

Unorganized Labour in Housing Construction Sector in Kerala: an Empirical Investigation of The Human Rights Issues and Other Problems



Economics

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ABSTRACT

It is widely recognised that vast majority of workforce in India is devoid of minimum formal social security protection. The social security problems of workers in the unorganized / informal sector is often noted to be more chronic than their formal sector counterparts. In India, in spite of the statutory protections as per the enactments of the Central and State Governments as well as the Constitution of the country, the living conditions of the unorganized sector still continues to be very poor. In the ongoing era of globalization in India the labour market outcomes have not been uniformly beneficial nor socially inclusive. While more and more employment is being generated, such employment is characterized by poor working conditions and lack of effective social protection. This trend is particularly visible among sectors like construction. In respect of Kerala in particular there has been a sudden upturn in housing construction activity in the state since the mid-1970s. Though the huge development potential of housing investments is widely recognized because of its vast forward and backward linkages and employment generation capability, the long term sustainability of the housing construction sector depends on adequate welfare measures, particularly social security measures for the workers. Though the immense development potential of housing development is beyond doubt for a state like Kerala which is starving for more investments and employment opportunities, the social security aspects of workers in this sector is equally important for its long term sustainability.

In Kerala, the vast majority of workers in the construction sector are unorganized; over 60 percent of whom being migrants from other states, like, Bihar, UP, West Bengal etc. Because of the cyclical and seasonal nature of the housing construction industry and acute lack of formal organisational set ups to ensure social security of construction workers, an empirical study to trace the socio-economic profile of construction workers, and the human rights issues that they face is quite relevant. In the above context, this paper makes an empirical study of the human rights issues of construction workers of selected housing construction projects at Ernakulam district in Kerala – the district where maximum number of housing construction activities are going on in the state.

INTRODUCTION

The term 'unorganised labour' has been defined as those workers who have not been able to organise themselves in pursuit of their common interests due to certain constraints like casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc. The unorganised workers account for about 93 per cent of the total workforce and there has been a steady growth in their population in India over the years. It is argued that though India had a long tradition of informal social security and social assistance system directed particularly towards the more vulnerable sections of the society, the same underwent steady and inevitable erosion in course of time. The social security initiatives implemented during the past by the Central and State Governments in India and also various NGOs in the country point to the fact that the social security needs are much more than whatever the above agencies could support. This underscores the need scaling up the efforts many times and that too in a manner targeting the more deserving sections among such workers. It is widely recognized that the major security needs of the unorganised workers in India are: food security, nutritional security, health security, housing security, employment security, income security, life and accident security, and old age security. As per the NSSO statistics (2000) [1] the total employment in both organized and unorganised sector in the country was of the order of 39.7 crore. Out of this, about 2.8 crore were in the organized sector and the balance 36.9 crore in the unorganised sector. Out of 36.9 crore workers in the unorganised sector 23.7 crore workers were employed in agriculture sector, 1.7 crore in construction, 4.1 in manufacturing activities and 3.7 crore each in trade and transport, communication & services.

SIGNIFICANCE AND RELEVANCE

Social security is a fundamental right of labour which is guaranteed by law to all human beings, who live their own labour and who find themselves unable to work temporarily or permanently for their control. In terms of social security, the first beginnings were made at the time of French Revolution when a Declaration of the Rights of man was proclaimed. It served as a preamble to the French Constitution of 1793. Which stated; in-

ter-alia public assistance is a sacred duty (singh, 1997). According to Article 22 of the Universal Declaration of Human Rights, every member of society has a right to social security. The ILO declaration on fundamental principles and rights at work is a major step in this direction. Development must bring about an improvement in the living conditions of people. It should, therefore, ensure the provision of basic human needs at all. (Nayar, 2003). Social security issues of unorganized labour are of cardinal significance and such labour are much more vulnerable to exploitation than those in any organized sector.

