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Both Source and Destination States need to work towards securing the rights of migrant workers in the brick kilns

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June, 2023

Issue  
**FOUR**



# brickwalled

## Facts and Figures...

# In India, inter-state migration rates doubled between 2001 and 2011 (World Economic Forum, 2017). An estimated 9 million migrated between states annually from 2011 to 2016 (India Ministry of Finance, 2017).

<https://unesdoc.unesco.org/ark:/48223/pf0000265866>

# According to the 2011 Census, there are 63 million child migrants in India, of which 30 million are female. The top 5 destination states to which children migrated for employment or with their household were Maharashtra, Gujarat, Andhra Pradesh, Tamil Nadu, and Uttar Pradesh.

<https://medium.com/@indiainmigration/children-on-the-move-63-million-of-migrants-in-india-are-children-df9d770f2493>

# Estimates from the NSS 68th round (2011-12) suggest that about 2.1 million workers are employed in brick-kilns, of which 84% (1.8 million) are male.

<https://cprindia.org/wp-content/uploads/2021/12/Migration-to-Brick-Kilns-in-India.pdf>

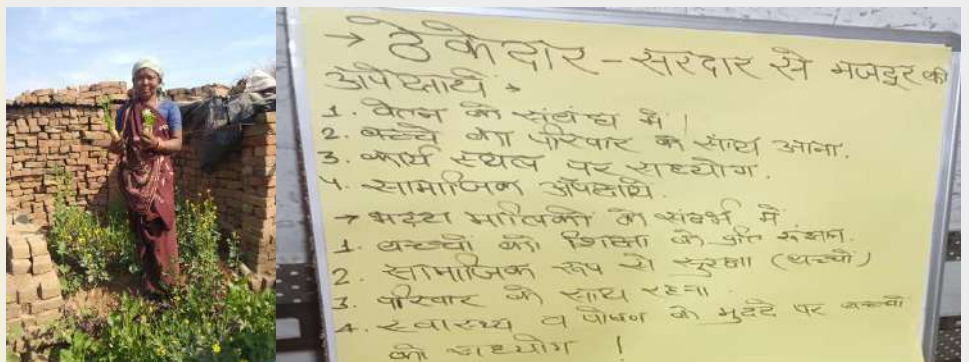
## From the Editor's Desk...

Women and children comprise a significant proportion of the seasonal migrant population in India. Post the 2011 Census, very little updated information is available on the number of seasonal migrant workers and women and children on the move. Even as the Supreme Court took upon itself the task of addressing issues pertaining to migrant workers during the COVID lockdown, data being relied upon is outdated.

Measures are now being taken to capture data on migrant worker population and tracking migration. The subject warrants discussion as it involves serious issues around privacy and confidentiality of people whose data is being collected. In this issue we hope to bring to you some of the debates around capturing data of migrant workers as well as failure of the Inter-State Migrant Workmen Act to attain its objective of regulating employment and working conditions of migrant workers. Issues pertaining to women migrant workers, who often accompany their men and hence seen as migrating due to marriage or with family and their children will continue to draw attention throughout all newsletters.

Brickwalled is a product of an intervention being carried out by the Centre for Labour Research and Action (CLRA), the Centre for Education and Communication (CEC) and HAQ: Centre for Child Rights for securing rights of women and children in brick kilns. This is supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) and terre des hommes (Germany).

Bharti Ali



## A life of dignity is a fundamental right given to all persons and that includes building and construction workers, says the Supreme Court of India ...

### National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) vs. Union of India & Ors. [WRIT PETITION (CIVIL) NO. 318 OF 2006]

In its judgement dated 19 March 2018, the Supreme Court has noted:

*“Symbolic justice – there is nothing more to offer to several millions of construction workers in the unorganized sector – not social justice, not economic justice. The reason is quite simple. No State Government and no Union Territory Administration (UTA) seems willing to fully adhere to and abide by (or is perhaps even capable of fully adhering to and abiding by) two laws solemnly enacted by Parliament, namely, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the BOCW Act) and the Building and Other Construction Workers’ Welfare Cess Act, 1996 (the Cess Act). Directions given by this Court from time to time to implement the two laws have been flouted with impunity.*

*We have been informed that under the Cess Act, more than Rs. 37,400 crores have been collected for the benefit of construction workers, but only about Rs. 9500 crores have been utilized ostensibly for their benefit. What is being done with the remaining about Rs. 28,000 crores? Why is it that construction workers across the country are being denied the benefit of this enormous amount? ...*

*... It does not require much imagination to appreciate that unless a construction worker is registered under the provisions of the BOCW Act and is employed by a registered establishment, that construction worker will not be entitled to any benefits that may accrue under the provisions of the BOCW Act or any other law that can benefit a construction worker. This is really the crux of the implementation issue arising in the present case and unfortunately, little attention was paid to it by any State Government or any UTA. All that we have been told is that there are more than 4.5 crore building and construction workers in the country and earlier about 2.15 crore had been registered and as of now about 2.8 crore have been registered. How these figures have been arrived at is anybody’s guess. In any event, the registration of building and construction workers is well below the required number and is also a guesstimate. ...*

*... What has been brought to our notice is that huge amounts are available with the Welfare Boards, but have not been utilized for the benefit of the building and construction workers. This is not only a tragedy, but a travesty of justice ...*

***What makes the situation even worse is that many of the construction workers are believed to be women and at least some of them have small children to look after. That even they are victims of official apathy truly reflects a very sad state of affairs ...***

*... Overall, the affidavits gave a clear picture of a shocking state of affairs in as much as some Welfare Boards had expenditure out of the collected cess for payment of entry tax/value added tax, purchase of washing machines for construction workers and purchase of laptops for construction workers. This Court found that rather astonishing ... As far as the beneficiaries were concerned, hardly 10% of the collected amount of cess was utilized for their benefit, even including the expenditure on washing machines and laptops. ...*

*... Governance is not about mouthing platitudes, or framing good looking schemes, but about action and it is quite clear to us that in so far as the rights of construction workers are concerned, that vulnerable section of society has been badly let down by the governance structure. To make matters worse for them, the number of construction workers has increased 5-fold over the last 20 years, as estimated by the Ministry of Labour and Employment. The task before the State - to effectively implement the laws enacted by Parliament for the benefit and welfare of a vulnerable section of society is enormous, and as the progression in the case shows, the State might well be unable to live up to the expectations of Parliament unless there is a strong will to bring about a positive change. State apathy in a situation such as this virtually amounts to exploitation of the construction workers, and if the State turns exploitative, there is little hope for vulnerable sections of society. ...*

***... A life of dignity is a fundamental right given to all persons and that includes construction workers. It is in this background that the two welfare and beneficent legislations must be understood and appreciated. ...”***

Directions passed in National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) vs. Union of India & Ors. [Writ Petition (Civil) No. 318 of 2006]	Responsible Authority
<b>Registration of Establishments and Construction Workers</b>	
<p>Put in place and strengthen the registration machinery, both for the registration of establishments as well as registration of construction workers within a specified time to be decided by the authorities concerned, but at the earliest.</p> <p>State Governments and UTAs must appoint Registering Officers for registration of establishments and construction workers.</p>	<p>Ministry of Labour &amp; Employment, State Governments and the UTAs</p>
<b>Establish and Strengthen the Machinery for Cess Collection</b>	
<p>There is no reason why establishments involved in the construction activity, both formal as well as non-formal, should not pay the cess, especially when they are utilizing the services of the construction workers. Similarly, there is no reason why the construction workers of these establishments should be denied their entitlements and benefits under the BOCW Act and other laws.</p> <p>The cess collected could be much, much more, if the registration machinery and the collection machinery are strengthened and work to their potential.</p>	<p>Ministry of Labour &amp; Employment, State Governments and the UTAs</p>
<b>Develop a Model Scheme for Construction Workers</b>	
<p>Instead of multiple schemes, frame one composite Model Scheme for the benefit of construction workers in consultation with all stakeholders including NGOs who are actually working at the grassroots level with construction workers.</p> <p>The Model Scheme should be comprehensive, easily implementable, pragmatic and should not involve too much paperwork.</p> <p>It should include issues and concerns of education, health, social security, old age and disability pension and other benefits that are necessary for living a life of dignity as postulated by the Constitution of India.</p> <p>This Model Scheme can then be made available to all concerned, that is, the State Governments, the UTAs and the Welfare Boards with the flexibility of making appropriate modifications wherever necessary.</p> <p>The Model Scheme should be framed and publicized within a specified time-frame to be decided by the Ministry of Labour &amp; Employment, preferably within six months, but in any event on or before 30th September, 2018.</p>	<p>Ministry of Labour &amp; Employment</p>
<b>Carry out Effective Audits, including Social Audits</b>	
<p>It is necessary for the CAG to take stock of issues and problems pertaining to the implementation of the BOCW Act and to ensure that effective and meaningful audits are carried out, keeping in mind the huge amounts involved.</p>	<p>Comptroller and Auditor General (CAG)</p>
<p>Conduct a social audit on the implementation of the BOCW Act. Guidelines prepared by the CAG for conducting a social audit in respect of some other schemes (e.g., the Report of the Working Group on Developing Social Audit Standards with reference to MNREGA, 2005) be adapted mutatis mutandis for carrying out a social audit in respect of the implementation of the BOCW Act.</p>	<p>Ministry of Labour &amp; Employment, State Governments and the UTAs</p>



