SUMMARY

Labour migration has been an integral and vital part of human development. Infact, the history of population migration is as old as man itself. Labour migration may be defined as a form of labour mobility towards districts or States or outside where industry and employment are expanding. In other words migration may be phenomenon of the flow of people over shorter or longer distances from one origin to a destination either for temporary or permanent settlement. The rapid industrialization has attracted a major chunk of labourers from rural to urban, and thus not only causing the problems for urban growth as well as development, but also for the labourers.

The word migrant workers came into picture in the 19th century. This was the time when land revenue was assessed in India at high rates by the British rulers. It created a new class of landless labourers. These landless poor labourers began to migrate to various British colonies.

The bulk of the rural population in our country has to depend on the agriculture for the main source of their livelihood. Failure of rain and consequent failure of agriculture hits the main source of income of this large segment of population. In India droughts occur once in every five years in some parts of India viz., West Bengal, Madhya Pradesh, Kerala, Costal parts of Andhra Pradesh, some parts of Maharashtra state, like Marathwada, east and west parts of Maharashtra, inferior of south Karnataka, Bihar, Orissa, Rajasthan and other parts of India. The drought of 2012 in Maharashtra is the latest
example which affected a large number of cultivators, small and marginal farmers, agricultural labourers, landless labourers in rural areas. Thousands of people from these areas were forced to migrate towards urban areas in search of work. Besides drought there are some other factors also which play a major role in the seasonal migration of this class. It is a fact that India does not have short of land quantitatively but qualitatively, that is to say, arable lands are not fertile and productive which ultimately leads to the result that, people move from these poor soil areas to the urban and agro-based industrial areas. The other factor is that the majority of the agricultural labourers, small and marginal farmers do not get enough work during the off season, consequently, they migrate from insufficient food and limited sources of geographical areas to job opportunities areas. Other various causes of migration of labour are agricultural poverty, the decline of village and cottage industries, poverty of the people, drought affected villages in which absentee of work for about six months per annum, and the existence of a large size of small cultivators whose holdings are extremely inadequate and landless labour in economically weaker sections of the community and lower caste people. So, there are two important reasons for rural labour migration: (i) migration for survival (ii) migration for subsistence.

Migrant labour can broadly be divided into two categories, i.e., rural farm labour and industrial labour. Punjab and Haryana are the pioneer states in the field of agriculture after the ushering in of the Green revolution
since the mid-sixties. There is not only an influx of a large number of seasonal migrant workers in agriculture but it is widespread in other fields also, such as brick kiln, stone quarries, the construction industry and household industries (other than organized ones).

The main driving force behind migration is a better standard of living away from home. In the recent decades migration has been taking place amidst increasing global economic, political and social integration which has been accompanied by greater speed and ease of transportation. Migration carries human capital to regions of destination, entails investment in the employment of migrants, permits acquisition of new skills and accentuates economic cycle. Contemporary migration often involves short-term, temporary sojourns in the host region. The direction of people’s movement has always been guided by the specific needs of the time. The urbanward migration is in response to the creation of new employment opportunities in secondary and service sectors which tend to be spatially located in cities and towns and it is also fueled by improvements in agriculture. In the later transitional stage of development, the rapid growth of industrialization, transport and communication and other economic and social overheads in urban areas encourage people to migrate in large number from smaller towns to big and specialized metropolitan cities in search of better employment opportunities. In super advanced stage of development, the migration is mostly from urban to rural areas. The reverse migration is also due to congestion of
industries and pollution in urban areas which induces industrialists to set their projects in sub-urban areas where the initial costs of setting new industries is tremendously low. The rising cost of living in mega cities also forces people to undertake reverse migration. It is also facilitated by better transport systems which reduces the commuting time between living and office locations.

The motives of migration are sometimes 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, flood, earthquake, drought, (i.e., natural calamities) etc, are the push factors. Pull factors that determine migration such as attraction of city life, 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 groups of population are categorized under the following heads.

(i) Economic factor;
(ii) Demographic factor;
(iii) Socio cultural and psychological factors;
(iv) Political and institutional factors;
(v) Miscellaneous factor.

