



La Excellence IAS

# MAINS WORK BOOK

**NO: 40/50**

## Draft Migrant Labour Policy

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PRIYA DESHINGKAR

## RECOGNISING THE MIGRANT

*Draft migrant labour policy must address reasons why labour laws aren't followed*

THE NITI Aayog's draft Migrant Labour Policy is a clear statement of intent to better recognise migrants' contribution to the economy and support them in their endeavours. It puts forward several radical ideas, including the adoption of a rights-based approach and establishing an additional layer of institutions to create a more enabling policy environment for migrants. It proposes a new National Migration Policy and the formation of a special unit within the Labour Ministry to work closely with other ministries. The new structure would bring about much-needed convergence across line departments and would be a huge step towards a universal understanding of the causes and effects of migration as well as the interventions needed.

The policy calls for improving the record on the implementation of the country's many labour laws that have, by and large, failed to make a difference to the lives of labour migrants. It discusses at length the provisions under the Equal Remuneration Act, The Bonded Labour Act, the Building and Other Construction Workers Act and the Interstate Migrant Workmen Act, among others. The draft also invokes the ILO's Decent Work Agenda as well as the Sustainable Development Goals which aim to protect labour rights. It acknowledges the challenges of welfare provision to a highly fragmented migrant workforce due to recruitment patterns and the lack of data. It refers to the importance of collective action and unions and there are detailed plans for improving the data on short-term migration, especially seasonal and circu-

Labour migrants from rural areas find work in the urban economy and high productivity rural enterprises either through kinship networks or labour market intermediaries. These networks are critical for supplying workers that can be positioned in jobs, where there is a demand for hard-working and controllable workers who will stay tied to the job, especially in the peak season.

lar migration. As a statement of goals, the draft contains much to be celebrated.

But the policy needs to delve deeper into the causes underlying the poor implementation of labour laws that are linked to the political economy of recruitment and placement. Labour migrants from rural areas find work in the urban economy and high productivity rural enterprises either through kinship networks or labour market intermediaries. These networks are critical for supplying workers that can be positioned in jobs, where there is a demand for hard-working and controllable workers who will stay tied to the job. One way of ensuring that workers do not leave because of harsh conditions is to bond them through the notorious system of advances. Although illegal, this kind of arrangement is attractive for migrants from relatively disadvantaged backgrounds as they cannot mobilise large sums of money for weddings, housing and repaying loans. There is reference to unfair recruitment practices in the document, but virtually no analysis of why the system persists and how it is enabled by the employment structure of businesses and enterprises.

Another area where the draft needs to be strengthened is addressing gender differences in employment. Domestic work is one of the most important occupations for migrant women from relatively disadvantaged backgrounds. Although the new policy aims to be inclusive of all kinds of marginalised migrants, it could do more to explicitly mention the challenges faced by domestic workers. It would be very easy for them to remain ex-

cluded as India has not ratified the ILO Convention on Domestic Workers and The Domestic Workers Bill 2017 has not become law. Other kinds of home-based work, enormously important for female migrants could similarly remain excluded.

Another point to raise here is the apparent ambivalence about the ability of tribal migrants to think for themselves and decide how they access the opportunities offered by migration. Early in the draft we see a commitment to recognising migrant agency, but this is less clear in the section where tribal migration policies are discussed. Tribal migration is constructed as a process whereby recruiters are "luring" or even trafficking them. Domestic work, which is mentioned in this context, is an important source of income for tens of thousands of tribal women from impoverished backgrounds in eastern Indian states. There are, of course, some instances of abuse, but these do not represent the majority experience. There is a need to better understand how migrants themselves weigh up the costs and risks against potential benefits of working in the city. Controlling tribal migration would go against the objective of recognising migrant agency.

To conclude, the draft policy is a good start which could, with a few adjustments, reduce the vulnerability and risks faced by labour migrants and ultimately build a more sustainable model of development.

*The writer is Professor of Migration and Development, University of Sussex*

### Source:

1. The Indian Express – Recognising the Migrant – 7<sup>th</sup> April, 2021
2. Down to Earth – National Migrant Policy: A good first draft – 7<sup>th</sup> April, 2021
3. The Frontline – NITI Aayog's Draft National Policy on Migrants – 26<sup>th</sup> March, 2021

**Context:**

In 2020, due to the outbreak of COVID-19, a large migrant exodus from the cities to villages was observed.

It was an experience which shook off the national conscience. To prevent any such incidence in the future, NITI Aayog has come up with the draft National Migrant Policy.

**Background:**

- The **Inter State Migrant Workers Act, 1979, covered only labourers migrating through a contractor, and left out independent migrants.**
- Recommendations of a 2007 report by the National Commission for Enterprises in the Unorganised Sector under the Ministry of Micro, Small and Medium Enterprises, **called for a comprehensive law for these workers, which would form the legal basis for architecture of social protection.**

**Rights based approach of new policy:**

- It describes **two approaches to policy design:**
  1. **focus on cash transfers, special quotas, and reservations;**
  2. one which **“enhances the agency and capability of the community and thereby remove aspects that come in the way of an individual’s own natural ability to thrive”.**
- It rejects a handout approach, opting instead for a **rights-based framework.** It seeks “to remove restrictions on true agency and potential of the migrant workers”
- It says migration **“should be acknowledged as an integral part of development”**, and “government policies should not hinder but...seek to facilitate internal migration”.

**Important provisions included:**

- Policy lays down **institutional mechanisms** to coordinate between Ministries, states, and local departments to implement programs for migrants.
- It identifies the **Ministry of Labour and Employment as the nodal Ministry for implementation of policies.**
- Directs to create a special unit to help converge the activities of other Ministries.
  - This unit would manage migration resource centres in high migration zones, a national labour Helpline, links of worker households to government schemes, and inter-state migration management bodies.
- On the inter-state migration management bodies, it says that **labour departments of source and destination** states along major migration corridors, **should work together** through the migrant worker cells.
  - Labour officers from source states can be deputed to

destinations – e.g., Bihar’s experiment to have a joint labour commissioner at Bihar Bhavan in New Delhi.

**How can it be made better?**

- Policy needs to **delve deeper into the causes underlying the poor implementation of labour laws** linked to the political economy of recruitment and placement.
- Policy also **needs to address gender difference in employment.** It could do more explicitly for the domestic workers as it constitutes a major part of employment.
- Draft does recognize the migrant agency, but this is **less clear** in the section where **tribal migration policies** are discussed.

**Value Addition:**

- The total number of internal migrants in India according to the 2011 census is 45.36 crore or 37% of the country’s population.
- Major cities like Delhi, Gurugram, and Mumbai are the hotspots for the in-migration.



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