General Directions	
1. Constitute a State Advisory Committee, if not already constituted. State Advisory Committee shall meet regularly for conducting its business. Rule 20 of the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Central Rules, 1998 provides that the Central Advisory Committee shall meet at least once in six months. This could be used as a good guideline for meetings of the State Advisory Committee.	State Government and UTAs
2. Constitute an Expert Committee and frame statutory Rules under Section 62 of the BOCW Act, if such statutory Rules have not already been framed. Setting up an Expert Committee and framing statutory rules should be in a time bound manner, with the exercise being completed preferably within six months and in any event by 30 <sup>th</sup> September, 2018.	State Government and UTAs
3. The State Governments and UTAs must appoint Registering Officers for registration of establishments and construction workers. This is a critical aspect of the implementation of the BOCW Act as well as the Cess Act.	State Government and UTAs
4. Every State Government and UTA should establish a Welfare Board in terms of Section 18 of the BOCW Act. It must be appreciated that this is not a body that can be created by an executive order. The law requires that the Welfare Board shall be a body corporate having perpetual succession and a common seal. There are therefore legal formalities to be carried out for the constitution of a Welfare Board.	State Government and UTAs
5. Every State Government and UTA should establish a Welfare Fund for the benefit of the construction workers, with appropriate rules for utilisation of the funds.	State Government and UTAs
6. It is imperative that all construction workers should be given identity cards and should be registered in terms of Section 12 of the BOCW Act. The Ministry of Labour and Employment has proposed the issuance of a Universal Access Number for each construction worker. We make no comment or observation about the efficacy or otherwise of a Universal Access Number. We keep this issue open and leave it to the Ministry of Labour and Employment to decide on an appropriate system of identification and registration, provided it is effective and meaningful.	Ministry of Labour & Employment
7. The Ministry of Labour and Employment shall actively consider making available to the construction workers the benefits of The Maternity Benefit Act, 1961 and The Minimum Wages Act, 1948, The Employees' State Insurance Act, 1948, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, as well as (to the extent possible) the Mahatma Gandhi National Rural Employment Guarantee Act, 2005.	Ministry of Labour & Employment
8. The Ministry of Labour and Employment should also consider whether projects of the Government of India in the railways, defence and other establishments are brought within the purview of the BOCW Act.	Ministry of Labour & Employment
9. The Ministry of Labour & Employment <b>had set up</b> a Monitoring Committee vide order dated 9 <sup>th</sup> September, 2015 for effective implementation of the BOCW Act. The Monitoring Committee should pro-actively ensure full compliance of the provisions of the BOCW Act, the Cess Act and the directions issued by this Court. It needs to meet far more frequently, and in any case once in three months, considering that thousands of crores of rupees are not being gainfully utilized, and in some instances, misutilized.	Ministry of Labour & Employment

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND EMPLOYMENT  
LOK SABHA  
UNSTARRED QUESTION NO. 5182  
TO BE ANSWERED ON 03.04.2023  
CHILD LABOUR IN INDUSTRIES

**5182. SHRI LAVU SRI KRISHNA DEVARAYALU:**

**Will the Minister of Labour and Employment be pleased to state:**

- (a) whether the Government is aware that as per Human Rights Commission, about 14 million children work as slaves in the country, including children under 14, which is a clear violation of Article 24 of the Constitution that prohibits child labour;**
- (b) if so, the steps taken by the Government to identify industries and enterprises that employed child labour;**
- (c) whether it is true that most cases of child labour have been found to be in brick kilns and the bangle industry, if so, whether any stringent action has been taken against such employers;**
- (d) the details of children found to be employed as child labour during the last three years, State-wise; and**
- (e) whether the Government proposes to launch a policy to rehabilitate and provide quality education to children employed as child labour?**

**ANSWER**

(a) to (c): The Government is following a multi-pronged strategy for elimination of child labour comprising of statutory and legislative measures, rehabilitation and universal elementary education along with convergence with other schemes for socio economic development. The Government has enacted the Child Labour (Prohibition & Regulation) Act, 1986 which was amended in 2016. The amended Act is now called the Child and Adolescent Labour (Prohibition and Regulation) [CALPR] Act, 1986. The Act provides for complete prohibition of work or employment of children below 14 years in any occupation and process and adolescents in the age group of 14 to 18 years in hazardous occupations and processes. The amendment also provides for stricter punishment of employers for violation of the Act and made the offence as cognizable.

Further, brick kilns have been included in the Schedule - Part A of the CALPR Act, 1986, wherein adolescents are prohibited to work and children are prohibited to help. The manufacture of glass including bangles have been included in the Schedule - Part B covering a list of occupations and processes where children are prohibited to help in family or family enterprises (in addition to Part A).

(d): As per "Crime in India" a publication of National Crime Records Bureau, 772, 476 and 613 number of cases were registered during calendar years 2019, 2020 and 2021 respectively under Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 in the country. State-wise details are at Annexure.

(e): Ministry of Labour & Employment has been implementing National Child Labour Project (NCLP) Scheme for rehabilitation of child labourers through District Project Societies under the chairmanship of the District Magistrate. Under the NCLP scheme, the children in the age group of 9-14 years are rescued / withdrawn from work and enrolled in the NCLP Special Training Centres (STCs), where they are provided with bridge education, vocational training, mid-day meal, stipend, health care, etc. before being mainstreamed into formal education system. NCLP scheme has now been subsumed under Samagra Shiksha Abhiyan (SSA) Scheme with effect from 01.04.2021. Henceforth, the rescued child labourers will be mainstreamed into formal education system through STC operational under SSA.

**Source:** <https://sansad.in/getFile/loksabhaquestions/annex/1711/AU5182.pdf?source=pqals>

Answers to Parliament Questions no longer provide data on number of children rescued, violations of the child labour law detected by the Ministry of Labour & Employment, prosecutions initiated by the Ministry and convictions. The last such response received was on 08.08.2022. All answers now point to the NCRB data, which is about crimes.

In 2014, 147 cases were reported by the NCRB under the child labour law. Of these, 26% involved migrant child labourers. 2016 onwards, the NCRB has stopped providing bifurcated data on migrant child labour.

As per response to Lok Sabha, Unstarred Question No. 1225, the number of children rescued from labour in 2019-20 (up to December, 2020) was 40,050. In contrast, the NCRB data shows only 770 cases in 2019 and 476 in 2020.



## Right to Food Campaign

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01st May 2023

### The Right to Food Campaign welcomes the Supreme Court's order to provide ration cards to migrant/unorganised workers

The Right to Food Campaign welcomes the Supreme Court's order to provide ration cards to migrant/unorganised workers registered under the eShram portal. The Supreme Court in an order dated April 20, 2023, in MA 94/2022 in 'Re Problems and Miseries of Migrant Labourers', has given significant directions to ensure food security for migrant workers and unorganised sector workers. 28.60 crores migrants/unorganized workers are registered on the eShram portal, of which 20.63 crores are registered on ration card data. The order directs all State/UT governments to issue ration cards under NFSA to the 8 crore persons who are registered on the eShram portal but do not possess ration cards. Due to not possessing ration cards, a large number of migrant/unorganized labourers and their families have been deprived of access to subsidized food grains and other schemes under the National Food Security Act.

