Human Rights of Migrant Workers in India:

A Study of Workers from Assam in Kerala

A Thesis Submitted

To

Sikkim University

In Partial Fulfilment of the Requirement for the

Degree of Doctor of Philosophy

By

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Peace and Conflict Studies and Management

School of Social Sciences

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Declaration

I, Swgwmkhang Brahma, hereby declare that the research work embodied in the thesis titled **"Human Rights of Migrant Workers in India: A Study of Workers from Assam in Kerala"** submitted to Sikkim University for the award degree of Doctor of Philosophy, is my original work. This thesis has not been submitted for any other degree of the University or any other University.

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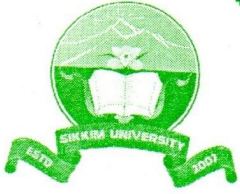
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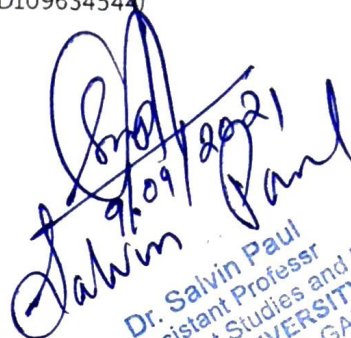
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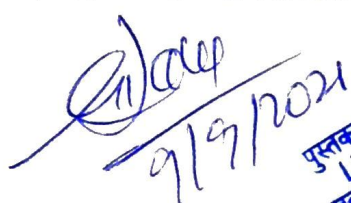
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Acknowledgement

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Abbreviations

AABY	Aam Aadmi Bima Yojana
Af.DB	African Development Bank
AFL	American Federation of Labor
AIDS	Acquired immunodeficiency syndrome
ANI	Asian News International
ASEAN	Association of Southeast Asian Nations
AU	African Union
BC	Before Christ
BCE	Before the Common Era
BLTF	Bodo Liberation Tiger Force
BTAD	Bodoland Territorial Areas District
BTR	Bodoland Territorial Region
BWRDP	Banaskantha Women's Rural Development Project
CE	Common Era
CEDAW	Convention on the Elimination of Discrimination Against Women
CMID	Centre for Migration and Inclusive Development
CMW	Committee on Migrant Workers
CPO	Civil Police Officer
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CTOCIDTP	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
DLR	Department of Land Resources, Government of India
EBRD	European Bank for Reconstruction and Development
ECHR	European Convention on Human Rights
EPFO	Employees' Provident Fund Organisation
ERISA	Employee Retirement Income Security Act
ESIC	Employees' State Insurance Corporation
EU	European Union
FCI	Food Corporation of India
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GIFT	Gulati Institute of Finance and Taxation
GoK	Government of Kerala
HIV	Human Immunodeficiency Viruses
HPEC	High Powered Expert Committee for Estimating the Investment Requirements for Urban Infrastructure Services
IAD	Institute of Applied Dermatology
IADL	International Association of Democratic Lawyers
IANS	Indo-Asian News Service
IAY	Indra Awass Yojna
ICC	International Coordinating Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination

ICLR	International Commission for Labour Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICTTUR	International Centre for Trade Union Rights
ID	Identity Document
IFC	International Finance Commission
IGSSS	Indo-Global Social Service Society
ILO	International Labour Organisation
ILP	Inner Line Permit
IMF	International Monetary Fund
IOM	International Organization for Migration
IP	Insured Person
IWDP	Integrated Wastelands Development Programme
KASWW	Kollam Social and Women's Welfare
KLNLF	Karbi Longri National Liberation Front
KMDS	Kimidi Multisectoral Development Society
KSLMA	Kerala State Literacy Mission Authority
LN	League of Nations
LPG	Liquefied Petroleum Gas
MF	Ministry of Finance, Government of India
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MHUPA	Ministry of Housing & Urban Poverty Alleviation, Government of India
MLE	Ministry of Labour and Employment, Government of India, New Delhi
MOIA	Ministry of Overseas Indian Affairs, Government of India
MRD	Ministry of Rural Development, Government of India
n.d.	no date
n.p.	no place
NAAEC	North American Agreement on Environmental Cooperation
NAALC	North American Agreement on Labour Cooperation
NAFTA	North American Free Trade Agreement
NDFB (S)	National Democratic Front of Boroland (Sangbijit)
NDFB	National Democratic Front of Boroland
NEI	Northeast India
NFFWP	National Food for Work Programme
NGOs	Non-Governmental Organisations
NHRC	National Human Rights Commission
NHRI	National Human Rights Institutions
NLU	National Labor Union
NREGA	National Rural Employment Guarantee Act
NSS	National Sample Survey
NSSO	National Sample Survey Organisation
OAS	Organization of American States
OBC	Other Backward Class
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSHA	Occupational Safety and Health Act
PDS	Public Distribution System
PIB	Press Information Bureau
PMAY-G	Pradhan Mantri Awaas Yojana – Gramin

PMGSY	Pradhan Mantri Gram Sadak Yojana
PTI	Press Trust of India
SAARC	South Asian Association for Regional Cooperation
SAHRDC	South Asian Human Rights Documentation Centre
SC	Scheduled Castes
SEWA	Self Employed Women's Association
SGRY	Sampoorna Gramin Rozgar Yojana
SGSY	Swarnjayanti Gram Swarozgar Yojna
SHGs	Self Help Groups
ST	Scheduled Tribes
TNN	Times News Network
UAE	United Arab Emirates
UDHR	Universal Declaration of Human Rights
ULFA	United Liberation Front of Asom
UN	United Nations
UNCHR	United Nations Centre for Human Rights
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNO	United Nations Organisation
US	United States
USA	United States of America
USA	United States of America
USSR	Union of Soviet Socialist Republics
WB	World Bank
WHO	World Health Organisation
WTO	World Trade Organisation

Chapter – 1

Introduction

The working population in India, especially migrant workers, has been facing continuous discrimination and exploitation in the hands of the contractor, the agent, the employer as well as the locals settled in the destination place, and that constitutes human rights violation. Over time, India has come up with various laws to protect them from exploitation. But even in this globalised era the living conditions of the migrant workers, particularly in the informal sector[1], is despicable and they become primary victims of conflict and violence. Say for instance in Northeast India (NEI), a region that has continuously witnessed violence and internal conflicts sees most of its natives move out of the region to become migrant workers in search of livelihood. What's more, the porous nature of the border of the region and the growth of the Indian economy become pull factors for migrant workers. Therefore, the scenario being what it is, in Assam as well as in other places such as Delhi, Bangalore and especially in Kerala, the experience of migrant workers has become crucial phenomena to be investigated for it gives an insight to their human rights status in the contemporary society.

The South Indian state of Kerala has a unique experience for migrant workers since the state has been the source, and has recently also become a sought-after destination, of migrant workers. In search of better livelihood, Keralite[2] has moved to Gulf countries and other countries of the world and have created a vacuum of working force to be filled by workers from other states of India primarily from Assam, West Bengal, Uttar Pradesh, Bihar, and Odisha. There are various studies which state that migrant workers get better pay in Kerala in comparison to their home states but it has also been reported

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[1] In this study the informal sector denotes the unorganized sector.
[2] For the purpose of the study the term Keralite has been used only to denote the people of Kerala without any intention to hurt the people of the state.

that they get less pay than the local workers. Besides, the cost of living in Kerala is relatively high which forces the migrant workers to reduce their basic amenities of living standard so that they can send a certain portion of their salary to their home states. In addition to that, migrant workers do face social discrimination in some working places in Kerala. Even then, Kerala has become a gulf for migrant workers from various states of India which include Assam, and other North Eastern states of the country.

In this backdrop, this study investigates the origin and evolution of migrant workers' rights, programmes and policies in India with special reference to the experience of migrant workers from Assam in Kerala to understand the factors that constitute the human rights of migrant workers.

Rationale and Scope of the Study

The concept of rights is not a recent origin. It existed since the state of nature where social contractualists John Locke (1632-1704), Thomas Hobbes (1588-1679) and Jean-Jacque Rousseau (1712-1778) argued for the same. And, the debated concepts contributed towards the codification of civil and political rights, and socio-economic and cultural rights under human rights in 1948 through the Universal Declaration of Human Rights (UDHR) (OHCHR, 1948). Further, the evolution of human rights contributed to contextualise the human rights of migrant workers through various international and regional conventions, and constitutions of various countries and their laws. For instance in India, internal migrants are offered civil and political rights, and socio-economic and cultural rights through Fundamental Rights (Constitution of India, 1950a) and Directive Principles and State Policy (Constitution of India, 1950b). Furthermore, the inter-state migrant workers are also empowered through the Inter-state Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 (MLE, 1979).

In the context of NEI although rights are offered to all, the continuous occurrence of violence and conflicts in NEI, particularly Assam has posed a challenge for the survival of the people of the region including migrant workers. Further, this condition becomes a push factor for leading its natives to move out as migrant workers in search of better livelihood. The high wages for workers (in comparison to their native place), shortage of workers in the destination, and the reluctance of the local workers of Kerala has got the attention of the workers in different states of the country, including Assam. However, it is also true that the wage received is lesser than what the local workers do for the same load of work, as well as the living standard and expense is relatively higher. Hence, it becomes a hurdle for the migrant workers to sustain with low payment.

As a result, the migrant workers are bound to stay in overcrowded rented rooms, worksites with limited water, lack of proper drinking water, latrine etc. The notable point here is that even the free accommodation offered by employers are overcrowded. Importantly, despite being Indian, the migrant workers from Assam are often treated as outsiders, branded as unreliable. What's more, they are often branded as Bengali Bhai[3] and Hindicari[4] in the state, in spite of having their own identity. But, most interestingly, despite its long-distance, the state of Kerala has been the destination for migrant workers from Assam. In this backdrop, the present study tries to explore the human rights status of migrant workers from Assam, particularly unskilled[5] working in Perumbavoor, Manjeri, and Urathur of Kerala.

A study on the human rights of migrant workers in India is pertinent as every individual's fundamental entitlement needs to be ensured. Among the major migrant

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[3] The term Bengali bhai has been used to indicate the migrant workers particularly from Assam as well as West Bengal in Kerala as majority of them speak Bengali language.
[4] Similarly, as Bengali bhai the term Hindicari has also been used in Kerala to refer Hindi speakers.
[5] For the purpose of the study the term unskilled workers have been used to mean a worker who has no any special skill as well as training.

destinations, Kerala presents itself as a case study since the state has the experience of sending as well as receiving migrant workers. Hence, the state has also conducted a study on domestic migrant labourers looking into factors such as their socio-economic conditions, as well as understanding the pull and push factors of unskilled migrants in Kerala. Besides, various Non-Governmental Organisations (NGOs) and Institutes such as Centre for Migration and Inclusive Development (CMID)[6] and Gulati Institute of Finance and Taxation (GIFT) have conducted studies to understand the status of migrant workers, especially their working conditions, wages, living condition etc. Further, there exists a repository of past work that allows the researchers to gain an understanding on the background of migrant workers in the state of Kerala and investigate their status with special reference to migrant workers from Assam in Kerala. This information could provide the state of Kerala a deeper insight into the human rights of migrant workers. But, concerning migrant workers from Assam in Kerala, the study has not been conducted until now from a human rights perspective.

Rights of Workers

The concept of rights has been a topic of debate in academia and has been met with various schools of thought. The concept has been broadly divided into natural, moral and legal rights. Kashyap (2014, April 28) states that natural rights are given by nature, moral rights are based on our ethical awareness and a sense of morality and justice, and legal rights are recognized by the state and are enforced by the court of law. McCloskey (1965) in his work explains that moral right is viewed "as being some sort of claim or power which ought to be recognized". Algan (2004) in his work quotes Locke to explain that in the state of nature, people used to enjoy the right to life, liberty and property. Heywood (2004) believes that certain rights are "laid down in law or in a system of

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[6] CMID is a non-governmental organisation working for the welfare of the migrant workers in Kerala.

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formal rules", and on the other hand, there are also other rights that "exist only as moral or philosophical claims". Whatever be the type of right, the problem lies in its recognition without recognition rights are empty claims. Steiner (1994) through his work observes that rights are constituted by rules and are exercisable. Campbell (2012) considers that the idea of rights came into politics as natural rights. Thus, rights are justified claims (Gillon, 1985) or legally enforceable claims (Abbey, 2005), and philosophers have traditionally debated over the nature of positive and negative rights (Renteln, 1988).

Hoffman (2007) in his work states that "rights necessarily generate responsibilities. Rights involve duties and it is impossible to have one without the other". Therefore, rights belong to human beings, instead of fetuses as well as animals. Simmons (1992) mentions that according to Locke rights are, by nature, superior to duties. Patrick states that the concept of rights got concrete shape in the American Constitution (Patrick, 2003) after the American War of Independence (1775-1783) but it has its origin in the Magna Carta (1215) which emphasised the rule of law. Harold Joseph Laski (1893-1950) the champion of freedom of speech and expression observes that "every State is known by the rights that it maintains" and according to him rights are the social conditions without which no one can strive to be his best self in general (Laski, 2015).

Chaturvedi (2009) explains various theories on the origin of rights: theory of natural rights considers that rights are not granted by the state but come from the very nature of man and his intrinsic being; theory of legal rights states that no right is absolute, nor is inherent in nature but is recognised by the state and that rights depend on the state for their existence; historical theory of rights views that rights are the product of a long historical process and it grows out of custom; social-welfare theory of rights considers rights as conditions of social welfare and state should recognise only those rights which

are designed to promote social welfare; likewise, idealistic theory or personality theory of rights considers that rights are the outer conditions which are essential to man's inner development. But, Beck (2006) quotes Immanual Kant (1724-1804) and states that natural rights such as "individual freedom, are not ahistorical, universal standards of political justice but the historical outcome of the long process of enlightenment".

According to Laski, liberty is the essence of rights and therefore cannot be appropriately protected in a capitalist democracy like America nor in a socialist dictatorship like Russia (see Laski, 1952/ 1968). As Laski believed that the provision of political liberty alone was not enough, he developed a blueprint of a just society where there would be social, economic and political rights. He also urged for the citizen's right to work and pleaded for humane conditions like work and fair wages also including political rights such as – right to franchise. According to Marxists (Karl Marx 1818-1883, Friedrich Engels 1820-1895), "rights under the capitalist system are the product of the demand for equality" which was raised by the bourgeoisie and "merchant industrialist class in the 17th century": the Marxists believe that "perfect equality and justice are only possible" in the communist societal system and not in the socialist because it is a transitional stage (Gauba, 2003). Though rights existed and belonged to all people including the working population, it could not be enjoyed equally. That's why the French Revolution (1789-1799) demanded, and did not appeal, for liberty, equality and fraternity (see Sen, 2004: 20). During the Industrial Revolution (1760-1840), particularly in England and United States (US), the workers also demanded for certain minimum labour standards, and as a result in the nineteenth century the US then witnessed the workers' movement which demanded for "eight hours of work, eight hours of recreation and eight hours of rest" (see Moody, 2014: 171.

Donnelly (1982) states that the term human rights has widely been accepted from the definitions of natural rights, as stated by "Locke and his successors". Their viewpoint was a simple one: that "rights (entitlements) held simply by virtue of being a person (human being)" and these rights are natural in the sense that they are derived from human nature (Donnelly, 1982: 391). Shestack explains human rights as a collection of moral principles whose justification falls under the purview of moral philosophy (Shestack, 1998: 202). Hoffman and Graham (2006) believe that human rights can be defined as "an entitlement to treatment that a person enjoys simply by virtue of being a human being". As such, human rights must be universally applicable to all irrespective of time and place. Yasin and Upadhyay in their work state that the "United Nations Centre for Human Rights (UNCHR) defines human rights as those rights which are inherent and without which we cannot live as human beings" (Yasin & Upadhyay, 2006).

Human Rights of Migrant Workers

United Nations (UN) after its formation brought the UDHR in 1948 and provided civil and political rights and economic, social and cultural rights to all human beings without any discrimination. Patnaik observes that "the concept of human rights gained currency in 20th century" (Patnaik, 2004: 500). Freeman views that with the proclamation of UDHR, "the concept of human rights has become one of the most pervasive in contemporary politics" (Freeman, 2011: 37). Since UDHR was only a declaration, the UN drew up two separate covenants: International Covenant on Civil and Political Rights (ICCPR) (OHCHR[7], 1966a) and International Covenant on Economic, Social and Cultural Rights (ICESCR) (OHCHR, 1966b) to make those rights enforceable.

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[7] OHCHR stands for Office of the United Nations High Commissioner for Human Rights

Those human rights which are available in the UDHR and two International Covenants are also available under the Constitution of India (SAHRDC[8], 2008), protected and promoted through the Fundamental Rights and Directive Principles of State Policy (Sinha, 2010a). Akhtar and Kumar (2012) mention that the architects of the Indian Constitution have ensured the unfettered freedoms of life to all citizens irrespective of their religion, colour, caste, creed and regional affinity. Satapathy (2008) in his work states that the political rights of the Indian citizens are also applicable to the working class. Besides, every citizen of India shall perform their duties, and those who are of 18 years of age and above provided he/ she is not otherwise disqualified has the right to be registered as a voter (Singh, 2010). Lewis and Skutsch in their work mention that "despite extensive constitutional and statutory safeguards, there are many human rights abuses in India" (Lewis & Skutsch, 2001: 260). Banerjee (2003: 424) also observes that instead of safeguarding the rights of the citizens, since its formation the National Human Rights Commission (NHRC) have "remained, mentally and physically, a disabled" institution.

Kavita (2014) and Reddy (2010) in their work explain how the concept of human rights developed through various stages and important landmarks such as the advent of religious thinkers, secular human rights thinkers and the documentation of history, contemporary movements and international human rights. It can be better understood when explained in terms of generations: the first-generation rights are related to liberty; second-generation rights are related to equality; third-generation rights are related to a fraternity (SAHRDC, 2006) and most recently, there is a development of the fourth-generation of rights where "the right to information is also a facet of the continuously evolving fourth generation of human rights" (Singh, 2015). Haas (2014: xi) through his

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[8] SAHRDC stands for South Asian Human Rights Documentation Centre.

work observes that with the end of the Cold War (1947-1991), "human rights concerns loom much larger on the world stage than ever before".

Human rights developed throughout the generations have not been designed only for a particular group of people but for all individuals including the working population. Without discrimination based on one's race, religion, nationality, language, sex, or any other factors those rights are, accessible to all individuals by the virtue of being human (Agarwal, 2006). Kumar in his work states that human rights are, universal, held equally by all simply because one is human, inalienable (Kumar, 2011) and the responsibility to respect those rights remain in the hands of the "state, government and private actors" (Renteln, 2008: 167). At the same time, Bruce and Yearley (2006: 140) also in their work explain that "being human is the only requirement" to enjoy human rights. Therefore, it can be understood that to enjoy rights as a human being, one needs to fill one only one requisite: to be a member of the human family (Roy, 1997). But in course of time, specific laws were formulated to meet the concerned issues based on a group such as convention related to women, children, and refugee. The UN also brought the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (OHCHR, 1990) intending to ensure human rights.

In the context of working people, at the end of World War I (1914-18), the necessity of efforts on a world-wide scale to combat the harmful effects of industrialisation was recognised and people too realised that there could be no peace without securing social and economic justice for the working people: these realisations later contributed to the formation of International Labour Organisation (ILO) in 1919 to set the international labour standards to offer protection to workers, and to provide commonly accepted norms for tackling worker issues (Tripathy, 2008). Presently, the First day of May is celebrated as International Workers Day in many countries including India after the

Haymarket massacre which took place in 1886 on Fourth May in Chicago (see Taneja, 2018 May 1).

Migrant workers, though possess those human rights, are not free from vulnerability. Wickramasekera (2002: 4-5) in his study observes the myths concerning migrant workers: "labour migration benefits only the sending country" and "migrant workers steal jobs from the local population" and "foreign workers pose a risk to the maintenance of socio-cultural homogeneity of the host country population". But it should be recognised that they contribute to the growth and development of the host country. Gulati (2006) observes through her study that immigrant domestic workers are in a despicable situation due to the lack of appropriate laws. Further, they are in the compulsion to live with employers and depend on employers for their basic needs for food and shelter. Abrar (2011: 281) explains the other types of problems which they face such as lack of reliable sources of information about the work opportunities, dependency on intermediaries, "seizure of personal documents by the employers or recruiters, non-placement against jobs promised, non-payment and irregular payment of wages, poor working and living conditions, lack of access to adequate health care facilities and prohibition on changing employer". Even though economic globalisation has intensified the movement of migrant workers, there is a growing demand for unskilled migrant workers in developed countries.

Similarly, in some of the states of India, migrant workers are not being paid minimum wages on time and there are no fixed hours of work. They are not provided overtime work wages (Hussain, 2012). Besides, they are also exploited by the middle man, contractor (Rai, 2013), and agents. Migrant workers are mostly work as domestic helpers, factory workers, rickshaw pullers (Khandekar 2010, November 17), garments' sellers, hotel helpers and suppliers (TNN 2016, September 8), and construction workers

(Pattanaik, 2009). Though migrant workers enjoy poor social protection, the phenomenon of migration is increasing over time within and between countries. Meng and Manning (2010) examine the internal migration of China particularly from rural to urban, estimated at around twelve million in 1980-85, thirty-seven million in 1994 to one hundred twenty-five million in 2005.

Migrant Workers in India

Sharma (2009) states that in India before the 1830s workers were subjected to exploitation and discrimination. But with the abolition of slavery in 1833 the tendency started declining. The introduction of Legislative Acts such as – Apprentices Act, 1850 and Fatal Accident Act, 1853 and Labour Laws that were passed in the post-independence era tried to protect the workers from exploitation (Sharma, 2009). In the context of migration, Sharma (2010) in his work mentions that economic, social, environmental and political issues have been some of the push factors of migration in India. Further, companies' demand and abuses of rights have also compelled the people to migrate in search of safety, security and a sustainable livelihood. Singh (2013) observes that the worker out-migration from NEI is a recent phenomenon and it is taking place due to the lack of job opportunities, political instability in this region and better job prospects in major cities of the country. According to Chyrmang (2011) migration has also been taking place due to business, education, marriage and other reasons. Besides, continuous occurrence of conflicts, atrocities in the region and no-proper-implementation of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)[9] furthermore fueled workers' migration especially from Assam to other regions. On the other hand, migrant workers who are working in the Northeastern

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[9] Before the second October, 2009 the MGNREGA was termed as the National Rural Employment Guarantee Act (NREGA).

region of India are subjected to exploitation, extortion identity conflicts, insurgency etc. Misra (2007) in his work explains the despicable condition of "Hindi-speaking small tradesmen, shopkeepers and migrant workers".

Rajeswaran (2015) states that the construction sector in India also employs both local and migrant worker but the latter constitutes the majority as they appear to be "cheaper and more docile than local labour" and mostly, they are found as uneducated, backward, and unskilled one. The notable point here is that they are engaged in informal and unorganised sectors. Such kind of workers are found in almost every state of the country where the state of Kerala is not an exception.

The state of Kerala has enough experience of engagement of migrant workers. At present, the state of Kerala has the "highest number of emigrants in the Gulf countries" (Rajan & Zachariah, 2010: 19) and in return, the state is receiving remittance, this being an intermediate factor for migration (Zachariah, Mathew & Rajan, 1999). Initially, this out-migration contributed towards the minimisation of poverty and unemployment in the state of Kerala (Zachariah, Mathew & Rajan, 2000). But later on, this out-migration created a scarcity of workers which then contributed to the increase of wages calling the attention of workers from other states: in a way, this immigration has worked to replace the emigration in the state. Though, at present, Kerala has become the Gulf for the workers from other states in the country (Aswathy M J, 2015) they can earn an average of rupees three hundred fifty per day (TNN, 2012 October 12). But the study of Menon states that the average wage is lesser than the wages that local unskilled workers generally get (Menon, 2011 July 27) in the state. Also the migrant workers do any cheap work that is available in Kerala even if the duration of work is longer. Zachariah and Rajan (2004: 5) in their work stated that "by accepting low wages and poor living conditions" the migrant workers have been "taking away a lot of work,

which otherwise could have gone to Kerala workers". But the fact is that local workers are reluctant to do the same work done by the migrant workers.

The migrant workers in Kerala are primarily from Assam, West Bengal, Bihar, and Uttar Pradesh. Narayana and Venkiteswaran in their report mention that the first batches of workers from Assam came to Kerala in the late 1980s and early 1990s "in the aftermath of a legal ban on wood felling and the consequent closure of wood/plywood industries" in the state of Assam (Narayana & Venkiteswaran, 2013: 20). The void created in the state of Assam was filled when wood industrial units were then set up in Perumbavoor. Mythri Prasad-Aleyamma in her work observes that there is a heavy dependency on migrant workers in Perumbavoor (Prasad-Aleyamma, 2011), so much so that if they'd decide to go home, many working sites would be shut down (ET Bureau, 2016 August 16): to this even the local people of Perumbavoor agree. Padmanabhan (2016) in his work observes that though the migrant workers in Kerala are wealth creators yet they do not get enough attention from the government and they are bound to stay as well as do the work in congested and unsafe locations. Saikia (2008; 2014) mentions that majority of the migrant workers stay in such places where there is no proper drinking water and sanitation. Migrant workers are also branded as "unreliable outsiders", "criminals" (Kumar, 2011b: 13) and carrier of diseases (TNN, 2013 February 24) and often they are called "Babu" (Nitha SV, 2015 December 18), Bengali Bhai and Hindicari by some local persons of Kerala. Radhakrishnan (2012, April 28) in his report mentions that with the growing number of migrant workers the state has also witnessed a growth in crime records. There are instances of exploitation and harassment of migrant workers in Kerala by the local people: in May 2016 a migrant worker of Assam was killed on suspicion (Kashyap & Philip, 2016 May 6) and

in October another migrant worker from Bengal was also shot with an air gun by the employer (TNN, 2016 October 31).

According to Ilankath (2016, June 19) as per the government record, there are only around one lakh fifty thousand migrant workers but GIFT puts the number at a staggering twenty-five lakh. In fact, the corona pandemic exposed the weakness of migrant workers' record and presents an even bigger population both at the state and centre. Since there is no consensus on the number of migrant workers, the government has been taking different steps for the welfare of migrant workers such as the *"Migrant Labourers' Welfare Scheme, 2010"* (Krishnakumar, 2011) and insurance scheme (Onmanorama Staff, 2016 July 18) called *"Aawaz Insurance"* which is a health cum insurance scheme. The government also issues guidelines to make the registration of migrant workers mandatory with a view to initiate certain welfare schemes as well as to have a check on their whereabouts but only sixty-three thousand two hundred workers are registered with police in Kerala (PTI, 2012 July 11) and only around fifty-three thousand persons are registered under the *"Kerala Migrant Workers Welfare Scheme"* till 2016 (PTI, 2016 June 28). But as every citizen of the country has the freedom of movement, the compulsory regulation as well as tracking them on their whereabouts would be a violation of their rights.

