CHAPTER II

REVIEW OF RELATED LITERATURE

2.1 Introductory

In order to get a better insight into the problem of labour migration and protection available to migrant workers, a brief review of available studies on migration has been presented below. These scholars/researchers have explored the various dimensions of the problems. The available literature mostly concentrate on some socio-economic issues of the problem, policy perspective and administrative process and legal aspects of migrant workers, etc. All this literature has been discussed analytically in the following pages.

As early as in 1929-31, in its report the Royal Commission on labour highlighted the existence of migrant labour in Indian States. The two leading areas, Bombay and the Hooghly, found it necessary, at a very early stage of their industrial history, to recruit labour from distant fields. Economic pressure, poor condition of village crafts, social disabilities were the main causes of migration. Like causes this report also points out the effects of migration. Dangers of health of the workers who were transported to the new environment was often subjected to severe strain. But there were economic advantages also on the other side.
And apart from economic advantages the educative effects on the workers were also noticed.

Nijam Khan\(^1\) conducted a study in the State of Uttar Pradesh. It was based on the field data collected from twenty randomly selected villages of Uttar Pradesh. It shows the pattern of migration on the basis of quantum of migration, characteristics of migrants and migrants contact with the place of origin. The study revealed that economic backwardness in rural areas caused by lack of better employment opportunities and small land holdings was pushing the rural population to other irrigated areas or urban centres in search of livelihood. Nijam Khan observed that migration was initially seasonal but has gradually converted into a permanent feature.

Vidyut Joshi\(^2\) while out lying the causes of migration unhesitatingly says that in the post independent period as a result of planned industrial and technological development new types of casual and seasonal work have emerged. Opportunities are emerging rapidly in areas where development has taken place, and such situation causing migratory movement is often divided in push and pull factors responsible for migration. The consequences of the process of migration as the pathetic working and living

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conditions of migrant labour and its socio-economic consequences in terms of son of the soil movement, problems of slums and urban area, or rising agrarian tension and honour of several labour laws only in their breach that caused much concern.  

In this book Vidut Joshi talks about the conditions of migrant workmen employed in Government projects Uttar – Kashi, Uttar Pradesh (Tehri Garhwal Project). Labourers from Orissa, Bihar including women and children were employed in such project works violating all labour laws, like Inter-State Migrant Workmen (Regulation of employment and Conditions of Service) Act, 1979. Most of such labourers especially from Orissa were Dadan labourers.

International Labour Organization in its report on Safety and Health of Migrant Workers – International Symposium, has examined in-depth the problems of occupational safety and health of migrant workers throughout the globe. It examined the causes of occupational accidents of migrant workers and observed that the migrant workers have a higher incidence of occupational accidents. It also noticed the causes

3. Ibid.
5. Id., at p. 93.
regarding the occupational diseases caused to the migrant workers due to particular sensitive nature of jobs.⁶

The National Commission on Rural Labour examined indepth the working of the inter-state migrant workmen legislation, plugging loopholes and suggesting remedial measures in improving the safety, living and working conditions of migrant labourers.⁷ The committee observed that inspite of the fact that migrant workmen who were covered by The Minimum Wages Act, Contract Labour Act, Bonded Labour Act, Inter-State Migrant Workmen Act, Workmen's Compensation Act, and some of the social securities Acts, used to work and live in dehumanisation conditions. The committee pointed out that the difficulties emanate from the weakness of the Acts, because those Acts are primarily directed towards organized labour. The Committee pointed out the under mentioned shortcomings in the Inter-State Migrant Workmen Act, 1979, and suggested measures to improving the law:

(i) The definition of migrant workmen given in the Inter-State Migrant Workmen Act, is a limited one because it covers only workmen recruited by or through a contractor, but does not include those who are engaged directly or not recruited through

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⁶ Id., at p. 20.
any contractor. Because of this, the Act does not safeguard the interests of all migrant workmen who leave their State in a much more distressed condition and take shelter of employers in the other State to earn their bread. The definition is thus discriminatory in terms of extending benefits. It is, therefore, essential that the definition should be amended suitably to cover all migrant workmen from one State to other.

(ii) The Act applies to every establishment into which five or more migrant workmen are employed, thereby leaving a sizable number of migrant workers out of the purview of the Act. There has been a demand that this situation of a minimum number of employees for coverage of establishment should be done away with.

(iii) Though the Act sufficiently provides that no contractor shall recruit or employed migrant workmen except under license, there is no corresponding obligation for the principal employer not to get work executed through an unlicensed contractor.

(iv) The Workmen’s Compensation Act, is applicable to migrant workers, but in the event of the death by accident of the worker in one State, the
beneficiaries in other State find it difficult to file a claim or pursue it. The Workmen’s Compensation Act be suitably amended to enable transfer of such compensation cases to the States from where the workers migrate.