The coverage under NFSA was to be updated as per the latest published census figures, however as the census of 2021 has been postponed indefinitely and no date has been notified regarding the publication of the same, more than 10 crore people who should have been issued ration cards have been left out of the purview of the food security net. The relevant portion of the order is reproduced below-

*"... out of 28.60 registrants on eShram 20.63 crores are registered on ration card data. Meaning thereby, the rest registrants on eShram are still without ration cards. Without the ration card, a migrant/unorganized labourer or his family members may be deprived of the benefit of the schemes and maybe the benefit under the National Food Security Act. Therefore, being a welfare State, it is the duty of the concerned State/UT to see that the remaining registrants on eShram, who are still not registered on ration card data and who are not issued the ration cards, are issued ration cards and the exercise for issuance of ration cards is required to be expedited. As the Union of India and the concerned State/UT now already have the data of the registrants on the eShram portal and will be having the required information, the State/UT shall reach out to them so that they can be issued the ration cards and that their names are registered on ration card data.*

*6. At present, we give a further three months' time to the concerned State/UT to undertake the exercise to issue ration cards to the left-out registrants on the eShram portal by giving wide publicity and the concerned State/UT to approach them through the office of the concerned Collector of the District so that more and more registrants on eShram portal are issued the ration cards and so that they may get the benefit of the benevolent schemes floated by the UOI and the State Government including the benefit under the National Food Security Act. We order accordingly."*

#### The Right to Food Campaign demands -

- All States and Union territories must immediately undertake the exercise, as directed by the SC, to issue ration cards to 8 crore migrant/unorganised sector workers who are registered on e-shram but do not possess a ration card.
- Governments must universalise access to PDS for all migrant/unorganised sector workers and provide ration cards without putting in place multi-fold and complex inclusion/exclusion criteria including any income criteria. Adoption of complicated criteria ends up excluding people as they are often unable to furnish the necessary documentation including residence proof, aadhaar card, electricity bills, etc. These persons are among the most economically vulnerable sections of society and must be included under the ambit of the NFSA.

## Brickworkers and their Children at 30 Kilns in Ajmer and Bhilwara (Rajasthan) & Surir (Mathura, Uttar Pradesh)

Location	Number of Families that arrived at Brick Kilns in October 2022 to June 23	Number of Family Members
Ajmer	513	2105
Bhilwara	303	1569
Surir	392	1798

No. of Brickworkers from Different Source Areas in 10 Brick Kilns of Ajmer										
Source Area	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
Chhattisgarh	0	0	301	0	0	0	0	1	2	304
Odisha	0	0	4	0	0	0	0	0	0	4
Rajasthan	30	46	23	2	3	5	1	1	10	121
Uttar Pradesh	0	5	78	1	0	0	0	0	0	84
<b>Total</b>	<b>30</b>	<b>51</b>	<b>406</b>	<b>3</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>12</b>	<b>513</b>

No. of Brickworkers from Different Source Areas in 10 Brick Kilns of Bhilwara										
Source Area	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
Bihar	0	0	171	0	0	0	0	8	0	179
Jharkhand	0	0	5	0	0	0	0	0	0	5
Madhya Pradesh	0	0	6	0	0	0	0	0	0	6
Rajasthan	28	10	4	1	0	0	0	6	0	49
Uttar Pradesh	2	1	58	0	0	0	0	3	0	64
<b>Total</b>	<b>30</b>	<b>11</b>	<b>244</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>17</b>	<b>0</b>	<b>303</b>

No. of Brickworkers from Different Source Areas in 10 Brick Kilns of Surir										
Source Area	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
Bihar	0	0	288	0	0	0	0	0	0	288
Haryana	0	0	1	0	0	0	0	0	0	1
Jharkhand	0	0	1	0	0	0	0	0	0	1
Madhya Pradesh	0	0	9	0	0	0	0	0	0	9
Uttar Pradesh	1	0	92	0	0	0	0	0	0	93
<b>Total</b>	<b>1</b>	<b>0</b>	<b>391</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>392</b>

**Note:** All data is from 30 Brick Kilns in Ajmer, Bhilwara and Surir where interventions are being carried out by the Centre for Labour Research and Action (CLRA) and the Centre for Education and Communication (CEC) for securing food sovereignty and dignity for brickworkers and their children.

Caste and Occupation Break-up of Brickworkers from Different Source Areas in 10 Brick Kilns of Ajmer										
Caste Break-up	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
SC	6	6	188	1	0	0	0	2	1	204
ST	18	38	131	1	2	4	1	0	9	204
OBC	6	7	84	1	1	1	0	0	2	102
General	0	0	3	0	0	0	0	0	0	3
<b>Total</b>	<b>30</b>	<b>51</b>	<b>406</b>	<b>3</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>12</b>	<b>513</b>

Caste and Occupation Break-up of Brickworkers from Different Source Areas in 10 Brick Kilns of Bhilwara										
Caste Break-up	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
SC	6	3	68	0	0	0	0	0	0	77
ST	11	6	137	1	0	0	0	8	0	163
OBC	12	2	39	0	0	0	0	6	0	59
General	1	0	0	0	0	0	0	1	0	2
Other Minorities	0	0	0	0	0	0	0	2	0	2
<b>Total</b>	<b>30</b>	<b>11</b>	<b>244</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>17</b>	<b>0</b>	<b>303</b>

Caste and Occupation Break-up of Brickworkers from Different Source Areas in 10 Brick Kilns of Surir										
Caste Break-up	Bharai	Nikasi	Pathai	Rapas	Tractor Operator	Bhatta Munim	Transporting kachcha (raw/unfired) bricks	Jalai	Other Tasks	Total
SC	0	0	290	0	0	0	0	0	0	290
ST	0	0	58	0	0	0	0	0	0	58
OBC	1	0	43	0	0	0	0	0	0	44
General	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>391</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>392</b>

Destination Area	Percentage of families who have a Ration Card	Percentage of families who carried their Ration Card to the Kiln
Ajmer	66%	31%
Bhilwara	65%	47%
Surir	54%	31%

Destination Area	Percentage of brick workers and their family members who have an Aadhar Card	Percentage of brick workers and their family members who carried their Aadhar Card to the kiln
Ajmer	46%	45%
Bhilwara	23%	67%
Surir	35%	34%

Destination Area	Percentage of adult workers who have the E- Shram Card	Percentage of persons who have a Bank account	Percentage of persons who got benefited by any scheme
Ajmer	17%	20%	39%
Bhilwara	10%	12%	20%
Surir	11%	16%	28%



**Education of Children of Brick Workers  
Age-group and Destination wise data**

Destination Area	Currently Enrolled				Drop-out				Never been to School			
	4 to 10 years	11 to 14 years	15 to 18 years	Total	4 to 10 years	11 to 14 years	15 to 18 years	Total	4 to 10 years	11 to 14 years	15 to 18 years	Total
Ajmer	97	62	15	174	13	16	12	41	306	84	103	493
Bhilwara	42	23	9	74	23	12	4	39	342	74	71	487
Surir	66	35	0	101	53	37	25	115	274	87	75	436
<b>Total</b>	<b>205</b>	<b>120</b>	<b>24</b>	<b>349</b>	<b>89</b>	<b>65</b>	<b>41</b>	<b>195</b>	<b>922</b>	<b>245</b>	<b>249</b>	<b>1416</b>

**Education Level of Children of Brick Workers**

Age Group	Children ever been to school	Class 1 to 5	Class 6 to 8	Class 9 to 10	Class 11 to 12	Graduation
4 to 10 years	294	97%	3%	0%	0%	0
11 to 14 years	185	60%	37%	3%	0%	0
15 to 18 years	65	51%	35%	12%	2%	0
<b>Total</b>	<b>544</b>	<b>79%</b>	<b>18%</b>	<b>3%</b>	<b>0%</b>	<b>0</b>

**Percentage of Drop-outs at Different Levels of Education out of Total No. of Children Ever Been to School**

Age Group	Children ever been to school	Class 1 to 5	Class 6 to 8	Class 9 to 10	Class 11 to 12	Graduation
4 to 10 years	89	96%	4%	0%	0%	0%
11 to 14 years	65	68%	32%	0%	0%	0%
15 to 18 years	41	54%	32%	12%	2%	0%
<b>Total</b>	<b>195</b>	<b>77%</b>	<b>19%</b>	<b>3%</b>	<b>1%</b>	<b>0%</b>



## Ground Report: Improving Access to Rights & Entitlements

### Experiencing a corrupt health system or professionals can dissuade women from opting for Institutional Delivery ...

Poonam Devi hails from Nawada district of Bihar and arrived in Devika brick kiln of Surir along with her family. She lives with her husband, a two-year-old child and mother-in-law. Within a few months of her arrival in the kiln, she came to know that she is pregnant.

The family met the Centre Coordinator of CEC who was conducting household surveys in the kiln along with her team. Poonam told them about her pregnancy. At the same time, Poonam's mother-in-law told them that she does not want Poonam to deliver the baby in the hospital. The team was surprised to hear that. On enquiring about the reason, the mother-in-law just left without answering.

The field team approached Poonam's mother-in-law and tried talking to her. She felt a little comfortable and told them about their experience in Aligarh, where Poonam delivered a healthy baby boy in a government hospital. Poonam's mother-in-law overheard a doctor talking to someone regarding selling Poonam's baby in exchange for money. Poonam's husband and her mother-in-law went to the concerned doctor and talked to him about this. The doctor threatened the family to not reveal this to anyone and even gave them money. They left Aligarh immediately and went back to their village. Years later, they came to Devika Bhatta.