J. Binduraj (2014, June 4) in his report mentions that looking at the poor basic facilities of migrant workers and recognising their contribution to the state's growth, the Government of Kerala decided to provide accommodation on "minimal rent". As a result, Urban Affairs Department, Kerala began the construction of the night shelters for the migrant workers as well as for the natives at Perumbavoor (Kochi) where they can stay for two-three days (PTI, 2014 December 23). Furthermore, to ensure the protection of human rights of migrant workers, the Kerala High Court ordered the

closure of an overcrowded lodge for migrant workers at Ambalamugal (Kochi) (Correspondent, 2016 June 21). According to the Judge, such overcrowded camps posed a social problem as well as violations of migrant workers' rights (Correspondent, 2016 June 21). Importantly, *"Kerala State Literacy Mission Authority (KSLMA)"* has launched a programme to enable illiterate migrant workers to read as well as to write in Hindi and Malayalam and to make them aware of "legal, health and environmental matters" (The Hindu, 2016 November 9). Therefore, the present study would try to explore the human rights of Assam's out migrant workers in Kerala.

Objectives of the Study

- To analyse the origin and evolution of Rights to Human Rights, and to understand the Human Rights of Migrant Workers.

- To investigate Legislative initiatives, Programmes and Policies of Migrant Workers in India.

- To examine how Kerala has become both the source and destination of Migrant Workers.

- To examine the status of Human Rights of Unskilled Migrant Workers from Assam as well as the role of the state of Kerala in various welfare schemes.

Research Questions

- How did the Rights of Migrant Workers evolve into the current status of Human Rights?

- What are the various Programmes and Policies that ensure the Rights of Migrant Workers in India?

- How did the state of Kerala become the source and destination of Migrant Workers?

- What is the experience of Unskilled Migrant Workers of Assam in Kerala?

Methodology

The present study has focussed on the human rights of unskilled migrant workers from Assam in Kerala covering the area – Perumbavoor, Manjeri and Urathur of Ernakulam, Malappuram and Kannur districts. In this exploratory study, techniques such as literature review and then interview schedule, along with observation, have been employed to collect primary as well as secondary sources of information. In doing so, secondary data has been collected from various sources such as – books, journals, newspapers, magazines, and working papers. And, primary data has been collected from the field as well as native places, when they are present at their origin place or state, through an interview schedule which is consisted of closed-ended and open-ended questions. Notably, the observation and other primary sources such as reports of NGOs and the Government of Kerala (GoK) also form the basis of the study.

Table 1.1: Internal Migrants from Assam in Kerala		
Districts	Migrants based on place of birth	Migrants based on place of last residence
Thiruvananthapuram	995	986
Kollam	259	302
Pathanamthitta	304	435
Alappuzha	357	466
Kottayam	1,218	1,241
Idukki	370	300
Ernakulam	1,902	1,866
Thrissur	315	381
Palakkad	130	161
Malappuram	1,229	1,158
Kozhikode	391	409
Wayanad	40	44
Kannur	662	628
Kasaragod	90	92
Kerala	**8,262**	**8,469**

Source: Census of India (2011). *Migration 2011.* India: Office of the Registrar General & Census Commissioner.

According to the 2011 Census of India (table 1.1), there are eight thousand two hundred sixty-two (based on place of birth) and eight thousand four hundred sixty-nine (based on place of the last residence) migrants from Assam in Kerala. Among the migrants from Assam to Kerala, the Ernakulam and Malappuram districts of the state

accommodate the highest number of migrants that are one thousand nine hundred two (place of birth) and one thousand eight hundred sixty-six (last residence), and one thousand two hundred twenty-nine (place of birth) one thousand one hundred fifty-eight (last residence) respectively followed by other districts which include Kannur. Based on the place of birth Kannur accommodates six hundred sixty-two migrants from Assam whereas based on the place of last residence Kannur accommodates six hundred twenty-eight migrants from Assam. Out of the three thousand seven hundred ninety-three (place of birth) three thousand six hundred fifty-two (last residence) total migrants of Ernakulam, Malappuram and Kannur districts one hundred fifty migrant workers were interviewed through snowball sampling which represents nearly two percent (place of birth) and almost two percent (last residence) of the total migrants from Assam to Kerala, and nearly four percent (place of birth) over four percent (last residence) of the total migrants of three districts of the state namely, Ernakulam, Malappuram and Kannur.

To understand the status of human rights of unskilled migrant workers from Assam, as well as the role of the state of Kerala in various welfare scheme, one hundred fifty samples of migrant workers from Assam working in Kerala were interviewed through non-probability snowball sampling. The interview was based on civil and political rights, and socio-economic and cultural rights of the migrant workers which serve as the indicators of the study on human rights of migrant workers. Further, the interview was also based on pull and push factors of migration of workers from Assam to Kerala and various welfare initiatives taken by the state of Kerala for migrant workers. Sampling appears to be significant in this present study as the study is to be within the specified time frame, where the only study of the representatives of the population of migrant workers from Assam in Kerala is possible to explore and describe to conclude.

Again, snowball sampling becomes pertinent to the study to reach to populations particularly to sample since the samples of the study are not known in person before conducting a field visit to the origin as well as a destination place.

Besides, various stakeholders such as employers, agents, police, and civil society have also been interacted with to collect the information. Further, to understand the perception of the local people on migrant workers in Kerala some of the local people were also consulted with. At the end, the interview conducted for the study gave insightful information regarding the causes of worker migration to Kerala, human rights status of migrant workers in the destination state, government's welfare initiatives, and perception of local people on migrant workers in the state.

The field visits to Kerala was difficult in different areas – first was to identify any one migrant workers from Assam, and second was to understand the causes of migration, human rights status, and welfare schemes for migrant workers in Kerala. Even after identification, the migrant workers were reluctant to talk, particularly regarding their status. When I started to interact with them, they started enquiring about my background such as – what my name is, what I do, why do I need their information? During the time of field visits, migrant workers rarely shared their information particularly name, name of village or town, and district to where they belong. Therefore, I had to give them the option particularly not to share their names, names of villages or towns, and districts. Even then, they were asking about the consequences of their responses where I had to assure them stating that the information will be used for the purpose of study. After assurance only migrant workers became convinced to interact but a couple of migrant workers responded only to some questions whereas some did not.

Despite all difficulties, the study interviewed one hundred fifty migrant workers from Assam and stakeholders such as an employers, agents, police, civil society, and local

people. Further, to reach to a more organised analysis, the data collected from the field has been divided into different categories where first section deals with a background of a respondents, the second section deals with civil and political rights, third section deals with socio-economic and cultural rights, and fourth section deals with Naka of workers. In the concluding chapter, findings of the study is shown.

Delimitation of the Study

The area of human rights is an extensive one, for which a study on all the contents appears to be very lengthy and time-consuming. Therefore, the study has been designed only to understand the background of the respondents; civil and political rights limiting to: freedom of movement, educational rights, health, right to life, freedom of union, franchise and freedom of religion; socio-economic and cultural rights in line with right to work, wage, working hours, equal pay, bonus, collective bargaining, holiday, expenditure and remittance, cultural rights including the experiences of migrant workers from Assam in Kerala with special reference to Perumbavoor, Manjeri and Urathur from the field. The study analyses the origin of rights, the evolution from rights as a whole to a more defined subject of human rights, the human rights of migrant workers, legislative initiatives, policies and programmes of migrant workers in India, and examines how Kerala has become both the source and destination of migrant workers. The study also delves into role of the state of Kerala in various welfare schemes from the existing literatures.

Study Area

As everyone is aware that the state of Kerala was formed in November, 1956, through states Reorganisation Act, 1956 has fourteenth districts with sixty-three sub-districts which are also termed as taluks, one thousand eighteenth villages, and five hundred twenty towns including fifty-nine statutory as well as four hundred sixty-one census

towns (Census of India, 2011). The fourteen districts are namely Kasaragod, Kannur, Wayanad, Kozhikode, Malappuram, Palakkad, Thrissur, Ernakulam, Idukki, Thiruvananthapuram, Kollam, Alappuzha, Pathanamthitta, and Kottayam (Census of India, 2011). Among these Ernakulam was formed in April, 1958 with Alwaye, Parur, Kunnathunad, Kanayannur, Cochin, Muvattupuzha, and Thodupuzha sub-districts, Malappuram was formed in June, 1969, with Ernad, Tirur, Ponnani, and Perintalmanna, and Kannur was formed in January, 1957, with seven sub-districts of Kasaragod, Hosdrug, Taliparamba, Cannanore, Tellicherry (Kottayam), North as well as South Wynad (Census of India, 2011). But it would not be an exaggeration to state that all the districts of the state have (internal or inter-state) migrants which include migrant workers from the state of Assam.

Figure 1.1: Study Area
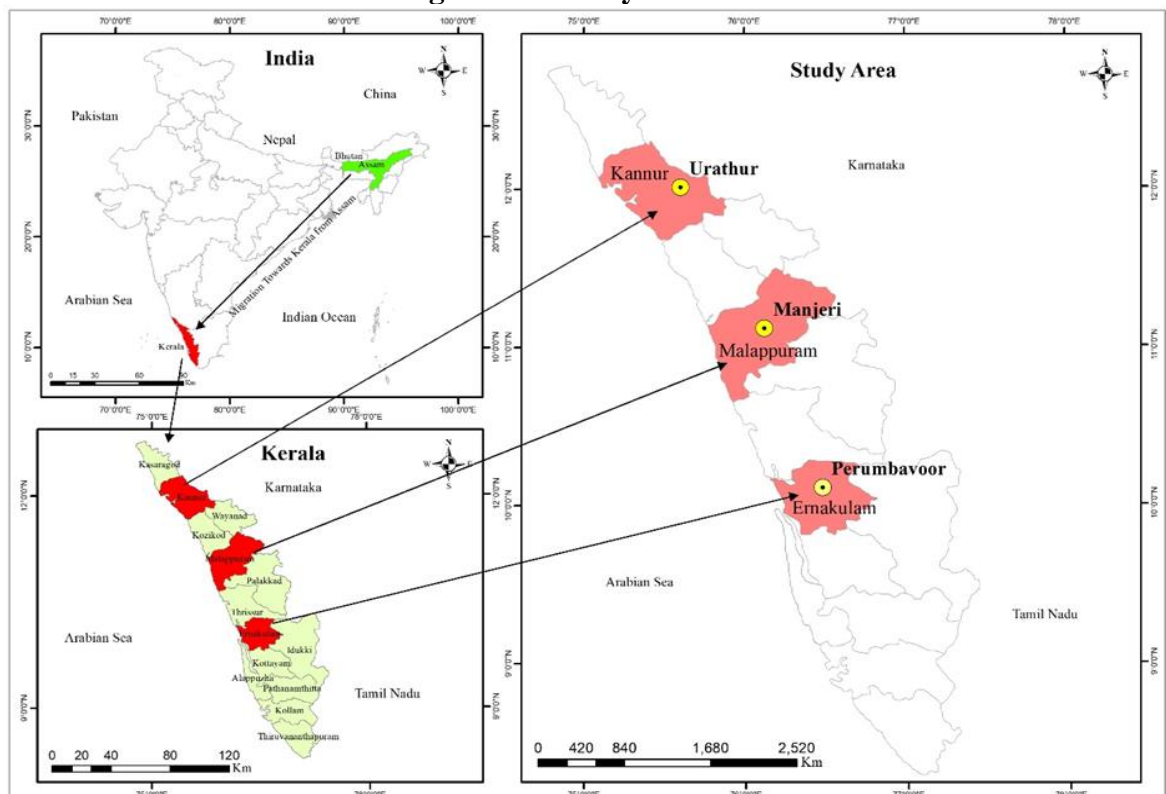
Source: Prepared by the Researcher.

The study has focused on migrant workers from Assam to Kerala with special reference to Perumbavoor, Manjeri, and Urathur (figure 1.1). Perumbavoor of Ernakulam district

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is a municipality that comes under Kunnathunad Taluk, Manjeri of Malappuram district is a town as well as a municipality that comes under Ernad Taluk, and Urathur area of Kannur district comes under Taliparamba Taluk and it is surrounded by Kalliad, Blathoor, Padiyoor and Nuchiyad villages of Kannur.

Limitations of the Study

The present study is based on limited samples which appear to be one of the limitations and it covers only three areas of Kerala namely Perumbavoor, Manjeri and Urathur. In this study, only migrant workers from Assam in stated areas of Kerala were taken into account as the study is primarily focused on the human rights of migrant workers from Assam in Kerala though the status of migrant workers in India, particularly in Kerala has been analysed in the chapters. During the study interview with stakeholders such as an employer, agent, police, and civil society including general people is limited. Notably, the field visits couldn't get access to women migrant workers. Therefore, all the migrant respondents are male.

Chapterisation

Chapter – 1: Introduction

This chapter covers the introduction, statement of the problem, objectives of the study, research questions, rationale and scope of the study, and methodology.

Chapter – 2: Rights of Workers: Perspectives

This chapter discusses the origin, foundation and evolution of rights, and how this concept of rights contributes towards the conceptualisation of worker rights. This chapter also discusses how the rights of workers evolved in institutional and global legal regimes and thereby to understand worker rights as human rights followed by how human rights could be contextualised with migrant workers in the subsequent chapter.

Chapter – 3: Human Rights of Migrant Workers

This chapter discusses the human rights of migrant workers by drawing insights from the concept of human rights, its foundation and evolution of human rights through various generations and how such rights are being implemented at international, regional and national levels.

Chapter – 4: Policies and Programmes of Migrant Workers in India

This chapter discusses the constitutional framework of human rights in India with special reference to migrant workers, policies and programmes which includes labour laws and initiatives of the successive governments and NGOs, the status of migrant workers in India with special reference to workers from Assam, and COVID-19 and migrant workers in India followed by the discussion on the human rights status of migrant workers from Assam in Kerala in the subsequent chapter.

Chapter – 5: Unskilled Assamese Migrant Workers in Kerala

This chapter discusses how the state of Kerala has become the source as well as the destination of migrant workers and presents the human rights status of migrant workers especially from Assam working in Kerala's Perumbavoor (Ernakulam), Manjeri (Malappuram), and Urathur (Kannur) followed by the role of the state of Kerala in various welfare schemes for migrant workers.

Chapter – 6: Conclusion

This chapter would present the summary of the study, present major findings, policy prescription, and scope of further study.

Chapter – 2

Rights of Workers: Perspectives

Introduction

The idea of rights is not of recent origin. Its root can be traced back to the state of nature where, according to the contractualists, people enjoyed certain natural rights even before the coming up of civil society. In course of time those rights were institutionalised, protected and promoted by the state. Whereas the foundation of rights can be traced back to religious scriptures, secular writings, and historical as well as contemporary developments at international, national and regional level codification. In the middle of the time, rights were enjoyed unequally by individuals. For instance – women were not allowed to cast their votes, blacks were unable to enjoy equal status.

In the context of worker rights, it needs to be understood how the evolution of rights over the periods contributed towards the conceptualisation of rights and human rights of workers. All human beings are considered as equal to enjoy rights but have workers been considered equal? Do workers enjoy fixed working hours and other necessary facilities such as leisure and bonus? Till fourth May 1886 (Haymarket Massacre) workers lacked fixed hours of work in a day or a week in the United States of America (USA).

No doubt, that in course of time, institutions like the League of Nations and the International Labour Organisation have emerged at the international level however the question remains if the evolution of these institutions have contributed towards the formulation of fundamental labour standards through various agreements and conventions. Further, it is important to know how have the labour standards have gradually codified under the human rights which became popular after the UDHR.

2.1   Rights: Origin and Evolution

The concept of rights is vague. It has been one of the most difficult concepts to be defined but philosophers, as well as scholars, have been trying to conceptualise it with their understanding. In addition, the absence of a precise nature of the concept of rights has also given space to scholars and philosophers, to look into the early history of human society and assess it from the viewpoint of evolution to human civilisation and institutionalisation to surrender, as well as to empower and protect rights. Besides, the lacks of consensus among thinkers concerning the meaning, as well as the scope, of rights are the core reasons for the emergence of several perspectives:

Holland (Ritchie, 1894: 78) says that rights are "one man's capacity of influencing the acts of another, by means, not of his own strength, but of the opinion or the force of society". In the words of Wilde rights mean "a reasonable claim to freedom in the exercise of certain activities" (Arora & Awasthy, 2007: 205). Beni Prasad says "rights are nothing more nothing less than those social conditions which are necessary and favourable for the development of personality. Rights are in their essence, aspects of social life" (Srivastava, 1953: 145; Mahajan, 1988: 316). Thomas Hill Green (1836-1882) observes rights as "a power of acting for one's own ends, secured to an individual by the community on the supposition that he contributes to the good of the community" (Djeudo, 2013: 164).

In this backdrop, rights can be considered as a basic necessity of human beings to lead a dignified life and for one's personality development. Therefore, rights is due for every human being either as a citizen of a country or a member of society. Johari thinks that one's due must be the claim of the individuals with a disinterested desire, further which requires social as well as political recognition (Johari, 1989: 176-77). Chaturvedi also considers that each right needs social recognition, without which rights remain as empty

claims (Chaturvedi, 2009: 91-92). Besides, Chaturvedi says that rights are not selfish claims nor claims of the individuals and that only take proper form after the approval of other members of the group and the appropriate authority, hence, once it gets recognition, claims or rights are guaranteed by the state and since it is based on a common interest, these rights need to be available for all without any discrimination (Chaturvedi, 2009: 91-92).

Keeping in mind that we live in an organised society, recognised claims of human beings which are legally considered as rights make human lives more meaningful and dignified. Some scholars say that rights are reasonable conditions that need either action or restraint in order to impose negative or positive duties on others. For instance, Laski, the champion of freedom of speech and expression says that rights are "those conditions of social life without which no man can seek, in general, to be himself at his best" (Johari, 1987: 228; Kumar, 2000: 160; see also Bhat, 2017: 81). To Steiner, rights are those which are constituted by rules and are exercisable (Steiner, 1994: 56-57). According to Gillon "rights are justified claims that require action or restraint from others – that is, impose positive or negative duties on others" (Gillon, 1985: 1890). Some other scholars say that rights are enforceable legal claims upon the state which are made by individuals of a particular state and the state is the guarantor of rights since the advent of the Treaty of Westphalia (1648):

> *"A right is a legally enforceable claim, usually made upon the state by an individual who belong to that state. The claim might be directed against another individual, an institution, or even the state itself. But no matter who or what the claim is directed against, it is made upon the state because the state has, since the advent of the Westphalian system in the seventeenth century, been seen as the ultimate guarantor of rights" (Abbey, 2005: 109-110).*

Scholars also try to define rights as a means to safeguard individuals and the masses from suppression as well as oppression by the dominant and ruling class in the society including the state. The concept of rights has been dynamic as it has been the subject to

continuous review as well as redefinition due to the development of social consciousness. Gauba says that "rights are meant to safeguard the individual from the irresponsible and arbitrary use of power by the ruling class" and it has its origin where there was the "voice of protest against oppression perpetrated by the dominant groups in society" (Gauba, 1981: 283-284).

The individuals' claims to enjoy one's rights needs the recognition of the society, the law as well as the state and these claims of individuals have changed their facets over time but started getting a concrete shape since the coming of the American Constitution which was created after the American War of Independence though it has its origin particularly in the Magna Carta and French Revolution:

> *"Rights got concrete shape in the American Written Constitution after the American War of Independence it has its origin in the Magna Carta (1215) where Rule of Law was talked and French Revolution which is popular for liberty, equality and fraternity. Rights are basically needs of the people and when those needs are recognized by the law, recognized by the society and recognized by the state then one can say that those needs turn into rights. But with the passage of time needs change and according to changing needs of the people rights also evolve and change" (Jha, 2015).*

Though the concept of rights got shape in American Constitution, it didn't get a wholly concrete shape in its initial period as the first government was weak in comparison with the alter government. Hence, Patrick (2003: 11) says that the first government of the US was too weak as well as ineffective to protect the rights of people. Observing the incapacity, Americans realised the necessity of a stronger government to protect their "right to life, liberty including property" and later on, during 1787-88 "Americans made as well as ratified a new constitution and government, which most thought would be sufficiently strong enough to guarantee their rights" (Patrick, 2003: 11). Again, in 1791 a Bill of Rights, which consists of freedom of speech, free exercise of religion, freedom to own and use property, freedom of assembly, and due process of law, was ratified which specified certain rights. Furthermore, Patrick found that the system of slavery

was a contradiction to the Bill and at the same time the "constitutional rights guaranteed to most adult white males were not equally applicable to women, African Americans, and various indigenous people" (Patrick, 2003: 11-12).

There is also a group of scholars who consider that rights - which are generally considered to be the basic entitlements of human beings - belong to humans rather than fetuses and animals but carry certain duties which are inseparable from one another. For instance, Hoffman (2007: 162) says that rights belong to "rights belong to humans, rather than to foetuses, animals" and according to him "rights necessarily generate responsibilities. Rights involve duties and it is impossible to have one without the other". But, Simmons (1992: 68) found that "according to Locke rights are by nature superior to duties". Kashyap (2014, April 28) also says that in a democracy every right has a corresponding duty and according to her rights are claims of the individual in a state or an organised society and the state defends those rights. Chaturvedi (2009: 91-92) is also of the view that both the concepts i.e. rights and duties are related and every right carries a corresponding responsibility that is why rights depend upon duties. Hence, it can be understood that the concept of rights is of both negative and positive nature.

2.1.1 Philosophical Foundation of Rights

The concept of rights has also its foundation in religious thinkers, secular thinkers, and historical evolution. Religious contributions to rights can be found through principle messages of the different renowned religious thinkers of various religions such as Hinduism, Buddhism, Judaism, Christianity, and Islam. For instance, Hindu thinker Krishna Chatainya's (1478-1533) (see Gupta, 2006: 455-456) religious messages are concerned with "equality before law" whereas M. K. Gandhi's (1869-1948) (see Ishay,

2007: 290) messages talk about the right of self-determination, equality as well as the duty of nonviolence.

Buddha's (c. 404-484 BCE) messages are concerned with the principles of "free speech" and "freedom of religion" (Haas, 2013) whereas fourteenth Buddhist thinker Dalai Lama's (1935-) messages are centred around the principle of "self-determination for Tibetan people" (Wiseberg, Dargel, Bertucci & Lawson, 1996: 344). Moses (c. 1304-1237 BCE), founder of Judaism's (Jestice, 2004: 603), religious messages are concerned with the principle of self-determination and proportionality in punishing crime. Whereas thinkers Isaiah's (740-781 BCE) messages are about "sharing food with the hungry" and "giving shelter to the homeless which means right of non-poverty" (Haas, 2012).

Among the religious preacher of Christianity, Jesus of Nazareth's (c. BCE 4-33 CE) messages also contribute to the development of the principles of caring for the needy, equality, opposition to a lynch mob which condemned women accused of adultery to death. Whereas Jesus's contemporary Paul of Tarsus's, 3-67 CE (Kopytowska, Kopytowska & Chilton, 2018: 301) principle is based on equality among the believers of Christianity. On the other hand, with the influence of Aristotle (384-322 BCE) Thomas Aquinas (1227-1274) developed the theory of natural rights. Similarly, Bartolome De Las Casas (1484-1566) developed the concept of "indigenous peoples' rights in America" (Wainwright, 2011) and the right to live without exploitation. Later on, the concept of the "freedom of conscience" can be found in the messages of Martin Luther, 1483-1546 (Schinkel, 2007: 384).

Islamic preacher and the Prophet of Islam Muhammad (571-632) who is considered as the "Messenger of God" (Guiley, 2004: 265) and Allah (Overfield & Andrea, 2015: 217) teaches through the Quran about both racial as well as sexual equality.

Contemporary thinker Mawlana Abu'l A'la Mawdudi, 1903–1979 (see David V. Canter, 2009: 36) is of the view that the Quran has some principles concerning rights such as - right to life, right to property, inheritance, right to education, security, right to association, free expression, religion, legal equality, political participation, freedom from arbitrary imprisonment etc.

Besides, the religious basis for rights, many secular philosophers attempted to understand the philosophical origins of the concept of rights to support the universal principles. For instance – Aristotle's contribution to the evolution of the concept found about liberty, political as well as civil (Stephens & Scheb, 2017: 46). Marcus Tullius Cicero (106-43 BC) contributed with the formulations of the "natural law" (Kainz, 2004: 10) which later developed into the theory of natural rights under which rulers are supposed to respect citizens' rights. Jean Bodin (1529-1596) talks about the "theory of sovereignty" (Mukherjee & Ramaswamy, 2002: 302) and further, he says that governments have to respect both natural liberty as well as the property right. Hugo Grotius's (1583-1645) contribution to rights can be found through "natural rights" (Wells & Quash, 2010: 138) and "international law" (see Tierney, 2001: 318-319). Later on, the principle of international law found a space in Peace of Westphalia, 1648. Hobbes through his work *Leviathan* developed the famous concept of the "social contract" in 1651 through which human beings surrendered their state of nature to stable rule to achieve the "right to security" (Sarmah, 2007: 47-48). Locke's works considered that government was to be setup by individuals to protect the "natural rights" (life, liberty, health and property) of individuals against the arbitrary rule by the government but if the government fails to do its duty and violate norms of the social contract, an individual has the right to dissolve to form a new responsible government (see Sarmah, 2007: 48).

Inspired by Locke's social contract, Thomas Jefferson (1743-1826) formed a "theory of inalienable rights" which replaced the idea of rights – life, liberty, health and property with the right to "life, liberty and the pursuit of happiness" (Banks & O'Brien, 2015: 32). Francois de Voltaire (1694-1778) who influenced Jefferson through his ideas (Kidder & Oppenheim, 2010: 204) is a "champion of free thought and speech" (Sharma, 2002: 25). Baron de Montesquieu (1689-1755) who also inspired Jefferson (Jefferson, 2006: 170) developed the concept of "separation of powers" among the three branches of government so that there can be check and balances among them (see Richter, 1977: 97).

On the other hand, one of the social contractualists Rousseau who also inspired Jefferson, attempted to define his concept of "popular sovereignty" and the "general will" of the people (Riemer & Simon, 1997: 91-92). Rousseau showed his opposition to the system of slavery (Rousseau, 2012: 227). James Madison (1751-1849), one of the authors of the American Constitution, through his works stressed the necessity of institutional and regional checks and balances in a democratic system though Madison's American Constitution was not in opposition to the slavery system. Marquis de Condorcet (1743-1794) developed the notion of equality between the two sexes i.e. women entitlement to equal rights (Lee, 2012: 7).