(v) The penalties provided for violation of the provisions of the Act are not sufficiently stringent. Therefore, there is a need to enhance the quantum of fine to rupees five thousand conjunctive with compulsory imprisonment. Provisions for enabling workers, trade unions and voluntarily organisations to initiate action against defaulter be made.

(vi) The facilities and various types of amenities such as canteens, rest-rooms, latrines, urinals, first-aid are rarely provided.

(vii) Section 20(3) of the Act, provides that the State from which migrant workmen are recruited may appoint Inspector for the purposes of satisfying that the provisions of the Act, are being complied with, but appointment of such Inspector is dependent on the concurrence of the Government of the receiving States. Concurrence has been hard to come by whatever may be the reasons, this does reflect the attitude of the receiving State. There ought to be appointment of Liaison Officer in
recipient State for solving the problem of inter-state migrant workmen in view of the Supreme Court judgment in July 1990, and Parliamentary Consultative Committee of the Ministry of Labour.

(viii) Section 28 does not provide for making the violation of the Act a cognizable offence; it does not hold the contractor responsible for any breach of the Act, whether committed by him or the sub-contractor.

(ix) Most of the States have not developed the machinery for the implementation of the Act, adequately as well as effectively. The migrant labourers are unorganised and unable to go to the Courts for justice. Exploitation of migrant labour thus continues unabated.

(x) Migration policy should be mounted with primary focus on smooth migration, greater employment, minimising exploitation and hardships of rural migrant labourers.

(xi) Special Courts should be constituted for the purpose of hearing the disputes relating to migrant and contract labour.

(xii) Every migrant workman should be issued identity card with his/her photograph affixed.
(xiii) Temporary ration cards should be issued to the migrant workmen.

(xiv) In bigger and identifiable projects where migrant workers are employed, there should be a provision to include cost of welfare amenities for migrant workmen in the cost of the projects themselves.\(^8\)

_S.N. Tripathy and C.R. Dash\(^9\) conducted a study in Ganjam district of Orissa regarding migrant workmen, their problems, socio-economic features of migrant households and the impacts of labour migration. The study reveals that problems of migrant workers are manifold. These problems may be classified into two categories; (1) the plight of migrant workmen at the time of recruitment and at the work sites, and (2) the problems arising out of the difficulties experienced in administration and implementation of the Inter-State Migrant Workmen Act, 1979.\(^10\) The study reveals that migrant workmen are compelled to do work for 14 to 16 hours a day with nominal food and without extra wages.\(^11\) The _Dadan_ labourers are denied of their assured wages. They are detained by the contractors for longer period over and above the oral contract entered into between the parties.

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8. _Id._, at pp. 120-124 and 264.
10. _Id._, at p. 22.
11. _Id._, at p. 24.
The State Government of other States could not detect such violations in course of regular inspections by their labour enforcement machineries partly due to language gap and partly due to concealing of records by the agents and Khatadars whose accounts are seldom found in the records of the respective State Governments.\textsuperscript{12}

Gurdeep Singh\textsuperscript{13} has studied regarding awareness of migrant workmen, principal employers, contractors and Inspectors about the law. The collected data shows that majority of the migrant workers are not aware of the Inter-State Migrant Legislation as per the responses of the migrant workers (135: 67.5\%) and only a small minority of the workers (65: 32.5\%) are aware about the migrant legislation, but majority of the employers (7: 85.3\%) and contractors (10:66.6\%) who have got their firm registered and have obtained the licence under the migrant Act, are aware about the migrant legislation. But, equal number of employers (5: 41.6\%) and contractors (5: 33.3\%) who have neither got their firms registered nor obtained licences from the authority under the Migrant Act are quite ignorant about the Migrant Legislation.

\textsuperscript{12} Id., at p. 30.
N. Ajith Kumar, examined the dimensions of vulnerability of migrant labourers in a sub-national context viz., that of Kerala State in India. He analyzed that due to the limitations in portability of entitlements, the migrants are not able to enjoy some of the entitlements from Central Government and State Governments they had enjoyed before migration. Thus, even when the migrant workers are from the same country, the host State fails to extend them all the protection that is available to the local labour. This being a national level problem, it has to be addressed for the country as a whole. But the introduction of Aadhaar Card may hold to transfer the rights of migrants from one State to another provided a better coordination is worked out among host States and States of origin. The additional entitlements or benefits in the destination State are not provided to migrants as permanent resident status is necessary to become beneficiaries. So, even if a State is relatively better off in terms of legal and social protection, the benefits are not automatically transferred to the migrant workers.

2.2 Human Rights Perspective

The Universal Declaration of Human Rights advocates for the right to social security, economic, social and

cultural rights as indispensable for the individual’s dignity and free development of individual’s personality (Art. 22); the right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, including the right to join trade unions (Art. 23); right to adequate family health (Art. 25); the right to education (Art. 26) and so on. These rights are also emphasized in the conventions for the protection of women, children, indigenous people and migrant workers. They also form one of the core components of the Declaration of the Right to Development (Art. 8 [I]).