On listening to their story, the Centre Facilitator assured them that they won't let this happen again and Poonam will deliver a healthy baby in the hospital. Confused at first, Poonam's mother-in-law later agreed to opt for institutional delivery for Poonam. The CEC team accompanied the family to the hospital and on February 28th this year, Poonam gave birth to a healthy baby boy at Surir Primary Health Center.

### It took 5 units of Blood to keep Budni and her foetus alive!

Budni Devi, who is a resident of district Jamui, Bihar, is seven months pregnant. During one of the women's meetings, the Centre Facilitator of the Child Health and Nutrition centre (CHNC) run by CLRA at the brick kilns observed swelling on Budni Devi's body. On enquiring, Budni Devi shared that she was feeling tired and weak almost every day. She had consulted a doctor from the nearest clinic and got some medicines, but there was no relief.

The Centre Facilitator contacted the Block Coordinator Pooja and discussed the situation. They took Budni Devi to Mandal Hospital where they came to know that Budni Devi had only 3.7 grams of blood left in her body and was suffering from anaemia. The doctor referred her to Bhilwara Hospital. She was immediately hospitalised given the seriousness of her condition. She needed blood, so the Centre Facilitator went to the blood bank in the hospital. The staff there refused and said that they would be able to arrange blood only when someone is willing to donate.

On giving CLRA's reference and the work they do for the migrant families, the hospital staff arranged one unit of blood, but they could not provide more due to inadequate stock. There was a need for 5 units of blood for Budni Devi's treatment.

The CLRA team contacted other organisations and with their cooperation, the team was able to arrange the required units of blood. Budni Devi was discharged from the hospital after five days. After coming back to the kiln, the Centre Facilitator enquired about her health. She was provided additional nutrition and iron-calcium tablets by the Centre Facilitator. Budni Devi and her husband thanked the CLRA team for all their efforts. Her husband said that if the CLRA team had not been there, he might have lost his wife as well as his child.

Destination Area	Percentage of pregnant women at the brick kilns
Ajmer	20%
Bhilwara	26%
Surir	23%



## Ground Report: Improving Access to Rights & Entitlements

### Women's Protection: Need for Mahila Sahayata Samitis at the Brick Kilns

Mahila Sahayata Samiti, is an initiative taken up by Centre for Labour Research and Action (CLRA) to look after the welfare of women workers in the brick kilns and keep a check on any form of violence or abuse perpetrated on them. The Members of the Committee are the women workers themselves. Regular meetings are conducted in the presence of the Centre Facilitator in the Child Health and Nutrition Centre (CHNC) where various issues related to women are discussed and resolved. One such case is elaborated here.

27-year-old Sita (name changed) and her husband Lakhan (name changed) hail from Parihapali village in Mahasamunda district of Chhattisgarh and are working in JMD Ladpura brick kiln. Sita underwent a sterilisation operation in Gangwana CMC Hospital on 3rd January 2023, due to which she and her husband had to miss work in the kiln for some time. Besides, they had to borrow ₹ 1000 from the kiln owner to meet the hospital expenses. On January 11, one of the Committee members took Sita to the hospital to get her stitches removed, where after she received an incentive of ₹ 2000 as Protsahan Rashi (an initiative of the Rajasthan State Government which provides incentive of ₹ 2000 to women who opt for sterilisation and ₹ 3000 to men, if they opt for sterilisation). Sita's husband used to drink alcohol. On the afternoon of January 12, 2023, when Sita saw her husband drinking alcohol with some men, she asked him to head back home so that they can have lunch together. As Lakhan was intoxicated and was not able to walk properly, Sita held his hand. This infuriated Lakhan and he started beating Sita. He kicked her on the stitches, which had healed just a few days back and tried to strangulate her. Hearing her cries and the loud noise, their neighbours came out and managed to rescue Sita. She received injury on her neck.

In the evening, the women informed the members of the Committee about this incident and asked them to intervene as they feared that Lakhan might get violent again. The next day, women along with the Centre Facilitator went to Sita's house and held a discussion with the couple regarding the incident and warned Lakhan not to repeat the same in future or else they will have to get an FIR registered against him in the nearby police station. The Centre Facilitator also explained to them the importance of companionship and asked them not to get involved in any form of violence as it can leave an impact on their children as well. In the end, reconciliation was reached and the Lakhan agreed not to resort to violence.

Immediate assistance and response from the committee members helped Sita when she needed support. No such incident has been reported ever since and the Committee hopes it will not be repeated again in the future.



**Mahila Samiti Meeting**

## POTPOURRI

### Ground Report: Improving Access to Rights & Entitlements

#### All it takes is sharing some simple ideas: Breakfast becomes part of daily routine of Brick Workers in Bhilwara

In one of the food festivals, the CLRA team spoke with the workers regarding healthy food or snack options that they can consume for breakfast or in the evening as it was observed that many workers were skipping their breakfast every day. The team mentioned options like including sprouted black gram, soybean and moong (green gram) and how they can be cooked in an easy and tasty way.

The workers were informed that if they cannot cook something quick in the morning for breakfast then they can soak two handfuls of grams the night before and have them as breakfast in the morning, with or without any boiling or frying. After a week or so, the Centre Facilitators in various brick kilns could see workers carrying sprouted grams in a potli (cloth bag) and eating them while they rest under a tree or in pasar (work area for brick moulding). Children too were enjoying the sprouted gram and were seen playing around in the kilns while their one fist was filled with chana (chickpeas).

This experiment was a success in all the kilns of Bhilwara.



#### Reuse of Leftover Food

CLRA has started an initiative on nutrition where they are teaching women how to reuse their leftover food to get nutritious food for further consumption. The objective of this initiative is maximum utilisation of available resources, reduction of expenditure on food and optimum consumption of food by all the family members to fight off malnourishment, low haemoglobin and general weakness.

Mukesh and Shobha hail from Rupangarh, Ajmer and are currently working in Bharat Lohagal Brick Kiln in Ajmer. They have three children who also came along with them to the kiln. While Shobha takes care of the house and household chores, Mukesh works as a tractor driver in the kiln. Mukesh has inconsistent work hours as he can be required at the kiln at any time of the day. Therefore, Shobha makes food for everyone at one stretch in abundance, which is consumed by the family for lunch and dinner. It was found that the left over food was being thrown away at the end of the day. Such food wastage was common among other families in the brick kilns too. On asking for the reason, Shobha and other women shared that their husband and children don't want to eat the same food throughout the day. So they have to throw away the leftover food, which considered as "waste".

"Bachche aur pati ek hi khana dobara nahi khana chahte. Kaam karna hota hai isliye mai ek hi baari me khana bana ke chali jati hoon. Lekin sab phik jata hai"

To tackle this problem of food wastage, the Centre Facilitators used a strategy of creating new and healthy recipes with leftover food. The families are generally poor with bare minimum resources and sometimes because of untimely wages, there is a shortage of food too. In this scenario of scarcity, wastage of food is a big problem that needs to be dealt with and hence some initiative was required to utilise the available resources optimally.

Shobha (30) learnt how to make paratha from the leftover dal. All she needed was leftover dal, flour, coriander leaves, salt, green chilli, onion, asafoetida and oil.

The parathas are a success as they break the monotony of everyday food and Shobha's young teenage children and husband enjoy the meal. In this way, Shobha is able to provide wholesome and nutritious food to her family that serves as an excellent breakfast to start the day, while managing the food waste and tackling her food expenses.

Dal paratha is a wonderful nutritional boost with a perfect cereal-pulse combination. High in protein and dietary fibre, it keeps one full for a longer time.



### Enlisting Participation and Contribution of Men as Equal Partners in the Food Festival

In October 2022, when the families started arriving at Madhav Brick Kiln in Surir, the CEC team went to meet them to conduct the family survey for the season. Most families that arrived this season are from Bihar. During the survey, they expressed eagerness to know about CEC's interventions and activities. Among many things, information was also shared about the food festivals that are organised at the kilns.

During the previous season, it was found that men's participation in the food festivals was little compared to women. Women and adolescent girls were seen chopping vegetables, preparing the dishes and serving food to everyone. Men and young boys often joined when the food was ready to be served. Most of them showed no interest in participating in these activities. The Centre Facilitator of the CHNC set up by CEC at the kiln felt that the men needed to understand how women have to bear dual burden of working in the kiln as well as taking care of the household chores. A need was felt to enable men understand how even they can contribute in helping their partners, sharing their workload and easing out their hectic day.