Housing is a primary human need and hence a priority for the Government. It is widely recognized that housing development plays an important role in economic development of a nation and this is particularly relevant for a developing nation like India. In spite of the top priority accorded to the housing sector in India, the security measures of labour in the housing construction sector are reported to be grossly insufficient. In Kerala, the case of workers in housing construction projects deserve special mention as the vast majority of workers in this sector are unorganized. Moreover, over 60 percent of these workers are migrants from other states, like, Bihar, UP, West Bengal etc. Because of the cyclical and seasonal nature of the housing construction industry and acute lack of formal organisational set ups to ensure social security of construction workers, an empirical study to map the socio-economic profile of housing construction workers is quite relevant. This study is an effort in this direction, in the Kerala context where the share of informal migrant workers is very high.

Besides the welfare point of view, housing has got an economic development perspective also, because of the vast forward and backward linkages of this industry with over 250 ancillary industries, and also its high employment generation potential. However, long term sustainability of any industry depends on adequate welfare measures, particularly various social security initiatives, for its core labour. This aspect being grossly overlooked in the case of informal labour in India, especially those working in the housing construction industry, it follows that empirical studies are required to assess the exact quantum of the problem, to identify the areas for focused attention, and ac-

cordingly to suggest suitable strategies that can help meaningful policy decisions. It is in the above context, that the present study looks into the human rights issues and other social security issues with a focus on unorganized labour in housing construction sector in Ernakulam city in Kerala.

Objectives of the Study

- (i) To make an overall study of the case of unorganized labour in India and abroad, and a detailed study of such labour engaged in housing construction projects of major Developers based at Ernakulam in central Kerala;
- (ii) To make a detailed study of the nature of the social security measures and their adequacy, including human rights issues with reference to the migrant labour employed in the construction projects under study; and
- (iii) To examine relevant aspects of labour standards and suggest strategies to improve the living and working conditions of unorganized labour, particularly the migrant workers, based on the findings of the study.

Unorganized Labour

• Global Scenario

With the advent of industrial revolution in Europe, in the 18th and 19th centuries, a new class of factory workers was emerged in the world economy. Capital and labour were main factors of production in the production processes of industrial revolution. Consequently, producers or owners and workers were emerged in the private economy. So far as welfare of the society is concerned, it was necessary to maintain labour standards for workers and provide them welfare facilities as per labour standards. Therefore, the International Labour Organization was established in 1919, under the treaty of Versailles. After the second war period, the United Nations General Assembly adopted the Universal Declaration of Human Rights. The most important fundamental international instrument informing much social, economic and political policies of many developed and developing countries in the world is the Universal Declaration of Human Rights, December 10, 1948. However, the human rights have been incorporated in the constitutions of many countries in the world. According to International Labour Organization's principles and rights at work, core rights are important for working class in the world economy. India is a developing country. India adopted new economic policy in 1991, which is known as liberalization, Privatization and Globalizations (LPG). New economic policy has changed the face of the country. Globalisation brings in its wake restructuring of production processes, and employment relations. (Mishra, 2001). In the era of globalization, it is necessary to discuss relevant aspects of labour standards and labour rights, dimensions of decent work in respect of migrant workers in the developing countries like India.

The International Labour Organization (ILO) has played a significant role in promoting International Labour Standards. (ILS's). The ILO has formulated international labour standards at various conferences. In 1944, the conference of Philadelphia adopted the Declaration of Philadelphia, which restated the fundamental aims and purposes of the ILO. Several acronyms have been used to describe labour standards such as fair labour standards, minimum labour standards, basic or core labour standards etc.

The problems of migrant workers have become very important in many developing countries of the world. 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.

Today (1969), 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).

• Indian Scenario

India is the most populous country in the world, next to China. If one looks at the characteristics of Indian population it reveals the interesting dimension about the existence of unorganized sector, which is the dominant sector and could not be properly attended to under the social security measures initiated so far. As per the 2001 census, the total work force in our country is 402 million, of which 313 million are main workers and 89 million are marginal workers. Out of the 313 million main workers, about 285 million is in the unorganised sector, accounting for 91 percent (Economic Survey: 2005-06). The estimates provided by the National Sample Survey Organisation also reveal the similar pattern.

