

Report on
**SITUATION OF MIGRANT LABOURS AND RECENT LABOUR LAW
CHANGES**

DATE- 12.7.2020

TIME: 1.00 Am TO 1.30 Pm

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Schedule for the Webinar

| Time | Session | Speaker |
|-------------------|---|---|
| 10 to 10:10 | SC intervention on migrant labourers issues during Covid-19 | Colin Gonsalves Senior Advocate Supreme Court of India |
| 10:10 to 10:30 | Labour law issues and challenges | Mahesh Bhatt (Sr. Advocate, Gujarat HC) |
| 10:30 to 11 | Proposed Labour Law changes and its Impact | AdvGunjan, HRLN, Delhi |
| 11 to 11:10 | 10 mins for questions/discussion | |
| 11:10 to 11:30 | Labour Movement & Social Conditions | Asim Roy |
| 11:30 to 11:40 | 10 mins for questions/discussion | |
| 11:40 to 12:10 | Migrant Labour in Gujarat | Ramesh Srivastav (MajurAdhikarManch) |
| 12:10 to 12:20 | 10 mins for questions/discussion | |
| 12:20 to 12:40 | Situation of Women labourers | ShushilaPrajapati Action Aid |
| 12:40 to 1 | 10 mins for questions/discussion | |
| 1 to 1: 20 | Issues of Brick kiln labourers | Dinesh Parmar |
| 1:20 to 1:30 | 10 mins for questions/discussion | |
| | Vote of Thanks | GovindParmar |

Introduction

In the wake of Covid- 19, a group of researchers and lawyers from HRLN began the process of organising a series of webinars, to begin the collective conversation around emergent issues. In series of such webinars organized by different units of HRLN all across the country, Gujarat Unit organized one such webinar at state level on 12.7.2020.

This webinar was focused on two main the issues. First was recent changes in Labour laws and its impact on workers and labourers in the state of Gujarat and second was situation of migrant labourers inSpeakers in this webinar were activists from Gujarat associated with different trade unions and Labour welfare boards, lawyers practising labour laws in Supreme Court and different High Courts in the country. Advocate GovindParmarfrom Gujarat Unit moderated this meeting and introduce the speakers to other attendees of the webinar.

- **Supreme Court's intervention on migrant workers crisis during Covid-19.**

Speaker: Sr. Advocate Mr. Colin Gonsalves

Webinar began with introduction on the subject by Sr. Advocate of Supreme Court and founder of HRLN Mr. Colin Gonslaves. Mr. Gonasalvesdiscussed the intervention of Supreme Court in the Suo-moto petition taken by the apex court. Mr. Gonslaves explained the order passed by the apex court in detailed which

directed state governments to provide transportation to the migrant workers wanting to go back to their village. Apex court also directed states to implement inter-state migrant's act and proper registration of migrant workers in each state under the act. Apex court also asked states to provide migrant workers with identity cards and smart court in order to prepare data to provide welfare in times of crisis. Also, explained in brief about the Inter-state Migrant Workers Act and importance of its implementation.

Mr. Gonsalves discussed the importance of functioning of various High courts in times of Covid-19 and discussed positive orders for the benefit of migrant works suffering during covid-19. Speaker also discussed few orders with regards to food, transportation, shelter and welfare schemes passed by High court of Karnataka, Andhra Pradesh, Telangana and Maharashtra.

At the end of session Mr. Gonsalves had positive discussion with regards to filling of cases on emerging social issues in Gujarat and discussed strategical plans with other activists, Lawyers from the state in the Webinar. Main issues on which potential PILs and Writ Petition were focused were Domestic workers petitions, Migrant workers stuck at Alang Shipyard and on other ports in Gujarat, non-payment of wage to workers and labourers under NAREGA scheme and implementation of the order by the Apex court relating to migrant workers crisis.

- **Issues in Labour Laws and challenges**

Speaker: Sr. Advocate Mahesh Bhatt (Gujarat High Court)

Advocate Mr. Mahesh Bhatt continued the discussion on the implementation issues of Inter-state migrant act. Mr. Bhatt also threw some light on the fact that many litigant as well as affected workers doesn't have awareness of the act. That has also resulted in to poor implementation of the act. He also discussed in details more concerning issues relating migrant workers other than covid-19 crisis such as non-payment of wages, non-payment of minimum wages, and forced labourers within the migrant workers.

He discussed the need of free legal aid to migrant workers. As due to poverty and lack of awareness migrant workers faces a lot of trouble to reach to the court in order to avail benefits.