This season, the CEC team decided to enlist maximum participation of men and young boys along with women and girls in the food festival. The Centre Facilitator of Madhav Brick Kiln held a meeting with the menfolk in the kiln and encouraged them to participate and take charge in the preparation and organisation of the food festival. Not only did they show interest, but also actively participated in the food festival, taking charge of all the activities, including chopping vegetables, cooking, etc. Watching both men and women coordinate the festival together was an empowering moment for everyone at the kiln.



## Ask the Experts...

# The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979: Why is its implementation so poor?

Despite a law like the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, there is no relief for migrant workers. We have tried to understand this from Mr. Chandan Kumar, who is associated with the Working Peoples' Coalition (WPC), a network of more than 150 provincial, local organizations of informal workers and Hamal Panchayat, Pune, Maharashtra.

**Bharti:** Thank you Chandan for agreeing to interact with us on the Inter-State Migrant Workmen's Act. I request you to introduce yourself before we go ahead with the questions I have for you.

**Chandan Kumar:** My name is Chandan Kumar and I am a trade union organiser and activist. I work with the workers largely in the informal economy. My union is Hamal Panchayat which is based in Pune (Maharashtra) and our union has achieved the highest comprehensive form of social protection for informal workers. That's the model globally documented by the ILO and Government of India reports like the National Commission for Labour, Arjun Singh Gupta Commission Report and so on. I am also the Organising Secretary of the Working Peoples' Coalition. Working Peoples' Coalition (WPC) is a very ambitious idea to bring together workers organisations, a Common Minimum Programme on workers' issues. Groups and movements, irrespective of their political ideas can come together in the WPC space and work together on the workers' agenda. These are the two organisations I am associated with and I am also part of building it up. Being a policy person, I have served in various committees in the Government of India. I am a member of the Minimum Wages Advisory Board of the Government of India, which is the apex decision making body for determining minimum wages. I have also served in committees of migrant workers, domestic workers, construction workers and so on.

**Bharti Ali:** Just to give you a background, we are working on a project to secure nutrition, health, welfare, dignity and other rights of children of migrant workers, particularly the brick kilns. The project is in Rajasthan in the two districts of Ajmer and Bhilwara and in Surir in Mathura district of Uttar Pradesh. What has bothered us is the question as to why is the Inter State Migrant Workmen Act not being used? There is also the Building and Other Construction Workers' Act. The brick kiln workers have not benefitted from either. So, for the benefit of our readers, I would first request you to help us understand the Inter-State Migrant Workmen Act (ISMA) and then we can move to other questions around its implementation.

**Chandan Kumar:** As a labour organiser, a labour researcher and a labour activist I always go through the history and background of a law or whenever any law is enacted. We need to understand the processes, the discussions and consultations which stakeholders do in order to legislate a statute. If you read the introduction/background of ISMA, there's a word called the 'Dadan Pratha / Dadan System' which is a prevalent customary situation in Odisha where you give an advance to the workers and in lieu of such advance you expect the workers to work for you in the various 'inputs industry' (in the labour academic language), inputs industry of agriculture sector largely. This is what the 'Dadan System' is historically and resembles the forced labour practices / bonded labour practices in India. ISMA was actually enacted

*ISMA was actually enacted keeping in mind the flow and level of distress migration. ... different kinds of legislation were enacted in the decade when ISMA was enacted, such as the Contract Labour Act, 1970, the Bonded Labour Act, 1976 because the economy was changing, the country was going through a leap, aspiring to become a more industrialised economy. At the same time, the rural economy was in shambles where people had no jobs and people were done with the entrenched feudal system, leading to an aspiration to migrate to the cities. ... In the same flow ... there was a need to think about regulating employment relations, making sure that migrant workers get basic social security when they reach the destination ...*

keeping in mind the flow and level of distress migration, which I refer to as bondage migration. If you read the history, such distress migration is found from Odisha to different states in Southern India. I would like to draw attention to the book by veteran journalist P. Sainath here - 'Everyone Loves a Good Drought'. It is largely taking us through the picture of bondage migration post 1990s, post the big cyclone in Odisha, how the cyclone devastated the rural economy, how people started migrating in conditions of bondage, the political economy of the society, the political economy of the labour market, the whole situation wherein you have the state, a massive economic crisis, a demographic distinction or



inequality. For example, when we look at Odisha, coastal Odisha is a little moderate in terms of economy, in terms of productivity and people's access to resources, whereas in western Odisha, we see massive crisis due to drought and so on. And that's what Sainath has talked about in his book - the cycle of varying economic fragility and the different crisis in the society that is leading people to migrate in distress conditions. The 'Dadan Pratha' started in the same context and is very much imbedded in the traditional class and caste dynamics in our society, the feudal system and dominating communities keeping people in bondage conditions, largely in agriculture economy. This was the situation across India but ISMA's history comes from that 'Dadan System'.

So different kinds of legislation were enacted in the decade when ISMA was enacted, such as the Contract Labour Act, 1970, the Bonded Labour Act, 1976 because the economy was changing, the country was going through a leap, aspiring to become a more industrialised economy. At the same time, the rural economy was in shambles where people had no jobs and people were done with the entrenched feudal system, leading to an aspiration to migrate to the cities. If you remember Ambedkar had urged dalits to migrate to the cities if they wanted to break the caste system and wanted to progress. Those kind of debates had been pushing people to migrate. Then came social legislations like the Bonded Labour System Abolition Act in 1976, which was part of Indira Gandhi's 15 Sutri Karyakram (15 Point Programme). In the same flow there was recognition of the fact that the country was going through a different phase of development, people were migrating, there was a need to think about regulating employment relations, making sure that migrant workers get basic social security when they reach the destination, etc. So it was these kind of the debates led to the enactment of ISMA.

**Bharti Ali:** The history and context are indeed useful and important to understand why a law like the Inter-State Migrant Workment Act (ISMA) was introduced. So, what are the key provisions of ISMA? What are the salient features of this law that the readers need to know?

**Chandan Kumar:** In my opinion, there are largely four aspects to be considered in a law like ISMA. One is to recognise that distress migration is a real problem and there has to be some statute which can regulate the 'distress situation' in the process of migration. The second comes from the expectations of the labour movement in the context where the workers

*When we talk about wages we have the Minimum Wages Act, when we talk about social security, we have multiple legislations like ESIC, EPFO and those kinds of laws. The third one is employment relations which is very much covered by the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946. So, ISMA is mix of all these laws focusing on the migrant workers to make sure that the migrant workers also access these basic core labour rights and statutes meant for the overall working class.*

are facing crisis and exploitation, and where the precarity is higher when you migrate to the cities and urban clusters. Then there is the aspect of how the migrant workers can be brought under the purview of labour laws in order to ensure wages, social security, employment relations and the fourth is that they receive sufficient attention of the state. These are largely the four aspects where we can say the core labour rights lie. When we talk about wages we have the Minimum Wages Act, when we talk about social security, we have multiple legislations

like ESIC, EPFO and those kinds of laws. The third one is employment relations which is very much covered by the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946. So, ISMA is mix of all these laws focusing on the migrant workers to make sure that the migrant workers also access these basic core labour rights and statutes meant for the overall working class.

**Bharti Ali:** So as I understand, if I am a worker from Bihar and I go to Rajasthan to work in a brick kiln some of my rights get secured through an act like ISMA, but may be not all because the minimum wages for instance differ from state to state. I may not know if the minimum wages in Rajasthan would be good enough for me or should I choose another state to go to and those are factors which probably can help in deciding where I will go to work, the situation of distress and availability of work. One wonders therefore if the 'labour rights' are fully met despite laws like ISMA. Would you be able to shed more light on the loopholes in a law like this?

**Chandan Kumar:** Firstly, I personally believe that the labour rights is not a stand alone agenda and something that you get through a law alone. Labour rights have a component of political justice, economic justice and social justice. So, in my opinion, It's a tricky question if a legislation can ensure justice. India is well known and famous for enacting legislations, but how many of them are actually enforced on the ground is a reality we know. How sensitive we are towards our citizens, towards our people and their dignity is a bigger question rooted in class, caste, gender, ethnicity and linguistic perspective.

Before we are citizens, before we are workers, we are Dalits, we are Adivasis, we are Brahmins, we are Rajputs, we are Hindus, we are Muslims, etc. We carry so many identities. Like Baba Saheb Ambedkar had said that even though we are bringing the constitution to India, this constitution is meaningless if we don't understand the spirit and intention of bringing the constitution. Today we hear people openly say that they don't care about what the Constitution says and you hear things like "Ek dalit ne aake likh diya toh hum kya maanenge usko" ("are we to abide by what is written by a dalit" - referring to BR Ambedkar, one of the key writers of the India Constitution who was a dalit). There are hundreds of people saying "hum samvidhaan ko nahi maante" ("we won't follow the Constitution"), so who will follow ISMA?