The workers in the informal sector including migrant labour are deprived of most of these rights. Over and above they are subjected to worst form of human rights violations in the form of ‘bonded labour’ whose principal ingredient in India, today is debt bondage. This phenomenon is deeply embedded in our social, cultural and feudal structure. A person becomes a bonded labour when he renders labour to the employer in lieu of the loan/debt/advance and becomes victim to the bonded labour system with the following consequences:

1. He works without wages, or for nominal wages or for less than the minimum wage.
2. He is denied freedom of employment or other means of economic livelihood.
3. He is denied the right to move freely as a citizen in any part of India.

4. He is denied the right to sell at market value the product of his labour or the labour of the family members or his property.

There has been no systematic study to assess the incidence and magnitude of bonded labour at all India level. The earliest attempt in this direction was the collaborative study of Gandhi Peace Foundation and National Labour Institute which estimated the number of bonded labourers at all India level as 2.6 million. This study was limited to Agriculture and did not include the States of North West India, Western India, and North-East. It was assumed that the phenomenon of debt-bondage is confined to areas with feudal stronghold and is practically nonexistent in States with advanced capitalist agriculture and industry. This myth was exploded through various studies and it was gradually realized that the phenomenon of debt bondage is also prevalent in advanced agriculture and other industries as well.\(^{15}\)

\(^{15}\) K. Gopal Iyer, Migrant Labour and Human Rights in India (2003), p. 33.
2.3 Gender Dimension in Labour Migration and Violation of Human Rights

M.S.A. Rao (1986)\textsuperscript{16} indicated that the main types of women's migration in the Indian context is survival migration. In the tobacco-growing areas of South India a substantial proportion of graders migrated to other places to work as agricultural labourers. In his study he found that over 10,000 women migrated 600 to 800 kms to work as graders. They belonged to the lower castes such as Malas and Madigas. On the basis of his fieldwork in the tribal areas near Surat, Breman (1985)\textsuperscript{17} concluded that family survival in these regions was heavily dependent on the migration of labour to the plain. Breman found that 58 per cent of all seasonal migrant labourers were women. Breman points out that the urge to move is linked to a strategy of survival. He also observed that tribal women in particular were more susceptible to sexual exploitation. Basu et al. (1987)\textsuperscript{18} in his study of 1863 households of migrants from Punjab, Uttar Pradesh and Tamilnadu in a resettlement colony in Delhi, reports that migrants from Tamilnadu felt they were better off in the city. Tamil


\textsuperscript{17} Breman, J. (1985), Of Peasants, Migrants and Paupers: Rural Labour Circulation and Capitalist Production in Western India, Oxford University Press, Delhi.

Women seemed to show little hesitation in migration than their conservative counterparts from Eastern Uttar Pradesh. Over 60 per cent of the Tamil women were employed as against only 5-9 per cent of the married Uttar Pradesh women and 21.6 per cent of those from Punjab.

Manushi Mitra (1987) in her study of two Santhal villages in Dhanbad district of Bihar observed that female migration from this area began in the early twentieth century and it was a definite ‘survival strategy’. Men accepted that women would be exploited by outsiders. Apart from migrating to collieries, women also became seasonal migrants and daily commuters. The concentration of land in the hands of the few elite reduced the position of the Santhali women to one of growing immiseration. Deforestation added to the problems of survival.

Studies have also shown that women tend to be over-represented in the Urban informal sectors (Joshi, 1976) and they are clustered in a few occupations requiring little or no education. Women struggling for survival constituted a bottomless supply of cheap labour. The study of Dasgupta (1981) of 1,500 prostitutes in Calcutta shows how the connivance of the females with agents has resulted

in constant flow of young women to the city. Most of the women were from the low and untouchable castes. Over 90 per cent had atleast one pregnancy and 35 to 40 per cent had a child. This is an acute case of individual female survival migration.

Sulabha Brahme (1990)\textsuperscript{21} in her study of 75 hamal (coolie) women from areas adjacent to Pune found that the main reason for the migration was the pressure on land and landlessness, unemployment and starvation. Women move to the city to join their husbands in the struggle for survival. The incidence of miscarriages and infant mortality was quite high. These women represented the absolute border line between the lowest form of unskilled work available to the cities and utter destitution and starvation.

Singh and de Souza (1976)\textsuperscript{22} in their study of 394 women in four bastis (slum colonies) in Delhi found these women who before migration worked in home-based production and agriculture were working as unskilled domestic or other kinds of manual services after migration to Delhi. It included women migrants from Southern and Central India, Rajasthan and Uttar Pradesh; they belonged to Scheduled Castes and lower backward castes. It also


\textsuperscript{22} Singh, A.M. and A. de Souza (1976), the position of women in migrant bastis in Delhi, Mimeograph, Indian Social Institute, New Delhi.
resulted in the neglect and discrimination of girl child. The potential migrants migrated because the option of staying could mean imminent starvation.