Mr. Bhatt also discussed the accountability of the court on Public interest litigation. He pointed out that on issues concerning labour rights such as non-payment of wages, poor implementation of policies court are mostly reluctant in intervening. As a result, courts are only taking representations made to the concern authority in to consideration and are dismissing important public interest petition filed for the benefit of the workers and labourers. This lead to the alarming situation and lack of accountability on part of the courts relating to public interest litigation across the nation and not only in that state of Gujarat.

Mr. Bhatt then focused on the issues relating to registration of domestic workers as well as migrant workers within the specified acts. He emphasised on registration of skilled and unskilled labour work forces to maintained data with the government in order to help them in crisis like Covid-19. At the end of the his session he emphasised on need of legal help to migrant workers who are under paid and stuck at the Alang shipyard in Gujarat and data collection of them to proceed with the public interest litigation for the same.

- **Proposed Labour Law changes and its Impact**

Speaker: Advocate Gunjan Singh

Advocate Gunjan Singh is practicing advocate in Labour Laws at the Supreme Court of India. Mr. Singh in his session spoke on 3 main issues. 1) Supreme Court orders on Domestic workers case, migrant workers cases and challenges in implementation of the same. 2) Role of different unions in implementation of orders passed by courts. 3) Proposed labour law changes during Covid-19 and its impact on labour rights.

While discussing the first point Mr. Singh explained orders relating to domestic workers passed by Supreme Court in year 2010 which states that all state governments are required to register them and give the smart cards in order to avail benefits. If the states are not implementing them or have not made rules

for the implementation litigation with this regards can be pursued in different states.

Next on the second issue Mr. Singh emphasized the importance of union and their role in order to pursue litigation in labour law. He discussed that union are helpful in order to collect data and gives the clear picture to NGOs relating to different issues. Such as issues of wages, welfare board, distribution of funds and lack of implementation of laws and rules in different labour sector such as domestic workers, construction workers, factory workers and unskilled labour as well. He explained the importance of the role of unions that in order to litigate on the above mention issues legal aid lawyers should coordinate with different unions and should make them aware about legal remedies in labour law.

At the end Mr. Singh spoke on important aspect in labour law that is changes and amendments made by the various state governments in existing labour law Mr. Singh explained changes brought by 4 state governments in existing labour law and major changes was working hour was extended from 8 hr to 12 hr with inadequate break time and major benefits under laws were amended too. However, due to massive protest in state of U. P on amended law government was forced to withdraw the notification and Mr. Singh also informed that from other state unions have challenges it in respective High court and if not done yet in those states with help of union leader this should be done at the earliest.

At the end of his session Mr. Singh answered various questions on the same subject matter by some of the activists and lawyers. He guided and helped them in making action plan as well as strategies to go ahead in challenging illegal amendments with regards to labour laws in the state.

- **Labour Movement & Social Conditions**

Speaker: Asim Roy

Mr. Roy is associated with Trade Union in Gujarat from a long time. His session was focused on different labour movement and social conditions related to it. He also discussed on the changing trend of PIL and its importance. PIL in past was a tool for social justice. However, in recent times most PILs are focused on implementation of polices and response of the courts on the same are mostly negative. As a result implementation of social justice polices are becoming difficult. In order to overcome this struggle Mr. Roy emphasised on organizing labour and migrant workers movement on bigger scale. In order to organize this movement Mr. Roy spoke on organising protests by different trade unions and local leaders. In doing so he raised the issue concerning misuse of section 144 by the authority. As the misuse of section 144 is demotivating the unions is organizing protest against the illegality and violation of their rights. Due to misuse of section 144 freedom of speech and expression of labourers are oppressed since a long time. In order to resolve this freedom of association

should be channelized legally and politically. Thus, district level local leaders should be promoted.

Mr. Roy also discussed that in order to do PIL scale of litigation should be high. More number of workers and labourers should be included rather small groups for better effectivity and better implementation ratio. He also mentioned that in order to do so focus should also be on the social movement.

At the end of his session Mr. Roy proposed two areas in which public interest litigation can be filled in Gujarat. One with regards to non-payment of minimum wages to the labourers in Dahod District and other with regards to difficulties faced by farmers in the state of Gujarat.

- **Situation of Women labourers in State of Gujarat**

Speaker: Shushila Ben Prajapati

Sushila Ben is working with Action Aid for social and economic justice for the marginalized community. In her session she discussed about women labourers and challenges faced by them in state of Gujarat. At the beginning of her session she discussed the condition of farmers in the state. With regards to migration of workers she stated that Gujarat is a receiving state in terms of migrant workers. There are three types of migration that can be classified in state of Gujarat.