Furthermore, Condorcet showed his opposition to slavery (Killingray, 1974: 28) in America. Immanual Kant who claims that peace is achievable when states respect each other in international relations just as human beings are required to respect other human beings, stressing on pointers like people's right to self-determination and the principle of non-interference in the internal affairs of other states. Johann Gottlieb Fichte (1762-1814) who was convinced with the idea to form a "representative democracy" (Nakhimovsky, 2011: 58), is of the view that government is to be instituted to protect

individual rights (freedom of speech, freedom of press) including the right to education as well as the right to employment. Edmund Burke (1729-1797) who considered that English people had the property right, states that right exists as it is written through the political process. Whereas Thomas Paine (1737-1809) disagreed on the ground that the creation of rights depends on the will of the government. Therefore, in his opinion rights come from nature where political bodies are instituted to protect as well as guarantees inherent and inalienable rights. For this Thomas Paine favoured the welfare state overthrowing aristocracy and monarchy as the latter system served the interest of the aristocrats as well as monarchs instead of the interest of the nation as a whole.

In contrast to other philosophers, Jeremy Bentham (1748-1842) rejected the idea of "natural rights" as "nonsense upon stilts" (Binmore, 1994: 3). But Bentham stresses on the right to vote for middle-class people, civil and political liberties (freedom of speech, press and religion). On the other hand, while James Mill (1773-1836) also talks about "freedom of the press" through his work "liberty of the press" (Smith, 2018: 311). Auguste Comte (1798-1857) developed the term "altruism" (Fry, 2010: 783). John Austin (1790-1859) who was an English legal theorist and who developed the theory of "legal positivism" (Culver & Giudice, 2017: 63) is of the opinion that law is the only source of rights. John Stuart Mill (1806-1873) who is the son of James Mill (Smith, 2016: 128) considered "freedom of speech and thought" as important rights which have been expressed through his work *On Liberty, 1895* (Kersch, 2003: 216). Mill also favoured equality between the sexes (Morales, 1996: 21) and amongst the feminist thinkers, Mill appears to be one of the first feminist philosophers having written a book on women in 1869, the *Subjection of Women*. In the area of the concept of rights when Georg Wilhelm Friedrich Hegel (1770-1831) was concerned with the

right to association, education, property, religion and speech, Marx and Engels were more concerned with the condition of workers and their rights (Haas, 2013: 33-34).

2.1.2 Types of Rights

It has already been stated that some scholars differentiate rights with each other based on their understanding and consideration. Take for instance, Campbell (2012: 169) says that the idea of rights came into politics as natural rights.

Natural Rights: Some of the philosophers are of the view that even before the coming of civil society in the state of nature, people used to enjoy certain rights. For instance – Algan (2004: 126) says that Locke recognised three major types of natural rights i.e. life, liberty, and property of human beings held in a natural state, in his famous book *Two Treatises on Civil Government*, and people surrendered not those rights to the state through social contract but the enforcement of those natural rights. Beck (2006: 371) says that "for Kant, natural rights, like individual freedom, are not ahistorical, universal standards of political justice but the historical outcome of the long process of enlightenment".

Moral Rights: These rights are not guaranteed by any appropriate authority but depend upon the ethical feelings of an individual. Hence, Kashyap (2014, April 28) says that moral rights are based on our ethical awareness and on a sense of morality and justice. For instance – parents' rights over their children but they can't go to court to seek help. McCloskey (1965: 115) says that "a moral right is commonly explained as being some sort of claim or power which ought to be recognised".

Legal Rights: Legal rights are those which are recognised by the state and enforced by the court of law. Heywood (2004: 184-188) says that there are certain rights that are "laid down in law or in a system of formal rules", and on the other hand, there are also

other rights that "exist only as moral or philosophical claims". Further, Heywood says that "legal rights are rights which are enshrined in law and are enforceable through the courts". Salmond says that "a legal right … is an interest recognized and protected by the rule of law … an interest the violation of which would be a legal wrong … and respect for which is a legal duty" (Djeudo, 2013: 164). Bosanquet says that "a right is a claim recognised by the society and enforced by the state" (Djeudo, 2013: 164). According to Sri Niwas Shastri "in its essence a right is an arrangement, rule, or practice sanction by the law of the community and conducive to the highest moral good of the citizen" (Agarwal, 1976: 181).

Presently, legal rights which are reclassified as fundamental rights (available under the Constitution of India, Japan, USA, USSR[10], France, Switzerland, and many), political rights (e.g. right to vote, right to contest the election, right to criticize the government, right to public office, right to petition etc.), civil rights (e.g. right to life and security, right to property, right to freedom etc), and economic rights (e.g. right to work, right to adequate wages, right to fixed hours of work etc.) are granted to every human being by law and are also protected by the laws of the country. Kashyap (2014, April 28) dividing legal rights into political, economic and civil rights, further divides civil rights into fundamental rights and human rights and says that human rights are wider than fundamental rights.

2.1.3 Theories of Rights

Among the philosophers and scholars, there is no consensus regarding the origin and sources of rights and therefore they have given a different understanding of its source

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[10] USSR stands for Union of Soviet Socialist Republics

as well as origin. Therefore, a better understanding of rights is possible only when various theories of rights are discussed:

Theory of Natural Rights: At the beginning of the discussion of the theory of rights, it is necessary to start with the discussion of natural rights theory as it is the earliest theory of rights. This theory was developed as the first theory to justify rights (Mohanty, 2010: 437) during the rise of liberalism (Rathod, 2008: 97) in the seventeenth and eighteenth centuries (Mahajan, 1988: 329). This theory considers that rights are natural and that they came from nature itself and was not created artificially (Agarwal, 1976: 183). Further, the theory considers that rights belong naturally to human beings.

Natural rights theorists claim that natural rights: right to life, liberty, justice etc. are pre-civil whereas some other theorists consider even pre-social and these rights can be found everywhere (Chaturvedi, 2009: 92). The social contractualists i.e. Hobbes, Locke and Rousseau, who consider natural rights as derivatives of natural law, say that people had certain natural rights before the coming of state but they surrendered some of those rights to civil society i.e. superior authority to safeguard the rest of the rights. Among them, Hobbes considers the right to life as natural rights, Locke right to life, freedom and property as natural rights which people used to enjoy in the state of nature (Kato, 2009: 86), Rousseau regards liberty along with equality as a gift of nature and most importantly, it was also maintained that these can't give up to state as it was given by nature and therefore these rights are considered as inalienable rights (Marc F. Platter, 1979: 31). Rousseau states that "man is born free, and everywhere he is in chains" (Williams, 2007: 47). Spencer (Hamowy, 2008: 155) says that According to Spencer, every man has the right to do anything he wants as long as he does not infringe on the rights of others.

Virginian Declaration of Rights states "that all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property and pursuing and obtaining happiness and safety" (Virginia Constitutional Convention, 1776 June 12; see also Dinan, 2011: 3-6). This theory had a great influence on the American Declaration of Independence (1776) and the French Declaration (1791 and 1793).

Theory of Legal Rights: This theory of legal rights considers to be the successor of the theory of natural rights. This theory does not consider rights as natural but as the creation legally. It claims that rights are creations by the state and thus artificial. This legal theory agrees that claims of individuals consider as rights only when claims are determined as well as secured by the state (Rathod, 2008: 98). Hobbes states that "fundamental rights of every individual is that of self-preservation" and he considers that these rights "can be maintained by the state than by the individual" (Sunday, 2013). Bentham considers that "rights are the creatures of law and organised society" (Sharma & Sharma, 2000: 182; see also Johari, 1989: 180). Thus, the legal theory of rights considers the state as the creator of rights: right to life, liberty, property etc. are determined by state (Chaturvedi, 2009: 97-98). In this way, if we looked at rights from the perspectives of the legal theory of rights, the state appears to be the primary source of all rights: rights are created as well as maintained by the state itself (Agarwal, 1976: 184).

Historical Theory of Rights: The historical school of thought has been represented by different personalities in various places such as Sir Henry Maine and Burke in England, James Carter in the USA, Savigny and Puchta in Germany. This theory considers rights,

including law as well as state: the product of history but not the arbitrary creation of human will and nature (Rathod, 2008: 99-100). The rights which have been regarded as the outcome of historical growth by the historical theory of rights have their source in the daily usages as well as the customs. The customs and usages have been existing throughout the generations and it helps in getting recognition as claims as well as rights which are found practical usefulness (Agarwal, 1976: 185). On this ground, historical theorists say that it is the history which is the basis of rights and therefore rights are a "crystallisation of custom" which in the long run is found appropriate and eventually recognised as rights (Mohanty, 2010: 442-443). Burke says that "the French revolution was based on the abstract rights of liberty, equality and fraternity applicable to all while the English revolution of 1688 was based upon the customary rights Englishment-the right? which Englishmen had been enjoying from the early days" (Djeudo, 2013: 177).

Social Welfare Theory of Rights: This theory creates "a co-relationship between rights and social welfare" (Ramaswamy, 2003: 244-45) where theorists like Bentham, Mill and others consider it as the conditions of social welfare that are created by society to realise the social good. Chafte is of the view that only those rights need to be prescribed which aims to realise social welfare instead of those conditions which are against social welfare as rights (Agarwal, 1976: 185-186). In the late nineteenth and twentieth centuries, only the concept of social welfare got recognition by positive liberals such as Green, George Douglas Howard Cole, Leonard Trelawny Hobhouse, Laski, Ernest Barker (Mohanty, 2010: 446-447) and so on.

Among them, Laski, through his work *(A Grammar of Politics)*, has given the classic explanation on this theory i.e. "rights are those conditions of social life without which no man can seek in general, to be himself at his best" (Kumar, 2000: 29; Mohanty, 2010: 446-447). Further, in the same work Laski termed the "right to work, right to

adequate wages, right to reasonable hours of work, right to participate in management, right to education, right to political power, right to freedom of speech and expression, right to freedom of association and public meetings, and limited right to property" as particular rights (Abbas & Kumar, 2012: 297). Barker also says "rights are the external conditions necessary for the greatest possible development of the capacities for the personality" (Bhat, 2017: 82; Mohanty, 2010: 434). In his work *Principles of Social and Political Theory* Ernest Barker states that "rights as secured and guaranteed conditions of development of the capacities of personality" (Abbas & Kumar, 2012: 297).

Idealistic Theory of Rights: This theory of rights considers rights as an "external condition" which is most essential for "human beings' inner development" (Chaturvedi, 2009: 105-107) where Rousseau, Kant, Hegel, Green and Bosanquet are the chief supporters of this theory (Rathod, 2008: 100-101). These idealists consider the state as a "divine institution" and among them, Hegel says that "state is a March of God on earth" (Roy, 2014: 3). Green observes that "the claim or right of the individual to have certain powers secured to him by society, and the counter-claim of society to exercise certain powers over the individual, alike rest on the fact that these powers are necessary to the fulfilment of his vocation as a moral being, to an effectual self-devotion to the work of developing the perfect character in himself and others" (Green, 1999: 41; see also Rasmussen & Den Uyl, 2010: 48). Henrici says rights are those "which is really necessary to the maintenance of material conditions essential to the existence and perfection of human personality" (Kapur, 1997: 235).

In this way, rights become of utmost importance without which no man can become the best self of what she/ he is capable of. The condition which this theory is concerned about is the most favourable external condition created by the state for the perfection

of human life (Agarwal, 1976: 186). This theory considers that man's inner development does not depend upon the state but that of functions: the state creates the conditions for achievement of moral freedom. Therefore, this theory regards rights as the external conditions which are recognised by the human society and then enforced by the state for the moral upliftment of human beings (Rathod, 2008: 100-101).

Marxian Theory of Rights: Marxian theorists such as Marx, Engels, Lenin and others connect(s) the concepts of rights with the prevailing economic system of the class-divided society and this theory considers that the concept of rights is impossible to understand in isolation from the pattern of social classes as well as the struggle which was going on between them. In this type of society, rights also enable the working class to organise themselves as well as to raise their needs for their betterment legally: Marx understood that in society though rights prevail in general, the people of dominant class enjoy key benefits out of the system. This system of rights has been designed by people of the dominant class to retain its power: since it is this class that owns the means of production and distribution. Since the dominant class has control over means of production and distribution they use rights as an instrument to oppress and exploit the people of dominated class. Therefore, theorists consider that the working class would not be able to enjoy rights until and unless the capitalist system is replaced with socialism after the revolution by the proletariat (Johari, 1989: 183-184; Mahajan, 1988: 338-340).

Negative and Positive Theory of Rights: The claims or rights which have been frequently talked about in the previous paragraphs are like two sides of a coins i.e. positive and negatives side, and it is been popularly known as negative and positive rights in academia. Traditionally, philosophers have debated over the nature of positive as well as negative rights (Renteln, 1988: 346). Simply, negative rights imply the

presence of restrictions on the activities of the state upon the activities of individuals whereas positive rights imply the non- presence of the restrictions of the activities of state in improving the lives of the citizens as well as in helping in their self-development (Talukdar, 2008: 90). There are certain rights that possess the feature of negative rights – right to life, liberty, property, freedom of thought and expression etc., and positive rights – right to medical care, right to work, right to legal aid etc. The concept of rights is both positive as well as negative in nature and need not be confused with the term power(s) say for instance human beings enjoy rights whereas beasts enjoy powers in the jungle and it is not rights, and an individual may also enjoy powers but if the power is not recognised by society and are not used for the common welfare as well as common good it can't be termed as rights. Powers of human beings may take the form of rights only when it attains social as well as state recognition (Agarwal, 1976: 182). Further, Renteln (1988: 346) says that mostly the opinion on rights are based on the understanding of western philosophers who has close-connectivity with the civil as well as political rights but not to economic rights, and therefore the classification of rights into positive and negative reflects the values of the political culture of them.

Apart from the above-discussed theories of rights, there are also certain important developments, for instance – the works of John Rawls and Robert Nozick. A theory of Justice which was brought to us in 1971 by Rawls is one of the most important contemporary works on rights (Rawls, 1971). Rawls considers that the things which are straight(ly) suited for social ethics, as well as justice, are the individuals' tactic for seeking their own goals and to live whatsoever good life they prefer for themselves (Rawls, 1971). In this way, it becomes clear about the vision of Rawls's just state which deeply favours the spirit of social equality. On the other hand, in response to this work, Robert Nozick came out with his work *Anarchy, State and Utopia* in 1974 (Nozick,

1974) and through this work, Nozick provided the idea that each individual possesses certain rights like property rights, and these rights are "absolute" in character (Talukdar, 2008: 96-98). In 1978 another figure i.e. Ronald Dworkin through his work *Taking Rights Seriously* advanced another theory of rights based on a speculative claim based upon reason (Dworkin, 1978). Through this work, Dworkin identifies two moral rights be treated as natural or inalienable i.e. right of the citizens to be treated equally and the right to have respect for human dignity and using the terms i.e. equality and human he tries to justify a kind of reservation policy such as India has for certain groups of people (Mohanty, 2010: 449-50), for instance – Scheduled Tribes (ST), Scheduled Castes (SC), and Other Backward Class (OBC).

Besides, considering the similar philosophical underpinnings of both natural rights and human rights[11] some theorists try to correlate the two concepts for instance – Roy (2006: 211) says that both rights are rights claimed in respect of all human beings and are said to be "universal" rather than "contextual applicability". Barry (2000: 223) says that human rights and natural rights are such types of moral rights that they do not rely for their validity on enforcement by the legal system. In this present-day world, natural rights have also become part of human rights as well as fundamental rights under the constitutions of various countries.

2.1.4 Perspectives on Rights

Over the periods, due to its vague nature and absence of the consensus, the concept of rights has achieved various perspectives:

Social Democratic Perspective on Rights: It is the social-democratic perspective of rights that is represented by Laski through his various works and this perspective seeks

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[11] The detail discussion on the foundation of human rights is done in the subsequent chapter.

to attain the goals of individual liberty as well as social justice. Laski (2015) through his work *A Grammar of Politics* observes that "every state is known by the rights that it maintains. Our method of judging its character lies, above all, in the contribution that it makes to the substance of man's happiness" (Laski, 1938). Laski who is the great champion of liberty, as well as social justice, supported neither the Capitalist system nor the Soviet-style socialist system because of the suppression of liberty. Later, he was convinced with the democratic structure and according to him, this structure would secure a synthesis of both liberal as well as socialist values.

Further Laski through his work *The Dilemma of Our Times* argued that liberty - which he considered as the essence of rights - can't be perfectly secure in both the systems i.e. capitalist democracy (e.g. America) socialist dictatorship (e.g. Russia) (Laski, 1952/ 1968). Laski (1943/2017)'s work *Reflections on the Revolution of Our Time* states that even the liberal state, brought in the name of liberty, appears to be inadequate in delivering social equality (Laski, 1943/2017). Therefore, Laski appeals to form a kind of "service-state" in which industrial production will be undertaken to meet social needs instead of private benefits (Gauba, 2009: 329).

Moral Perspective of Rights: Green is the main figure of this perspective of rights. He builds his theory on moral foundations and he is concerned with the satisfaction of material needs of the masses. Therefore, "the moral basis of rights postulates equal treatment of all citizens in the matter of securing their rights" (Gauba, 1981: 293-4). Like Green, Laski who also created rights on moral foundations identifies carefully the correlation between rights and duties (Laski, 2015: 93-94):

> *".......... possession of rights, ... does not mean the possession of claims that are empty of all duties. We have rights to protect and express our personality. We have rights to safeguard our uniqueness in the vast pressure of social forces. But our rights are not independent of society. We have them because we are members of the society. We have them by reason of an organisation through*

which, in the world as it is, the contribution of that uniqueness can alone be made. Our rights are not independent of society, but inherent in it. We have them, that is to say, for its protection as well as for our own. To provide for me the conditions which enable me to be my best self is to oblige me, at the same time, to seek to be my best self. To protect me against attack from others is to imply that I myself will desist from attacking others" (Laski, 2015: 93-94).

In this way, rights are correlative with duties. Therefore, if the state fails in its duty, it is the duty of the citizen to resist the state and most importantly, Laski also insisted on the citizens' right to work as an important means to earn one's livelihood (Laski, 2015: 106):

> *"The citizen has a right to work. He is born into a world where, if rationally organised, he can live only by the sweat of his brow. To leave him without access to the means of existence is to deprive him of that which makes possible the realisation of personality"* (Laski, 2015: 106).

Marxian Perspective of Rights: Marx and Engels who are the chief thinkers of Marxian ideology consider that rights were designed to serve the interest of a distinct or particular class i.e. bourgeoisie, the capitalist class, and the owners of the means of production in a class-divided society. Though rights were secured by law, it was nothing but a superstructure raised on the foundation of material conditions of life i.e. the mode of production determined by the prevalent property relation in society. In the seventeenth century, rights that were available under the capitalist system are the products of the demand for equality made by the new middle class i.e. bourgeoisie, the merchant industrialist class. But, coming to power the bourgeoisie refused to extend the principle of equality to the working class i.e. proletariat. Therefore, Marxists consider the establishment of a socialist system by the proletariat by overthrowing the capitalist system through revolution. Furthermore, they consider that perfect equality as well as justice would be possible in a communist society that is characterised as classless as well as stateless society (Gauba, 1981: 297-300). As an example, the establishment of a socialist system by Lenin in the USSR (1917) can be taken through which citizens of

the former USSR were guaranteed both equality before the law as well as equal rights in all spheres of economic, political, social and cultural life (Gauba, 1981: 297-300).

Multicultural Perspective of Rights: The multicultural perspective of rights is a recent development in the field of rights. Talukdar (2008: 100-102) says that theorists of multiculturalism consider that "real equality" is ensured not through "uniformity of treatment" but by keeping in mind their social and cultural location. One of the most important figures in the area of multiculturalism, Will Kymlicka (1989a; 1989b), through his works talked about this new concept i.e. group-differentiated rights and that includes territorial autonomy, veto power, guaranteed representation, land claims and language rights. If group-differentiated rights are given to minorities it would particularly help to preserve their culture. Another important figure of the said area Bhikhu Parekh (2000) also says that in multicultural societies cultural communities usually demand a different kind of rights, if they think they are in need of these (certain) rights in order to maintain their collective identity. These types of rights are now coming to be known as group rights, collective rights and so on. In this way, tailoring the rights to fit a certain society appears to be most important way of acknowledging multiculturalism i.e. positive discrimination. If we look at Indian reservation policy it relaxes us as it is the policy that seems to be the other nomenclature of positive discrimination.

Feminist Perspective of Rights: Though women constitute almost fifty percent of the population they have been the subject of exploitation in the past and still are. Due to this despicable condition, they have been raising their voices for justice as well as equal rights in society. Feminists were of the view that they were unable to enjoy certain very important rights such as property, vote, engagement in certain occupations etc. Even today in some societies, women do not enjoy property rights and in some working

places, women don't enjoy equal pay for equal work. Therefore, feminists try to overthrow the patriarchal system where male play a dominant role (Hardy, 2017) in every sphere.

2.1.5 Evolution of Rights: Historical Origin

The concept of rights has evolved at different periods where rulers and successors guaranteed different types of rights through the adoption of various historical documents. Further, the struggle against certain commitments of rulers also contributed. The *Code of Hammurabi* which was adopted in 1780 BCE by the Babylon king Hammurabi (1810-1750 BCE) (Hemmens, Stohr & Walsh, 2012: 2) deals with the concept of 'justice' (Fried, 2004: 34) with a systematic compilation of previous judgements. Apart from that the code also deals with the 'enforcement contract' which includes marriage contract (Duiker & Spielvogel, 2008: 12). The *Torah* which was adopted during 1280-500 BCE contributed to the evolution of rights through its "prohibition on bearing false witness" (Haas, 2012: 38). *Charter of Cyrus* which was issued in 539 BCE (Ramcharan, 2015: 2) in Babylon by Cyrus the Great (580-530 BCE) consider as the first historical document of rights as the term rights appeared for the first time in the charter (Hamidpour, 2010: 3). The charter declared certain important rights such as – religious freedom and cultural tolerance, and at the same time, banned forced labour and abolished the slavery system.

The *Edicts* of Emperor Asoka (304-232 BCE) adopted in c. 280 BCE (Allan, 2013: 749) also provides the principles of rights such as – "humane treatment of prisoners, religious tolerance and justice" (Haas, 2012: 38). Besides, the edicts also provide the principle of opposition to capital punishment as well as torture. The *Charter of Liberties* adopted in 1100 by King Henry I (1068-1135) granted freedom to officials of the church as well as to nobles and through this charter, nobles enjoyed freedom from "excessive

taxation and inheritance rights" (see Acebedo, 2012). *Magna Carta* signed by King John of England to retain his throne in 1215 (McNeese, 2014: 7) defines the relationship between the king and barons guaranteeing their rights. This English Great Charter (*Magna Carta*) "right of petition" and "documented liberties of freemen" (McNeese, 2000: 4). Besides the charter also declared the sovereign to be subject to the rule of law (Robertson, 2004: 152-240). Clause thirty-nine of the Magna Carta states that "no free man shall be arrested or imprisoned or disseised or outlawed or exiled or in any way victimised, neither will we attack him or send anyone to attack him, except by the lawful judgment of his peers or by the law of the land" (Robertson, 2004: 152-240).

Historical development of the concept of rights can also be traced from the seventeenth century where a "petition of rights" was adopted in 1628 by the Parliament of England under the leadership of Sir Edward Coke (1552-1634) to "limit the king's power to impose a tax" (Finkelman, 2018); *Habeas Corpus Act* was also passed in 1679 by the Parliament of England (Girling, 1882: 290) though the principle of the concept of habeas corpus also existed in Magna Carta; religious freedom was ensured in 1687 through the *Declaration for Liberty of Conscience* by James II (1633-1701) in England (Fields & Fields, 2008); and provision of rights was granted in England by *Bill of Rights, 1689* (Evans, 1996: 45-47; Hunt & Cencer, 2001: 35).

Similarly, in the eighteenth century, colonists claimed the "right to be represented in English Parliament" (see Banks & Raven-Hansen, 1994: 18) and the "right to assemble" in 1774 through the *American Declaration of Rights and Grievances* adopted by the Continental Congress, a body composed of delegates from thirteen colonies, which was later objected by England (see Rohde, 2009: viii-ix). Later on, in 1776 *Virginia Constitution* incorporated the *Declaration of Rights* (1774) and delegates of

colonies drafted the Declaration of Independence proclaiming rights of thirteen colonies for self-government though Britain recognised American independence only in 1783. In 1787 American Constitution was written legalising the "slavery system" (Gallangher & Lippard, 2014: 1159-1160) and the Bill of Rights was ratified in 1791 with a provision: "freedom of expression, freedom from search without a warrant" (The United States, 2013: 1-2). In France also, the revolutionary leaders brought the provision of the right to liberty, property, security and right of resistance to oppression through the *Declaration of the Rights of Man & Citizen* (1789) and *Declaration of the Rights of Woman & Female Citizen*, 1790 (Duiker & Spielvogel, 2012: 478-479).

In the context of the slavery system, various documents were adopted to stop it during the nineteenth and beginning of the twentieth century, for instance – the British parliament passed the *Abolition of the Slave Trade Act in 1807* (Weaver, 2015); Britain and the United States agreed *Treaty of Ghent* in 1814 to stop slavery trade (Thomas, 2013: 582); and sixteenth President of America, Abraham Lincoln (1809-1865) in 1862 issued an *Emancipation Proclamation* to end slavery in the state followed by the Thirteenth Amendment (1866) to the American Constitution which abolished in the United States (Neumann, 2009: 106). Later on, Fourteenth Amendment to the American Constitution (1867) guaranteed former slave the "due process and equal protection of the laws" (Selcer, 2014: 468), and the Fifteenth Amendment (1869) to the Constitution prohibited the states to deny voting rights based on "race, colour, or previous condition of servitude" (Berkin, Miller, Cherny & Gormly, 2014: 384). Finally, in 1926 *Slavery Convention* was created by the League of Nations which acts as international law to prohibit the slavery system.