Leela Kasturi (1990)\(^{23}\) in her study of Tamil working class migrants in Delhi found that they had migrated in response to economic opportunities in domestic service and these Southern Indian migrants had little thought of returning home. Though regular wage earning has empowered women's status and importance in the family yet their subordination to men continues. Further, in their study of 80 Balmiki women found that these migrant women accepted the fact that their husbands would move into non-scavenging jobs and they could move into secure jobs of sweepers in govt. or quasiGovernment organisation.

These studies clearly establish the point that women migrant continue to be dependent and subordinate to their men-folk but are also subjected to wage discrimination and sexual exploitation. Surinder Jetly (1987)\(^{24}\) found in her study of women workers in brick kiln industry in Muzaffarnagar that most of these chamar women workers had a home but no work in the village and at the brick-kiln work site they had work but no home. Similarly, Chopra

\(^{23}\) Kasturi, Leela (1990), Poverty, Migration and Women's Status, in Majumdar ed. (1990).

(1985)\textsuperscript{25} in his study of brick-kiln labourers in Muzaffarnagar district (who were mostly Muslim weavers) reported that their wives and daughters were forced into prostitution by kiln owners and established a link between agrarian situation and kiln bondage. Their working hours extended from 12 to 18 hours a day. Due to lack of work in the villages, the landless labourers move as seasonal labourers to the close by brick-kilns and enter into debt bondage. The study of Jetly, Chopra and of others clearly establish that the women migrants move in a desperate bid for survival and they are heavily concentrated in the unorganised informal sector.

All these studies reinforce the fact that poverty, unemployment, and the survival as also starvation situation are the factors which push women to migration. This has adverse effect on the migrant children particularly on the girls. Mina Swaminathan in her study \textit{Who Cares} (1985)\textsuperscript{26} states that in the absence of any institutional care children suffered enormously and were the victims of cumulative neglect. Swaminathan observes that the migrant child is more vulnerable, more exposed and helpless to face the marginal situation of existence.


\textsuperscript{26} Mina Swaminathan (1985), \textit{Who cares?}, CDWS, New Delhi.
Krishnan (1988) reports that 39 bonded labourers were freed from a stone quarry near Delhi of whom 24 were children and seven were women. They were not only denied wages and meals but women were terribly persecuted. Krishnan reports that a woman named Sandhu, a mother of four delivered her last child in a make shift home. She was trying to run away to her village home in Banner during the highly advanced stage of pregnancy but she had been dragged back to the labour camp by the employer.

There are few studies which analyses the impact of male migration on women. Leela Gulati (1987) in her study of 37 households in Trivandrum (Kerala) observes that when male members migrate to middle east, family members staying behind make major adjustment in their life style. Mothers, unmarried sisters and daughters of migrants share in the strains. Migration to middle east has resulted in positive financial gains and improvement in status, which is the result of hard work and mental strength of women left behind. The scenario of the male migration on left behind family in UP is very distressing as revealed through the study of Saxena (1977). He notes that the phenomenon of male only migration has deep

historical roots in Eastern UP. The local folk songs are rampant with grievances and anxieties faced by women locally known as Birhas (ballads), bidesias (bare songs) which records the miserable mental status of the wife of the migrant (Pardesia). The remittances are utilised in debt repayment and very little amount is handed over to migrant’s wife. Shante Chakravarty (1975) also found in her study that a young bride is often under considerable tension when her husband migrates. Jetley gives a graphic account of the effect of male migration women and the hardship faced by them. In her study of 97 families of Scheduled Castes and backward castes, from Eastern U.P. working as gardeners and watchmen in Delhi, she (Jetley, 1987) found that viewed migration as unavoidable but were unhappy over the absence of their husbands and felt lonely. Both girls and boys at the young age participate in cooking, cleaning caring of siblings and as family labour. Education was the major casualty as the working children were deprived of school education.

There are very few studies which report of positive impact of migration on left behind female members. Leela Gulati reports in her study that wives are not only expected

to perform family maintaining activities but also to train
the children for future life. On the same line Mescarenhas
Keyes (1990) found that male overseas migration in Goa,
has made the women as the exclusive rearers of their
children, manage family finances, and in imbuing a spirit
of success and achievement in their children. They assume
a positive role in decision-making of utilising the scarce
resources.

The net-balance scenario is very depressive on the
migrant women and the left-behind women. They are
vulnerable and face various kinds of ignominy like sexual
harassment, exploitation discrimination in wages and
suffering for their children. Several studies point to the
adverse effect of deforestation on the tribal women who are
forced to migrate which not only contributes to economic
depredation but also to social and cultural deprivation
(Nagabrahman and Sambrant, 1983).