Till the time we do not believe that this law is for me, I am not sure if anybody is going to implement it, be it the authorities or the society.

Secondly, we also have to understand the way our economy is shifting. We have to understand the larger economic progresses that has happened in India especially post 90s when economic liberalisation policies were introduced by Dr. Manmohan Singh's government. We have to understand the way India opened the doors for the market and the economy was liberalised, different labour laws were either weakened, removed or dismantled. I remember how S.M Krishna, who was then the Chief Minister of Karnataka had said that India is all set to become an IT power and any company that comes to India can invest and in Karnataka it will be ensured that they do not need to adhere or comply to the labour laws. This is how the Chief Minister was wooing companies to invest and flourish in India and his state, even if the Indian labour got the most precarious jobs to do. This is how he was offering slave labour to multinationals. It is very important as a labour researcher to understand this economic shift and how it impacted the volume and degree of migration.

We see a whole migration corridor, an economic corridor that was created, starting from North India to South India in the last twenty years. Starting from Sonipat, Panipat, Gurgaon cluster keep going down the Delhi-Mumbai highway from Manesar, which has the automobile industry to Alwar to Udaipur, the whole Rajasthan belt reaching Baroda, Ahmedabad, Surat in Gujarat, then Mumbai and Mangalore to Kochi coastal highway in the South and then you have the middle highway to Bangalore, to Chennai, the Erode-Coimbatore garment cluster in Tamil Nadu. We have done the mapping to see who is where in which state, who are the workers, where are they coming from, why, which caste do they belong to, which district and so on. We have also done a tour of this migration corridor. If you see the workers in the coastal areas, who are these people? They are the same dalits, adivasis and muslims - the most oppressed communities coming from Bihar, Uttar Pradesh, Odisha, Bengal and Assam in the Northeast. We know what the situation in the Northeast has been, the years of insurgency which has pushed people to migrate as there is no industry, there is no economic activity to fall back on. People are also migrating from the entire Eastern and Central India - states like Chhattisgarh and Jharkhand. I will give you a small example to understand the gravity. If we go to the Surat Powerloom industry, over 8 lakh workers come from one district called Ganjam in Odisha. In Jammu and Kashmir, in the entire brick kiln cluster, all the workers come from two districts - Jajagir and Champa in Chhattisgarh. If you go to the manufacturing sector in Maharashtra and Gujarat, which is garment and textile industry largely, we see that 90 percent of workers are from West Bengal and Odisha. You go to Tamil Nadu, the garment hub, Erode, Namakkal, Tirupur, Coimbatore, 80 to 90 percent labour are adivasi women from Jharkhand and Odisha. There is a clear pattern to who is coming from where, their caste, ethnicity and religion. So what does this tells us? It tells us about the collapse of the rural economy. In a very structured manner, we have pushed people to migrate. There's mining happening in Jharkhand, Chhattisgarh and Odisha and people are displaced in a very organised manner. The feudal economy is still being encouraged, people have been organised on identity-based politics, people are migrating. Then if we go to areas where massive infrastructural projects are coming, big dams are happening there, people are being displaced. So there are a number of economic and social reasons, where a situation

*...labour rights is not a stand alone agenda and something that you get through a law alone. Labour rights have a component of political justice, economic justice and social justice. So, in my opinion, It's a tricky question if a legislation can ensure justice. India is well known and famous for enacting legislations, but how many of them are actually enforced on the ground is a reality we know. How sensitive we are towards our citizens, towards our people and their dignity is a bigger question rooted in class, caste, gender, ethnicity and linguistic perspective.*

is created that pushes people to migrate in search of livelihood and for survival. The narratives that "cities are engines of economic growth" have also played their role. The governments have wanted people to migrate, to leave their cultural and social roots and traditional livelihoods to become city dwellers and live in the ghettos. This is followed by new narratives like the 'Right to the City' as David Harvey has argued. But how to ensure the 'Right to the City' in a country like



India, where we still see a divide in people on caste, class, gender, linguistic and religious lines. I just came back from Bangalore and there is a lot of intense situation - dynamics between Kannadigas and Non-Kannadigas. Similarly in Maharashtra - Marathis versus non-Marathis. So, on linguistic lines the workers are kept on the margins and no effort is made to change the status quo. We need cheap labour and bonded labour from the migrant workers for meeting our economic productivity goals, but we cannot ensure them recognition of their identity and allow them to be part of the state economy, which means giving them access to social security. It's a very clear, adamant and capitalist kind of position in all the states. This is intentionally created in a planned, structured and well thought manner. In this situation, when the whole economy now rests on the premise that distress migration is inevitable and needed for economic prosperity, what can a piece of legislation like ISMA do or change?!?

**Bharti Ali:** Has ISMA been implemented at all in any part of the country?

**Chandan Kumar:** I will say attempts have been made. But personally, I have not seen even a single state where ISMA has been implemented effectively. So, there's a whole debate about the effectiveness of ISMA. Around 2015, ILO anchored some of the very progressive MoUs between the states keeping in mind the inter-state migration trends. One MoU was signed between Odisha and Telangana government which spelt out the responsibilities of source and destination states to ensure safe migration and security of the workers. For example, setting up a migration facilitation centre in the source state (Odisha) to make sure that every panchayat, every block and every Nagar Parishad is maintaining the register of people who are migrating. The labour department has to ensure that all the labour contractors are registered under ISMA. To get a license, a labour contractor has to pay a certain amount of fee. Then they can take workers to different states

*... there's a whole debate about the effectiveness of ISMA. Around 2015, ILO anchored some of the very progressive MoUs between the states keeping in mind the inter-state migration trends. ...*

*... There is an MoU between Chhattisgarh Government and Karnataka Government. I remember I was working in ActionAid when an MoU was signed between Rajasthan Government and Bihar Government. ... So, there were some serious attempts, especially after an incident where the hands of two migrant workers from Odisha, who were being taken to Andhra Pradesh to work in the brick kilns, were chopped off.*

*We achieved some things but not all that is needed. As I said, migration is part of economic productivity and the country's "progress". The irony lies in the fact that the economy is flourishing and prospering on slave labour, so why would anybody eradicate slave labour and distress migration?*

and it is their responsibility to ensure that the workers are paid properly, their wages are ensured. Travel allowances have to be paid by the labour contractors and they have to ensure workers' security in the destination state. Once the workers reach the destination state (Telangana), the government has to make sure there is a proper labour inspection system in critical areas where the migrant workers are on the margins, like the brick kilns, agriculture, small-scale industry and so on. They have to go and check if the workers are getting proper wages, if children of migrant workers are connected with the local public education system, women are able to use crèche facilities for their young children, workers have access to the PDS system for subsidised food and are not being exploited, etc. In the MoU, there are also certain

responsibilities for the Central Government as the subject of 'labour' is in the Concurrent list of the Constitution. The Central Government has to anchor dialogue and discussion and review what all has happened from time to time in collaboration with ILO. So a lot has happened on paper.

There is an MoU between Chhattisgarh Government and Karnataka Government. I remember I was working in ActionAid when an MoU was signed between Rajasthan Government and Bihar Government. We saw massive child migration or I should say child trafficking from Gaya district for zari work in Jaipur. We had actually set up a Migration Facilitation Centre in Jaipur. We rescued so many children in Jaipur from different industrial clusters. Most of the children came from Jehanabad Urban and Gaya districts of Bihar and belonged to the Musahar community. So, there were some serious attempts, especially after an incident where the hands of two migrant workers from Odisha, who were being taken to Andhra Pradesh to work in the brick kilns, were chopped off. The Supreme Court took up the case suo moto. Sudhir bhai and I intervened. We called their families and helped them with their affidavits. There was a lot of noise at that time; it was turned into a political question. Swami Agnivesh was also alive then and with his help we could bring the issue on the political agenda. We did media advocacy, got the UN to write a letter to the government, built pressure through the Office of the High Commissioner for Human Rights Commissioner (OHCHR), which got the ILO moving. We achieved some things

but not all that is needed. As I said, migration is part of economic productivity and the country's "progress". The irony lies in the fact that the economy is flourishing and prospering on slave labour, so why would anybody eradicate slave labour and distress migration?

A migration facilitation centre was opened in Bolangir in Odisha with much fanfare because of the ILO MoU. As you know, Bolangir is like the hot spot, like the epi-centre for migration of workers from Odisha. But the centre was vandalised and demolished the very next day by a local mafia of labour contractors operating under the aegis of a Member of the State Legislative Assembly (MLA). How can ISMA be implemented in such circumstances?