In the context of the suffragette movement also, adoption of the two pertinent declarations can be found – *Declaration of Sentiment* (McMillian & Foner, 2011: 172)

and the *Declaration of the Rights of Women* in the United States (Cullen-DuPont, 2014: 62) in 1848 and 1876 respectively. But in 1776 New Jersey granted "women who owned property" to vote (Berry, 1988: 30) as men, in 1838 Britain in its Pitcarn colony granted voting rights to women (Jernelov, n.d.), in 1866 the Isle of Man parliament granted equal voting rights for both men and women (Phillips, 2007: 21), the Wyoming and Utah Territory granted the women right to vote in 1869 and 1870 respectively (Nickliss, 2018), in 1893 New Zealand gave the franchise to females (Adams, 2014), in 1906 Finland voted to allow women's suffrage (Haas, 2013: 60), in 1913 women were given voting rights in Norway (Rappaport & Edelman, 2001: 373) followed by other countries like for example – Canada (1917), Britain and Germany (1918), Poland (1918), Austria and Netherlands (1919), Czechoslovakia (1919), United States (1920), Hungary (1919/ 1945), and Saudi Arabia (2015). Similarly, during the Trade Union movement also two pertinent documents, *"Rerum Novarum"* and *"Erfurt Program"*, were adopted in 1891 which demanded the right of workers, and during the religious freedom movement Final Act of the Congress of Vienna, adopted in 1815, and the Covenant of the League of Nations guaranteed religious freedoms (Haas, 2013: 64). Besides, while after its emergence ILO showed the organisational concern over the humane condition of labour: working hours, working days, living wages, employment of children and women, freedom of association, the *Atlantic Charter* adopted in 1941 by Winston Churchill (1874-1965) and Franklin Roosevelt (1882-1945) was more concern about respecting inherent dignity as well as equal and inalienable rights of the people.

2.2   Rights of Workers

Defining the accurate meaning of workers' rights is very difficult as there is no specific list of those rights and in addition, there is also a necessity to identify who is called a

"worker". Different scholars use the term workers interchangeably with labour: according to the Concise Oxford English Dictionary, Indian Edition (Soanes & Stevenson, 2004), labour or workers is a person who especially does the physical work and is also called 'manual labour'. In other words, especially manual workers are collectively considered as workers. Again, the Oxford dictionary (Oxford Lexico, n.d.) defines workers as "a person who does a specified type of work or who works in a specified way" for instance – a farm worker. Further, the Oxford dictionary clarifies that the term worker is also used in Marxist or Leftist context to refer to the working-class (Oxford Lexico, n.d.).

Engels one of the pioneer of worker rights view that "labour is the source of all wealth, the political economists assert. It is this – next to nature, which supplies it with the material that it converts into wealth. But it is even indefinitely more than this. It is the prime basic condition for all human existence; and this to such an extent that, in a sense, we have to say that labour created man himself" (Sharma, 1997: 26). The rights of those people, in general, are not as specific as the fundamental rights of the citizen of the country, for instance, in India. But what constitutes workers' rights? Simply, it can be understood that labour rights are a group of legal rights and it is derived from labour and employment law. Primarily, this worker rights constitutes of certain important rights such as – right to work, unite or form a union, equal pay for equal work, safe working conditions, fixed hours of work, decent work, security (health as well as insurance), dignity, strike, collective bargaining etc. These rights have their origin in the evolution of rights where philosophers, as well as scholars, have talked in their works.

In the words of Wang (2017), labour rights include rights like the right to freedom of association, collective bargaining, right to equal treatment as well as freedom from

forced labour. Brecher, Costello and Smith (2007: 21) are also of the view that "international labor rights are rooted in fundamental human rights, including the Universal Declaration of Human Rights, the ILO, and the UN Charter". Further, Brecher *et al.* (2007) say that labour rights also have both negative as well as positive connotations as certain rights restrict state's act and, on another side, certain rights give responsibilities to the government.

Mantouvalou (2012: 152) states that labour rights as entitlements that correspond especially to the position of being a worker, and out of those some exercised individually as well as jointly. Further, researcher also says that labour rights include the "right to work, the right to fair working conditions, the right to be protected from arbitrary dismissal, the right to belong to a union and the right to strike" (Mantouvalou, 2012: 152). Unfortunately, they were denied all these rights and because of which they started to raise their voice and contributed to the emergence of the labour movement. Initially, the worker' movement focussed on the 'right to unionise' but later on attention was shifted to elsewhere, for instance, workers' pay, benefits, safe working conditions. Presently, workers are also concerned with the issue of women worker and migrant worker.

Workers' rights which we are talking about are different from one country to another because of their domestic laws, however, the ILO - which was formed in 1919 as a part of the League of Nations (LN) to protect the rights of the workers but later on it became the specialised agency of UN after its formation in 1945 - provides universal guidelines for member countries. Since there is no clear definition or list of the rights of the workers, ILO came out with a declaration entitled Fundamental Principles and Rights at Work (ILO, 1998). All the members of the ILO have an obligation to respect as well as to promote these principles and rights in four categories: "freedom of association and

the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour, and the elimination of discrimination in respect of employment and occupation" (Mantouvalou, 2012: 152).

This ILO declaration applies to all people in all the member states and the declaration also particularly mentions unemployed and migrant workers. Most importantly, this declaration clarifies these four categories of rights as universal (ILO, 1998). Besides, before the coming of the said declaration, the UN incorporated certain fundamental rights of workers in its UDHR, 1948 – Article - twenty-three and twenty-four, and later on, this declaration became the source of the International Covenant on Economic Social and Cultural Rights (see also OHCHR, 1966b):

Article - twenty-three of the UDHR states that everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work; everyone who works has the right to just and favourable remuneration; everyone has the right to create and join trade unions for the preservation of his interests (OHCHR, 1948), and Article - twenty-four states that everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (OHCHR, 1948).

2.2.1 Evolution of Worker Rights

The rights which workers enjoy today are not the product of a single day but it evolved throughout the ages or centuries. The socialist school of thought which was emerged during the 1830s believes in equality, equity, as well as social justice and hence the socialists, have represented the dignity, equality as well as freedom of workers as human beings and as workers (Mishra, 2012: 336). With an aim to secure certain rights as well as to unite together, the workers in different periods of time, organisations were

formed, for example – Workers' International was formed during 1825 and 1832 by the skilled artisans and workers; London Workingmen's Association was also formed in 1836 (see at United States, 1930: 458-459). One of the important leaders of the Association in the year 1838 appealed to the working class of Europe *"fellow producers of wealth! Seeing that our oppressors are ... united, why should not we, too, have our bond of brotherhood and holly alliance? Seeing that they are powerful through your ignorance, why should not we unite to teach our brethren a knowledge of their rights and duties? Perceiving that their power is derived from our ranks, why should not we unite in holy zeal to show the injustice of war, the cruelty of despotism, and the misery it entails upon our species? ... Let us, therefore, brethren, cultivate feelings of Fraternity among nations and brotherly union in our respective countries"* (Weisser, 1975: 77; Prothero, 2003: 211). Besides, the emergence of first (1864-71) and second (1872-89) International established a channel of communication between the workers' organisations in various nations (Mishra, 2012: 336-37).

Michael Haas (2014: 61) in his work on *International Human Rights: A Comprehensive Introduction* mentioned that workers in Western Europe formed craft guilds by 1150 itself and though it declined in course of time, it reappeared during the Industrial Revolution and during the 1830s, workers started demanding better wages as well as better working conditions. But the concern of the British parliament over recruiting children and working hours can be seen through Acts such as – the *Cotton Factories Regulation Act (1819)* made a provision that the minimum age for work should be nine years while maximum working time can only be twelve hours, *Regulation of Child Labor Law (1833)* made a provision of necessary clean working condition, and *Ten Hours Bill (1847)* reduced the working hours for children as well as women to ten hours (Hall, 2013: 249-50).

But during the late nineteenth century also the condition of workers was despicable due to the exploitation of industrialists and there were no fixed hours of work in a day or in a week, and this resulted in the emergence of a national strike on demand of eight hours in a day and forty-eight hours in a week which signifies the six-day working days with eight hours per day. *American Federation of Labor (AFL)* called the national strike on first May 1886 to achieve an eight-hour workday (Moody, 2014: 171; Murrin, Johnson, McPherson, Fahs & Gerstle, 2012) where a huge number of workers responded and due to which transport and communication including business were forced to close down and nearly Chicago city was paralysed.

In response to the Haymarket strike, police fired upon the activists workers causing stampede, injury and death of four workers' lives. On a subsequent day too, police tried to break up the peaceful rally in Haymarket square but unfortunately, an unknown person tossed a bomb and wounding police personals. In response, police opened fire causing further injury and loss of lives. At the same time, eight revolutionary leaders were arrested and unfairly sentenced to death because among them, seven were not present at the time of the incident (Taneja, 2018 May 1). In the AFL's annual meeting of 1888 series of resolutions were passed by calling upon the working classes to organise, agitate, and prepare for the enforcement of an eight-hour working day on first May 1890 (Donald, 1892: 549-550). Since then, the day is being observed as International Labour Day worldwide. But, Stewart is of the view that Labour Day which is the creation of labour movement seems to have its origin in a motion made by one of "the pioneer unionists in a meeting of the Central Labor Union of New York City on May 8, 1882, that one day in the year, to be designated as 'Labor Day', should be established 'as a general holiday for the labouring classes'" (Stewart, 1936: 279). In

India, the day was celebrated firstly in Madras (presently Chennai) by the Labour Kisan Party of Hindustan on first May 1923 (India Today, 2018, May 1).

Since race was one of the dominant issues in the US, the labour movement was also affected during the nineteenth century. This had resulted in the split of the labour movement into – black and white where black workers focused on achieving civil rights. They were the workers who were consistently boycotted in becoming members of the member organisation of *"National Labor Union (NLU)"* and *"Knights of Labor"* as well as they were socially excluded by the white workers (de Leon, 2017: 2-3). Specifically, de Leon further says that "in Chicago, black workers were excluded from the trades and crowded into personal service and domestic jobs" (de Leon, 2017: 15).

St. Antoine (1984: 108-115) says that till the twentieth century in America, most employers didn't have   any restrictions over the way they treated their employees treating the workers' on their whims – employees would be fired, were refused to be hired and were also discriminated on basic of race, religion, gender as they were mostly Blacks, Jews, Catholics, Women and weaker than other new recruits. Further, St. Antoine says that workers also used to getting if they tried to form unions with an aim to improve their conditions. But according to St. Antoine, all these situations started to alter with the coming of various legislative initiatives such as – *National Labor Relations (Wagner) Act (1935), Social Security Act (1935), Fair Labor Standards Act (1938), Equal Pay Act (1963), Civil Rights Act (1964), Occupational Safety and Health Act (OSHA) (1970), Employee Retirement Income Security Act (ERISA) (1974)* (St. Antoine, 1984: 108-115).

With the coming up of these aforementioned legislations employees (workers) now in America can enjoy certain fundamental rights such as – freedom of association, collective bargaining, right against discrimination based on race, sex, religion, or

national origin, minimum wage, overtime pay, equal pay for both men and women for the same work, etc. Mishra (2012) found that with the coming of the third International in March 1919, the ILO also came into existence in the same years. ILO considers that there could be no peace without securing social as well as economic justice to working class of people – fixed hours of work, adequate wage, social security, equal pay for equal work without discrimination on caste, sex, community, faith as well as belief including the freedom of association and expression (Tripathy, 2008).

In the context of the proposal to have an international treaty on labour was firstly made by British parliamentarian Charles Hindley (1850-1924) (Michie, 2011: 265; Bernaz, 2016: 46) followed by France industrialist Danial Le Grand (1783-1859) in 1847 where along with France Grand also proposed the idea for Britain, Germany and Switzerland (ILO, 1998a: 3). Whereas in the context of the International Labour Organisation Edouard Ducpetiaux (1804-1868) was the first person to advocate an International Labour Organisation (Haas, 2014).

2.3   Institutional and Global Legal Regimes of Workers Rights

The discussion on the history of worker rights makes clear that the rights especially workers' rights is not the product of a particular period of time whereas it is a conceptualisation out of the long history of subjugation of people particularly workers, institutional evolution as well as globalisation. As a need of the particular period of time as well as for the future, different institutions came into existence with an aim to secure, directly or indirectly, rights including of workers particularly human rights for all human beings. Furthermore, particularly to secure as well as to defend rights of workers institution especially ILO developed or brought various conventions.

2.3.1 Institutional Evolution as Regimes of Workers

The first international organisation i.e. LN came into existence in 1919 as a result of the Paris Peace Conference in order to maintain peace and security throughout the world (Qizhi He, 1995: 77) by averting conflicts through collective security and disarmament, and resolving disputes through diplomacy and arbitration after World War I. Further, according to the Article - twenty-three of the covenant of the LN states that members will work to ensure and maintain fair and humane working conditions for men, women, and children in their own countries as well as in all countries with which they have commercial and industrial relations, and will build and maintain the essential international institutions to do so (UN Geneva, 1919 June 28; see also Yale Law School, n.d.). But, LN lasted only for a short span of time i.e. 1919 – 1946, due to various reasons mainly it was incapable to prevent aggression, it was never joined by the USA officially, some of the member states withdrew their membership and many.

In the following years, another institution that is the UN took the position at the international level by the end of World War II, and different institutions became a part of the UN after its formation. But, it can't be denied that the contribution of LN because its establishment also shows the concern of the period to secure as well as to maintain fair and human conditions for both men and women workers. ILO after the failure of the LN became one of the specialised agencies of the UN. Hughes (2005: 413) says that ILO is the first specialised agency of the UN and it has the mandate to protect working people and promote their human as well as labour rights, and therefore ILO facilitate international agreement on the protection of labour through the adoption of conventions and the recommendations by the member states. This mandate is to achieve social justice as ILO claims that universal as well as lasting peace can be established only if it is based upon social justice. Comparing with other UN agencies it is the only agency

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which has a tripartite structure – representatives of governments, employers and workers (ILO, n.d.a) and the organisation has its headquarter in Geneva, Switzerland. The agency particularly deals with workers' issues and it has one hundred eighty-seven member states.

The creation of the ILO was driven by various forces originating from security, humanitarian, political as well as economic concern. Standing (2010: 307) is of the view that ILO came into existence in the wake of World War I by the Versailles Treaty which recognised the necessity to meet social needs and in response to a fear of Bolshevism as well as the socialist movement spreading across Europe. Ryder (2015: 2-3) says that ILO has not been only a reaction to the global conflict as well as the carnage of World War I but also for other factors i.e. occurrence of Bolshevik revolution and labour as well as social movements of the nineteenth century. Ryder reveals that ILO is facing certain challenges in four different areas i.e. job and employment, social justice which is the organisation's ultimate goal, values and multilateralism. Hence, Ryder, looking at the future of the organisation, says that the ILO needs to take certain initiatives for another century in the following areas (presently it has been launched) – ILO's governance standard initiative, end of poverty, engagement with enterprises particularly individual enterprises, green initiatives, women at work including the future of working condition.

It is already been stated that the organisation considers that "universal and lasting peace can be established only if it is based upon social justice" and "the failure of any nation to adopt a human condition of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries" (ILO, n.d.b):

> *"Whereas universal and lasting peace can be established only if it is based upon social justice;………. conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great*

> *that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required;………. failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries" (ILO, n.d.b).*

Besides, the organisation also mentioned certain other areas for improvement in its 'preamble' which appears to be the most the pertinent areas such as working hours, working days in a week, adequate wages, protection of workers, children, women, workers' interest, equal pay, freedom of association etc. even in this present century (ILO, n.d.b):

> *"………. by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures ……….." (ILO, n.d.b).*

Standing (2010: 308) is also of the view that convention of ILO is formulated by ILO members on specific aspects of labour relations or a social policy and once a convention is formulated and approved, it is open for ratification by member states and that commits member states to respect the convention's terms by having to submit reports on a regular basis demonstrating their compliance to the experts of the ILO Committee as well as to accept investigations for alleged breaches.

Apart from the ILO, there are also other institutions dealing with one or the other aspect of workers like the ILO and these are – World Trade Organisation (WTO), World Bank (WB), International Monetary Fund (IMF), International Finance Commission (IFC), African Development Bank (Af.DB), European Bank for Reconstruction and Development (EBRD). Though a few institutions have labour standards, few others are still debating whether to consider core labour standards of the ILO and include them in the framework:

The WTO which regulates trade at the international level was commenced (created) officially on first January 1995 under the *"Marrakesh Agreement"* which on fifteenth April 1994 with one hundred twenty-three nations and replaced the *General Agreement on Tariffs and Trade (GATT)* (WTO, n.d.a). Particularly, the institution deals with the regulation of trade in the area of goods, services, and intellectual property, (by) providing a framework for trade agreements, negotiations as well as a process of dispute resolution between the participating countries (see WTO, 2015).

Among the member states of the institution, the industrial states such as the US, Norway, believe that collective bargaining, freedom of association, freedom from workplace abuse, forced labour and child labour are matters for consideration in the framework of WTO. But it has been a highly controversial proposal as members of developing as well as developed countries say that the issue has no place in the framework of WTO as they consider that if labour standards are brought into the area of multilateral trade negotiations, it may create the situation like protectionism. Hence, the officials in developing countries consider that the campaign bringing issues of labour into the WTO is a wish of industrial countries in order to undermine the comparative advantage of the lower wage trading partners (see WTO, n.d.b).

After critically analysing the existing literature in the area, Stern and Terrell says that "mandating unsustainably high labour standards will not improve average wages and working conditions in poor countries, in fact, such mandates can both reduce the number of workers with better pay and working conditions and increase the number in poorer conditions, hence bring further inequality" (Stern & Terrell, 2003; see also Truscott, Brust & Fesmire, 2007; Hughes & Wilkinson, 1998). Further, they say that "raising labor standards in poorer countries will not protect jobs of workers in industrialised countries" (Stern & Terrell, 2003). They are also of the view that

increased workers' income as well as the working conditions in the US, Western Europe, Japan including other advanced industrialised countries, and East and Southeast Asia including Latin America is not because of the external enforcement of labour standards but rather because of the internal economic and social development including the growth in countries GDP (Gross Domestic Product). Hence, they have suggested that poor nations' governments need to implement a solid growth strategy as well as policy in order to eradicate poverty, where governments of rich nations can also help in increasing the demand of poor nations' outputs such as products by reducing importing barriers from those poor nations.

2.3.2 International Labour Law

The coming up of different institutions, particularly ILO has brought many conventions concerning the issue of workers at the international level. Ryder (2015) says that the ILO's mandate for the promotion of social justice is greatly contemporary as well as relevant but it is not in order to guarantee the organisation's future relevance. To fulfil the organisation's goal as well as to respond to the need of the period it has been coming up with various international labour laws since its formation:

In June 1944, ILO made a declaration in its twenty-sixth session of the General Conference in Philadelphia. The conference held in Philadelphia reaffirms the fundamental principles on which the ILO is based and in particular – "(a) labour is not a commodity, (b) freedom of expression and association are essential to sustained progress, and (c) poverty anywhere constitute a danger of prosperity everywhere" (ILO, 1944)". Further, considering the need for social justice in achieving lasting peace, the conference reaffirms that – "all human beings, irrespective of race, creed, or sex, have the right to pursue both their material well-being and their spiritual development in

conditions of freedom and dignity, of economic security and equal opportunity (ILO, 1944).

Today, the formation of ILO has become almost a hundred years and the Philadelphia Declaration has become more than seventy years but then also there are examples of slavery, child labour, unequal wage, hunger, work-related accidents as well as disease. But, the slavery system was legally abolished in the year 1843, and in the case of India 'zamindary' system[12] was abolished in the year 1957 itself. It was the system that caused rack-renting, absolute landlordism as well as rural poverty in India.

In the following years, ILO came out with various conventions and among them, core conventions are – in 1930 ILO came out with convention - twenty-nine – a convention concerning forced or compulsory labour (ILO, 1930). The convention aims to complete the suppression of compulsory or forced labour. The convention defines the term forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (ILO, 1930) excluding "military service" (ILO, 1930), and only "adult able-bodied males, not less than 18 and not more than 45 years" (ILO, 1930).

In 1948, ILO came out with convention - eighty-seven – a convention concerning the freedom of association and protection of the right to organise (ILO 1948). The first part of the convention deals with the freedom of association, and the second part of the same deals with the freedom of the right to organise the workers as well as employers.

In 1949 ILO came up with convention - ninety-eight – a convention concerning the right to organise and collective bargaining (ILO, 1949). Article - one of the subsections one of this convention guarantees "adequate protection to workers against acts of anti-

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[12] The zamindary system was introduced through the Bengal Permanent Settlement Regulation (1802) by the colonial rulers.

union discrimination in respect of their employment", (ILO, 1949) and Article - two of the subsections one of the same guarantees "adequate protection to both workers' and employers' organisations against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration" (ILO, 1949). These conventions (convention - twenty-nine, convention - eighty-seven, and convention - ninety-eight) guarantee the right against forced or compulsory labour, the right to freedom of association, the right to organise as well as collective bargaining.

Convention - one hundred of ILO came in 1951 and it is concerned with "equal remuneration for work of equal value for both men and women" (ILO, 1951). Article - one of the subsections (b) states that "the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex" (ILO, 1951). Further, Article - two of the convention states that "each member shall ensure that equal remuneration to all workers may be based on the following principles – national laws or regulations, legally established or recognised machinery for wage determination, collective agreements between employers and workers, or a combination of these various means" (ILO, 1951).

ILO's convention - one hundred-five came in 1957 and that is concerned with "abolition of forced labour" (ILO, 1957). The principal aim of the convention is to suppress the prevalence of punishment for strikes and holding political views. Hence, Article - one of the convention states that "each member of the International Labour Organisation which ratifies this convention undertakes to suppress and not to make use of any form of forced or compulsory labour – as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilising and using labour for purposes of economic development; as a means of labour discipline;

as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination" (ILO, 1957).

Table 2.1: Ratification Record of Conventions								
Country ↓ Convention →	29	87	98	100	105	111	138	182
Australia	✓	✓	✓	✓	✓	✓	–	–
Bangladesh	✓	✓	✓	–	✓	✓	–	–
Canada	–	✓	–	✓	✓	✓	–	–
Germany	✓	✓	✓	✓	✓	✓	✓	–
France	✓	✓	✓	✓	✓	✓	✓	–
India	✓	–	–	✓	–	✓	–	–
Japan	✓	✓	✓	✓	–	–	–	–
Nepal	✓	–	✓	✓	✓	–	–	–
Pakistan	✓	✓	✓	–	✓	✓	–	–
Sri Lanka	✓	–	✓	–	–	–	–	–
United Kingdom	✓	✓	✓	✓	✓	–	–	–
United States	–	–	–	–	✓	–	–	–

Source: Ratnam, C. (2000). India and International Labour Standards. *Indian Journal of Industrial Relations, 35*(4), 461-485.

Convention - one hundred-eleven of ILO came in 1958 and is "concerned with discrimination in relation to employment as well as occupation" (ILO, 1958). The main objective is "to prohibit the discrimination such as distinction, exclusion or preference based on the basis of race, colour, sex, religion, political opinion, national extraction or social origin in employment or occupation" (Article - one of the subsections [a]) where "the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment" (Article - [three]) (ILO, 1958).

Convention - one hundred thirty-eight of ILO came up in 1973 and it is about the "minimum age to come into employment" (ILO, 1973). Article - one of the convention states that "each member for which this convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons" (ILO, 1973). Further, Article - three of the subsections one states that "the minimum age for

admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years" (ILO, 1973). But, Article - seven of the subsections one says that "national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is not likely to be harmful to their health or development, and not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received" (ILO, 1973).

Convention - one hundred eighty-two of ILO which came in 1999 is related to a "worse form of child labour" (ILO, 1999). Article - one of the convention says that "each member which ratifies this convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency", (ILO, 1999) and Article - two clarifies that "the term child shall apply to all persons under the age of 18" (ILO, 1999). Further, Article - three states that "the term the worst forms of child labour comprises – all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children" (ILO, 1999).

Further, these ILO conventions restrict forced labour and emphasise its abolition, discrimination based on race, colour, sex, religion, political and social opinion, in relation to employment and occupation, child labour and support its abolition, and worse forms of child labour and stresses on its eliminations. But, non-ratification of these conventions by member states would directly deny the workers' due rights such as – the right to equal living wages, occupational health, welfare as well as safety and social security.

International labour law has been derived from the ILO conventions and its recommendations including ILO Constitution, and hence ILO is the major source of international labour laws. These conventions of the ILO are the International Treaties which need ratification of its member states. The practical application of the labour standards remains in the hands of the supervisory mechanisms of the ILO which are established under various articles of ILO Constitution:

> *"Under Article 19 Member States are required to report at appropriate intervals on non-ratified Conventions and on Recommendations indicating the extent to which effect has been given or is proposed to be given to those instruments. Under Article 22, reports are periodically requested from States which have ratified ILO Conventions" (ILO, n.d.c).*

The ILO brought all these conventions to frame the labour standard which generally is considered as international labour law. These conventions apply to all the workers but it is dependent upon countries for its meaning as well as realisation, because only after its ratification by the member countries does it becomes applicable. At the same time, there is no global government to enforce such rights. Most importantly, due to domestic politics also, member states merely enforce or lose power to enforce labour rights.

Even if, the ILO has established as well as developed international labour standards to promote working opportunities for both men and women as well as to obtain decent and productive working conditions with freedom, equity, security and dignity, the

problem lies in its poor record of ratification. Ratnam (2000: 472-77) says that among the countries of Western Europe, it is France and Germany that have ratified all the core conventions and among the South Asian countries, India has ratified lesser core conventions than the other countries, but India has a better record of ratification than the US (table 2.1).

Though the record of ratification of the ILO convention is poor yet no one can deny its contribution towards the setting up of international labour standards. But, apart from that at the beginning of the twenty-first century, in February 2000, a meeting was held between *International Centre for Trade Union Rights (ICTTUR)* and the *International Association of Democratic Lawyers (IADL)* where a concrete proposal was developed to create the *International Commission for Labour Rights (ICLR)* to achieve fundamental rights as well as freedom for working people. As a result, in 2001 at the eighty-nine session of ILO in Geneva major new monitoring of international labour rights were launched (Mcdermott, 2001).

Since the commission works for fundamental rights and freedom of working people, in recent years the commission has sent inquiry commissions to India, Mexico as well as Columbia. Recently, representatives from Japan, South Africa, France, the US, and India were sent to India as a delegation to investigate the situations of the fired including imprisoned workers of Maruti Suzuki factories near Delhi in 2018 ICLR, n.d.). Besides, the commission had also, organised an international delegation to investigate the denial of the rights of workers in North Carolina, US, assisted in the writing of an ILO complaint about New York State and City's denial of internationally guaranteed labour as well as trade union rights to Transit Workers Union and the commission continues to support workers in the US state of Wisconsin, Michigan and other states where

workers face challenges in the area of rights of public workers and collective bargaining including freedom of association (ICLR, n.d.).