Ben Bogely et al. in their study on “Seasonal
Migration, Social Change, and Migrant Rights” have
emphasized on the political approach to migrant’s rights.
They advocate following rights for the migrants:

32. Mascarenhas-Keyes, Stella (1990), Migration, Progressive
motherhood and female autonomy: Catholic women in Goa, in Dube
33. Nagabrahman D. and Sambrant (1983), Women’s Drudgery in
firewood Collection, *Economic and Political Weekly*, Vol. XVIII, Nos. 1
and 2, pp. 33-38.
34. EPW, 2001, pp. 4541-4548.
(1) The inclusion of migrants in the welfare schemes e.g. integrated child development scheme.

(2) The construction of labour shelter for migrants.

(3) Right to safe travel.

(4) Free health care.

(5) Right to Education of their children.

One of the significant findings of this study is that instead of using middlemen for recruitment employers recruited migrant workers individually. Further, the element of choice for migrants about whom they work for and where they go to work has increased.

The incidence of poverty is highest for petty trade and in service sector it is on the low side. Migrants are concentrated in small units characterised by low productivity. With experience migrants move from low productivity to high productivity jobs.\textsuperscript{35}

M.V. Shobhana Varrier\textsuperscript{36} in his study of \textit{Migrant Women Workers in Fish Processing Industry} has noted the adverse situation in which these women work. A long history of migration has contributed to the specific situation of large scale recruitment of women from Kerala to processing units. The women made the choice to migrate on their own. Their transaction to the status of a migrant wage earner contributes to the undermining of traditional

\textsuperscript{35} EPWI Jan. 12, 2002.

\textsuperscript{36} EPW, September 15, 2000, pp. 3554-3562.
patriarchal authority. Most women acquired the skills on the jobs. The management got a cheap, disciplined, efficient, clean and partially educated class of labour to work in their units. The stark fact that stored on the face was the abysmal poverty of the workers families and their desperation to secure work. The cheap docile labour was available at any time of the day and available for flexible long hours of work. Women were willing to put up with the irregular long hours of work with low wages as they did get something individually in shifting from the village to the town. They had the freedom to spend their earnings the way they want. There has also been incidence of sexual harassment and suicide as well as death of some women in the units in Goa and Mumbai. The net impact has been the tiding over of the miseries of many poor households in coastal and highland Kerala. The result is both positive and negative; it has opened new avenues for the women but at the same tune it has exposed them to the vagaries of a new work culture creating a more oppressive set of relations at the work place. The network of agents and sub agents facilitate east transit of the worker from the village to the unit. The health and safety of workers were a casualty. A number of women complained that they had irritation of the eye and nausea. The environment of the processing units was by and large very damp and cold.
Women were susceptible to a range of diseases like respiratory disorders, arthritis, rheumatism etc. The most common ailments reported by the women were malaria, chickenpox, jaundice, severe diarrhoea and skin rashes. The non availability of clean potable water was the reason for the large number of incidents of stomach ailments. A large number of women were susceptible to sexual exploitation at the workplace. There were instances of women going to the local doctor for the termination of unwanted pregnancy.37

Hema Kumari (1984) in her study of tobacco graders in the West Godavari district reports that grading generated employment for women for about four to five months in a year. They were preferred as they were more nimble fingered, better suited to delicate task of grading, easier to handle, and the companies selected young and beautiful females. Ray in his study (1989) of agricultural migration in the districts of Bankura, Purulia, and Midnapur in West Bengal states that during the peak agricultural season thousands of poor men, women and children migrate for agricultural operations alongwith few young girls to take care of the babies and infants. He found that the drop out rates for the girls from the school was very high. Geeta Menon has conducted her study among

37. Ibid.
tribal communities of Saora, Santal and Munda origin. She finds that the modernization in tribal areas has led to a cultural transaction from a constructive to destructive dependence on nature. The main victims of this process are tribal women as the migration of Saora males has led to a decrease in women’s status. Deforestation has forced men to migrate. On the other hand, in case of Santhal and Munda tribes female domination in the economy has disappeared. The entire household is migrating to industrial area for survival. Migration is perceived by women as an improvement in their earlier hard and harsh life as now their workload is less than in the forest village. Sardamoni analyses the seasonal labour migration of 40,000 single unmarried girls and women from coastal villages in Kerala to Gujarat coast. The migrant girls were educated up to the secondary school. All the women felt bad at leaving home but were forced to migrate in view of the responsibilities and financial difficulties at home. Contractors had evolved network of women in the village to recruit the girls. Sardamoni portrays a mixed picture of the impact of migration on women. Some of them became real victims of sexual harassment and exploitation while others managed to save some money to buy gold and cloth for their weddings. Rensi Teerink studied the household migration of sugarcane harvest workers in their area of
social origin (Dhule District Maharastra) and the area of
destination (South Gujarat). The study finds that the poor
Bhil tribals are forced to migrate as the local landowners
recruit labourers from other districts to harvest in order to
control labour more effectively. The local labourers are
compelled to migrate with their entire household to
Sugarcane fields of Southern Gujarat; both men and
women considered their social and economic condition as
better in Gujarat because women can also work here,
unlike the home situation. Indirani Gupta and Anup Mitra
in their study of “Rural Migrants and Labour Segmentation:
Micro-Level Evidence from Delhi Slums” have come to the
conclusion that the percentage of migrants below the
poverty line is highest among those who migrated within
five years, and lowest among those who migrated between
12-15 years. With a rise in the period of stay, migrants are
able to improve their standards of living.  