1. Work related migration

2. Domestic service migration

3. Family migration

Mainly migrant workers in state of Gujarat come for earning the livelihood. As per the research these migrant workers face discrimination at various end. Women labourers are not paid equally. Women are not provided with proper sanitization facilities. She also addressed the issue of lack of redressal system for women workers in labour law in the state. She pointed out that at most work places Local complaint committee exists only on paper, no implementation of the same can be seen. Women workers are also not made aware about this.

She raised issue of some of the women migrant workers are forced in to sex work and they are sexually abused by their employers as well but due to lack of redressal system and awareness they are unaware about their rights and remedies.

In her session other important thing she addressed was impact of Covid-19 on domestic workers. Due to Covid-19 related nationwide lockdown has led to loss of job for the domestic workers. Unemployment of domestic workers are very concerning issue. In her session she also discussed the discrimination faced by the daily wagers such as garbage collectors, rag pickers and women workers working in housing societies. In order to uplift them she suggested that representation and public interest litigation should be filed before concerned authority and courts.

At the end of her session she mentioned that in city of Ahmedabad in quarantine centers women were sexually harassed but details of the same are awaited and if proven litigation with this regards can be perused. She also talked in brief about inadequate facilities provided by the state government in the quarantine center in women wards as disclosed under the action aid assessment report of quarantine center in Gujarat.

She concluded her session by giving three to four potential emerging social issues in state of Gujarat to file public interest litigation in higher court such as domestic workers, inadequate quarantine facilities, and lack of redressal system.

- **Issues of Brick Kiln labourers**

Speaker: Dinesh Parmar

Mr. DinsehParmarin his session addressed the issue of challenges faced by brick kiln labourers in state of Gujarat. He began his session by giving factual situation of labourers stating that in brick kilns other than the employer every worker or labourer is migrant worker. Most of these workers work as bonded labourer in very inhuman condition and their basic human rights are violated by their employer.

Brick kiln industry in the state of Gujarathas the most numbers of migrant workers. However, there is need of awareness amongst the labourers about their rights and bonded labour rehabilitation schemes. These brick kiln labourers are

not provided with adequate housing and sensitization facilities, more than 12 hours of work and no minimum payment of wages, upon asking for rest they are frequently man handled and assaulted by their employers. No adequate food is given to them. Many brick kiln also employ child labourers.

Mr. Parmar continued his session by addressing issue of pro activeness of the authority in rescue mission of bonded labour led by different activists. He spoke on difficulties in getting release certificate and compensation to be paid to the rescued bonded labourers from the brick kiln. He also pointed out that quasi-judicial bodies are not very effective in addressing issues of release certificate and compensation for rescued bonded labour in the state. He stated that he has filed 15 to 20 cases relating to these issues in NHRC but no positive action has been taken by them.

At the end of the session he stated that focused of judicial and quasi-judicial body should be on rehabilitation of victims in cases of forced and bonded labourers include child labourers and non-payment of wages.

Webinar was concluded with question and answer rounds among lawyers and social activist. Moreover, at the end of the meeting Mr. Colin Gonslaves discussed the plan of action with social issues on which public interest litigation can be persuade in the high court of Gujarat.

Plan of Action

| Sr.no | Subject matter for the cases | Resource person/follow up details | Lawyer assigned for follow ups. |
|--------------|---|--|--|
| 1. | Domestic Worker's related case | Sushila ben to collect data | Hetvi |
| 2. | Bonded Labour cases | Pratik to send data and files in order to do petition regarding release certificate. | Hetvi, Partik |
| 3. | Ration and food distribution cases | Pankti Jog will be contact person, | Pratik, Hetvi |
| 4. | Construction workers Cases | Need to get in touch with Vipul Pandya- | Hetvi, Pratik |
| 5. | Odia Migrant Workers Death case | Govindbhai to be in touch with Sarita Ma'am. | Govind Bhai |
| 6. | Bhagiyamazdoor and non-payment of wages | Govindbhai to speak to GovaRathor in order to discuss the facts and get data. | Govind Bhai, Hetvi |

| | | | |
|----|--------------------------------|---|--------|
| 7. | Migrant Workers related cases. | Partik has already filed the case in High court and session court. 30 labourers were granted bail. Any other case via any network Partik will do the needful. | Partik |
|----|--------------------------------|---|--------|

Annexure A**Participants List:**

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Annexure B

Pictures