Poverty and illiteracy are the bane due to which migrant labour in search of livelihood come to State of Haryana. The middlemen and the employers being hand-in-glove, exploit the labour, their women folk and employ them under depressive working conditions of long hours,
lesser wages with no hygienic conditions at the work place, flagrantly violating the human rights of the labour. They are unmindful of the consequences. The employer and middlemen blatantly with impunity on many a time and due to ignorance in some instances, commit the constitutional crime of violation of the human rights of these segments. Because these segments are poor, vulnerable and unprotected, many do not even consider them human beings. They themselves are unaware of the existence of their human rights. Therefore, it is but the duty of the sensitized citizens, NGOs, trade unions, and officers to work in tandem to protect the human rights and enable these segments of the society realise enjoyment of the basic human rights—the right to food, right to shelter, right to unpolluted and congenial environmental conditions at the work place and living places as well as education to their children as basic human rights.

The system of employment of migrant labour is a complex one. In this system workers are engaged from the place of their origin through the intervention of contractors or middlemen or Thekedar or Khatadar and they are migrated to some other destination. This is similar to Dadan Labour.

Dadan Labour is a form of contract labour and labourers are recruited from various parts of the State of Orissa for work mainly in large civil works outside the State. The Agency for such recruitment is Dadan Agent or Sardar under the Orissa Dadan Labour (Control and Regulation) Act. These agents have their agents called
Khatadars who are incharge of recruitment of each group of such workers, their placement in the projects and payment at the time of recruitment...; the Sardars engage mates who control the Dadan Labour at the work side.

In furtherance of International labour standards framed by the ILO and in the true spirit of the Constitutional Law of India, government of India has framed various security schemes for the labourers. Besides there are various labour laws like Minimum Wages Act, 1948; Contract Labour (Regulation and Abolition) Act, 1970; Bonded Labour System (Abolition) Act, 1976; Employees' Compensation Act, 1923; Maternity Benefit Act, 1961; Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act; Payment of Wages Act, 1936; Equal Remuneration Act, 1976; Factories Act, 1948; The Child Labour (Prohibition and Regulation) Act, 1986 and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

**Justification of the Study**

A vast population of the country's workforce is migrant worker and consequently unprotected. It represents that section of the labour community who by the nature of their employment are casual, who do not get employment for all days in the year, whose wage rates and conditions of service are not determined by collective bargaining. For them, the fulfillment of the post-Independence socialistic constitutional guarantee of equality of status and opportunity and the right to live with
human dignity coupled with promises of adequate means of livelihood and social security is nowhere in sight.

Migration is a social, economic and universal phenomenon in modern times, through which human being moves from one place to another place in pursuit of certain cherished objectives like avenues of better employment, better wages, better working and living conditions, better quality of life and better livelihood. Such movements are normal and natural process. There is nothing wrong or objectionable in migration. Migration becomes objectionable only when the element of freedom in movement is replaced by coercion and all the normal hopes and expectations associated with migration are belied and the migrant workers are subjected to exploitation culminating in a lot of misery and deprivation of irreducible barest minimum to which every worker as a human being and a citizen is entitled. It becomes objectionable when human greed and aggressively selfish and acquisitive instincts overtake the finer aspects of human character such as kindness, compassion and where human beings are driven to a situation characterized by the denial of human dignity, decency, justice, equity, security.

Migration in India is mostly influenced by social structures and patterns of development. The development policies by all the governments since independence have accelerated the process of migration. Uneven development is the main cause of migration. Added to it, are the disparities, inter regional and amongst different socio-economic classes. The landless poor who mostly belong to
lower classes, indigenous communities and economically backward regions constitute the major portion of migrants. There is perceptible phenomenon in this migration, that is, the tremendous increase of women workers migrating either individually or in groups to find work. They are travelling very long distances even for short term employment in the absence of any prospect or promise of employment, still they are migrating. This is a disturbing trend, as in the event of not getting employment, they end up as victims of sexual abuse. Even if they get employment, they have to work under inhuman conditions. In terms of employment, construction is the largest employment sector in India after agriculture. Most of the employees in construction are migrants and are subject to exploitation.

The Government of India made an Enactment in 1979 named as the "Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979". In addition to the above Act, the Parliament came out with another Act named as the "The Unorganized Workers' Social Security Act, 2008" in order to provide social security to unorganized workers, which also includes migrant workers. In this background, it is essential and pertinent to find out as to what extent the migrant workers are being benefited and protected by these laws providing protection to them.

**Scope/Area of the Study**

Keeping in view the nature and objectives of the research study and the finance required in the study, the investigator has selected Kurukshetra district of Haryana
on the basis of genuine justification and having availability of a large number of migrant workers in the district. The Scope of the term 'migrant workers' is also limited to Inter-state migrant workers only. Therefore the study is confined to the Inter-state migrant workers working in Kurukshetra District of Haryana State only.

**Hypothesis**

The researcher has been motivated by the hypothesis that the laws and the schemes providing protection to migrant workers are inadequate and not properly implemented.