In the Writ petition No. 2182 filed by Bandhuwa
Mukti Morciza in December, 1983, the Supreme Court has
appointed Shri L.D. Mishra, the then Director-General
Labour Welfare, and Joint Secretary in the Ministry of
Labour, as a Socio-legal investigating Commissioner to
investigate into the working and living condition of quarry

38. K. Gopal Iyer, Migrant Labour and Human Rights in India (2003),
pp. 36-39.
workers and stone crushers of Faridabad located in Haryana. In his report Shri Mishra had depicted the harrowing and pathetic story of merciless exploitation of as many as one thousand workers working in quarries as well crushers at Faridabad. He had come to the conclusion that 395 such workers interviewed by him came within the definition of the Bonded Labour System (Abolition) Act. The report has since been fully endorsed by a Division Bench of the Court and necessary directions has been issued by the Court to the Central Government and Government of Haryana for timely compliance.

The Court in its order dated 16-12-83 passed by their lordships (Hon’ble Justices R.N. Bhagwati, Amrendra Nath Sen and R.S. Pathak) issued 21 directions for compliance by the Central Govt., Govt. of Haryana, Mining Lessees and the Stone Crusher Owners of Faridabad (Ref. Mishra, Laxmi Dhar, Burden of Bondage, Manak Publications, New Delhi, 1997). The report has since been published as a book entitled *Burden of Bondage* by Shri Laxmi Dhar Mishra.

Another instance of bondage in Haryana came to light by Shri Sheotaj Singh, Secretary, Bonded Labour Liberation Forum, New Delhi who had complained to National Human Rights Commission on 11th August, 1998
that few families of migrant labour including the children were working as bonded labourers in the stone quarries at Charkhi Dadri located in Bhiwani district in Haryana. They were migrant labour from Rajasthan and Madhya Pradesh. The investigation was undertaken by the special rapporteur of National Human Rights Commission. Mr. Chaman Lal. In lieu of the intervention by NHRC the District Administration, Bhiwani issued release certificates in respect of the 16 families belonging to Rajasthan. They also issued release certificates to 203 migrant workers from Guna district of Madhya Pradesh.\textsuperscript{39}

In another complaint filed to NHRC on 1st November 2000 (Case No. 15/7/2000–2001) the complainant Shri Srimal had alleged that the owner of a brick-kiln at Sonepat (Haryana) had held 52 persons as captive by use of force. The Member of NHRC, Dr. Justice K. Ramaswamy directed the Deputy Commissioner, Sonepat to issue release certificates to 13 families who were migrant labourer from District Baghpat, Uttar pradesh. It also directed the District Collector, Baghpat to form Cooperative Society for the released bonded labourers, to assign Government land to cooperative society, provide employment to the released bonded labourers under Rojgar

\textsuperscript{39} NHRC, Case No. 513/7/98-99.
Schemes and to pay Rs. 20,000 to each of them as a measure of rehabilitation.

It transpires from the overview of studies that gender dimension of human rights violation needs a special treatment particularly the various forms of discrimination faced by women migrant labour, e.g. long hours of work, unequal wage, sexual exploitation, working until late pregnancy, health hazards, and specific problems of girl child. The overview also explodes the myth that the North-Western States are free from human rights violation of migrant labour. The studies clearly point out that even the worst form of human rights violation like incidence of bonded labour, killing of migrant labour by militants are frequent even in States like Panjab, Haryana etc. The report of the National Commission on Rural Labour (Vol. II, 1991) in its report highlights the following forms of human rights violation which migrant labour are subjected to:

1. The trains by which the labourers travel are overcrowded and many of them find it difficult to enter into compartment. A large number of them are forced to travel on roof tops. This kind of travel is dangerous and cause of many fatal accidents.
2. In a period of less than four years, there were 573 reported deaths from trains roof falls (1980-83).

3. The railway and police harass the migrants on one pretext or the other.

4. Migrant labourers are easily susceptible to various diseases. No employer cares for the various labour legislations which provide that the employers have to extend the various health facilities.