**Bharti Ali:** We documented the Odisha case in our last newsletter. And despite all these MOUs as you rightly said, on the ground the implementation is poor. Another problem Sudhir Katiyar ji had mentioned in that newsletter is that the contractors in Western Odisha have to pay a certain amount for every worker he takes out, and that money is actually extracted from the workers. Payments have to be made to different people at different levels. Therefore the Inter-State Migrant Workmen Act can also turn exploitative. So, my thought is that (a) we make these laws, (b) they don't get implemented for various reasons you mentioned, and (c) there is no monitoring to ensure that all the exploitative means used or corruption that's there in the implementation of laws is addressed. We know that we do not have enough labour inspectors to monitor the implementation of laws like ISMA. So do you think we should continue to lobby for implementation of ISMA and if yes, what would be your suggestion with respect to implementation and monitoring of ISMA, who should do that, how should it be done? The COVID pandemic has taught us a lot of lessons. The government is now talking about tracking the migrant workers and there is a critique around that too as tracking also means invading into someone's privacy and therefore tracking to what extent? So, how does one monitor the whole process of regulation, registration of migrant workers and then the corruption that is involved?

**Chandan Kumar:** I don't know how to answer this. I'm sorry for being cynical, but this comes from experience. You must watch this documentary titled, "Harvest of Hunger". It is directed by Rupashree Nanda, who's now a journalist with CNN IBN and was produced by ActionAid. The documentary bagged a National Award. Harsh Mander, the then Country Director of ActionAid had documented the famous case study of Bilasini, narrating the life of migrants. Then came this documentary which shows the entire process of migration - the process of advance money taken by workers from the contractor, including the cycle of exploitation that ensues and how the workers migrate. The film shows a small railway station named Kantamanjhi, how the workers reach the station, before boarding the train they have to give money to the GRP personnel, once on the train they have to shell out money to a lot of people who comprise the mafia, then they reach Visakhapatnam station and are ferried to another station to get to Hyderabad and Bangalore, and so on. During the start of the season, 7 to 8 lakh tickets are sold from just one station and so the entire process is captured in camera. A book titled, "Politics of Poverty" also talks about the process of migration. Whether there is a law or not, the whole system is exploitative with the vultures out to prey. The labour contractors deduct money for the workers' travel, food, medicines and everything from the final payment they make to the workers. So the entire system is actually created to exploit the workers and that is the first answer to your question regarding implementation and monitoring of ISMA.

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*The migrant workers do not fall under the category of workers because they are not recognised and registered under any labour laws. ... Anumeha Yadav, an independent researcher and journalist did a story in which she has written that one labour inspector has the responsibility of 6000 factories that employ over 100,000 workers. So the labour department does not have enough capacity to deal with even those industries and sectors where people are officially recognised as a workers.*

The migrant workers do not fall under the category of workers because they are not recognised and registered under any labour laws. Do you think labour department has time to inspect these workers? The existing labour governance system cannot cater to the demands and needs of the existing industrial workforce. Anumeha Yadav, an independent researcher and journalist did a story in which she has written that one labour inspector has the responsibility of 6000 factories that employ over 100,000 workers. So the labour department does not have enough capacity to deal with even those industries and sectors where people are officially recognised as a workers. They do not have

time to monitor a factory which is located just two kilometers away from their office. We had framed a few questions and raised demands regarding what needs to be done in order to reform the existing labour administration system. If you ask

me personally, across the country I don't think the labour department has the capacity to oversee the informal industry and economy and over 200 million migrant workers, who do not figure in any category. It is impossible to implement labour laws. Also, I would like to connect this to the whole debate around recruitment in the government sector. Ravish Kumar who used to be with the NDTV had tried to present data regarding recruitment in the government sector, be it recruitment in Anganwadis, recruitment in banks, education etc. Yet we see the government has stopped all the recruitments. If you go to the office of the labour department, you will find only two or three labour inspectors and no more. We have to do a whole new level of advocacy around recruitment and systems' reform in the labour department. So that is the second part of my answer to your question.

I and Sudhir ji from CLRA are part of the core group of the NHRC and their bonded labour committee. We had also been part of drafting of the NHRC guidelines in this regard and their implementation, including implementation of the three landmark orders given by Justice PM Bhagwati in three cases - Bandhua Mukti Morcha case, Neerja Chaudhary case and the PUDR case (the Asiad workers case), whereby it was established that if a worker who is not paid minimum wages, there shall lie a presumption that such workers is a bonded labourer. On the basis of these judgements we rescued many workers and got them compensated. But we could never get ISMA per se implemented despite all efforts. We worked a lot with the NHRC also, wrote to the Collectors asking them to take certain measures, but ISMA couldn't be implemented. It is not practical to implement ISMA. Issues of migrant workers have to be taken up within the framework of bonded labour. Moreover, ISMA cannot be implemented in the current political cloud and the labour administration structure. We should also read the OSH Codes (Occupational Safety, Health and Working Conditions Code, 2020). I had prepared a briefing note for the Parliamentarians on the Code and have written about the Code not addressing many issues pertaining to ISMA. For example, under ISMA, if you are migrating along with the labour contractor who has a license, then you are entitled to get benefits. Under the new OSH Code too, if you are migrating with a labour contractor you will get the rights guaranteed under ISMA. However, over 90 percent of the migrant labour has no paper work to show the involvement of the labour contractor. Even though they are migrating with the labour contractor, the labour contractor will not say that the workers are with him nor will they have a license. Hence you cannot get ISMA implemented. For implementing ISMA, the basic question is about labour contractor versus non labour contractor led migration. The second question is of the threshold laid down in the OSH Code for application of the Code on a registered establishment under ISMA. The Code will apply to an establishment employing ten or more inter-state migrant workers on any day in the preceding twelve months. So if you have a threshold like this, my analysis says that you are already kind of discarding and removing 90 percent of the migrant workers from the purview of the law. These are some small flaws which we are raising.

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**Bharti Ali:** So what are your suggestions for the Government, the Trade Unions and the Migrant workers? Or do we just resign to fate and say this is the way it's going to be?

**Chandan Kumar:** It's a similar situation for migrant workers the world over, not just in India. If you go to Berlin's cities, majority of the workers are Turkish or Eastern Europeans and they are treated as outsiders. There are the Hispanics in North America. Racism and discrimination are rampant. Globally, the structure of the economy is such that status quo on inequality is maintained for the non-recognised workers or the invisibilised workforce. The wealth that is created in the world is because of slave labour or slavery like conditions of work. If you talk of India then things are even more complex due to caste, gender, linguistic and other social divisions. As regards the Trade Unions, the Trade Union movement in India is on ventilator. If you see, in Europe, it was the Trade Unions that created political parties, whereas in India the political parties set up the Trade Unions like the INTUC affiliated to the Congress Party, CITU affiliated to the Communist Party of Marxists, AITUC affiliated to the Communist Party of India, HMS affiliated to the erstwhile Socialist Party, BMS affiliated to the RSS. Evolution of the Trade Union movement started with the development of industrial economy and it was



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believed that the workers will be organised when they come to the factories for jobs. Those times changed post 1980s and died out post 1990s. But the Trade Unions are still living in the times of the 18<sup>th</sup> century industrial revolution in England. So Trade Unions have not learnt how to organise workers beyond the factory gates. Secondly, the trade unions are aligned with the ideology of their political party, their political godfathers and godmothers. Even if we go to down South to the States like Kerala and Tamil Nadu, despite their alignment with the Dravidian politics, progressive outlook and engagement on Priyar and Ambedkar, they don't talk much on the migrant workers' issues. I have seen 'Ugly Nationalism' even among progressive people and movements. You stand at any labour chowk

(crossroad) in Trivandrum, Kochi, Chennai or Madurai, you will find a huge workforce, getting good wages which attracts them to these states. I am talking about non-industrial workforce, largely manual labour. Despite being progressive, these southern States are so hostile and reluctant to treat the migrant workers as part of their economy. And now there are new fears that if the migrant workers are registered and allowed to vote, it will change the political power structure in the State and allow BJP to make inroads. The bottom line is that the artificial and fake nationalism is overpowering the rights, social justice, economic justice and political justice which is guaranteed in the Constitution of India.

**Bharti Ali:** With the spaces shrinking for the civil society organisations (CSOs), in the coming times what are those two or three issues that CSOs should focus on in the context of inter-state migrant workers and their rights?

**Chandan Kumar:** Apologies if I am being critical here. Who is the "Civil Society"? Majority are those running NGOs. They get projects, work on them and then it gets over and they get another project to work on while everything done under the first project comes to a standstill. Trade unions are civil society but I have already explained that they are linked to the political parties and therefore cannot work the way they ought to. Who else is "civil society". There may be a few progressive people who want to do something, but will not have the ecosystem required for it. I feel that unless you turn the issues and concerns into political questions, nothing is going to change.