Along with the ILO's core labour rights i.e. right to organise and collective bargaining, and the right to be free from forced labour, child labour as well as discrimination, the freedom of association is also a fundamental right and all these rights deserve protection by the competent authorities. Since ILO was formed to frame the labour standards to provide social justice to workers, the ILO needs to take certain more serious initiatives to reduce the gender gap in wages, including adequate wages to survive as well as to reduce the practice of child labour. Unfortunately, the "migrant workers' rights are outside the international consensus on core labour rights" (Compa, 2002: 21). Hence, expansion of core labour rights is very much necessary.

Besides, other institutions have come up with certain agreements. The *North American Free Trade Agreement (NAFTA)* which is a tri-lateral trade agreement signed by Canada, Mexico and the US have two important supplements – the *North American Agreement on Environmental Cooperation (NAAEC)* and the *North American Agreement on Labour Cooperation (NAALC)* (The United States, 2005). With an objective to improve working conditions as well as living standards of the labour NAALC was signed in September 1993 and provided the following rights: freedom of association and protection of the right to organise, right to bargain collectively, right to strike, prohibition of forced labour, labour protections for children and young persons, minimum employment standards, such as minimum wages and overtime pay, covering wage earners, including those not covered by collective agreements, elimination of employment discrimination based on race, religion, age, sex, or other grounds as determined by each country's domestic laws, equal pay for men and women, prevention

of occupational injuries and illnesses, compensation in cases of occupational injuries and illnesses, and protection of migrant workers (The United States, 2005).

Similarly, European Union (EU) has also brought the "community charter of the fundamental social rights of workers" in December, 1989 (Eurofound, 2011, January). This community charter is a principles-based charter of human rights that particularly applies to the working class in the EU. This charter of EU offers the following rights: freedom of movement (Articles - one to three), employment and remuneration (Articles - four to six), improvement of living and working conditions (Articles - seven to nine), social protection (Article - ten), freedom of association and collective bargaining (Articles - eleven to fourteen), vocational training (Article - fifteen), equal treatment for men and women (Article - sixteen), information and consultation and participation for workers (Articles - seventeen to eighteen), health protection and safety at the workplace (Article - nineteen), protection of children and adolescents (Articles - twenty to twenty-three), elderly persons (Articles - twenty-four to twenty-five), and disabled persons (Article - twenty-six) (Eurofound, 2011 January).

Besides, *"Mercosur's Social-Labour Declaration",* 2015 also came out with individual rights such as – non-discrimination, promotion of equality, rights of migrant workers, right against forced labour, and collective rights such as – freedom of association, trade union freedom, collective bargaining, right to strike, social dialogue, employment promotion, protection of unemployed, training and development of human resources, occupational safety and health, social security and all (Mercosur, 2015). Hence, further, these provisions make clear that ILO's core labour rights are lacking certain things mainly rights concerning migrant workers as well as disability protection, vocational training and others.

Canada through its *Charter of Rights & Freedoms of Constitution Act (1982)* guarantees certain political rights to its citizens and civil rights for everyone in the country and some important rights, as well as freedoms contained in the charter, are – freedom of expression, right to live and to seek employment anywhere in Canada, right to equality, including the equality of both men and women, and many (see also Bilson, 1985). Bilson (1985: 750-51) says that before the enactment of this charter Canada's citizens used to enjoy protection through legislative action. Further, Bilson says that, presently, the working population has been benefited from various statutory provisions, particularly in the area of wages, working time, working conditions including occupational safety. Furthermore, Bilson says that this is the result of unions' right to collective bargaining including legislative backings/ provisions and hence the workers who are not represented by unions are unable to enjoy these rights. In this backdrop, it becomes clear that the union is of utmost importance particularly for workers whether organised or unorganised to raise their voice:

> *"Prior to the adoption of the Charter, the major means by which citizens in Canada accrued new protection from the harmful effects of the conduct of their fellow citizens was through legislative action; and when one compares the present situation of members of the labour force with that of early industrial employees, it is clear workers have benefited by a variety of statutory provisions. This is evident in the area of labour standards, where minimum standards with respect to wages, hours of work, working conditions, occupational safety and a number of other matters have been imposed in all Canadian jurisdictions" (Bilson, 1985: 750-751).*

Besides the above discussion, one of the important questions remains unanswered that is who holds the responsibility to protect labour rights? Everyone knows that ILO offers conventions for member countries but since it has no direct enforcement mechanisms, it automatically needs to defend upon member countries' ratification. As some of the conventions are mainly related to economic and social rights, it is being rarely ratified by member countries. For instance – India has fundamental rights which are civil and political, and directive principles of state policy and is economic, social and cultural

rights. Between these two the latter is only the guiding principles of governance. In this condition labour and social justice groups have to play an important role to reduce child labour: they should demand adequate wages for workers and should seek to bring social as well as demand social security for workers (see Bacon, 2002).

Wang (2017) says that democracy offers labour rights and that the democratic system plays an important role to realise labour rights, particularly by enjoying the right to freedom of association encouraging the formation of a union. Since democracy offers these aforementioned rights especially freedom of association, it has resulted in the rise of the union in many democratised countries say for instance – Argentina, Brazil (Cook, 2002, as cited in Wang, 2017), Indonesia (Lindblad, 2002, as cited in Wang, 2017), including countries of Eastern Europe (Cook, 2010, as cited in Wang, 2017). Further, Wang says that in comparison with authoritarian countries, democratic countries have a better history of freedom of association as well as collective bargaining. Furthermore, Wang says that though democracy empowers workers with the help of the right to freedom association including the right to vote, it does not necessarily imply that democratic countries do not minimize the protection of labour. In this backdrop, it can be assumed that the workers including the internal migrant workers in India should be in a better position to enjoy their rights as India is the largest democracy in the world.

2.4   Are Labour Rights Human Rights?

The above discussion clarifies that workers' rights are collective in nature but a few rights of workers are, such as – right to form as well as to join trade unions, equal pay for the equal value of work etc., are codified in UDHR as well as in both the international human rights covenants i.e. ICCPR and ICESCR. But the difficulties lie with UDHR as it is only a declaration and these two covenants have not been ratified by some of the member states, for instance – the USA has not ratified the latter. These

workers' rights are vital for the working class as without these rights they would be the subject of exploitation. Since these rights are fundamental for all human beings including workers to sustain as human beings scholars have attempted to define rights of workers as human rights:

Mantouvalou considers rights of workers as human rights where everyone hold obligation to defend the same and nobody should exploit workers with an aim to gain better gainful and well-organised business (Mantouvalou, 2014 October 21). Further, Mantouvalou says that human rights are worthful for workers as it gives workers a voice as well as provides political and moral space for most vulnerable groups such as unorganised, underskilled as well as those undocumented.

Gilabert (2016) considers labour rights as "labor human rights" and according to Gilabert "labor human rights are rights that human beings have in their capacity as workers". Further, Gilabert classifies the labour rights stated in various documents such as UDHR, ICCPR, and ICESCR into different groups – right to work includes – an opportunity for work, free to choose work, and security of work, right to decent conditions at work includes – adequate remuneration, safe as well as healthy working conditions, equal opportunity for everyone, rest, leisure, fixed working hours, periodic holidays with pay including remuneration for public holidays, and right to form and join unions includes – right to form and join unions including the right to strike (OHCHR, 1966a). In this way, it becomes clear that labour rights are part of the socio-economic and cultural rights. Holtz (1999) is also of the view that "labour rights are human rights". Furthermore, Holtz clarifies that even if these important worker rights are contained in both conventions no. eighty-seven of ILO as well as in UDHR, till now countries like India, China, USA have not been ratified.

Hughes (2005: 414) says that "social problems are political as well as economic in nature and that economic security and equality of opportunity are basic human rights". Further, Hughes says that international labour standards set inclusive human rights' dimensions on a wide range of labour-related issues. Thus, Hughes says that one of the ILO's "principal achievements has been to expand labour protection into the domain of human rights and tie these to the pursuit of freedom and economic progress" (Hughes, 2005: 414).

McIntyre (2007: 53) gives two related instances to the discourse of worker rights as human rights – the anti-slavery movement of the nineteenth century which has already been banned, and the contemporary labour rights regime in the US. But still, the consideration and recognition legally of labour rights is a topic of discussion in academia because if it is looked at, it is really difficult to consider human rights as the basis of worker rights. After all, human rights particularly deal with individual rights rather than collective rights or group rights, but group rights are one of the important aspects of human rights. Secondly, it is also looked at that these workers are also human beings and a human beings they are also entitled to human rights because everyone is entitled to enjoy all the human rights without distinction of any kind such as – race, colour, sex, language, religion, political or other opinions, national or other social origins, property, birth or other status.

Human rights, which requires conceptual discussion, consist of civil, political, economic, social and cultural rights. On the other hand, labour rights are also rights which include those types of rights. The rights like the right to freedom of association, right to form and join trade unions, right to work, right to equal pay for equal work, right against slavery or forced or compulsory labour etc. are contained in the UDHR, ICCPR, and ICESCR and these rights are also important for workers. These rights are

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fundamental to workers for their survival and these rights are universal in one sense that these apply to all countries regardless of one's countries level of economic development including political and another kind of development (see UDHR, 1948; ICCPR, 1966; ICESCR, 1966; Bohkning, 2005: 1-10). Besides, it can be said that labour rights are basic as well as fundamental to workers to defend their rights to protect themselves from slavery or forced labour and to demand their due treatment etc.

Looking into the evolution of ILO's conventions it is found that many times the organisation has tried to meet or fulfil the rights or entitlements depicted in the UN covenants on human rights, which has presently been recognised. Therefore, Elias (2007: 50-51) says that "it has long been recognised that the ILO plays a role in the promotion of internationally agreed human rights standards - particularly in the area of economic rights as laid out in the UN's ICESCR". But the problem lies with the poor record of ratification. Further, Elias gave the poor ratification record of the US. Feminists consider that the promotion of core labour standards[13] (freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced and compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation) advances the view of rights of workers as human rights but claims that often it leaves the specific issues as well as concerns of the women workers on the sidelines of the debate of labour standards (Elias, 2007: 51) such as low wages and harassment at workplace again which are not generally considered as human rights issues (Elias, 2007: 51, see also Shaw & Hale, 2002: 109).

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[13] The ILO first began to talk of 'core labour standards' at the 1995 World submission for Social Development, and in 1998 the ILO Declaration of Fundamental Principles and Rights at work was adopted at the International Labour Conference.

This tries to clarify that even after achieving huge labour standards, most importantly core labour standards the right of women workers are poorly protected as well as promoted. Is it because of the social construction that women are weaker than men? If not then what is the reason behind it? Responding to the issue is not an easy task but once Chinkin (2005, May; as cited in Elias, 2007: 53) said that women are many a times considered as passive as well as flexible workforce who "accept low wages without demanding labour and human rights". Standing (1999) says that due to this type of consideration women have been pushed into a situation where there is low wages, poor condition of work, insecure contracts of employment and all. Further, Standing has described this situation as the feminisation of flexible employment.

Conclusion

Rights are basic entitlements of human beings as members of the human world. It is rooted in the early society (state of nature) where according to social contract theorists (Locke, Hobbes and Rousseau) people had some natural rights such as the right to life, liberty, property. In the state of nature people thought to secure and protect those rights and as a result of which social contract came into existence. In course of time, some of those entitlements secured social as well as legal recognition. Further, those rights have been recognised as natural rights, moral rights, and legal rights.

The rights which are considered to be enjoyed by people in the state of nature are regarded as natural rights (right to life, liberty and property), those rights which come out from the ethical feeling are regarded as moral rights for instance – parents' rights over children and those rights which are recognised by state and enforced by the court of law are regarded as legal rights. And, these rights have both negative and positive nature where the negative nature of rights implies the existence of restrictions of the acts of the state upon the acts of individuals, and positive nature of rights implies the

non-existence of the restrictions of the acts of state in improving the lives of the citizens as well as in helping in their self-development. However, the foundation of the rights can be found in the religions, thinkers, historical documents, and contemporary development.

Natural rights theory considers that rights are natural and it came from nature itself and is not created by any artificial organisation. Even some of the theorists claim that rights are even pre-social and these rights can be found everywhere and in any place. On the other hand, Historical theory regards rights, law and state as the products of history but not the arbitrary creation of human will and nature. The social welfare theory of rights correlates between rights and welfare and considers that it is the conditions of social welfare created by the society to realise the social good. The idealistic theory of rights regards rights as the external condition that is most essential for human beings' inner development. Marxists consider rights as an instrument of the dominant class in the society through which they suppress the dominated class, hence they want to replace the capitalist system with socialism after the revolution by the proletariat. In short, rights evolved throughout history and received different shapes of understanding under the various schools of thought and thinkers. This contributed towards the conceptualisation of worker rights.

In the context of workers, rights were recognised very lately after a long history of subjugation and exploitation though they also belong to the same human society. The workers used to work for long hours everyday with no fixed hours of work in a day or a week or month. These despicable situations forced them to raise their voice for the betterment of their working condition. As a result, during the time of industrialisation in the 19th century, a strike was called in the USA to make eight hours working day and forty-eight hours in a week. Initially, though the strike was non-violent it turned around

and many people were injured and few lost their lives and few others were put in jail. But, after all the challenges they achieved their ultimate goal – fixed working hours. The study reveals that although the rights of workers (labour) existed before, the rise of consciousness over worker (labour) rights can be seen during industrialisation and in the labour movement in the USA to make eight hours working time in a day and forty-eight hours in a week.

Further, realising the necessity to secure and protect the rights of all human beings including the working class in different periods many international institutions have come up such as LN, ILO, UN. LN intending to maintain peace and security throughout the world after World War I by preventing wars through collective security and disarmament, and by settling disputes through negotiation and arbitration. Particularly, Article - twenty-three of the covenant of the LN states that the members of the League "will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations" (UN Geneva, 1919 June 28; see also Yale Law School, n.d.). Later on, ILO also came into existence to achieve universal as well as lasting peace. They consider that universal and lasting peace can be established only if it is based upon social justice. Due to the failure of the LN, the UN came into existence in 1945. With the coming up of the UN rights and workers rights secured the status of human rights.

Over the periods to secure and protect those human rights of workers ILO brought many international conventions. Among them, the core labour convention includes – convention - twenty-nine, convention - eighty-seven, convention - ninety-eight, convention - one hundred, convention - one hundred five, convention - one hundred

eleven, convention - one hundred thirty-eight, and convention - one hundred eighty-two.

In course of time, the core conventions set the following labour standards – suppression of the forced or compulsory labour, protection of freedom of association, prohibition of discrimination, prohibition of a worse form of child labour, protection of the right to organise, secure collective bargaining, secure equal pay for equal work without discrimination, set minimum age to enter into work and many. Nevertheless, the problem lies with its poor record of ratification and particularly, it's been found from the record of the convention that institutions are less concerned with the issues of migrant workers both at the international and national level.

Apart from all the challenges, it must be accepted that over the periods rights of workers have been recognised as human rights under the different international documents whereas the writings of different scholars have contributed too.

Chapter – 3

Human Rights of Migrant Workers

Introduction

The idea to have inherent and inalienable rights is not a recent development as it has already been argued by theorists of human rights, for instance natural theorists consider that the right to life, liberty and property are given by nature itself. Hence these basic rights can't be separated from human beings and being human is the fundamental criteria to enjoy these rights. Therefore, it is believed that the basic rights now known as human rights should be enjoyed equally by all people, regardless of race, colour, sex, language, religion, political or other beliefs, national or social origin, property, birth, or other position.

The term human rights have evolved throughout the generations through the principal messages of diverse religions (Hinduism, Buddhism, Judaism, Christianity, Islam etc.), works of secular thinkers (Aristotle, Bodin, Hobbes, Locke, Rousseau, Kant, Marx, Engels etc.), and early documents (Code of Hammurabi, Charter of Cyrus, Asoka's edicts, Magna Carta and many) which have been elaborated in the previous chapter (Chapter 2). Further, in the development of human rights, the coming up of contemporary documents such as the UDHR, American Declaration of the Rights of Men and Duties and others have also contributed. Presently, there are many conventions at different levels such as national, regional and international and these conventions act as the regimes of human rights. But the term human rights, which included workers' rights invariably incorporating migrant workers, explicitly appeared for the first time in the UN Charter in 1945 and had a global reach.

In the context of migrant workers also, many institutions, particularly ILO and UN have emerged in the twentieth century. Now it has almost been hundred years of working experience for ILO in the area of workers' rights although, there is less specific international law concerning migrant workers. With these conventions, ILO has responded to the issues of migrant workers. Recently, in 1990 also UN came up with another convention called ICRMW (OHCHR, 1990). But has the evolution of rights especially human rights raised the consciousness level of workers - as well as migrant workers- and has the emergence of the institutions like ILO and UN contributed towards the conceptualisation of the human rights of migrant workers?

3.1 Human Rights: An Understanding

Understanding the human rights of migrant workers becomes incomplete as well as vague without understanding the very conceptual foundation of human rights, delving into how it evolved and how different institutions came up to safeguard certain fundamental entitlements of human beings. But what do human rights mean? In simple words, M.H. Beg says that "human rights imply justice, equality and freedom from arbitrary and discriminatory treatment. These cannot be subordinated to the interests of the rulers. No one can be subjected to coercion for holding particular beliefs. The doctrine of national sovereignty cannot justify the violation of human rights" (Sharma, 2008: 14), and A.A. Said says that "human rights are concerned with the dignity of individual–the level of self-esteem that secures personal identity and promotes human community" (Sharma & Katoch, 2007: 271). But this short introduction on the concept of human rights does not satisfy the understanding of the very concept of human rights which requires further discussion:

Firstly, the concept of human rights is considered as natural, as well as inherent, in nature by scholars as well as the UN. Some important figures in the area of human

rights link the concept of human rights to natural rights because they hold the view that sources of those rights remain in human nature and it is the entitlement of every individual by the virtue of being humans. Take, for example, Donnelly (1982: 391) says that the concept "human rights is generally taken to mean what Locke and his successors meant by natural rights: namely, rights (entitlements) held simply by the virtue of being a person (human being). Such rights are natural in the sense that their source is human nature". David Selby also says that human rights apply to all people and are held by everyone on the planet because we are all human beings, and they aren't earned, bought, or inherited, and they aren't the result of any contractual agreement (Kanmony, 2010: 2-3). Darcy (1997, February: 9-11) says that the concept of "human rights can be described as claims" which everyone simply has "by virtue of humanity", and these claims are "fundamentally moral claims", against the state in terms of legality as well as against everybody in terms of morality. He further says that the rights are not the creation of law but it was the law which recognised moral rights of persons as well as state's responsibility to ensure and respect (Darcy, 1997 February). Furthermore, Darcy (Darcy, 1997 February) says that those claims include freedom of speech, movement, association, fair trial, freedom from torture which may include the right to life (see also OHCHR, 1966a), social security, an adequate living standard which includes adequate food, clothing, housing, healthcare as well as education (see also OHCHR, 1966b). Bruce and Yearley (2006: 140) are of the opinion that "these are rights for which being human is the only requirement".

Secondly, the concept of human rights is also considered as based on the moral principles of right and wrong, recognised as well as accepted by a social group including an individual. Therefore, Shestack (1998: 202) opines that "human rights are a set of moral principles and their justification lies in the province of moral philosophy".

Feinberg says that human rights are "generically moral rights of a fundamentally important kind held equally by all human beings, unconditionally and unalterably" (Ten, 2016). Cranston also defines "human rights as moral rights that are of paramount importance, that are of all people against all people in all situations, and that are possessed by people simply as people rather than as occupants of some station or role" (Ten, 2016).

Thirdly, in the words of a few scholars, the concept of human rights is inalienable and even the UN considers it. For instance: Jefferson (Sinha, 2010: 19; Kowalski & Derfel-Kowalski, 2011: 10) says that "all men are created equally and they are endowed with certain inalienable rights to life, liberty and pursuit of happiness". Molinero (2010: 352) says that "John Locke was one of the first philosophers to suggest that the idea of the inalienability of human rights".

Fourthly, this concept of human rights is also being defined as universal entitlements of all human beings, which need to be applicable to all irrespective of time and place. Hence, Kumar (2011) says that human rights are, universal, held equally by all simply because one is human and inalienable. Renteln (2008: 968) says that "human rights are that individuals have simply by virtue of being human" and are "considered to be universal, nonconditional rights" where responsibility to protect those rights remain in the hands of the "states, governments and private actors". Hoffman and Graham (2006: 174; 2015: 401) define the concept of human rights as "an entitlement to treatment that a person enjoys simply by virtue of being a human being. Human Rights are universal, meaning that possession of such rights is not continent on belonging to a particular state or culture". Edward Lawson also considers that "human rights are the universally accepted principles and rules that support morality and that make it possible for each

member of the human family to realize his or her full potential and to live life in an atmosphere of freedom, justice, and peace (Lawson & Bertucci, 1996: 711).

Fifthly, looking into the contemporary situation human rights can also be defined as legal rights which without the recognition of the legal authority are not enforceable. Christian Bay, based on physical survival needs, social belongingness needs, and individual subjectivity needs define human rights "as any claims 'that ought to have legal and moral protection to make sure that basic needs will be met'" (see Vincent, 1986: 14). Scott Davison states that "the concept of human rights is closely connected with the protection of individuals from the exercise of state, government or authority in certain areas of their lives, it is also directed towards the creation of societal conditions by the state in which individuals are to develop their fullest potential" (Sharma & Katoch, 2007: 271). Susan Moller Okin considers the concept of human rights as a claim to something (whether freedom, a good or a benefit) of crucial importance for human life. According to her "there are at least three kinds of important human needs– to basic physical goods, to physical security, to being treated with respect" (Singh, 1995: 10). Hegel and Herder (Barash and Webel, 2009: 374) also state that "rights are enlarged and created for individuals only through the actions of the state".

Besides, some scholars of human rights say that at certain times the concept of human rights has synonymously been used with other concepts like civil rights, basic rights, citizens rights, fundamental rights and all to express a similar connotation. For instance, Roy (1997: 259) says that "sometimes human rights, civil rights and citizen rights are popularly used to convey the same meaning. Though there are similarities among all those rights, human rights have a wider connotation". Hence, Roy defines the concept of human rights as "those minimal rights in which every individual must possess against the state or other public authority by virtue of his being a member of a human family,

irrespective of any other consideration" (Roy, 1997). But the above discussions do not clarify the very foundations of human rights.

Therefore, to be very precise, it can be stated that though the concept of human rights never existed explicitly before the coming up the UN Charter. The basis of the concept of human rights can be traced from religious as well as secular thoughts, and historical as well as contemporary documents which have been already discussed in the previous chapter (see chapter 2). Even if the foundation of human rights can be found in the previous classical writings of various scholars as well as the provisions of various documents, the term human rights as a nomenclature of the rights seem to be of very recent development as in the classic works in the area of human rights, the nomenclature is rarely been used by the scholars as well as the experts. It was only after the end of the World War II that the term was noticed to have been popularly used by scholars including various personalities. For instance – Haas (2014) says that after the culmination of the Cold War, concern over the concept of human rights emerged larger than ever before. Freeman (2011: 37) says that with the proclamation of UDHR by the UN, "human rights has become one of the most pervasive in contemporary politics". Further, Freeman says that the concept developed into two different ages, one is from the French Revolution to the World War II which he considered as "the dark age", and another is 1945 onwards. Barash and Webel (2009: 374-375) say that though the concept of human rights has been tempted to be claimed as old as the human species, it is relatively new which have been derived especially from the Western traditions that is from the works of English philosophers Locke and John Stuart Mill:

> *"It is tempting to claim that human rights are as old as the human species, but the truth is quite different. Even if human rights are God-given, inalienable, and fundamental, the conception of human rights as such–and respect for them–is relatively new. .... human as currently understood are largely a Western tradition, deriving especially from the works of the English philosophers John Locke and John Stuart Mill" (Barash and Webel, 2009: 374-375).*

Patnaik (2004: 500-501) is of the view that even if human rights as a concept achieves its currency in the twentieth century, its basis remains in the ancient texts as well as in classical writings of Manu, Parasar, Kautilya and others who tried to protect the entitlements including the dignity of individuals from the "rapacity of the rulers", even by proposing various "duties to the rulers to protect the dignity of the citizens"; as well as in the ancient and classical writings of Plato, Aristotle and Cicero. Further, Patnaik is also of the opinion that orderly thoughtful on the concept remains in the works of Hobbes, Locke and Rousseau: Hobbes was aware enough to think on the necessity to think to ensure "the right to security to the individuals" to prevent the exploitation by the rulers which contributed to the emergence of the state in later part period; Locke realised the necessity of the protection of the "right to life and property" and that realisation helped in the creation of the state; and "Rousseau believed that through the participatory democracy of smaller communities the general will of the people could be expressed" (Patnaik, 2004: 501-502). Furthermore, Patnaik says that their contemporaries such as Montesquieu and his "theory of separation of powers", Voltaire and his "call for freedom of expression", and Helvetius (hedonist) and his "calling of universal education" also contributed towards the development of the concept of human rights (Patnaik, 2004: 502).

To be precise, it can be assumed that human rights are those rights which are fundamental necessity for human existence and these rights have not been designed only for a particular group of people but for all individuals without any discrimination based on one's race, religion, nationality, language, sex, or any other factor and in fact, those rights are, accessible to all individuals just because they are a human beings (Agarwal, 2006: 3), inherent as well as inalienable in nature. This concept of human rights has its history of evolution.

3.1.1 Theories of Human Rights

Since there is no consensus regarding the origin and development of human rights, it becomes quite necessary for all of us to look into its theories. Because theories were developed in different periods by different theorists, they have dissimilar conclusions and it may be because of their consideration based on their time and period. The contribution as well as identification of various concepts and ideas of rights by religions, philosophers as well as by historical documents have already been discussed in the chapter 2. Presently those concepts, as well as the ideas of rights, have appeared in the arena of human rights.

Communitarianism: Communitarians considers the maintenance of a balance between the rights of the individual and the need of the community. They believe that along with rights, human beings possess collective responsibility to meet the needs of the community equally as a whole. German philosopher Fichte considers that rights are respected because they are in the interest of individuals as well as the societies in which they live (Haas, 2012: 29).

Rationalism: This theory is based on the concept of rationality, therefore its theorists consider the action of human beings as rational. Kant developed his ethical principles called 'categorical imperative' which is the central philosophical concept in his moral philosophy. According to him, ethics is derived from rational or reasonable persons. On the other hand, according to Fichte (Haas, 2012: 29) rights are respected because they are in the interests of individual and society. Therefore, rationalists consider the existence of moral consideration for a society where human dignity is respected and human rights as inalienable.