The Indian Constitution, (GOI, 1991) upholds the principle equality between men and women. Laws have enacted fixing the hours and minimum wages of labourers and to improve their living conditions. Various security schemes have been framed. Besides, there are various labour laws, like Trade Union Act 1926, The Minimum Wages Act 1948, Employees State Insurance Act 1948, Industrial Disputes Act 1949, Industrial Disputes Decision Act 1955, Payment of Bonus Act 1955, Personal Injuries, (compensation insurance) Act 1963, Maternity Benefits Act 1967, Contract Labour (Regulation and Abolition) Act 1970, Bonded labour Systems (Abolition) Act 1976, Equal Remuneration Act 1976, Interstate Migrant Workmen (Regulation of Employment) Conditions of Service Act 1979, The Child Labour (prohibition and Regulation) Act 1986 etc. Social security is a fundamental right of labour which is guaranteed by law to all human beings, who live their own labour and who find themselves unable to work temporarily or permanently for their control. In terms of social security, the first beginnings were made at the time of French Revolution when a Declaration of the Rights of man was proclaimed. It served as a preamble to the French Constitution of 1793. Which stated; inter-alia public assistance is a sacred duty (Singh, 1997). According to Article 22 of the Universal Declaration of Human Rights, every member of society has a right to social security. The ILO declaration on fundamental principles and rights at work is a major step in this direction. Development must bring about an improvement in the living conditions of people. It should, therefore, ensure the provision of basic human needs at all. (Nayar, 2003).

The Preamble of the Constitution of India guarantees its citizens justice- social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunities and fraternity, dignity of individual and dignity of nation. Part IV of the Constitution of India relating to Directive Principles of State Policy, inter-alia, call for provisions for right to work and education; public assistance in cases of unemployment and of social security; just and humane conditions of work; maternity relief; living wage and working conditions capable of ensuring decent standard of life (Articles 41 to 43); workers participation and management. In *Randhir Singh v. Union of India* (AIR 1982 SC 879), the Supreme Court has held that although the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right, but it is certainly a constitutional goal under Articles 14, 16 and 39 (c) of the Constitution. This right can, therefore, be enforced in cases of unequal scales of pay based on irrational classification. Table I shows the percentage distribution of migrants by reason in India.

The National Commission on Rural Labour in India (NCRL, 1991) estimates more than 10 million circular migrants in the rural areas alone. These include an estimated 4.5 million inter-state migrants and 6 million intra-state migrants. The

Commission pointed out that there are large number of seasonally migrant workers in the agriculture and plantations, brick kilns, quarries, construction sites and fish processing. The World Bank's logic that the informal sector "is a safety net" is not only structured on laboured arguments but seems mischievously interpreted too. After independence, many labour laws have enacted by the government of India. Besides, the government also adopted various labour policies in order to improve wages and working conditions of workers in the organized and unorganized sectors. We need to discuss about the quality of life and labour standards for the migrant workers in India. In terms of wage policy in India, it has been observed that male and female migrant workers get lower wages than minimum wages. The average daily wage for migrant workers in Kerala is Rs 220. While male migrants get Rs 250, women are paid Rs 200. They do not get minimum, wages stipulated under the minimum wages Act, 1948. Long and flexible working hours, combined with low wages are reported in the case of most seasonally migrant workers in India. (Singh and Iyer 1995, Krishnaiah, 1977, Salve, 1990). There is no fixed time of work for migrant workers; they work more than 12 hours a day instead of 8 hours a day.

As the Report of the Working Group on Social Security (Govt. of India) (Eleventh Five Year Plan, 2007-2012) (NSSO, 2000)[1] points out regarding informal labour, "there is a dearth of formal security protection" and "this is a major challenge to the existing social security systems that have evolved in the last century". Accordingly, it is pointed out that "security and institutional support are required by all persons in order to face difficulties and to mitigate hardships in the event of losses due to sickness, injury, loss of income and inability to work" (Planning Commission, Plan Document on Social Security, Eleventh Five Year Plan, 2007-2012)[2].