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*... we need to start analysing what is the contribution of migrant workers for the economy and economic progress ...*

*... This work requires a long-term vision, a long-term programme, dedication and commitment, people with political thinking who can work on such issues. ... Turning this debate into a political agenda requires a roadmap and action.*

As a labour researcher, as a social researcher we need to start analysing what is the contribution of migrant workers for the economy and economic progress? How the migrant workers are running the country? We need to strengthen this debate and raise it during every election. I cannot say to what extent the civil society will take this forward during elections because they will only be able to do it if they have a project in hand at that time. This work requires a long-term vision, a long-term programme, dedication and commitment, people with political thinking who can work on such issues. Otherwise we can do one or two research and publish lots of reports at best. Unless we link these reports with those on the ground this debate will not move any further. Turning this debate into a political agenda requires a roadmap and action. Sorry for sounding so cynical.

**Bharti Ali:** I think it is not about being cynical, but about looking at so many issues together and having a larger perspective on the subject. And its true, that many things end with projects as resources are needed to invest in process driven interventions that may take many years. In such circumstances what are those one or two issues on which work can be continued in the future and for which attempts can be made to raise funds?

**Chandan Kumar:** There are some good examples to follow. If you look at international migration in the Phillippines, their



Government signs proper MoUs with the UAE and Kuwait before the workers are sent out for ensuring that the receiving countries take full responsibility of their migrant workers. If Bihar Government, Chhattisgarh Government and other State Governments adopt similar practice, the situation can improve.

If you look at the condition of Indian, Nepali and Pakistani workers in the Gulf countries, even bond labour appears a

*While the government acknowledges that the country has prospered economically because of the migrants, does Bihar get any remittance from it? We should do more research on this question of remittance and connect it to the political economy and raise our voices around it.*

mild description. While the government acknowledges that the country has prospered economically because of the migrants, does Bihar get any remittance from it? We should do more research on this question of remittance and connect it to the political economy and raise our voices around it. We need a political narrative and a political narrative can be set up when we have a good set of data, good set of logical debates. We need to

create this evidence and find small groups of people/partners/stakeholders who can politicize this data to take it forward. This can be the next step in order to push the agenda for migrant workers.

**Bharti Ali:** And creation of evidence is where no body wants to fund an NGO. Sadly, we see very little progress on the ground. We are talking about the portability of schemes now for the migrant workers. The new OSH Code also refers to portability of schemes and ensuring workers' access to these in the destinations. Recently, the CLRA team in Rajasthan got access to ration for 753 inter-state migrant worker families from Chhattisgarh, Uttar Pradesh and Bihar under the One Nation One Ration Card (ONORC) scheme. NGOs can make some efforts but only within their reach and limits. We are a country of over one billion, with a significantly large segment of migrant worker population struggling for access to food under the ONORC scheme. In a situation where we are unable to implement one portable scheme, how are we going to ensure portability of other schemes on health, nutrition, education, etc.?

**Chandan Kumar:** I'll share an experience here from Maharashtra during the COVID pandemic in 2020, which also helped us design the framework for the Supreme Court case on E-shram portal. We approached a young IAS officer who was the CEO of Zila Parishad (District level local self Governance body). We asked him to start a small token system which the migrant workers can use to access food under the PDS (Public Distribution System) for the next two months. He understood and provided us the tokens. We were able to provide a temporary token for ration to 46,000 workers for 6 months. Who and what are we waiting for to implement portability of ration? When there was a political will an IAS officer did what was needed in times of crisis. We see that there is a trust deficit and lack of political will.

*... during the COVID pandemic in 2020 ... We were able to provide a temporary token for ration to 46,000 workers for 6 months. ... Who and what are we waiting for to implement portability of ration?*

Bharti Ali: Implementation of the Inter-State Migrant Workment Act has failed. We have now moved on to talking about portability of schemes. Here too we are facing challenges and as you say, not much will be achieved if there is no political will. And then we will move on to a new jumla (shenanigan). Where does it all take us?

*Unless we work on the political will, make concerns of inter-state migrant workers a political issue such that people start voting on such issues and keep raising the critical questions, nothing will change.*

**Chandan Kumar:** Unless we work on the political will, make concerns of inter-state migrant workers a political issue such that people start voting on such issues and keep raising the critical questions, nothing will change.

**HAQ: Centre for Child Rights is extremely grateful to Mr. Chandan Kumar for such candid sharing of his experiences and thoughts. All the interviews with experts published so far point to the need to invest in generating evidence and raising the concerns at the national level, making them a part of the political agenda.**

# final thoughts...

“Eight out of 10 migrant children in work sites across seven Indian cities do not have access to education. Among young people who have grown up in a rural household with a seasonal migrant, 28 per cent identified as illiterate or had an incomplete primary education. Up to 40 per cent of children from seasonal migrant households are likely to end up in work rather than school.”

— UNESCO Global Education Monitoring Report 2019

## The key to change ...

Children must go to school

Early years of children need investment



विनायक विद्यालय के 6-14 साल के बच्चों का नाम-3 मा. विषय-  
कक्षा (आधी-1) के अंतर्गत (विषय) का फोन नं. 5-2810223

क्र.सं.	बच्चों का नाम	वर्षा (गिने)	पते (संख्या/सूचना)
1	शर्मिला कुमारी - F	4th	846
2	विद्या कुमारी - F	4th	847
3	अर्पिता - F	5th	848
4	रिमा शु - M	6th	849
5	प्रभा कुमारी - F	7th	850
6	नेहा कुमारी - F	7th	851

न. शर्मा

## ईट भट्टे पर एसएमसी और वीएचएसएनसी बैठक

अजमेर, 15 जून (दिलीप शर्मा): सेक्टर फॉर लेबर रिसर्च एण्ड एक्शन संस्थान के तत्वावधान में एसएमसी व वीएचएसएनसी की बैठक का आयोजन हुआ। यह बैठक जेएचडी ईट भट्टा बूथानी गांव में सीएलआरए संस्था द्वारा संचालित बालवाड़ी केंद्र पर आयोजित हुई, जिसमें समिति के 15 सदस्यों को भागीदारी रही। बैठक का संचालन ब्लॉक कोऑर्डिनेटर छोटू सिंह रावत द्वारा किया गया, जिसमें ईट भट्टे पर श्रमिकों के साथ आने वाले बच्चों की शिक्षा से जोड़ने और आंगनबाड़ी में पंजीयन करवाने की रणनीति बनाई गई। छोटू सिंह रावत ने समिति के सदस्यों को बताया कि इस बार हमारे प्रयास से ईट भट्टे के बच्चों का स्कूल और आंगनबाड़ी में



अजमेर: बैठक में उपस्थित संस्था के सदस्य।

पंजीयन हुआ है, लेकिन हमें प्रयास करना है कि ईट भट्टे पर श्रमिक आते ही बच्चों की शिक्षा की मुख्यधारा से जोड़ पाएं, इसके लिए सर्वे कर एसएमसी कमेटी की तरफ से गैर आवासीय शिविर खोलने का प्रस्ताव लिया जाए या फिर बच्चों को स्कूल

से जोड़ना है तो बच्चों के लिए स्कूल तक आने जाने के लिए गाड़ी की व्यवस्था भी की जाए और 0 से 5 साल तक के बच्चों का आंगनबाड़ी में पंजीयन भी समय पर हो पाए। जिला समन्वयक पंकज शर्मा ने बताया कि वीएचएसएनसी और

एसएमसी समिति को एक्टिव करने के लिए हर माह सभी सदस्यों के साथ समय पर मीटिंग होनी चाहिए और हमारे गांव में स्वास्थ्य, स्वच्छता, पेयजल संबंधित मुद्दों को समिति को तरफ से भी उठाना जाना चाहिए। बालवाड़ी कार्पकॉरिप्रा उक्त ने एसएमसी ब्रजभूपण मीना को बताया कि ईट भट्टे पर सभी मजदूर टंकी से पानी पीते हैं, जिसके कारण यह पानी शुद्ध है या नहीं इसको भी जाना होना चाहिए। एसएमसी ने बताया कि एनएम के साथ बातचीत कर इसको जांच कराई जाएगी। एसएमसी और वीएचएसएनसी समिति के सदस्यों ने ईट भट्टे पर आने वाले बच्चों के लिए शिक्षा और स्वास्थ्य के मुद्दों को उठाने जाने का आश्वासन दिया।



coming soon >>>

## In the Next Issue

Early Childhood Care for children of brick workers

Legal developments promoting rights of migrant workers workers:

Insights from important Supreme Court and High Court judgements

Success Stories

Ask the Experts: How are the Sustainable Development Goals

addressing issues concerning Seasonal Migrant Workers and their Families?



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