Utilitarianism: This theory of human rights is represented by Bentham and Mill. Bentham who considers the concept of natural rights as "nonsense upon stilts" (Schultz,

2017: 69) supports the parliamentary supremacy that extends its rights to the middle class which includes voting rights, freedom of speech, freedom of the press, and freedom of religion. Utilitarian Bentham considers that socially desirable condition is the greatest happiness of a greatest number of people (see also The Andover Review, 1887: 64-88). Further, this idea represents Bentham's moral foundation. Another Utilitarian Mill advocated the idea of "freedom of thought and expression" (see O'Rourke, 2003: 1) and these ideas favoured the concept of equality of sexes on the utilitarian ground. On the other hand, modern utilitarians who believe in free and fair trade expect globalisation to bring greater human rights.

Liberal Democratic Theory: This theory of human rights is primarily represented by Madison, one of the framers of the American Constitution (Phillips, 1856: 162), and Abraham Lincoln (1809-1865). The theory stresses on the necessity of respect for the rights of minorities who failed to get protection through the *American Bill of Rights (1791)* but later, got it was only after the *Civil War (1861-1865)*. Therefore, this theory considers the establishment of prohibition upon the action of government through federalism and separation of powers so that civil and political rights can be enjoyed equally. But the Madison's American Constitution itself legitimated the slavery system (see Haas, 2014).

Social Democratic Theory: According to Newman (2005: 5) and Lamb (2015: 415-416) as an ideology, social democracy originated within the labour as well as the socialist movement. Further, as a theory, the social democratic theory has been developed by sociologists such as Gerhard Lenski (1924- 2015) and Gunnar Myrdal (1898- 1987). The social-democratic theory considers that government without limiting it to only a liberal democratic political framework that should be based on a welfare

framework where the welfare state would respect socio-economic rights as well as civil and political rights and the rights of workers.

Besides, the theory of natural rights, there are other theories like the natural law theory, social contract theory, social welfare theory, the legal theory of rights, and Marxian theory of rights that give us an understanding of human rights although those theories are dominant theories of the concept of rights. But certain theorists oppose the general arguments of the human rights theories: Plato and Burke are of the view that "humans are born unequal", von Savigny, Maine, Lee Kuan Yew are of the view that "human rights are culturally defined", Spencer, Sumner, Morgenthau are of the view that "the strong should rule the weak", and Foucault, Hume, Bourdieu are also of the view that "elites establish orthodox views to justify denying human rights and rights have no empirical basis" (Haas, 2014: 39).

3.1.2 Foundation of Human Rights

The above discussion and analysis on human rights clarify that the concept of human rights is a vague one which needs sufficient analysis and scientific justification. Hence, this indicates that there is again a long way to go to get clear corroborations that include the foundation of the very concept of human rights. Throughout its evolution, human rights have achieved more diverse perspectives in comparison to its initial stage. Presently, there are various schools of thought which views the concept of human rights on the basis of their understanding as well as considerations. Therefore, Dembour says that different philosophers hold different conceptual understanding of human rights: "for natural scholars, human derive from nature"; for deliberative scholars, "human rights come into existence through societal agreement"; "for protest scholars, human rights articulate rightful claims made by or on behalf of poor, the unprivileged, and the oppressed"; and for discourse scholars, "human rights exist only because people talk

about them" (Dembour, 2010). Since it has been a dynamic one, the concept has been viewed differently by different schools of thought. These valuable views give a more in-depth knowledge about its dynamic nature:

It is already been stated that though human rights was popularised significantly in the twenty-first century, its origin is found in the Magna Carta and other landmark documents. But with the coming of the UN, it has been noticed to have brought certain international bills of rights which gives those rights, international status. These bills state that these human rights are accessible to all without discrimination (see OHCHR, 1948; OHCHR, 1966a; OHCHR, 1966b). Hence, the universalistic perspective views that human rights are universal and these rights are accepted by all the states irrespective of their historical, socio-economic, cultural as well as ideological differences. Further, along with the incorporation of certain rights and freedoms, it is also being made into obligations before the state that includes the system of supervision and monitoring at the international level. Donnelly (2013: 10) states that human rights are equal, inalienable and universal rights. Lower (2013, Dec 1) is also of the view that "human rights hold universal values which should be adopted by states worldwide".

The concept of human rights is dynamic as it changes meaning with the changing schools of thought. Human rights are recognised for different factors in different states - like culture - because the concept of human rights may have been founded on unique cultures. Say, for instance, a certain right enjoyed by women of the Hindu religion may not be given to women of Islam. In this way, making human rights universal becomes questionable. Hence, exponents of the relativist perspective consider that moral values are, historically as well as culturally, not universal rather specific (Yasin & Upadhyay, 2006). Langlois (2009: 19-20) says that "the cultural relativist often criticizes the of

human rights doctrine for failing to respect different cultural, religious and philosophical traditions".

Western liberal thought considers that naturally man is isolated as well as autonomous and possess certain inborn and inalienable rights. Through the social contract, when the man surrendered certain natural rights, some other rights remained inalienable. To achieve an organised society, therefore, it becomes the duty of a state to ensure safety, security and rights including the private property of individuals. This clarifies that western liberal thought believes inalienable, individual including civil as well as political rights as the base of society (Palai, 1998: 17-18). Jefferson was also of the view that people have certain inalienable rights and that may not be denied (Barash & Webel, 2009: 376).

Socialist perspective can be considered as a reaction to the liberal perspective of human rights. In this school of thought, it is considered that the state of human nature was considerably driven by man's material life. Engels is of the view that prior to civilisation, both men and women lived in a state of primitive communism where there was equality among all. But, later on, the accumulation of individual wealth, private property, ownership of means of production including class difference became the basis of capitalism. Socialists argues that civil and political rights are not natural rights, rather these rights are the rights of bourgeois which evolved with the coming of capitalism to serve their interests. Therefore, the Socialists says that to achieve social good one needs to perform certain obligations of society because mutuality between rights and obligations is the key to attain freedom as well as equality in the society (Palai, 1998: 18-19).

Since the beginning of the UN, human rights have been recognised as the right of all without distinction of any kind, such as race, colour, creed, sex, religion etc. Because,

UN considers that all human beings are born free and equal in dignity and rights (see OHCHR, 1948). Despite, all these, women who constitute around fifty percent of the world population have been the subject of exploitation and even their contribution was not being recognised. In this backdrop, feminists criticised the system of human rights which later on resulted in the emergence of a movement for equality. As a result, only in the 1990s, women's rights achieved their human rights status with the coming up of UN World Conference on Human Rights, in Vienna and UN World Conference on Women in Beijing.

This third world perspective is from the viewpoints of the recently independent, decolonised, third world countries that include the countries in Asia, Africa, Latin America and the Middle East. These countries are considered developing countries and they are rich in the area of traditional culture and ethnic composition. Since these countries have achieved their independence very recently, they are bound to be conscious enough for their development as well as nation-building. At the same time, they are bound to be more conscious about the protection and preservation of their rich culture and ethnic composition. Hence, these countries are more concerned about the rights of minority groups i.e. group rights instead of giving more emphasis on liberals' natural and individual rights, and socialists' socio-economic rights. These countries consider the government as an agent of the state which possess the responsibility to impart rights and freedom including its responsibility to protect and promote the same.

India is also one of those third world countries. But the perspective of India on human rights is dissimilar in certain areas as India has borrowed the idea to have civil and political rights, which is generally considered as negative taken from liberal thought, and socio-economic rights, which are generally considered as positive from the socialist school of thought. But the striking point in the case of India is it's concerned about the

group rights of different minority groups of the country including ST and SC. In this regard, the Constitution of this present independent India is proof of that. Among those, civil and political rights have been placed under the fundamental rights, and economic, social and cultural rights have been placed under the Directive Principles of State Policy.

3.2   Evolution of Human Rights

The concept of human rights has been one of the important topics of discussion in diverse fields particularly in academia in this present-day world. It has evolved into this current status over the periods. These rights which evolved throughout the various stages due to the human consciousness have not been designed only for a particular group of people but for all individuals without discrimination based on one's race, religion, nationality, language, sex, or any other factor. Considering being born human as the first and foremost criteria to enjoy human rights and on the basis given by various schools of thought, human rights has generally been regarded as accessible, inherent and inalienable to all human beings.

In the evolution of human rights, as a popular, essential concept and scope, the human civilisation and the coming of diverse institutions, constitutions and their important documents particularly helped. Hence, Kavita says that human rights which we are enjoying presently have evolved through various landmark developments such as the *Magna Carta, Social Contract Theory, English Bill of Rights (1689), American Declaration of Independence (1776), American Bill of Rights (1791), French Declaration of the Rights of Man (1789), Bolshevik Revolution of Russia (1917), UDHR (1948)* (Kavita, 2014: 326-327) and International Covenants on Human rights which have already been discussed. Reddy (2010) also says that the concept, as well as the content of human rights is not new though this precise description of human rights came

to be used for the first time in the Preamble including the Articles of the UN Charter. Further, he observed that many of these present-day rights, which are now called human rights, find a place in the landmark developments such as the *Bill of Rights (1688), American Declaration of Independence (1776), and French Declaration of the Rights of Man and the Citizens (1789)* (Kavita, 2014: 326-327).

Besides, Arat (2006) also says that though the origin of the concept of human rights remains in the earlier civilisation, the development of the concept is very new and the reason behind is the formation of the UN and its declaration of 1948 including the two covenants. Further, Arat says that even if human rights achieved its popularity in the twentieth century it has failed to achieve complete agreement on the content and domain of human rights:

> *"The notion that people would have some "rights" may be traced back to the earliest civilization, but the development of the concept of "human rights" has been rather new. Although the twentieth century witnessed some major events that established a common notion of international human rights and human rights gained popularity, there is no complete agreement on the content and domain of human rights. The Universal Declaration of Human Rights, adopted by the General Assembly of United Nations in 1948, marks a turning point, because by providing list human rights it defines the meaning and scope of the concept. The subsequent human rights covenants conventions of the United Nations elaborate on the content of human rights, define state' obligations, and establish monitoring mechanisms" (Arat, 2006: xvii).*

The rights which are available in UDHR, ICCPR and ICESCR are not the creation of a single day or a year but these are the part of evolution. Initially, rights related to liberty were evolved and those rights are enshrined in the Article - three to twenty-one of the UDHR, secondly, rights related to equality were evolved and those rights also enshrined in the Article - twenty-two to twenty-seven of the same and thirdly rights related to fraternity were evolved (SAHRDC, 2006). Recently, rights related to "genetic engineering" have also evolved as fourth-generation (Singh, 2015).

Human rights which evolved over time have distinct features (liberty, equality and fraternity), which in the beginning, were identified by the renowned jurist Karel Vasak (1977: 29-32) and therefore, he proposed the idea of division of human rights at the International Institute of Human Rights in Strasbourg, formally, even though he used the idea before. Forsythe (2006: 31) considers first-generation rights as negative and second-generation as positive in nature, whereas third-generation as "synthetic rights" in nature which includes "rights to peace, a healthy environment, development, and perhaps humanitarian assistance". The rights with these features have been divided into different generations which evolved through the various charters, declarations and more but clear distinctions were being made. Liberty is reflecting in the first generation, equality is reflecting in the second generation and fraternity is reflecting the third generation of human rights (SAHRDC, 2008). Haas (2014: 6) also revealed that rights emerged in different centuries: "constitutional rights" emerged through the *Magna Carta* which limit the absolute authority of rulers, "civil liberties" emerged through the American and French *Bill of Rights*, "political rights" emerged through the universal suffrage movement, and "rights of a person in wartime" through *Geneva Convention*. At present, most of those rights have international status even if certain conventions have a poor record of ratification.

Pandey (2005: 2-3) reveals that human rights is an old concept like the civilisation of human beings where different cultures, societies as well as the struggle for recognition of certain rights against the oppression, injustice and inequalities have contributed towards the development of other rights along with duties. He is also of the view that "in the ancient scriptures there have been references on basic human rights, though not referred by that name" and the philosophy of those are reflected in Article - one and seven of the UDHR, 1948:

"The "Rigveda", which is regarded as the oldest document, declares that all human beings are equal and they are all brothers. The 'Atharvaveda' advocates equal right of all human beings over natural resources like air, food, and water, likewise right to happiness (let all peoples be happy) right to education, right to practice any religion, right to social security, right to get fair treatment and protection etc have been accepted and emphasized in various vedic and post vedic ancient Indian literatures. A number of examples may be quoted from various ancient Indian literatures, which emphasise these rights. For instance The Rigveda (Mandala-5, Sukta-60, Mantra-5) says: "No one is superior (ajyestasa) or inferior (aknishtasa). All are brothers (etc bhrataraha). All should strive for the interest of all and should progress collectively (sowbhagaya sam va vridhuhu)"; ………. Manu says that: "Just as the mother earth gives equal support to all the living beings, a king should give support to all without any discrimination"; "The highest duty of a king is to protect his people. The king who receives the prescribed taxes (from his subjects) and protects them, alone, acts according to Dharma" (Pandey, 2005: 2-3).

3.2.1 First Generation

The first-generation of human rights evolved in Europe mainly during the eighteenth century from the American and French Revolutions that aimed at securing the liberty of the citizens in the state. The rights which constitute the first generation are civil and political, and these rights protect governments from interfering with the exercise of individual liberties.

Table 3.1: Status of First Generation of Human Rights			
First Generation Rights	**UDHR**	**ICCPR**	**ECHR**
Right to life	Article - 3	Article - 6	Article - 2
Right to vote	Article - 21	Article - 25	
Equality before law	Article - 10	Article - 14	
Right to a fair trial	Article - 11	Article - 9	Article - 6
Freedom of speech	Article - 19	Article - 19	
Freedom of religion	Article - 18	Article - 18	Article - 9

Source: OHCHR (1948). *Universal Declaration of Human Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights; OHCHR (1966a). *International Covenant on Civil and Political Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights; Council of Europe (1950). *Convention for the Protection of Human Rights and Fundamental Freedoms*. European Court of Human Rights: Council of Europe.

This generation of rights encompasses certain principles of rights such as the right to life, right to vote, equality before the law, right to a fair trial, freedom of speech and religion (table 3.1). These civil and political rights were materialised by the English Bill of Rights in the seventeenth century, the American Bill of Rights and the

Declaration of the Rights of Man and the Citizens in the eighteenth century. But, the idea of due process of law was firstly found during the thirteenth century itself in the Magna Carta. With the coming of the UN, it was given international status through the UDHR and ICCPR. Further, it also achieved regional status through the European Convention on Human Rights (ECHR).

3.2.2 Second Generation

The rights that evolved in the nineteenth century are related to equality and that constitutes economic, social and cultural rights and these rights further constitute the second-generation human rights.

Table 3.2: Status of Second Generation of Human Rights		
Second Generation Rights	UDHR	ICESCR
Right to work	Article - 23	Article - 6
Right to fixed hours of work	Article - 24	Article - 7
Right to minimum wages		Article - 7
Right to unions	Article - 23	Article - 7

Sources: OHCHR (1948). *Universal Declaration of Human Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights; OHCHR (1966a). *International Covenant on Civil and Political Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights.

The second-generation rights constitute the right to work, the right to fixed hours of work, the right to minimum wages, and the right to unions (table 3.2). These rights require states' action to materialise. Hence, due to this nature, it is distinct from first-generation rights. The second-generation rights also achieved international status through the UDHR and ICESCR.

3.2.3 Third Generation

In the twentieth century also certain rights which constitute the third generation emerged out of the socio-political turmoil of the World War I and II, and dependency with each other. The area of dependency includes environment, culture and development. Hence, this generation includes the right to self-determination and development. These two rights achieved international status through the ICESCR (see

OHCHR, 1966b) and the UN Declaration of the Right to Development, 1986 (see OHCHR, 1986). Besides, this generation also includes rights like group and collective rights, the right to a healthy environment etc.

3.2.4 Fourth Generation

Recently, there is an ongoing debate on the existence of the fourth-generation of human rights which encompasses rights of woman and future generation, access to information including the communicate right (Weston, 2016: 17). Since there is no consensus among the theorists, certain theorists prefer to consider those rights as a part of the third-generation. Tella (2007: 66) says that "these new categories have come about due to phenomena like the great developments in the area of biotechnology (with very conflictive issues such as the cloning of and experimenting with stem cells for therapeutic or reproductive purposes) or the Internet (and the problem of its regulation) – phenomena that only a few decades ago were unthinkable". Meena (2017: 57) says that the latest human rights generation constitutes future rights: "right to sustainable development of the future generations" and further Meena says that even if the existence of the "fourth-generation rights is disputed, the supporters correspond them as rights for the well-being of mankind". Singh (2015) says that "the fourth generation human rights refer to rights that relate to genetic engineering, rights deriving from exploration and exploitation of cosmic space and rights that can be said to belong to future generations as a whole. Evidently, these rights would address the complicated moral and ethical issues related with genetic engineering and the inviolability of the person of a human being. The right to information is also a facet of the continuously evolving fourth generation of human rights".

3.2.5 Fifth Generation

Even if there is no consensus among the theories regarding the recognition of fourth-generation rights, certain theorists started another debate on the next generation of human rights: fifth-generation. Marshall (1999: 19) says that the "rights of unborn generations to share in the resources and benefits of the earth" can be taken into consideration as fifth or future generation rights. Vincent (2010:147) says that "the rights of a sustainable environment could theoretically be seen as the fifth generation of human rights". Kayess and French (2008: 32) say that the "rights to leisure, tourism and recreation" are also considered the fifth-generation right. Gradually, this evolution of human rights achieved regimes at the global, regional, as well as national level.

3.3   Global, Regional and National Regimes of Human Rights

Over the periods, human beings have faced a diverse situation where the violation of basic entitlements of human beings has been the main problem and this has resulted in the coming up of regimes at different levels such as international, regional, and national. These are the regimes of human rights that have been codified and these created rights and obligations have established a wide range of norms in the area (Muñoz, 2017: 173).

3.3.1   Global Regime of Human Rights

The huge number of violations of, what is considered, human rights compelled human beings to think about its recognition, protection and preservation. This situation of that time contributed to the formation of International Organisations such as LN and UN at the International level. The sole purpose of the organisations was to achieve and maintain international peace and security. Even if the LN was established in 1919, the covenant of the LN reflected the limited international concern over human rights. But ILO worked in collaboration with LN in the field of human rights. The main areas of the work are slavery, forced labour, trafficking of women and children, and more

particularly ILO was concerned with wages, working hours and condition, and social security (Bajwa, 1995: 31-32).

The UN was created through the UN Charter which was signed on twenty-sixth June 1945 in San Francisco but it came into force on twenty-fourth October 1945. In the Preamble of the UN, it is clearly stated that the people of the member states have determined to save the generations from human rights violations, reaffirm faith in human rights, establish conditions that would promote social progress including better standards of life:

> *"We the peoples of the United Nations determined, to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind; to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small; to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours; to unite our strength to maintain international peace and security; to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims" (UN, 1945b June 26).*

With the formation of the UN in 1945 following organs of the UN were also formed in the same year – General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, UN Secretariat. In the following years these organs, particularly General Assembly has been taking various steps to provide and ensure the human rights to all, for instance, UDHR, ICCPR and ICESCR. In this way, the international regimes of human rights started to develop since the middle of the twentieth century. According to Krasner international regimes means "principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area" (Krasner, 1982: 185). Muñoz (2017: 177-

178) says that Jack Donnelly appears to be the first internationalist who applied the concept of an international regime in the area of human rights.

Table 3.3: Universal Regimes of Human Rights	
International Organisation	
Convention	**Implementing/ Decision-making body**
UN Charter (1945)	Human Rights Council
UDHR (1948)	
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965)	Committee on the Elimination of Racial Discrimination
ICESCR (1966)	Committee on Economic, Social and Cultural Rights
ICCPR (1966)	Human Rights Committee
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)	Committee on the Elimination of Discrimination against Women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CTOCIDTP) (1984)	Committee against Torture
Convention on the Rights of the Child (CRC) (1989)	Committee on the Rights of the Child
ICRMW (1990)	Committee on the Protection of the Rights of Migrant Workers
International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) (1992)	Committee on Enforced Disappearance
Convention on the Rights of Persons with Disabilities (CRPD) (2006)	Committee on the Rights of Persons with Disabilities

Source: Office of the High Commissioner: Human Rights, UN. Retrieved on 22nd May 2018.

After the formation of the UN, the term human rights appeared more clearly than ever before. Further, the term was more significantly popularised by its famous declaration: UDHR. On tenth December 1948 General Assembly of the UN adopted and proclaimed the UDHR. Article - one and two of the Declaration states that "all human beings are born free and equal in dignity and rights, and everyone is entitled to all the rights and freedoms set for in this declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (OHCHR, 1948). UN, through this declaration, provides the various kinds of rights: civil and political rights, and socio-economic and cultural rights (OHCHR, 1948). Since UDHR is only a declaration it is not ratified by any country and it is not implementable. Therefore, Tripathy (2008: 18) says that the UDHR is not a legal document, not a treaty and at the same time it is not ratified by any State, and

hence UDHR has only a moral value. Therefore, to make those rights enforceable, the UN drew up two separate covenants ICCPR and ICESCR.

But, before that, the ICERD was adopted by the UN General Assembly in 1965 to ensure all forms of racial discrimination but came into force on fourth January 1969 (OHCHR, 1965). Article - one of the same explains racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (OHCHR, 1965).

Further, Article - five of the same states that "states parties are to undertake the task to prohibit as well as eliminate racial discrimination in all its forms and to guarantee the right of everyone without any distinction as to race, colour, national or ethnic origin, to ensure equality before the law, particularly in the enjoyment of (human) rights" (OHCHR, 1965) such as – right to equal treatment before the tribunals, right to security of person and protection by the State against violence or bodily harm, political rights, other civil rights, economic, social and cultural rights, and right of access to any place or service intended for use by the general public. The Committee on the Elimination of Racial Discrimination monitors its implementation (see OHCHR, 1965).

ICCPR was adopted by the UN General Assembly on sixteenth December 1966 and it came into force on twenty-third March 1976. This covenant codified certain rights such as "the right to life, right of self-determination, right to liberty and security, freedom from torture or cruel, inhuman and degrading treatment or punishment, freedom from slavery and servitude, right to liberty of movement, right to a fair trial, freedom of thought, conscience, and religion, freedom from arbitrary or unlawful interference with

privacy, family, home, or correspondence, right to recognition as a person before the law, right of peaceful assembly, right to freedom of association and expression, right to equality before the law and equal protection of the law, and right to marry and found a family as civil and political rights" (OHCHR, 1966a) which were already appeared in the UDHR. The implementation of the covenant is monitored by the Human Rights Committee (Donnelly, 2014).

ICESCR which was also adopted by the Assembly in the same year and date came into existence since third January 1976 itself. Like ICCPR, ICESCR codified the following rights of UDHR – "right to work, right to enjoy just and favourable condition of work, right to form trade unions, right to social security, right to an adequate standard of living, including adequate food, clothing and housing and to the continuous improvement of living conditions, right to the enjoyment of the highest attainable standard of physical and mental health, right to education; right to take part in cultural life, and right to enjoy the benefits of scientific progress and its applications" as economic, social and cultural rights (OHCHR, 1966b). The implementation of the covenant is monitored by the Committee on Economic, Social and Cultural Rights (Donnelly, 2014).

To minimise all forms of discrimination against women, the CEDAW was adopted by the UN General Assembly on eighteenth December 1979 and it came into force on third September 1981 (OHCHR, 1979). Article - one of the same make clear that "the term discrimination against women shall mean any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (OHCHR, 1979). The Committee

on the Elimination of Discrimination against Women is the implementing as well as the decision-making body of CEDAW (see OHCHR, 1979).

In 1984, UN General Assembly again brought the CTOCIDTP to prevent torture including the cruel, inhuman, degrading treatment and punishment of human beings but it came to force in 1987 (OHCHR, 1984) and the Committee against Torture looks into its implementation. The CRC was adopted in 1989 by the UN General Assembly but it came to force on second September 1990 only (OHCHR, 1989) and the Committee on the Rights of the Child acts act as the guardian of its implementation.

By the end of 1990 only, migrant workers and their families achieved the proper attention of the UN with the adoption of the ICRMW (OHCHR, 1990) and the Committee on the Protection of the Rights of Migrant Workers ensures the enjoyment of human rights by the migrant workers and their family members.

Besides, UN General Assembly has also adopted the ICPPED in 1992 (OHCHR, 1992) and the CRPD in 2006 (UNDESA[14], 2006) including the declaration on the *Right to Development* on fourth December 1986 (OHCHR, 1986). Article - one of which states that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised, and the human right to development also implies the full realisation of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources" (OHCHR, 1986).

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[14] UNDESA stands for United Nations Department of Economic and Social Affairs

But, the ratification record of those is not up to the mark and among them the record of ICRMW, 1990 and ICPPED, 1992 (OHCHR, 1992) is very poor. Further, most importantly the record of ICRMW is negligible as only Bangladesh and Sri Lanka have ratified and none of the permanent members of the Security Council, UN have ratified the same including India (table 3.4).

Table 3.4: Ratification Record of International Convention	
Convention	**Ratifying State**
ICERD (1965)	Australia (1975), Bangladesh (1979), Canada (1970), Germany (1969), France (1971), India (1968), Japan (1995), Nepal (1971), Pakistan (1966), Sri Lanka (1982), United Kingdom of Great Britain and Northern Ireland (1969), Russian Federation (1969), USA (1994) and China (1981).
ICESCR (1966)	Australia (1975), Bangladesh (1998), Canada (1975), Germany (1973), France (1980), India (1979), Japan (1979), Nepal (1991), Pakistan (2008), Sri Lanka (1980), United Kingdom of Great Britain and Northern Ireland (1976), Russian Federation (1973) and China (2001).
ICCPR (1966)	Australia (1980), Bangladesh (2000), Canada (1976), Germany (1973), France (1980), India (1979), Japan (1979), Nepal (1991), Pakistan (2010), Sri Lanka (1980), United Kingdom of Great Britain and Northern Ireland (1976), Russian Federation (1973) and USA (1992).
CEDAW (1979)	Australia (1983), Bangladesh (1984), Canada (1981), Germany (1985), France (1983), India (1993), Japan (1985), Nepal (1991), Pakistan (1996), Sri Lanka (1981), United Kingdom of Great Britain and Northern Ireland (1986), Russian Federation (1981) and China (1980).
CTOCIDTP (1984)	Australia (1989), Bangladesh (1998), Canada (1987), Germany (1990), France (1986), Japan (1999), Nepal (1991), Pakistan (2010), Sri Lanka (1994), United Kingdom of Great Britain and Northern Ireland (1988), Russian Federation (1987), USA (1994) and China (1988).
CRC (1989)	Australia (1990), Bangladesh (1990), Canada (1991), Germany (1992), France (1990), India (1992), Japan (1994), Nepal (1990), Pakistan (1990), Sri Lanka (1991), United Kingdom of Great Britain and Northern Ireland (1991) and China (1992).
ICRMW (1990)	Bangladesh (2011) and Sri Lanka (1996).
ICPPED (1992)	Germany (2009), France (2008), Japan (2009) and Sri Lanka (2016).
CRPD (2006)	Australia (2008), Bangladesh (2007), Canada (2010), Germany (2009), France (2010), India (2007), Japan (2014), Nepal (2008), Pakistan (2011), Sri Lanka (2016), United Kingdom of Great Britain and Northern Ireland (2009), Russian Federation (2012) and China (2008).