MIGRANT WORKERS IN KERALA

Migrant labourers in Kerala are some 1 - 1.3 million (expressed locally as 10-30 lakh) semi-skilled or non-skilled migrant labourers from other States of India, mostly from Tamil Nadu, Rajasthan, West Bengal, Orissa, Bihar, Jharkhand, Chhattisgarh, Assam and other north-eastern parts of India in search of employment and higher wages. The major reason for the influx of migrant labourers is attributed to the reluctance of the indigenous Malayali people to perform manual labour, as there is a social stigma attached to it and a prevalence of low wages.

In Kerala state in particular, though there has been a sudden upturn in housing construction activity in the state since the mid-1970s, this boom has failed to generate growth stimulus to the state's economy. Because long term sustainability of any industry depends on adequate welfare measures, particularly various social security initiatives, for its core labour. It is widely recognised that investment in housing has got tremendous potential for facilitating faster development of an economy. However, long term sustainability of any developmental initiative would require conducive labour market. Thus, social security of workers of housing construction sector in general and women workers in particular is of vital significance. The immense developmental potential of housing adds up to the above significance for a developing nation like India, and more so for a state like Kerala which is starving for investment and employment opportunities.

"Due to limitations in portability of entitlements, the inter-State migrants in Kerala are not able to enjoy some for the entitlements/benefits from the Central and State governments they had enjoyed before migration," the study notes. "The inter-State migrants lose their entitlements when they cross borders of their native States. For instance, migrant labourers from States like Bihar, Orissa, West Bengal or Assam who have been availing themselves of rice or wheat and other provisions at subsidised prices through the public distribution system (PDS) in their home States are unlikely to benefit from the PDS in Kerala." The Aadhaar unique identity cards might, to some extent, address this problem. The migration of labour from the north-eastern States to Kerala is akin to international migration. "The linguistic, social and cultural differences between the State of origin and Kerala and the large distances the migrant have to travel to reach Kerala make the inter-State migration

to Kerala more similar to international migration." The language barrier makes them vulnerable and prevents them from accessing health care and protecting their rights. Poor language skills also prevent them from communicating well to doctors about their illnesses and symptoms. The Inter-State Migrant Workers Welfare Scheme, launched by the State government last year, has not made much of an impact. The enrolment with the scheme is lower than two per cent of the estimated migrant labour force.

The Labour Department came into existence with the inception of the Kerala State. The Department is conferred with the primary duty to ensure enforcement of labour laws, providing services for prevention and settlement of industrial disputes and performing other related functions to promote all round industrial peace. It endures to maintain a peaceful and calm atmosphere in the industrial sector and to safeguard the interest of the working class. Peace and harmony prevail in the industrial sector due to the timely and able intervention of the Department. The aversion of Kerala Worker to such manual job and their non-availability as and when required are the main reasons for this. The migrant workers are attracted to Kerala due to the reasonably high rate of wages existing here when compared to the poverty and misery they are subjected to in their native States.

The Kerala State Labour Department is taking all possible steps to protect them from exploitation, in consideration of their illiteracy and language problems. The Labour Officers have been instructed to safeguard the interests of the poor workers from other States in search of their livelihood. District level squads were formed to make inspections at the work sites as well as their residential areas to ascertain the facilities provided to these workers. Awareness meetings and medical camps were conducted for enlightening the migrant workers about their legally entitled rights and benefits to be provided by their employers. Medical camps are also being conducted for them. The Labour Department has also taken up the challenge to eradicate the menace of child labour. The State Labour Department is enforcing the Child Labour (Prohibition and Regulation) Act, 1986 and the Child Labour (Prohibition and Regulation) Rules, 1993. In the light of the landmark judgment of the Supreme Court of India in December, 1996, Child Labour Rehabilitation-cum-Welfare Societies were formed in all the 14 districts of Kerala for the all round welfare of the working children. Hence, the Labour Department has conducted awareness camps throughout the State to raise a consensus among the people in various sectors of the society.