5. The problems of women migrant labourers are enormous. They put in more than nine hours of work. The lack of facilities like creches and maternity benefits compel the women workers to work till the ninth month of their pregnancies. Sexual exploitation of women workers is also quite widespread.

6. Migrant workers both in agriculture and non-agriculture sector live in dehumanizing conditions. They not only get less wages and work for long hours but drinking water, accommodations, health care etc. are also absent. They are treated by employers as subhuman.

7. It also acknowledges the prevalence of migrant bonded labour in Haryana and Panjab.
It is evident from the description of the above cases that the intervention by the Supreme Court and the follow-up measures taken by NHRC has provided some relief to migrant bonded labourers in Punjab and Haryana. However, since the bonded labour system is deeply rooted in the social structure, it is suggested that:

(a) A systematic survey be conducted in all the States of North-West India, for the identification of bonded labour in agriculture brick-kiln, stone-quarries, and construction Industry by independent research institutes and academic institution.

(b) The concerned State Government be requested to issue release certificate to such identified bonded labourers.

(c) Systematic rehabilitation measures be undertaken for such released bonded labourers both at the destination point and at the State of origin.

(d) The voluntary organizations committed social workers and academicians be associated with such efforts.

(e) A systematic study should also be conducted at the States of origin from where labourers migrate in large numbers so as to take steps to provide alternative source of livelihood to them at their native place.
Anup K. Karan highlighted the emerging trends and pattern of labour migration in rural Bihar. The study reveals that the intensity and pattern of migration in rural Bihar has changed. The proportion of migrants has approximately doubled and has become widespread. Besides this, the nature of migration has changed from short term to long term. This is attributed to the fact that unlike in the past now workers constitute nearly two third of the total migrants. Many people, particularly from upper castes, now also prefer to work outside as it means that they can slowly break the existing caste taboos that exist in the village. While the upper caste people do not do any manual wage work in their villages because of caste taboos, they undertake also variety of work i.e., wage work or low paid self employed work in their place of migration. This explains an important reason of upper caste youth migrating in large numbers. In case of lower castes also many migrate to extricate from the clutches of the prevailing caste discrimination and exploitation at the hand of employers.

K. Gopal Iyer\textsuperscript{41} made a study to find out the human rights violation of migrant labour. In his study he also tried to put some light on exploitation of migrant labour in Haryana. He analyzed that the workers in the informal sector including migrant labour are deprived of most of human rights. Over and above they are subjected to worst form of human rights violations in the form of bonded labour whose principal ingredient in India, today is debt bondage. This phenomenon is deeply embellish in our social, cultural and feudal structure. A person becomes a bonded labour when he renders labour to the employer in lieu of the loan debt, advance and becomes victim to the bonded labour system.

Subhash C. Sharma\textsuperscript{42} made a study to understand the problems of the migrant workmen in Punjab, the provisions of the Inter State Migrant Workmen Act, 1979, and to identify the reasons as to why this ambitious Central law has failed to deliver the goods. Lesser wages; non payment of wages; denial of social security benefits; problem of housing; long hours of work and week offs; job discriminations on the issue of job allotment in

\textsuperscript{41} K. Gopal Iyer, Migrant Labour and Human Rights Violation, in K. Gopal Iyer (Ed.), Migrant Labour and Human Rights in India, 2003, pp. 32-49.

establishments; bonded labour, ill treatment by employment; no back journey fare; feeling of loneliness were the main problems which migrant workers were facing as per the study. The study reveals that many provision of the Inter-State Migrant Workmen Act put additional obligations on the contractors and employers (which turn to be that of the principal employers with an additional financial burden) persuaded them to avoid from employing the migrant workers or to do so in such a way (legally or otherwise) that their establishments were not attracted by the provisions of this Act.

A national workshop on internal migration and human development in India was conducted by UNESCO/UNICEF. Ten key principles for better inclusion of internal migrants were evolved in this workshop.\(^{43}\) These were as follows:

1. Promote positive political discourse and avoid a prejudiced, negative portrayal of internal migrants.

2. Build awareness for a better understanding of internal migrants positive contribution.

3. Adopt a human rights based approach for internal migrant inclusion in society.

4. Develop gender sensitive policies and practices for internal migrants.

5. Create portability of social protection entitlements for internal migrants.

6. Upscale successful innovative practices for a better inclusion of internal migrants.

7. Reverse and strengthen data collection techniques for the census to fill knowledge gaps, especially those related to circular and seasonal migration and women's migration.

