

Threat to Social Security of Migrants and Refugees during Covid-19 Pandemic in India: A Socio- Legal Dimension

***SunitaPanth**

Research Scholar, HPNLU

Abstract

Social Security is viewed in the context of human development and rights perspective. Various global conventions also recognise social security as a human right. The Universal Declaration of Human Rights (UDHR) states under its Article 22 “everyone as a member of society has the right to social security and is entitled to realisation, through national effort and international co-operation.” Similarly, if we observe Indian Constitution, the part IV, Directive Principles of State Policies feature social security as a basic obligation of the state. The same is directly associated with the fundamental rights enshrined in part III of the Constitution. The Indian Economist Amartya Sen and Jean Dreze put forward that “The basic idea of Social Security is to use social means to prevent deprivation and vulnerability to deprivation.” The vulnerability and Deprivation are integral to the lives of many populations such as Migrants and Refugees in India. These groups of population are fragile, ignored, intimidated and unorganised in social outlook. This way the protection of the rights of migrants and refugees is integral for their social security. As the migrants and refugees lack access to the basic services and mobility of social security. This raises serious concerns about their vulnerabilities. The global outbreak of Covid-19 pandemic has greatly exposed the vulnerability of migrants and refugees. The upshot of the tragic virus is instant, profound, and immediate that has left the entire humanity in dismay and concern. The national lockdown was abruptly imposed, without the loop on migrants and refugees. Consequently, thousands of migrants and refugees are pushed to the edge of starvation by the nationwide lockdown. There is continuous threat to their livelihood and social security. Amid the Covid-19 pandemic there were no adequate measures for providing social security and basic services to this vulnerable group. The Covid-19 regulatory practices such as social distancing, isolation, surveillance further aggravated their social exclusion. Although the principle of human rights stands to secure the equal treatment to all, but the existing scenario depicts the darker side for migrants and refugee population. Thus it is crucial to extend social security coverage to currently unprotected migrants and refugees.

While looking at the law and policy aspect, the social protection domain is under the Concurrent List (List III) of Indian Constitution, wherein both the Central and State Government has power to legislate and work together. But as per the practical observations it is found that whenever the two governments are in position to legislate, there lies a gap in implementing such laws including related welfare schemes at grass-root level. Further, this also results into politicizing the rights of the vulnerable people, where different political groups including government keeps the implementation measures on a back burner. This poor implementation results into the failure of providing the social protection including social

freedom to the concerned stakeholders. The Code on Social Security 2020¹ is most recent legal development that assures the social security to the vulnerable sections working primary in unorganized or semi-organized sectors. This new legislation has subsumed the Unorganized Workers' Social Security Act of 2008 and Building and Other Construction Workers Act of 1996. In addition to this there are several international Conventions and Covenants guarantees social security including economic security of vulnerable sections. Though this paper researcher will try to study and analyse the socio-legal dimension of internal migrants and refugees in India. Whether there are any measures for protecting their socio-legal rights during on going Covid-19 pandemic? What is the implementation of constitutional assurance to protect the right to life and dignity of migrants and refugees? Thedescriptive and analytical approach will be followed for writing this paper. The researcher will analyse the scope of social security laws towardsrefugee workers in light of the constitutional provisions and related judicial interpretations. The research paper aims at studying the efficacy and effectiveness of various social assistance programmes and will be ending with a constructive conclusion.

¹ The Code on Social Security 2020 received the Presidential Assent on 28 September 2020.