MIGRANT WORKERS ERNAKULAM, KERALA

• Terms & Conditions for Migrant Workers

- 1) As per Inter-state Migrant Workers' Act, it is mandatory that the bio-data of the migrant workers be registered in the concerned state government Labour office. Here, labour office at Ernakulam, Kerala.
- 2) As per the relevant labour regulations, one month's salary is given to the migrant worker's family in advance.
- 3) Recruiting license should owned by the contractor for recruiting migrant workers from other states.
- 4) Identity cards should be given to the migrant workers by the respective labour office.
- 5) In order to appoint the migrant workers the firm should registered registration and filled up the form no.1&5 by the principal employer. Form no. 4 should filled by contractor of migrant workers.
- 6) The contractor should pay license fee to the immigrated state's labour office. Beside this he has to pay the security fees of Rs. 1000 - 2000 to the labour office. This amount will be refundable after submitting the completion certificate by the principal employer.
- 7) Basic pay of more than 450 must be given to the migrant workers as per Ministry of Labour.

• Major Findings of the Empirical Study

Out of 200 total workers under study in four construction sites in Ernakulam, 100 migrant workers are selected for this study. Of them 75 percent (75 nos) are from West Bengal, 10 percent

(10 nos) from Odisha, and 15 percent (15 nos) from Bihar. They consist of both semi-skilled and skilled labourers only through experience. Their preferred language is often Hindi, as it is more compatible with their mother-tongue. Major findings are summarized below:

- Their educational level is very low, as 15 percent of them are illiterate, 18 percent have lower primary education, 35 percent have upper primary, 23 percent high school and the rest 9 percent alone have above 10th standard education. (Table II). Those works that need technical skills (for example, lift erection) would be given to ITI qualified people.
- These migrant workers under study joined in construction work for the time periods ranging from 1 to 5 years. They reach the work site by walk. They basically work in the realms of masonry, plumbing, painting, carpentry etc.
- Vast majority of them (93 percent) have got their job through friends, or relatives or contractors. (Table III).
- Their wages are about 100 to 150 rupees lower than those of the local (native) workers (Table IV).
- They are often paid weekly (61 percent), and sometimes daily (24 percent) and rarely monthly as well. (Table V). Verbal agreements are the basic form of agreement to pay the wages and contracting migrant workers.
- No apprenticeship was made in the concerned site. On the job training is the basic method of training to the migrant workers – their educational qualification entitled with primary education only.
- Age wise distribution of sample reveals that the majority of people engaged in housing construction field come in the age group of 26 to 35.
- The wage rate existing among the same group of workers is different because they are paid on the basis of skill and experience rather than the type of job they are performing.
- The main element constituting push factor is the low wage prevailing in their native place and the pull factor consist the same element in reverse.
- Analysis on workers residence shows that 63 Per cent of them residing at owner's plot free of cost and 30 Per cent are in lodge, with meager facilities irrespective of where they reside.
- Majority of workers (65 percent) are sending money monthly to their home. Most of them are using banking facilities. Only 15 percent are sending money at weekly rests. (Table VI).
- Of them 94 people are satisfied with present job. The reason for the job satisfaction is that they get more wages at present than they got paid in their native place.
- Majority of the workers has to do over-time work for the completion of work in stipulated time. They are paid extra remuneration for over-time work.
- Only less than 40 percent are provided with accommodation and facilities for cooking by their contractors or employers. Other have to find their own accommodation and other facilities.
- Only less than 30 percent of the migrant workers have got proper registration with the labour office.