**Objectives of the Research Study**

The following will be the objectives of the present study –

1. To ascertain as to what extent the migrant workers are getting the benefits of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
2. To ascertain as to what extent the migrant workers are being benefited by the Unorganized Workers' Social Security Act, 2008.
3. To highlight the difference between theory and practice regarding the laws providing protection to migrant workers.
4. To identify/highlight the impediments in the implementation of laws providing protection to migrant workers.
5. To recommend suggestions for the effective and better implementation of laws providing protection to migrant workers.
Research Methodology

The present study shall be carried out with the help of doctrinal and non-doctrinal methods of research. A comprehensive questionnaire relating to the topic of the research shall be prepared. Extensive field work would be undertaken in the Kurukshetra district of the State of Haryana and the responses of the migrant workers shall be collected through the questionnaire. The data/responses collected from migrant workers shall be analyzed and evaluated. In addition to above, other laws providing protection to migrant workers, framed from time to time shall also be carefully examined and evaluated with the help of latest case laws available on the topic.

Scheme of the Study

The entire study has been divided into five chapters. First chapter of the study is general in nature. It includes a thorough discussion regarding the nature and the concept of employment of migrant workers in addition to its historical aspect. The justification of the study, objectives of the study, hypothesis, research methodology and the scope of the study have also been discussed in this chapter. The literature related to the topic of the study has been analysed under Chapter II of the thesis. Chapter III deals with the legislative protection available to the migrant workers. It includes the analysis and evaluation of certain laws providing protection to migrant workers. The judicial approach regarding these laws has been incorporated in this chapter. Chapter IV of the thesis relates to the analysis and interpretation of data collected from the sample subjects of the study. It also includes the
observations drawn by the researcher after the analysis and interpretation of data. Chapter V deals with conclusions drawn out of the study and subsequent recommendations in this regard.

**Observations**

The empirical study conducted on migrant workmen of Kurukshetra district has revealed that eighty five percent of the sample subjects have came directly to Kurukshetra district without taking the help of contractors for the purpose. Rest of the fifteen percent came to Kurukshetra district through the contractors. It necessarily implies that eighty five percent migrant workmen came to Kurukshetra district at their own level without bothering about the provision of ISMW Act. They also manifested the fact that they are quite ignorant about any law for the purpose of their welfare. It is further highlighted by the study that only thirty three percent of the migrant workmen have received journey allowance from their contractors. Therefore, it is clear that section 15 of ISMW Act is frequently related by the contractors. It is also painful to highlight here that hundred percent of the sample subjects did not receive bank passbooks in their names from their contractors. It implies that the total percent of the beneficiaries amounts to zero within the target group. This is an utter violation of the provisions of the Act by the contractor. In addition to above the study also reveals that twenty percent of the subject samples did not know the names of their principal employers, whereas, the Act makes it mandatory for the contractor to disclose the names of the principal employers to the migrant
workmen. Migrant workmen are also included within the scope and ambit of the minimum wages Act. But, it is clearly highlighted by the study that eighty percent of the migrant workmen admitted that they did not receive minimum wages from the principal employer. Therefore, section 13 of the Minimum Wages Act is quite irrelevant for them. Similarly, a majority of the migrant workmen have admitted that they are not getting regular payment of wages, which is a necessary requirement according to Payment of Wages Act. Therefore, the protection available under Payment of Wages Act is meaningless for them.

