Aguiar and E. C. Drysdale Trans Berkeley: UNIVERSITY OF CALIFORNIA PRESS, (1964).

crisis generated by COVID-19 has a damaging effect on migrants. Instead of trying to formalize the unorganized, migrant workmen and bringing them under the realms of labour laws, the states with their competitive nature are encouraging 'race to the bottom'⁵⁴ where the sanctions are less stringent, compliance rate is lowered and exemptions to law is heightened. The policy makers must have a balanced act between deregulation of labour laws to invite economy and protect the workers, especially the vulnerable migrants of their basic human rights.

V. CONCLUSION

The central government struggled to deal with the crisis associated with migrants. Due to the inadequate scope of the Act and the improper implementation of the registration process, the inter-state migrants were denied social security in the form of employment, housing and healthcare. It is time to revamp the legislation in order to cater the needs of the market and the migrant workers in the country. The social, cultural, political and other aspects must consider to understand the reaction of workers and migrants towards a legislation. This paper with the assistance of several reports, has suggested several ways to better implement the Act. They include better policing by increasing the number of labour inspectors. They must identify sectors where exploitation is a regular course of business for employers and could conduct 'surprise' as well as regular checks. Another suggestion that works best to markets requiring cheap labour is incentive based regulation. The employer should be encouraged to hire migrants and register under the Act. This is suggested to take place when they are presented with tax-benefits, free licensing etc.

While reforms relating to protection of labours are encouraged, the government understanding of the correlation between economy and availability of employment must be analyzed extensively. The present reforms relating to suspension of majority of labour laws for a period of 3 years will infringe with the fundamental rights of the migrants and several other ILO provisions since India has ratified them.⁵⁵ The state governments will be encouraged to compete with each other to lure foreign investment in their respective states. Migrant workers will feel an adverse effect on such reforms, pushing them far away from being formalized into the economy. The migrant workers are a major source of labour in urban sectors, they must also receive the benefits of building an economy for the country.

⁵⁴ j crotty, g. Epstein, and p. Kelly 'Multinational Corporations in the Neo-Liberal Regime' In Globalization and Progressive Economic Policy, ed .D. Baker, et al. pp. 117-146.Cambridge University (1998).

⁵⁵ AM Jigeesh, *ILO expresses deep concern at 'suspension' of labour laws*, BUSINESSLINE (May 25 2020) <https://www.thehindubusinessline.com/economy/ilo-expresses-deep-concern-at-suspension-of-labour-laws/article31673364.ece> (Last Accessed on June 6 2020).