Source: Office of the High Commissioner: Human Rights, UN. Retrieved on 22nd May, 2018.

3.3.2 Regional Regime of Human Rights

On a similar line, based on the region, the regional human rights regimes have also been developed. Different regions of the world are filled with people of different groups, races, cultures and traditions and many. Since they belong to diverse categories of groups and cultures, the issues, particularly human rights emerging out of it, vary from

one another, for instance, the issue of female genital mutilation in Africa and the issue of witch-hunting in India. This type of distinct issue needs regional attention to come out of the situation. This kind of situation contributes to the emergence of regional regimes. Further, the willingness of the regional governments to provide better standards of human rights to the people of any particular region also contribute to the emergence of the regional human rights regimes.

Sometimes, certain international regimes are difficult to enforce in any particular state or region either due to their ideology or contradiction with the existing domestic laws which further lead to the non-ratification of certain international laws related to human rights. This situation also indirectly contributes to the creation of regional institutions such as courts and commissions. Besides, the greater will, peer pressure also contributes to the formation of regional regimes.

Collectively, those types of situations of regions have contributed to the emergence of regional human rights regimes. At present, there are European Human Rights System, Inter-American Human Rights System, and African Human Rights System at the regional level (Buergenthal, 2006).

Table 3.5: Human Rights Regime of American States	
Organization of American States (OAS)	
Convention	**Implementing/ Decision-making body**
Charter of the OAS (1967)	Inter-American Commission on Human Rights
American Declaration of the Rights and Duties of Man (1948)	Inter-American Court of Human Rights
American Convention on Human Rights (1969)	
Inter-American Convention to Prevent and Punish Torture (1985)	
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador" (1988)	
Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, Convention of Belém do Pará (1994)	
Inter-American Convention on Forced Disappearance of Persons (1994)	

| Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities (1999) | |

Source: Muñoz (2017: 176). International Human Rights Regimes. *International Journal on Human Rights, 14*(25), 171-188.

The Inter-American Human Rights System was formed after the adoption of the *American Declaration of the Rights and Duties* in Bogotá, Colombia in April 1948 to promote as well as protect human rights in the American hemisphere OAS (Muñoz, 2017. Hence, over the periods, the OAS has brought the following instruments to fulfil their objectives where their particular body monitors at its functions (table 3.5).

Table 3.6: Human Rights Regime of European States	
Council of Europe	
Convention	Implementing/ Decision-making body
Statute of the Council of Europe (1949)	Committee of Ministers
European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)	European Court of Human Rights
European Social Charter (1996)	Committee of Independent Experts and Governmental Committee
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)	European Committee for the Prevention of Torture

Source: Muñoz, A.A. (2017: 176-177). International Human Rights Regimes. *International Journal on Human Rights, 14*(25), 171-188.

In the European region also Council of Europe was formed after the end of the World War II to secure greater unity among its members (Statute of the Council of Europe). Therefore, in order to protect and promote human rights in the region, certain instruments were developed in course of time. Presently, the European human rights system operates with the following instruments and their respective bodies monitor its working (table 3.6).

Table 3.7: Human Rights Regime of African States	
African Union (AU)	
Instruments	Implementing and Decision-making Bodies
Constitutive Act of the African Union, 2000	African Commission on Human and Peoples' Rights
African Charter on Human and Peoples' Rights	
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights	African Court on Human and Peoples' Rights

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	
African Charter on the Rights and Welfare of the Child	

Source: Muñoz, A.A. (2017: 177). International Human Rights Regimes. *International Journal on Human Rights, 14*(25), 171-188.

Similarly, in the African region also AU was formed which later on brought the following instruments to tackle their common regional human rights issues where respective implementing bodies monitors their work (table 3.7).

Table 3.8: Human Rights Regime of Southeast Asian States	
Association of South-East Asian Nations (ASEAN)	
Convention	**Implementing/Decision-making body**
Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004)	
ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004)	
Vientiane Action Programme (2004)	
Kuala Lumpur Declaration on the Establishment of the ASEAN Charter Kuala Lumpur (2005)	
ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)	

Source: Association of Southeast Asian Nations. Retrieved on 28th March, 2021.

Besides, the Southeast Asian Human Rights Regime was also formed under the ASEAN which later on developed the instruments of human rights protection.

Table 3.9: Human Rights Regime of South Asian States	
South Asian Association for Regional Cooperation (SAARC)	
Convention	**Implementing/Decision-making body**
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)	
SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia (2002)	
SAARC Social Charter (2004)	

Source: South Asian Association for Regional Cooperation. Retrieved on 28th March, 2021.

Nonetheless, the South Asian Human Rights Regime also came into being through the various instruments of human rights protection in the region followed by the National Human Rights Regimes.

3.3.3   National Human Rights Regimes

In 1993, UN General Assembly adopted the Paris Principles. The Paris Principles provide the opportunity to establish the National Human Rights Institutions (NHRI) to promote and monitor the effective implementation of international human rights at the national standard. With an aim to coordinate the activities of NHRI, in 1993 at Tunis International Conference, International Coordinating Committee (ICC) was established but in 2016 ICC was renamed as Global Alliance of National Human Rights Institution – GANHRI (OHCHR, n.d.).

Table 3.10: NHRI of South Asian States		
Country	**NHRI**	**Status**
Afghanistan	Independent Human Rights Commission	A
Bangladesh	NHRC	B
India	NHRC	A
Maldives	Human Rights Commission	B
Nepal	NHRC	A
Sri Lanka	Human Rights Commission	B

Source: Office of the Human Rights Commissions, UN. Retrieved on 28th March, 2021.

At present, NHRI has diverse names in different countries; take the example of South Asia and these NHRI have been given the status as "A" and "B" based on their performance where "A" status was given to best performer countries (table 3.10).

Even if the NHRI of India has been given the status of "A", it is being criticised for its inability to respond to the issues adequately. Banerjee (2003) is of the view that since its birth, the NHRC has remained as a disabled institution. On another side, Darcy (1997: 16-18) says that first and foremost, the responsibility for the protection of human rights lies with the state but the state agents themselves are abusing parties and are unable to provide the necessary protection against threats to human rights posed by third parties. Now the concept of human rights which evolved through various generations have been protected and promoted by the existing regime. Further, the existing institutions, United Nations Organisation (UNO) and ILO, and their initiatives

through various conventions have contributed towards the conceptualisation of the rights of workers to human rights of migrant workers.

3.4   Human Rights of Migrant Workers

The end of World War I made people realise the necessity of efforts on a worldwide scale to combat the harmful effects of industrialisation. This realisation could also reach the understanding that there could be no peace without securing socio-economic justice for the working people, which further contributed to the formation of ILO to set the international labour standards to offer protection to workers and to provide commonly accepted norms for tackling labour issues, which is already discussed in the previous chapter. Tripathy (2008: 22-24) says that in course of time, the scope of these standards has been widening. Further, Tripathy observes that presently, it extends to the basic human rights, employment and social policy, labour administration and relations, conditions of work, social security, employment of women, children and young persons, older and migrant workers, indigenous workers and tribal populations and same particular occupations sectors: seafarers, fishermen, dock workers, plantation workers, tenants and sharecroppers, and nursing personal. At present, these standards have been one of the principal sources of guidance and inspiration for formulating labour as well as social policy in diverse countries.

Besides the issue of the workers, there is also another important area to look into and that is the issue of migrant workers. But, before looking into it one must understand migration, migrant worker or labour, and then only we can analyse their human rights. Today even if the record of human rights protection is low, migration, particularly of workers is increasing in this globalised era due to various reasons. Migration which is normally considered as the movement of people from one place to another is not a new phenomenon and that is proved by history as since a long period of time people have

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been shifting. But the migration of people has indeed risen tremendously in this era of globalisation. There are several reasons for increasing the number of migration whether it is one state to another state within a country, one country to another country within a continent, one continent to another continent or whatever the other forms of migration. Commonly, a migrant is defined as "someone who moves to another place of residence for some minimum period of time" apart from tourists as well as business travellers from the international migrants (Schoorl, 1995: 7).

Usually, the movement of the people happens mainly due to social, political, economic, and environmental causes etc. Here, particularly in the context of migration of worker, the economic cause is vital. But it does not signify that there is no other cause of workers' migration. Even if their central concern is economic status, other causes also influence them for migration. Say for example: feeling of insecurity in the origin place, due to the influence of friends, better wages and more employment opportunities.

Table 3.11: International Migrants: 1970–2000 (Millions)					
Year	1960	1970	1980	1990	2000
World	75.9	81.5	99.8	154.0	174.9
Developed	32.1	38.3	47.7	89.7	110.3
Developing	43.4	43.2	52.1	64.3	64.6

Source: UNDESA (2004). *World Economic and Social Survey: International Migration.* New York: United Nations; see also Brahma, S. & Paul, S. (2020). Women Migration and Remittances. In Leal Filho W., Azul A., Brandli L., Lange Salvia A., Wall T. (Eds.), *Gender Equality. Encyclopedia of the UN Sustainable Development Goals.* Springer, Cham. https://doi.org/10.1007/978-3-319-70060-1_75-1

Presently, there are higher international migrants[15] than ever before (table 3.11) which can be inextricably linked with development, poverty, and human rights. Koser (2007: 1) says that since migrants are often the most entrepreneurial and dynamic members of the society, historically the process of migration have strengthened economic growth

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[15] The UN defines as an international migrant a person who stays outside their usual country of residence for at least one year. According to that definition, the UN estimated that in 2005 there were about two hundred million international migrants worldwide, including about nine million refugees (Koser, 2007).

as well as nation-building including in enriching cultures which in return may also present significant challenges in the future as well. But in return, migrants also face certain challenges – exploitation, human rights abuse, difficulties to integrate into destination place, and most importantly migration may deprive origin place in the area of skill.

The affordable cost of transportation, workers requirement in developmental activities, easily accessible information about work opportunities, as well as countries' encouragement for migration has further helped in the speedy increase of international migration. Juss (2006) revealed that "international migration has been hastened by a number of factors, such as the reduction in the cost of international movement, the spread of international communication media, and the internationalisation of commerce". Guchteneire and Pécoud are of the view that "in advanced economies, the increasing interconnectedness and competition between countries (heightened by the development of non-Western economies) led, among other things, to deindustrialization and the growth of the services sector, accompanied by a deregulation of labour markets to make them more flexible and competitive. As a consequence, labour markets experience a polarization that sees large numbers of jobs created at their lower end and characterized by conditions unattractive to national workers" (Guchteneire & Pécoud, 2009: 3-4). Therefore, rich countries are bound to look for low skilled workers from other countries and are engaged in so-called dirty, dangerous and degrading job of agriculture, food processing, construction, manufacturing and domestic as well as home healthcare sectors.

Koser (2007: 7) found that there is a demand for foreign labour especially in more developed countries which could be because of reasons like allowing families from the native place to join with the migrants at the work destination. Other reasons could be

the trafficking of women into the sex industry especially in Asia that has worked as a contributing factor to this kind of migration. Gulati (2006) also found that women workers migrate to Japan from other Asian countries due to the demand for women entertainers there. There seems to be a demand for migrant women from the Asian Tigers and a necessity of workers in Middle Eastern countries, and as well as the encouragement of women workers in many countries and others. But, Rahim and Vijapur (2013:78) are of the view that the origin countries' encouragement as well as the demand of skilled and unskilled (migrant) workers to fill the gap, and developed countries better-living standards, healthcare facilities, more employment opportunities also have contributed towards migration. Further, Rahim and Vijapur (2013:78) are also of the opinion that push factors such as economic reasons (i.e. wealth inequality among the countries) arising out of political turmoil, economic despondency etc. has helped the migration of workers from certain developing/ underdeveloped to the developed countries of the world.

Wickramasekera (2002) says that migration of workers occurs due to certain economic as well as non-economic reasons: such as – better earning, networks of migration - friend, relative and social network, adventure, exploration, curiosity and escaping from persecution and conflict. Further, study also revealed certain negative results of workers migration in the destination countries: benefit source place, threaten the social as well as cultural homogeneity, crime record hike and detect new diseases, shifting of jobs from local workers to the migrant (Wickramasekera, 2002). Apart from that, migration of workers occurs for other factors too, for instance, during the 1970s when the prices of oil hiked, there was a necessity of various kinds of workers in the developmental projects of Gulf countries and that was filled by the workers, particularly of Asian.

In this process of migration, further, friends and family play a vital role as a network because migrants generally move to countries where they have their friends, family and others. These channels of migration, which are usually termed as migration networks, are the basis for which migration is increasing over time. Particularly, these networks of migration provide information as well as assistance especially financial and help in placement, accommodation and other kinds of support (Arango, 2000: 291-292). According to Massey and other authors "migrant networks are sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin" (Massey, Arango, Hugo, Kouaouci, Pellegrino & Taylor, 1993: 448).

ILO, with regard to migrant workers, gave attention through its convention - one hundred forty-three *Migrant Workers (Supplementary Provisions) Convention (1975)* (ILO, 1975a), and *Migrant Workers Recommendation (1975)* (ILO, 1975b). Convention - one hundred forty-three through its article - eleven defines the term migrant worker as a person who migrates or who has migrated from one country to another with a view of being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

On the other hand, to protect migrant workers and their family members from the violations of human rights, and to ensure certain basic rights to all the migrant workers, the UN came up with the ICRMW in 1990. This would ensure the welfare of members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

The ICRMW defines migrant workers as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a

national" (OHCHR, 1990). They are also being defined as the "people who leave home to find work outside of their hometown or home country" where "persons who move for work in their own country are 'domestic' or 'internal' migrant workers" and "persons who move for work to another country are commonly called 'foreign' or 'international' migrant workers" (ILO, 2007: 7). Like other human beings, migrant workers are also eligible for those entitlements. Therefore, Migrant Workers' Rights: A Handbook (ILO, 2007: 28) defines migrant workers' rights as entitlements that a migrant worker is afforded by virtue of the fact that they are humans and these entitlements are made available by States (source and destination countries), hence the responsibility of these governments is to provide and protect those rights.

The ICRMW provides the following rights to migrant workers – "free to leave any State, including their State of origin", "right at any time to enter and remain in their State of origin", "right to life", "right to freedom of thought, conscience and religion", "right to hold opinions without interference", "right to freedom of expression", "right to liberty and security of person", "right to equality with nationals of the State concerned before the courts and tribunals", "right to recognition everywhere as a person before the law", right "to join freely any trade union and of any such association"; right to "take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned", right to "receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned", every child of a migrant worker has the "right to a name, to registration of birth and to a nationality", each child of a migrant worker has "the basic right of access to education on the basis of equality of treatment

with nationals of the State concerned", "right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings", and "right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning" (OHCHR, 1990).

The convention also states that the migrant workers, including their family members who are documented or in a regular situation, also enjoy the other following rights – right to liberty of movement; right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, and right to transfer their earnings and savings. The Committee on Migrant Workers (CMW) is the supervisory committee of the ICRMW (Donnelly, 2014) and it examines its implementation.

Table 3.12: Ratification Records of ICRMW		
Country	Date of Signature	Date of Ratification/Accession
Albania		6/5/2007
Algeria		4/21/2005
Argentina	8/10/2004	2/23/2007
Azerbaijan		1/11/1999
Bangladesh	10/7/1998	8/24/2011
Belize		11/14/2001
Bolivia (Plurinational State of)		10/16/2000
Bosnia and Herzegovina		12/13/1996
Burkina Faso	11/16/2001	11/26/2003
Cabo Verde		9/16/1997
Chile	9/24/1993	3/21/2005
Colombia		5/24/1995
Congo	9/29/2008	3/31/2017
Ecuador		2/5/2002
Egypt		2/19/1993
El Salvador	9/13/2002	3/14/2003
Ghana	9/7/2000	9/7/2000
Guatemala	9/7/2000	3/14/2003
Guinea		9/7/2000
Guyana	9/15/2005	7/7/2010
Honduras		8/9/2005
Indonesia	9/22/2004	5/31/2012
Jamaica	9/25/2008	9/25/2008
Kyrgyzstan		9/29/2003
Lesotho	9/24/2004	9/16/2005
Libya		6/18/2004
Madagascar	9/24/2014	5/13/2015
Mali		6/5/2003
Mauritania		1/22/2007

Mexico	5/22/1991	3/8/1999
Morocco	8/15/1991	6/21/1993
Mozambique	3/15/2012	8/19/2013
Nicaragua		10/26/2005
Niger		3/18/2009
Nigeria		7/27/2009
Paraguay	9/13/2000	9/23/2008
Peru	9/22/2004	9/14/2005
Philippines	11/15/1993	7/5/1995
Rwanda		12/15/2008
Saint Vincent and the Grenadines		9/15/2005
Sao Tome and Principe	9/6/2000	1/10/2017
Senegal		6/9/1999
Seychelles		12/15/1994
Sri Lanka		3/11/1996
Syrian Arab Republic		6/2/2005
Tajikistan	9/7/2000	1/8/2002
Timor-Leste		1/30/2004
Turkey	1/13/1999	9/27/2004
Uganda		11/14/1995
Uruguay		2/15/2001
Venezuela (Bolivarian Republic of)	10/4/2011	10/25/2016

Source: United Nations Human Rights Commissions. Retrieved from http://indicators.ohchr.org/Home/GetUnderlyingExcel
Note: Data is until the 30th April, 2018 (09:03:59).

Guchteneire and Pécoud (2009: 1-2) are of the view that the ICRMW which sets a worldwide standard in terms of migrants' access to human rights, whether on the labour market, in the education and health systems or in the courts is the most comprehensive treaty at the international level in the field of migration and human rights as it is an instrument of international law meant to protect one of the most vulnerable groups i.e. migrant workers, whether in a regular or irregular situation. But they are also of the view that the ICRMW suffers from the poor record of its ratification (table 3.12). Among the South Asian countries, only Bangladesh and Sri Lanka have ratified the convention. Though the gulf-countries and the US receive a huge number of migrant workers, they have not yet ratified the ICRMW.

Even in the existence of several international institutions, the Constitutions of various countries have came up with ways to ensure human rights. However, this doesn't mean that human rights have been upheld: instead there still are numerous issues of human

rights' violations all over the world, including the violation of human rights of migrant workers. Barash and Webel (2009: 374) observed that even if people talked about human rights, only a few people relatively do anything about it. Perhaps why, a huge number of people still are denied (basic) human rights. They have also found that till today many workers are nonunionised as well as prohibited from forming unions:

> *".......... many people talk about human rights but relatively few do anything about it. Yet, a great many human beings are denied some of the most basic human rights: Nearly one half of the world's people are denied democratic freedoms and political participation; about one third face severe restrictions on their right to own property; over one half of Asians and sub-Saharan Africans do not have access to safe water; jails are filled with political prisoners, many of them held without trial and victimized by torture; child labor is widespread; women are often deprived of the economic, social, and political rights that men take for granted; many workers are not only nonunionized but prohibited even from forming unions; the right of conscientious objection to military service is not recognized in most countries; censorship is widespread; and billions of people are illiterate, chronically sick, without adequate shelter, and hungry"* (Barash and Webel, 2009: 374).

Most particularly, those migrants particularly in the unorganised or domestic sectors, are the victims of human rights violation. A study by Abrar (2011: 280-281) found that among all the workers in the Gulf countries, mainly the Bangladeshi workers face severe issues, for instance – lack of reliable sources of information regarding work opportunities, dependency on intermediaries, forced to submit their documents to their employers, non-placement of promised job, irregular payment of their wages, poor living and working conditions, inadequate health care facilities and all. Gulati (2006) also found that the situation of immigrant domestic workers is pathetic and also according to Gulati, workers are bound to live with their employers and depend on them for their basic needs like food and shelter. Moreover, most of these labour receiving countries do not have labour laws that can protect the migrant domestic worker. In this way, the migrant workers face economic exploitation in the hands of the middle-men and all.

Though there are difficulties, the population of migrant workers is increasing rapidly because of economic globalisation further resulting in poverty and unemployment in developing countries. The developed countries' demand for unskilled labour furthermore has encouraged migration. Notably, though the migrant workers contribute to the economies of the host as well as origin countries, they enjoy poor social protection, face inequalities, exploitation as well as human trafficking (ILO, 2014).

Today, apart from International Migration, there is also Internal Migration i.e. within the country which almost all the countries of the world are witnessing say for example, China has witnessed the great internal labour migration, particularly from rural to urban which was estimated to be around twelve million in between 1980-85, thirty-seven million in 1994 and one hundred twenty-five million in 2005 (Meng and Chris, 2010). This type of migration is happening in India as well.

Conclusion

From the above discussion, it can be understood that human rights aid basic survival. It is originated in the state of nature, religious writings, writings of secular thinkers, early documents, historical documents and contemporary documents. The social contractualists i.e. Hobbes, Locke and Rousseau say that people had the right to life, liberty and property in the state of nature. Presently, if it is looked at, these rights constitute the elements of human rights.

The principal messages given by various thinkers of different religions also contributed to the development of human rights i.e. legal equality, self-determination, non-violence, equality, free speech, religious freedom, right to die, right to education, proportional punishment, right to food, shelter, right to non-poverty, freedom of thought, opposition to lynching, duty to aid the needy, non-discrimination, natural rights, indigenous

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peoples rights against exploitation, freedom of conscience, racial equality, and nonexploitation.

The principal contribution given by the secular human rights thinkers is liberty, right to property, freedom of religion, international law; right to security, right to justice, social contract for security, right to life, health, property, free press, speech, fair trial, eradication of slavery, self-determination, women's rights, equality of political rights, social welfare rights, religious tolerance, civil and political liberties, right to education, right to work, freedom of association and thought, economic freedom, law as the only source of rights, government to prevent harm to individuals, and workers' rights.

The contributions of the early documents constitute justice, prohibition of false witness, capital punishment and slavery, religious freedom, cultural tolerance, ban on forced labour, abolition of slavery, human treatment of prisoners, religious tolerance, impartial justice, opposition to capital punishment and torture of humans as well as animals, a hint about opposition to capital punishment for adultery, no person is allowed to be left in poverty, freedom from excessive taxation, right of inheritance, and habeas corpus. All these rights have evolved at different generations ranging from the first generation of human rights, which is considered to be started during the 18th century to the fifth generation which is considered to be the current generation.

With the coming up of the UN, some of those rights have been codified under contemporary international documents such as UDHR, ICCPR and ICESCR. With this codification, these rights have achieved international status and there exist various regimes at the international, regional and national level to protect and promote human rights. In fact, the above discussion in chapter 2 and 3 prove that the evolution of rights have contributed towards the conceptualisation of worker rights and the evolution of human rights contributed to the understanding the human rights of migrant workers.

Presently, the UN through ICRMW offers the right to life, prohibition of torture or cruel, inhuman or degrading treatment, prohibition of slavery, freedom of thought, conscience & religion, freedom of opinion & expression, right to liberty and security of person, protection from the destruction of ids and other documents, prohibition of collective expulsion, right to participate in trade unions, right to receive urgent medical care, right of child to a name, to registration of birth, to a nationality, and access to education to migrant workers and members of their families (OHCHR, 1990).

Further, ICRMW extends some additional rights to documented migrant workers and the members of their families and these include the right to form associations and trade unions, the right to participate in public affairs and elections of their state of origin, protection of the unity of the families of migrant workers (OHCHR, 1990). Besides, ILO showed concern over migrant workers through the *Migrant Workers (Supplementary Provisions) Convention (ILO, 1975a) and Migrant Workers Recommendation* (ILO, 1975b). Even if ICRMW was brought with an aim to ensure rights to all the migrant workers and their family members, it is been poorly ratified by countries that are more negligible than the ratification record of core labour conventions. Therefore, the rights of migrant workers and their family members are poorly protected in many destination countries. Keeping aside the poor record of its ratification, one needs to agree that, with the coming of the convention, the migrant workers have achieved human rights at the international level. But, have those human rights of migrant workers been made available in a country like India through the constitutional framework and their policies and programmes?

Chapter – 4

Policies and Programmes of Migrant Workers in India

Introduction

As everyone knows India achieved its independence on fifteenth August 1947 and formulated its Constitution which came into force on twenty-sixth January 1950. This Constitution offers rights to its citizens through Fundamental Rights and Directive Principles of State Policy. But since the British rule, attempts have been made to protect as well as promote the rights of people which include the working population. Even in the post-independent era attempts were made which resulted in the formation of the Constitution for the country, as already mentioned. The constitution which was made in independent India embraces the fundamental provisions concerning employment, standard, non-discrimination, as well as the right to work under different articles. But, even if there are provisions about work, standard, non-discrimination, and right to work under the Constitution, there are internal migrant workers[16] who are rarely given attention either by society or the government for which migrant workers, more particularly seasonal migrant workers[17] have remained underprivileged.

Similarly, programmes and policies are also being made. Over time, the request as well as the demand for justice have also contributed towards the evolution of the same into Labour Laws, Governmental policies as well as programmes, and initiatives of NGOs. Do the provisions available under the Constitution of India protect the rights of the working population in India with special reference to migrant workers? Do the Labour

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[16] In this chapter 'internal migrant workers' denotes the migrant workers (intra-district, inter-district and inter-state) who are the citizens of India. In the following discussion and chapters, the term 'migrant workers' has been used to mean the internal migrant workers of India.

[17] In this chapter 'seasonal migrant workers' denotes those migrant workers who migrate and employed in a particular working place based on the seasonal conditions. They are a subcategory of internal migrant workers.