The Act makes it mandatory for the principal employer or the contractor to provide free of cost medical facilities to the migrant workmen. The study reveals that none of the migrant workmen had received free of cost medical facilities from the contractor or the principal employer. It is quite satisfactory that hundred percent of the migrant workmen had admitted that they are getting their wages in cash and not in kind. It has been clearly indicated by the study that eighteen percent of the migrant workmen have stated that their husbands are receiving wages on their behalf, such types of practices are violating the human rights of female migrant workmen clearly. Eighty seven percent of the sample subjects have also stated that they are getting their wages only after some deductions. But they do not know, what type of deductions these are. Therefore, the principal employer should disclose each and every detail regarding the deductions to the migrant workers. The Act makes it mandatory for the contractor to help the migrant workmen in case of physical
injury cause to them. But, seventy five percent, of the migrant workmen stated that the contractor did not help them in case they suffered with physical injury. Section 16 of the Act confers a duty upon the contractor to provide protective clothing to the workmen as per the nature of work. But the study reveals that hundred percent of migrant workmen have accepted the fact that their contractors did not provide them safe clothings as per the nature of work. It implies that the contractors are violating the provisions of the Act. It is also highlighted here that hundred percent of migrant workmen have admitted that they were not getting clean water, toilets bathrooms and place to wash clothes from their principal employer. Therefore, the provisions of the Act are not followed by the principal employer. Similarly, hundred percent of the migrant workmen have admitted that they had no facility of rest rooms at their respective establishment in case they had to stay at night hours at the establishments. This is a mandatory requirement under section 16 of the Act. The study further highlights that hundred percent of migrant workmen did not have the facility of canteen at their establishments. It is interesting to highlight here that hundred percent of migrant workmen had never made any complaint against their respective principal employer or the contractor. Although, the Act contains certain provisions for the redressal of the grievances of the migrant workmen, yet these provisions are meaningless for the workers because of the fact that they are too poor to make both ends meet. Further, if they do so they have the fear of loosing their job and it may render them jobless. Moreover,
the grievance redressal mechanisms provided under the Act is so complex that the workmen can hardly get any remedy out of it. Therefore, the need of the hour is to simplify the grievance redressal mechanism so that the workmen may get speedy remedy. Section 14 of the Act provides that every inter-state migrant workmen is entitled to a displacement allowance at the time of recruitment, which may be either seventy five rupees or half of the monthly wages payable to him, whichever is higher. But the study reveals that hundred percent of migrant workmen did not receive displacement allowance from their contractors. It necessarily implies that there is a wide gap between theory and practice. Likewise, according to section 16(b) of the Act it shall be the duty of every contractor employing inter-state migrant workmen in connection with the work of an establishment to which this Act applies to ensure equal pay for equal work irrespective of sex. But study reveals that hundred percent of the female migrant workmen have admitted that they are not getting equal pay for equal work. Discrimination in terms of wages on the basis of sex is a common phenomenon in all establishments employing migrant workmen. Hundred percent of the sample subjects accepted the fact that male migrant workmen are getting more wages as compared to female migrant workmen for doing the same or similar nature of work.

**Observations Regarding Implementation of the Act**

During the course of empirical study the researcher has obtained certain responses from the labour department situated at Kurukshetra district headquarter. The responses sought from the labour department relate to the
implementation and enforcement of the laws relating to migrant workmen working in Kurukshetra district of Haryana. The study has revealed certain surprising results. It was informed by the labour department that not even a single establishment has been registered in Kurukshetra district during the last three years for the purpose of ISMW Act, 1979. However the Act contains a provision for the registration of the establishment where migrant workmen are working. It implies that certain establishments employing migrant workmen are clearly violating the provisions of the Act. It has also been revealed by the labour department that not even a single contractor has obtained license for the purpose mentioned under ISMW Act. It is also pertinent to mention here that not even a single suit has been instituted in pursuance of the sanction granted by the Inspector. The labour department has admitted that the inspectors visit the establishments for the purpose of the Act. The enforcement authorities have admitted that the provisions of Minimum Wages Act, Payment of Wages Act, Maternity Benefit Act, Employees' Provident Fund Act, Employees' Compensation Act, Inter-State Migrant Workmen Act and the Unorganized Workers Social Security Act are very rarely implemented by principal employer and contractor. It necessarily implies that the enforcement mechanism provided under ISMW Act is very weak, consequently the principal employer and the contractor are clearly violating the provisions of the above stated laws. Inspite of the fact that the laws relating to migrant workmen are not implemented even to a small extent, no sanction has been granted for the institution of
the suit against those persons who violate the provisions of the above stated Act. It has also been revealed by the officials of the department that generally the provisions contained in Employees' Provident Fund Act are not implemented except in the case of migrant workmen working in brick kiln sites. The provident fund of the migrant workers working in brick kiln industries is deducted but it was also revealed by the officers of the labour department of Kurukshetra district that this deduction is not delivered to the migrant workmen when they leaves the job. Consequently, a huge unclaimed amount has accumulated in the name of provident fund. This happens because of the fact that the migrant workman does not contact the labour department before he leaves for his native place. Therefore, the workers should be made aware about their provident fund accumulation periodically. The empirical study also reveals that no record is maintained by the establishments employing migrant workmen. Regarding the implementation of Unorganized Workers Social Security Act it has been revealed by the labour department of Kurukshetra district that all the ten social security schemes mentioned in the Act were in force before the enactment of this Act. Therefore, it can be concluded that this Act has provided nothing new to the unorganized workers and therefore, it is merely an eyewash. In view of the above, it is evidently clear that the enforcement mechanism provided under the Act is not fulfilling its obligations as per the intent of the legislature. In addition to it, a comprehensive legislation
providing safety, security and other things to migrant workmen should be enacted.