MAJOR SUGGESTIONS

- As majority of the workers are provided with adequate accommodation and living surroundings, such facilities be provided to them by the employers themselves, rather than middle men like contractors. In general, the living conditions are quite poor and they especially lack hygiene. This situation must be improved to ensure better productivity of workers through their better health, and also for compliance with regulations.
- The social security measures are poorer than the ones stipulated by the regulations on migrant workers or various labour laws. Besides, enhanced safety measures are required at work sites to protect against hazards or accidents during work. Thus, proper security measures are essential from the social security and individual safety perspectives. Workers be provided with adequate and proper safeguards and security devices.
- Registration of all migrant workers with the respective La-

bour Office should be ensured by all concerned right from the beginning of their engagement. This will ensure that adequate security measures are extended to them and that all of them have genuine identity. Instances of anti-social activities by culprits in the guise of migrant workers can be checked. Besides ensuring the maintenance of proper statistics, this will ensure proper delivery of the Governmental welfare schemes to the intended beneficiaries.

- Electronic linkage of the registration and record-keeping mechanism through suitable E-Governance initiatives of the Government can fetch further benefits in the forms of excellent transparency, elimination of corruption, avoidance of the exploitation by the middle men (like, agents) and after all due compliance of the labour legislations and regulations by the respective stake-holders. As Kerala Government has already got an excellent E-Governance system in place and so also adequate regulations for protection of the rights of the migrant workers, extending the E-Governance initiatives into the realm of migrant workers too won't be difficult and that would be quite meaningful too.

Concluding Remarks

From the empirical investigation of unorganized workers of a few housing construction projects located at Ernakulam city it is observed that their socio-economic status is of rather medium level. Most of them are satisfied with the present job as they get higher wages in Kerala compared to their own states. It is also noted that majority of them are less educated and belong to socially and economically backward classes of the society. Majority of them are middle aged, and are having experience less than 10 years, the reason is that they do not like to stay permanently.

Despite contributing to the development of many states, the working conditions of these migrant workers are not satisfactory. Many of them stay at their workplaces themselves, or are forced to contribute to the ever-expanding slums of cities. Short term migrant workers are usually employed on contract basis with practically no social security or compensation in case of job loss, accident and injury. In recent years, the implementation of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) in poorer regions has helped in checking distress migration from states such as Bihar, Orissa, Uttar Pradesh, Rajasthan, and Madhya Pradesh. Such active labor market policy (ALMP) based activities need to be scaled up and focused in poorer regions. The suggestions made above, based on the study findings could prove to be useful in improving the lot of migrant workers and help them enjoy their basic human rights, including those relating to social security and individual safety and well-being.

Table I: Distribution of Migrants by Reason in India (1981 & 1991)

Reasons for Migration	1981		1991	
	Female	Male	Female	Male
Employment	1.9	31.0	1.8	27.0
Education	0.9	5.3	0.8	4.8
Family Moved	14.5	30.2	11.0	26.6
Marriage	72.4	3.1	76.1	4.0
Business	NA	NA	0.6	6.9
Natural Calamities like Drought, Floods etc.	NA	NA	0.2	1.1
Others	10.3	30.4	9.5	29.6

(Source: www.indiastat.com).

Abbr.: NA – Not Available. Note: Excludes Assam & Jammu & Kashmir for 1981 and 1991

Table II. Distribution of Workers on the Basis of Educational Qualification

Education Qualification	Number of Workers	Percentage
Illiterate	15	15
Lower Primary	18	18
Upper Primary	35	35

High school	23	23
Above 10 th	9	9
Total	100	100

(Source: Field Survey)

Table III. Source of Job

Source	No. of Workers	Percentage
Alone (Self)	2	2
Friends	35	35
Relatives	29	29
Contractors	29	29
Contractors & Friends	5	5
Total	100	100

(Source: Field Survey)

Table IV. Daily Wages of Workers

Labour Category		Helper	Mason	Carpenter	Bar vendor	Welder
Average wage	Immigrant Worker	300	500	500	400	400
	Native Worker	450	650	650	500	500

(Source: Field Survey)

Table V. Periodicity of Payment

Mode of Payment	No. of Persons	Percentage
Daily	24	24
Weekly	61	61
Monthly	15	15
Total	100	100

(Source: Field Survey)

Table VI. Sending of Money to Home

Period	No of Workers	Percentage
Weekly	15	15
Monthly	65	65
Once in Two Months	12	12
Returning Time	08	08
Total	100	100

(Source: Field Survey)

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