

## **Sub theme 4 Migration, Labour and Constitutional Rights**

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The progressive vision espoused by the Constitution of India draws from its key principles and provisions that aim to protect rights of citizens, including those who engage in labour and employment. Through articles 15-19, the Constitution provides its core principles of justice, liberty and equality and an overarching framework for the protection, promotion and regulation of livelihoods and associated activities. However, the assumed universality of these rights is not unproblematic, and at the ground level mechanisms for the realisation of the same leave much to be desired. The question of constitutional rights and their application are much more relevant today than ever before. This is due to the unprecedented volume and complexity of migration of vulnerable groups within India and abroad, as well as the social change inherent within it. Much of these vulnerable groups consist of rural folks and women from underdeveloped regions seeking labour.

Mainstream development discourse had been silent on the issue of women and gender, let alone labour and migration, until the path-breaking report of the Committee on the Status of Women in India (Towards Equality, CSWI, 1975) drew attention to the 'invisible women' in economic locations. Even though academic studies started pointing out women's presence and their numbers in migration after scholars with a women-centred standpoint criticised the gap, mainstream debates still refused to view this as a serious 'data gap'. While international migration has covered much ground in terms of theories and practices of and approaches to labour movements and even its 'multi-directional' nature, internal migration is an area that needs urgent attention. Not only are numbers missing here, but the drive to emphasise the universality of constitutional rights has also made the complexity and heterogeneity of people's migration within India invisible.

Within this broad framework, the panel based on this sub-theme invites papers with an

interdisciplinary focus covering the following broad areas:

1. National level datasets due to conceptual and definitional issues not only have under-represented women's work, but also have failed to capture the scale, dimensions and patterns of female labour migration in India. While men are shown as migrating predominantly for employment-related reasons, majority of women are shown as migrating for marriage. Migration data is skewed in presenting a rather unchanging picture of women migrating mainly for social reasons and men for economic reasons. It is important to note that migrations, both in-migration and transnational migration have an economic genesis which consequently results in socio-political and cultural ramifications. A general problem that relates to both male and female migration is that migration statistics are collected for population movements rather than labour migration. Definitions of migration are based on change in residence either by place of birth or last/usual place of residence. This leaves out circulatory, seasonal or short-term modes of migration which are so significant in understanding labour migration in India. Papers that critically reflect upon the debates, issues and concerns related to migration, labour and constitutional rights and the related data gaps that exist are invited for the panel.
2. While international migration has been sufficiently studied and they have highlighted the 'institutions, infrastructures, processes, practices and consequences' of migration, nature, patterns and processes within India are not highlighted enough. Papers that deal with women's internal migration for labour are invited.
3. In the context of both internal and transnational migration the impact of state policies on labour migration and experiences of migrant workers assume significance. It is true that women workers are the most vulnerable in destination countries. It is also equally true that labour laws and state policies around migration and gender often tend to overlook women's agency when it comes to their making decisions regarding travel, relocation and work. Often, the emphasis of such protective legislative mechanisms is more on curtailing mobility of women than preventing exploitation of their labour, and promoting equality of opportunity as enshrined in the Constitution. In India, while there is no domestic legislation that can cater to the needs of women workers in cases of both inter- state and international migration, the laws that exist lack the mechanisms

to resolve some of the challenging issues faced by migrant workers. Here, the absence of gender in labour laws and larger debates around the spectrum of labour legislations, policy perspectives and migration in India needs to be critically explored.

4. Declining female work participation rates in rural India and stagnation at extremely low levels of female employment rates in urban areas indicate an ongoing gendered employment crisis and segregation in employment, thus compounding vulnerabilities faced by female migrants. The overall multi-sectoral bias towards males in labour migration in India shows how female labour migration is particularly differentiated from male migration. Moreover, traditional hierarchies of caste and entrenched patriarchies are significant in influencing the opening or constraining of migrant women's entry into certain sectors of the economy. This has resulted in lopsided and over-concentrated economic growth, and limited opportunities for diversification of employment for women migrants. In foregrounding the intersections between class, caste and gender inequalities, how are such inequalities being reconfigured through migration? Papers should address some of these emerging concerns.
5. While migration is a complex layered mix of processes, the discourse around trafficking has also raised pertinent questions about social and moral restrictions on women's mobility. The Constitution places no restrictions on the migration of men and women within and across states, both in rural and urban areas, even as it explicitly prohibits traffic in human beings and forced labour. Bonded labour systems that proliferated in conditions of distress migration took more than a century after the adoption of the Constitution to reach the frontiers of labour legislations and development policy, albeit without any special reference to women. Similarly, the anti-trafficking rhetoric in India is driven by an exclusive preoccupation with prostitution and sexual exploitation, without any reference to forced labour. While labour laws lack gender, women centric legislations against trafficking lack any discussion on labour rights. Within the national and global context, public debates and concerns around migration and trafficking have become even more complicated with increasing number of women seeking labour where it is difficult to identify and pinpoint elements of coercion. The trafficking framework today is increasingly influenced by the

transnational discourse than ever before. In this backdrop, how does one conceptualise discourses around migration and trafficking, and engage with questions and issues within such frameworks from a gender and labour rights perspective?

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