8. Mainstream internal migration into national development policy and regional and urban planning.

9. Ensure policy coherence on internal migration and its cross cutting impacts.

10. Ensure democratic participation of internal migrants in society.

UNESCO has conducted a study on the topic entitled *Social Inclusion of Internal Migrants in India*. This is a

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comprehensive study on this topic. The study reveals ten key areas for better inclusion of migrants. These are as follows:

1) Registration and Identity

In the absence of documentary proof of identity and local residence, regulations and administrative procedures exclude migrants from access to legal rights, public services and social protection programmes accorded to residents, on account of which they are often treated as second class citizens. As a result, internal migrants face barriers in accessing subsidised food, housing and banking services. However, there is optimism that the new Unique Identification programme (Aadhar) could change this.

2) Political and Civic Inclusion

The study demonstrated that migrants remained more aware of and connected to political developments in their source locations rather than at the destinations, where they exercised limited political agency, remaining preoccupied with harassment and threats to their livelihood and shelter. Media reports have also indicated that at destinations, political leaders often exploit migrants as a pawn in divisive vote bank politics, tarnishing migrants for their ethnic, linguistic and religious
differences and blaming them for disturbing the social and economic order.

3) Labour Market Inclusion

It is necessary to create job fairs and employment exchanges for internal migrants to be able to negotiate opportunities with employers, including training, placement and skill upgradation, with the mediation of NGOs and civil society organizations. Planned and skilled migration with handholding support from the state Government and/or private companies and assured placement constitutes a new paradigm of migration that demonstrates the potential benefits of assisted migration. But, in situations where the migrants are uneducated and poor, creating awareness about their rights and knowing to whom to turn for information and support in negotiations is critical.

4) Legal Aid and Dispute Resolution

Since migrants mostly have restricted access to education, they remain unaware of their legal rights and are unable to access an impartial forum to register their grievances. Women migrants are even more vulnerable to exploitation, possessing negligible or often lower educational qualifications than their male counterparts. As
a result, they face harassment and other aspects of labour market discrimination. Due to their mobile status, migrants face difficulties in unionizing, and remain a fragmented workforce. Internal migrants, should be able to access legal aid and counselling to protect them from work and wage related malpractice, and to ensure they have access to grievance handling and dispute resolution mechanisms to negotiate with their employers and/or contractors.

5) Inclusion of Women Internal Migrants

Migrant women and adolescent girls, in particular, remain vulnerable to sexual harassment and abuse, especially at the hands of agents and contractors. Poverty may cause women migrants to get pushed into sex work at the destination, either by coercion or to supplement their earnings. Recently, the Criminal Law (Amendment) Act 2013 was passed to strengthen penalties for crimes against women, and in particular, trafficking of persons for exploitations. There is an urgent need for promoting safe migration for women migrant workers.

6) Inclusion through Access to Food

The public distribution system should be made portable to include multilocational migrant populations.
The initial draft of The National Food Security Bill 2011, that aims to guarantee food and nutritional security in India, recognized that the migrants and their families shall be able to claim their entitlements under this Act, at the place where they currently reside. The Bill is currently pending in Parliament.

7) Inclusion Through Housing

Migrants face difficulties in accessing housing and other basic amenities such as water and sanitation, and often live in urban slums, facing constant threats of displacement and eviction from Government officials. Shelter solutions show little appreciation for the needs of seasonal migrants, who come to the cities for short periods of time. Some shelter programmes are in fact discriminatory towards new migrants, because they require evidence of residence for a minimum period prior to allocation. Among migrants, homeless migrants in particular face a worse predicament than slum dwellers, as they live on pavements and frequently bear the brunt of police assaults. In order to remain accessible to new migrants eligibility for urban shelter schemes should not be based on year wise cut off dates for proving residency.
8) Educational Inclusion

Seasonal migrants often take their children along when they migrate for work, which negatively impacts upon the regular and continued schooling of children. Further, migrant children are often inducted as child labour at worksites. The initiatives like strategies for tracking children by issuing migratory cards and making the school calendar flexible to accommodate migrant children should be upscaled.

9) Public Health Inclusion

It is necessary to avoid the stigmatisation of migrants as carriers of diseases and infections and to recognize them as population vulnerable to several health risks. Targeted interventions and outreach components can be designed for the health of internal migrants, taking into account the special vulnerability of women and children.

10) Financial Inclusion

Most migrants are unable to access banking facilities since they do not have the necessary documentation to fulfill the know your customer (KYC) requirements of banks, including proof of identity and proof of address. To remit money to families left behind, they are forced to rely on informal networks. Relying on informal transfer systems
increases the costs of remitting money for migrants. Access to formal banking facilities for internal migrants can enable promotion of savings and safe and secure transfer of remittances.

In view of the above discussion it can be concluded that there is a dearth of literature on migrant workers. Only a few studies having been conducted in this section of the labour force. These studies have discussed the human rights perspective and some other aspects including the health problems, accommodation problems and sexual exploitation of women workers. Therefore, the present study shall be a comprehensive study touching almost all the aspects of migrant workers. It will be beneficial for academicians, students and the policy makers.

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