In view of the above discussion and after analysing and evaluating the statutory provisions in addition to the Rules made thereunder relating to inter state migrant workers, judicial approach from time to time and the responses sought from the migrant workers, the following suggestions/recommendations have been made by the researcher.

(1) It must be ensured by the concerned authorities that the provisions of Minimum Wages Act are enforced and in no situation migrant workmen should get less wages than the wages laid down under Minimum Wages Act.

(2) There must be a regular payment of wages to the migrant workmen in all the establishments where they are working. Consequently the provisions of Payment of Wages Act should be followed in their true letter and spirit.

(3) Being welfare State it is the duty of the State to ensure that social security benefits are not denied to the migrant workmen.

(4) The problem of housing of the migrant workmen should be taken up on top priority by the concerned authorities. Consequently they must be provided with adequate supply of water and hygienic conditions to live in.

(5) The concerned authorities must ensure that the migrant workmen are not compelled to do work in excess of the working hours prescribed by the law. In addition to it a weekly rest must also be provided to the migrant workmen. By doing so their health can be
protected which will ultimately lead to the enhancement of their working capacity.

(6) Equal pay for equal work is a Constitutional and statutory requirement. In no case the women migrant workmen should be given less wages than their male counterparts for doing the same or similar nature of work. The concerned authorities must ensure that the principle of equal pay for equal work is followed by those engaging migrant workers.

(7) The migrant concerned authorities must ensure that the workmen are given the back journey allowance for visiting their native place.

(8) Although, the migrant workers are not united by way of their union yet the trade unions should show a sense of responsibility by way of taking up the issues relating to migrant workmen.

(9) It must be ensured by the concerned authorities that journey allowance is given to the migrant workmen for moving from one place to another place.

(10) The migrant workmen must also get medical facilities, pure drinking water and hygienic conditions to live in. It must also be ensured by the authorities that safe clothing is also provided to migrant workmen.

(11) The amount collected in the form of provident fund contribution must be delivered to the migrant workmen at the time of leaving their job. He must also be informed regarding the quantum of the provident fund so collected periodically.

(12) It is the duty of a welfare State to provide social security to the workers. The present laws providing social security to migrant workers are inadequate and merely an eye wash. Therefore, keeping in view the
huge size of migrant workmen it is the need of the hour to enact certain laws providing social security to them.

(13) Section 11 of ISMW Act deals with the procedure for making an appeal to an appellate officer. But an analysis of this section reveals that no time limit for the disposal of appeal has been laid down by this section. Therefore, it is suggested that the provision should be amended accordingly.

(14) The power to decide the dispute or disagreement regarding the suitability or adequacy of accommodation referred in Rule 45 should also be conferred upon the officials of the labour department of the State Government because, the State officials can be easily approached by the migrant workmen than the Central Government Officials.

(15) The appropriate Government should impose heavy fine upon the contractor in case he fails to perform the obligations imposed upon him by the ISMW Act.

(16) Under section 24 of ISMW Act the imprisonment of two years should be increased upto three years and the fine may be increased from two thousand rupees to five thousand rupees. Such enhancement is justified because of the fact that principal employers and the contractors are frequently violating the provisions of the Act. Therefore, the imprisonment and the fine should be a deterrent factor for them.

(17) The ISMW Act does not provide for any punishment or fine for continuing offence. This is a serious lacuna in the Act. Therefore, the Act should be amended accordingly.
(18) Section 29 of ISMW Act lays down the limitation period for making a complaint under the Act. However, prior sanction of the Inspector is a must for instituting the suit under the Act. It is equally true that seeking prior sanction of the Inspector is a long process, which generally takes a long time. Therefore, keeping in view the interest of migrant workmen it is suggested that the time taken by the Inspector for granting sanction to institute the suit should be excluded from the limitation period of three months provided under the Act. Hence, the Act should be amended to this effect.

(19) The concerned authorities should leave no stone unturned for the purpose of implementing all the laws enacted for migrant workmen according to their true letter and spirit.

(20) The National and State Social Security Boards Constituted under Unorganized Workers' Social Security Act, 2008 should be made more effective by way of giving more powers to them.

(21) The Unorganized Workers' Social Security Act, 2008 must contain a provision for the creation of a Social Security fund for unorganised workers.

(22) The Unorganized Workers' Social Security Act, 2008 should be amended so as to provide a strong grievance redressal mechanism.