Laws available in India protect the rights of the migrant workers? Do the initiatives taken by the different Ministries and Departments of the Government of India resolve the issues of the migrant workers in destination places? As a voluntary organisation, how do different NGOs take up the issues of migrant workers in initiating their service in the country? Also, how did the existing policies and programmes respond to the issues of migrant workers during the COVID-19 crisis. In fact, even if there are provisions relating to employment, non-discrimination and rights to work etc. under the Constitution, migrant workers particularly of the unorganised sector[18] are deprived of basic facilities and most importantly equal treatment.

4.1   Human Rights of Migrants in India

The Indian Constitution which presently offers constitutional rights to its citizens and certain rights to migrants was not created   on one particular day but is the evolution achieved in course of time as its origin in the context of India can be found in religious scriptures as well as objective resolution moved by Jawaharlal Nehru, though the term "human rights" was not used. Pandey found that the philosophy of Article - one and seven of the UDHR can be found in Rigveda i.e. "All human beings are equal and they are all brothers; No one is superior (ajyestasa) or inferior (aknishtasa). All are brothers (etc bhrataraha). All should strive for the interest of all and should progress collectively (sowbhagaya sam va vridhuhu" (Pandey, 2005: 2-3), Atharvaveda i.e. "equal right of all human beings over natural resources like air, food, and water, likewise right to happiness (let all peoples be happy) right to education, right to practice any religion, right to social security, right to get fair treatment and protection" (Pandey, 2005: 2-3),

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[18] The Unorganised Workers' Social Security Act, 2008 defines unorganised sector as "an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten".

and Manu i.e. "just as the mother earth gives equal support to all living beings, a king should give support to all without any discrimination; the highest duty of a king is to protect his people. The king who receives the prescribed taxes (from his subjects) and protects them, alone, acts according to Dharma" (Pandey, 2005: 2-3), even if those basic human rights are not referred to as human rights in the original documents.

Besides, thinkers of Hinduism, such as Krisha Chaitanya (1478-1533) and Mahatma Gandhi (1869-1948) also gave the messages of "legal equality", "self-determination", "non-violence" and "equality" which contributed towards the development of human rights in the Indian context (Haas, 2014: 16). But it has also been found by Jha (2015) that the quest for rights in India started basically since the colonial period with the coming of landmark developments like the *Swaraj Bill, Commonwealth India Bill, Nehru Report, Karachi Congress, and Sapru Report.*

Swaraj Bill of 1895 includes right, such as "the right to free speech and expression, property right, right to personal liberty, equality before the law, equality to admission to public offices, and right to petition to redress grievances" (De, 2016). *Commonwealth of India Bill* was finalised in 1925 and it deals with certain specific rights such as "equality before the law, freedom of speech and religion, assembly" and so on (Kashyap, 2001: 4). *The Nehru Report* of 1928 claimed the dominion status for India and some basic rights for example – "the right to free expression as well as opinion, right of personal liberty, freedom of conscience, freedom of religion, right to equality, right of peaceful assembly" (Tripathi, 2016). *Karachi Resolution* of 1931 discussed the rights and duties of the citizens which have found space in the Indian Constitution of the present day under the "fundamental rights, directive principles of state policy, and fundamental duties" (Kashyap, 2001: 5). *Sapru Committee* of 1945 talks about "two types of fundamental rights i.e. justiciable and non-justiciable rights" (Tripathi, 2016)

which is placed in the Constitution under the fundamental rights and directive principles of state policy.

In this regard, Narang (2013: 50-51) is also of the view that "the idea that every individual possessed certain inherent rights was one of the prominent moving spirit of freedom struggle" of India which is considered as self-determination movement to achieve equality, liberty and justice, and hence the incorporation of those rights were considered as the most pertinent one in the Constitution for Independent India which was to be prepared by the then Constituent Assembly of India. The idea of rights in the freedom movement of the country reflected everyone's rights clearly in the Jawaharlal Nehru's *Objective Resolution* which was placed at the Constituent Assembly on thirteenth December 1946. Mittal found that the resolution emphasised to guarantee justice, equality and freedom to all her people as well as ensuring adequate safeguards to minorities and tribal backward classes as well as territorial integrity, and the promotion of world peace and the welfare of humankind (Mittal, 1992: 22). In this way, over the periods, rights evolved.

4.1.1 Civil and Political Rights

Presently the people of India have human rights under fundamental rights such as the right to life, freedom of religion and right against exploitation, and these rights are protected as well as promoted through a certain constitutional framework. Hence, Sinha says that "core human rights are protected and promoted in the country through Fundamental Rights and Human Rights Protection Act, 1993" (Sinha, 2010b: 67).

Table 4.1: Fundamental Rights in India	
Article	**Rights**
14	Equality before law.
15	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
16	Equality of opportunity in matters of public employment.
17	Abolition of Untouchability.
18	Abolition of titles.
19	Protection of certain rights regarding freedom of speech, etc.

20	Protection in respect of conviction for offences.
21	Protection of life and personal liberty.
21A	Right to education.
22	Protection against arrest and detention in certain cases.
23	Prohibition of traffic in human beings and forced labour.
24	Prohibition of employment of children in factories, etc.
25	Freedom of conscience and free profession, practice and propagation of religion.
26	Freedom to manage religious affairs.
27	Freedom as to payment of taxes for promotion of any particular religion.
28	Freedom as to attendance at religious instruction or religious worship in certain educational institutions.
29	Protection of interests of minorities.
30	Right of minorities to establish and administer educational institutions.
32	Remedies for enforcement of rights conferred by this Part.

Source: Constitution of India (1950a). *Part III: Fundamental Rights.* Retrieved from https://www.mea.gov.in/Images/pdf1/Part3.pdf

The Constitution of India now offers the above given fundamental rights to the citizens (table 4.1) where "the State[19] shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them" [Article – fifteen(one)] (Constitution of India, 1950a). In this regard, Akhtar and Kumar also stated that "the architects of the Indian Constitution have ensured the unfettered freedoms of life to all citizens irrespective of their religion, colour, caste, creed and regional affinity" (Akhtar & Kumar, 2012: IX). Roy (1997: 259) is of the opinion that violation of fundamental rights such as freedom of expression and association, freedom of religion etc. embodied in the Indian Constitution are justiciable.

4.1.2   Economic-Social and Cultural Rights

Similarly, other core human rights which are socio-economic and cultural are also protected as well as promoted in the country through the Directive Principles of State Policy (Sinha, 2010b: 67) under the Constitution of India.

Table 4.2: Directive Principles of State Policy in India	
Article	**Rights**
41	Right to work, to education and to public assistance in certain cases.
42	Provision for just and humane conditions of work and maternity relief.
43	Living wage, etc., for workers.

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[19] Here the term "State'' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

43A	Participation of workers in management of industries.
45	Provision for free and compulsory education for children.
47	Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Source: Constitution of India (1950b). *Part IV: Directive Principles of State Policy.* Retrieved from https://www.mea.gov.in/Images/pdf1/Part4.pdf

Except for fundamental rights, those rights which are embodied in the Directive Principles of State Policy (table 4.2) are not justiciable. In course of time, the necessity of institutional mechanisms was also realised to ensure the constitutional rights of India to address the grievances as well as to render justice (Gullapalli, 2013: 146). As a result, in order to protect the human rights of its citizens in 1993, NHRC was set up followed by State Human Rights Commission in the country through the *Human Rights Protection Act (1993)* (NHRC, 1993).

Table 4.3: Comparative Overview of the Human Rights		
Subject	**UDHR**	**Indian Constitution**
Equality before law	Article - 7	Article - 14
Prohibition of discrimination on grounds only of religion, race, caste, sex, place of birth or any of them	Article - 2 & 7	Article - 15(1)
Equality of opportunity in matters of public employment	Article - 21(2)	Article - 16(1)
Freedom of speech, assembly, association etc.	Article - 19, 20(1 & 2) & 23(4)	Article - 19(1)
Protection in respect of conviction for offences	Article - 11(2)	Article - 20(1)
Protection of life and personal liberty	Article - 3 & 9	Article - 21
Prohibition of traffic in human beings and forced labour	Article - 4	Article - 23(1)
Freedom of conscience and free profession, practice and propagation of religion	Article - 18	Article - 25(1)
Protection of interests of minorities	Article - 22	Article - 29(1)
Right to education	Article - 26(1)	Article - 21A
Right to constitutional remedies	Article - 8	Article - 32(1)

Source: Constitution of India (1950a). *Part III: Fundamental Rights.* Retrieved from https://www.mea.gov.in/Images/pdf1/Part3.pdf; OHCHR (1948). *Universal Declaration of Human Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights.

At present, if it is looked at, it can be found that various subjects of human rights such as civil and political rights, and socio-economic and cultural rights - which are available in the UDHR and the covenants - are also reflected in the Constitution of India (table 4.3). Civil and political rights are contained in the Fundamental Rights (Part-III) and economic, social and cultural rights are contained in the Directive Principles of State

Policy (Part-IV) of the Constitution of India where the former is enforceable through a court of law whereas the latter is not but remains as fundamental to governance (SAHRDC, 2006: 66-67). Besides, the following Constitutional Provisions also protect human rights: Article - two hundred twenty-six, concerns the power of the High Courts to issue certain writs: *Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari* (Constitution of India, 1950c: 113); Article - three hundred (A) states that no person shall be deprived of his property save by authority of law (Constitution of India, 1950d: 178); Article - three hundred twenty-five states that no person shall be ineligible for inclusion in, or claim to be included in a special, electoral roll on grounds of religion, race, caste or sex (Constitution of India, 1950e.: 198). But, every citizen of India shall perform the following duty which is contained in Article - fifty-one (A) of the Part-IVA.

4.1.3 Human Rights of Migrant Workers in India

The subjects of ICRMW or the human rights of migrant workers and the member of their families are reflected in both the UDHR and the Indian Constitution which signifies their concerns regarding the human rights of migrant workers.

Table 4.4: Human Rights of Migrant Workers in India		
ICRMW	**UDHR**	**Indian Constitution**
Article - 9: Right to life.	Article - 3: Everyone has the right to life, liberty and security of person.	Article - 21: Protection of life and personal liberty.
Article - 10: Prohibition of torture or cruel, inhuman or degrading treatment.	Article - 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.	Article - 23: Prohibition of traffic in human beings and forced labour.
Article - 11: Prohibition of slavery.	Article - 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.	Article - 23(1): Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
Article - 12: Freedom of thought, conscience & religion.	Article - 18: Everyone has the right to freedom of thought, conscience and religion; this right	Article - 19: Protection of certain rights regarding freedom of speech, etc.

	includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.	Article - 25: Freedom of conscience and free profession, practice and propagation of religion.
Article - 13: Freedom of expression.	Article - 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.	Article - 19(1[a]): All citizens shall have the right to freedom of speech and expression.
Article - 16: Right to liberty and security of person.	Article - 3: Everyone has the right to life, liberty and security of person.	Article - 21: Protection of life and personal liberty.
Article - 21: Protection from the destruction of IDs and other documents.		
Article - 22: Prohibition of collective expulsion.		
Article - 26: Right to participate in trade unions.	Article - 23(4): Everyone has the right to form and to join trade unions for the protection of his interests.	Article - 19(1[c]): All citizens shall have the right to form associations or unions.
Article - 28: Right to receive urgent medical care.	Article - 25[1]: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.	
Article - 29 & 30: Right of child to a name, to registration of birth, to a nationality, and access to education.	Article - 26(1): Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.	Article - 21A: The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
Article - 40: Right to form associations and trade unions (Documented)	Article - 23[4]: Everyone has the right to form and to join trade unions for the protection of his interests.	Article - 19(1[c]): All citizens shall have the right to form associations or unions.

Article - 41: Right to participate in public affairs and elections of their state of origin (Documented).	Article - 21(1): Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.	Article - 325: No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
Article - 44: Protection of the unity of the families of migrant workers (Documented).	Article - 16(3): The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.	

Source: OHCHR (1979). *Convention on the Elimination of All Forms of Discrimination against Women*. Switzerland: Office of the United Nations High Commissioner for Human Rights; OHCHR (1948). *Universal Declaration of Human Rights*. Switzerland: Office of the United Nations High Commissioner for Human Rights; Constitution of India (1950a). *Part III: Fundamental Rights*. Retrieved from https://www.mea.gov.in/Images/pdf1/Part3.pdf

Even if the concerns and protections over human rights can be seen under the Constitution of India (table 4.4), the violation of those rights are increasing more than ever before. Hence, Zonta (2001: 260) says that despite the extensive constitutional and statutory safeguards, there are numerous human rights abuses in India, some of which can be traced to intense social tensions, secessionist movements, and security forces' attempts to repress these elements. Noorani (2009) in his work *Armed Forces (Special Powers) Act: Urgency of Review* mentions that the draconian law *Armed Forces (Special Powers) Act (1958)* is under review in the Ministry of Home Affairs and said that the review must call for a drastic amendment of section four that confers extreme powers on officers, including to cause death, and it must provide for the constitution of an appellate body to entertain complaints against forces using the AFSPA. But still, there is no concrete result of review either on the amendment or removal of the draconian Act which has also been the instrument of human rights violation in certain states of the country.

The study has also found that since its birth the NHRC has remained, mentally and physically, a disabled institution and its scope of both jurisdiction and intervention is strictly limited by the Indian government (Banerjee, 2003: 424). Further, Banerjee

reveals the causes of its disability: "it is not a fully independent body, its chairman is appointed by a committee headed by the prime minister", "it does not have any power to punish the guilty", it is not allowed to investigate allegations of human rights violations by Indian defence forces", and "its recommendations are not legally binding on the state governments" (Banerjee, 2003: 424). Besides, Banerjee found that the counter-terrorism measures such as POTA[20] strike at the roots of the fundamental rights of Indian citizens and also deny their fair trial.

The notable point here is that the violation of human rights is not an exception of migrant workers in India say for instance – the condition of migrant workers in northeastern states of India is deplorable to the extent where their right to life is threatened, which theoretically can't be suspended even during an emergency. This violation of human rights in the region is not exclusively for migrant workers and in fact can be linked to the existence of underground armed groups in certain states as well as to the installation of stringent laws. Therefore, besides the Constitutional safeguards of human rights for the citizens, India has been formulating various policies as well as programmes to meet the needs of the time and period. These policies and programmes have been formulated for the welfare of the citizens and those initiatives also include the workers as well as the migrant workers.

4.2   Policies and Programmes in India

The above discussion on human rights in the context of India clarifies that over periods India has recognised many important rights without which the existence of human beings becomes meaningless.

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[20] POTA stands for the Prevention of Terrorism Act which came in 2002 through an Act of the Parliament of India with an aim to strengthened anti-terrorism operations in the country.

4.2.1 Labour Laws in India

In course of time, based on those rights many acts have also been passed even in the context of workers including migrant workers. But, Bajaj (2004: 266-267) found that since a long time the engagement of workers in work has been going on through agents, dalals or contractors for which workers have to pay commission to agents. Bajaj is of the opinion that though *Contract Labour (Regulation and Abolition) Act, 1970* and *Bonded Labour System (Abolition) Act, 1976* existed, it did not protect and prevent migrant labour from exploitation for which they used to face problems like – no fixed hours of work, deplorable working condition etc. Even today, in many places migrant workers are being engaged through dalals or middlemen for which they are still facing the same problem. Among them again, seasonal migrant workers face major problems as they are not registered under the schemes nor do they have the proper documents to register. Besides, the lack of knowledge regarding the schemes and processes as well as unwillingness to register keeps them away from availing the available resources and hence they become vulnerable.

Sharma is also of the opinion that even before the 1830s, workers in India were subjected to exploitation as well as discrimination even if the *Apprentices Act (1850), Fatal Accident Act (1853)* and Labour Laws were passed in the pre-independence era itself as these laws were protecting the rights of the employer rather than labour (Sharma, 2009: 1054). But with the abolition of Slavery in 1833 the tendency just started declining. Consequently, that situation slowly resulted in the emergence of a movement which further resulted in the introduction of the *Trade Dispute Act (1920)* followed by other laws (Sharma, 2009: 1054). In the post-independent era, efforts had been made to protect the workers from exploitation by enshrining certain basic rights of the citizens in the Constitution of India and by introducing various labour laws. Over

time, the Central Labour Laws such as *Payment of Wages Act (1936), Minimum Wages Act (1948), Workers Compensation Act (1923), Employees Provident Fund Act (1952), Industrial Dispute Act (1947), Maternity Benefit Act (1961), Contract Labour (Regulation and Abolition) Act (1970), Bonded Labour Systems (Abolition) Act (1976)* (Bajaj, 2004) etc. came into existence. Bajaj (2004) says that these laws are also applicable to migrant workers. But even if those laws are made up based on the directive principles of state policy, it becomes more appropriate for organised workers. Notably, the *Employees State Insurance Act (1952), Employees Provident Fund Act (1952)* as well as *Maternity Benefit Act (1961)* (Bajaj, 2004) covers only the workers of the organised section. But there are other laws that cover migrant workers, say for instance – the *Equal Remuneration Act (1976), the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act (1996)* (Bajaj, 2004).

To be precise, it can be said that even if certain labour laws had been made, prior to 1979, to respond to the issues of workers the respective governments (Union and State) have failed in some way to respond to the issues of the migrant workers in the country. Hence, it resulted in the introduction of the *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act (1979)* and it was recommended by a committee formed in 1977 under the chairmanship of D. Bandopadhyay with an intention to regulate the employment of interstate migrant workers[21] and to provide the necessary condition of services (PIB, 2015 December 21).

The Act defines inter-State migrant workman as "any person who is recruited by or through a contractor in one State under an agreement or another arrangement for employment in an establishment in another State, whether with or without the

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[21] Interstate migrant workers are those who migrate from one state to another in the country. They are a subcategory of internal migrant workers.

knowledge of the principal employer in relation to such establishment" (MLE, 1979). Some of the notable facilities provided by this Act are – "fixed wages under the Minimum Wages Act (1948), the contractor needs to pay displacement allowance and journey allowance to a workman; every contractor employing inter-state migrant workmen need to ensure regular payment of wages to such workmen, equal pay for equal work irrespective of sex and suitable conditions of work along with the suitable residential accommodation during the period of their employment and free of charge medical facilities (MLE, 1979). The office of the Chief Labour Commissioner (Central) monitors the enforcement of this Act (PIB, 2015 December 21). Mishra (2003) argues that while making this recommendation, the committee took care of the following points:

> *"The interstate migrant workmen came from a low strata of the society. They were primarily landless agricultural labourers, mostly unskilled, untrained and illiterate, were unable to understand the simple arithmetic of wages including advance of middlemen and were, therefore, easily vulnerable to exploitation. The methods and procedures adopted by the Courts dealing with provisions of the Labour Laws as enumerated above were totally unintelligible to them and therefore, they were unable to get any relief by taking recourse to legal procedures. There was no direct employer and employee relationship between the principal employer and these workmen due to the intervention of a number of intermediaries like contractor, sardars, khatedars, mates, munshis etc. who freely indulged in less payment, untimely payment, unauthorised deductions, arbitrary computation of cash value of food and wrong adjustment with wages etc. Absence of any organisation whatsoever and lack of bargaining power of individual workmen to protest against the injustice and oppression which made exploitation a perpetual feature of their day to day life" (Mishra, 2003).*

The social security for the organised workers has been provided through the Employees Provident Fund Organization and Employees State Insurance Corporation but the workers of the unorganised sector have not been provided with this social security though they constitute the majority out of the total workforce. Therefore, in order to extend the social security measures by providing a house, medical care, educational and recreational facilities to the workers of the unorganised sector a concept of *Labour*

Welfare Fund was developed (MLE[22], 2009-14). Presently, Labour Ministry is administering the following Welfare Funds for Beedi, cine and certain categories of non-coal mine workers: *The Mica Mines Labour Welfare Fund Act (1946), the Limestone and Dolomite Mines Labour Welfare Fund Act (1972), Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund Act (1976), the Beedi Workers' Welfare Fund Act (1976), and the Cine Workers' Welfare Fund Act (1981)* (PIB, 2017 May 29). These Welfare Funds primarily provide various kinds of welfare activities in the area of water supply, housing, educational assistance for children, health care and so forth. Recently, the Labour Ministry has announced that around forty crore unorganised sector's workers would also be covered under the ESIC and EPFO social security scheme (PIB, 2017 May 29) but Arun Jaitley (former Union Finance Minister) was of the view that making social security schemes accessible to the workers of unorganised sector is a challenge (PIB, 2016 January 4).

In 2008 only, the *Unorganised Workers' Social Security Act* was brought and that defines unorganised workers as "a home-based worker, self-employed worker or a wage worker in the organised sector and includes a worker in the organised sector who is not covered by any of the following Acts: the Workmen's Compensation Act (1923), the Industrial Disputes Act (1947), the Employees' State Insurance Act (1948), the Employees' Provident Funds and Miscellaneous Provision Act (1952), the Maternity Benefit Act (1961), and the Payment of Gratuity Act (1972)" (MLE, 2008). But now it has been observed that certain labour laws in the country indirectly exclude the labourers like the case of migrant labourers where the load is almost double: firstly for the labour, and secondly for being a migrant. The primary reason behind that is the lack of proper implementation of labour laws and negligence of the same.

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[22] MLE stands for the Ministry of Labour and Employment, Government of India, New Delhi.

Besides, the Government of India has also launched various social security schemes such as – Janshree Bima Yojana and Aam Aadmi Bima Yojana – AABY (MLE, 2009-10: 89). These schemes also include the unorganised sectors' workers (MLE, 2009-14). The AABY which was introduced in October 2007 was brought realising that the need of the hour was to provide social security to workers of the unorganised sector – a staggering ninety-three percent of the country's total workforce. Even then, a large portion/ number of workers are without social security policies even till today however the previously implemented social security measure's coverage was very negligible. The major insecurities of these workers and their families recognised by the government are frequent incidents of illness, lack of medical care facilities, lack of hospitals and so on (MLE, 2007 October). Further, the MLE has also brought the scheme of Grant in Aid on Child and Women Labour where Grant in Aid on Child Labour is to eliminate Child Labour in the Country and Grant in Aid on Women Labour is to organise the working women and educate them regarding their rights and duties (MLE, 2003). The main focus of this scheme was to generate awareness among the women workers in relation to wages such as minimum wage, equal remuneration etc. At present, the Central Government has merged these two Yojanas (Correspondent, 2013 August 22). Hence, the latter has been discontinued by MLE since the 2017-18 financial years.

Besides, the Government has introduced the following schemes: SGSY[23] – Swarnjayanti Gram Swarozgar Yojna (MRD[24], 1999a April), PMGSY – Pradhan

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[23] SGSY was launched w.e.f. first April, 1999 as an integrated self-employment programme for the rural poor with an aim to bring the assistance to poor families above the poverty line by organising those target groups into Self Help Group (SHGs) with the help of social mobilisation, training, capacity building, bank credit, and government subsidy. The cost for organising social intermediation and training for skill development based on local requirement are provided under the scheme. Till the last review on eighteenth February, 2011, since its inception about twenty-three lakh SHGs have been formed this covers nearly sixty-seven lakh Swarozgaris.

[24] MRD stands for Ministry of Rural Development, Government of India.

Mantri Gram Sadak Yojana (2019b August), SGRY[25] – Sampoorna Gramin Rozgar Yojana (MRD, 2001 September), NFFWP[26] – National Food for Work Programme (MRD, 2004 November), IAY[27] – Indra Awass Yojna (MRD, 1985-86/ 2016, April), IWDP[28] – Integrated Wastelands Development Programme (DLR[29], 1992 July), and PDS[30] – Public Distribution System.

Though, attempts have been made by the successive governments to minimise the migration of workers through various governmental schemes, still the phenomena of migration is increasing day-by-day which needs to be taken care of. The reports of the Labour Ministry states that "the problem of migration is sought to be checked through a multi dimensional course of actions, through rural development, provision of improved infrastructural facilities, equitable dispersal of resources to remove regional disparities, employment generation, land reforms, increased literacy, financial assistance etc." (MLE, 2009-10: 93).

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[25] SGRY was launched on twenty-five September, 2001 with an aim to provide additional wage employment including food security with special preference to women, scheduled castes, scheduled tribes, and parents of those children withdrawn from hazardous occupations.

[26] NFFWP was launched in November 2004 to provide additional resources to one hundred fifty most backward districts of India identified by the Planning Commission of India in consultation with MRD to generate supplementary wage employment as well as to provide food security to all rural poor who are in need of wage employment as well as who desire to do manual and unskilled work.

[27] IAY is presently been restructured as Pradhan Mantri Awaas Yojana – Gramin (PMAY-G) on first April, 2016 and it has been given commitment to provide 'House for All' by 2022. The PMAY-G was initially started in January 1996 as a rural housing programme under the nomenclature of IAY. The present scheme aims to provide a pucca house where there will be basic amenities to all houseless householders as well as to those who are living in kutcha dilapidated house within their stipulated year.

[28] IWDP was basically brought in the country to restore the ecological imbalance by developing the degraded non-forest wastelands in July 1992. The programme has set the following objectives – firstly, the basic objective of this scheme is 'an integrated wastelands development based on village/micro watershed plans. These plans are prepared after taking into consideration the land capability, site condition and local needs of the people'. Secondly, it also aims at 'rural employment besides enhancing the contents of people's participation in the wastelands development programmes at all stages, which is ensured by providing modalities for equitable and sustainable sharing of benefits and usufructs arising from such projects'.

[29] DLR stands for Department of Land Resources, Government of India.

[30] PDS comes under the Ministry of Consumer Affairs, Food and Public Distribution and it was designed to distribute subsidised food as well as non-food items to poor people of the country. PDS distribute mainly wheat, rice, sugar and kerosene. Food Corporation of India (FCI) process as well as maintain this through fair shop.

The *National Rural Employment Guarantee Act (NREGA)* which is presently known as MGNREGA is an employment-oriented scheme and was launched to generate employment for the rural workers (MRD, 2006). The scheme indirectly discourages workers migration. Drèze (2010) argues that NREGA may slow down distress migration to urban areas as well as it may contribute to the empowerment of women since a large number of workers under the scheme are women and it may become an instrument to strengthen the bargaining power of unorganised workers. But the problem lies with the proper implementation of the scheme and in return, it indirectly contributes to the migration of workers for instance, in Bodoland Territorial Areas District (BTAD) present-day Bodoland Territorial Region (BTR) of Assam, there was a controversy regarding the implementation of the MGNREGA. According to the present ruling party (United Peoples Party-Liberal) the then opposition party of the BTR, the local rural workers couldn't enjoy the benefits out of the scheme due to corruption where some of the Chairmen were sent to jail (Fieldwork, April-June 2019[31]). Dwivedi (2012) argues that despite the implementation of employment guarantee scheme in all the districts, unskilled[32] and skilled[33] workers' migration has not been stopped yet but it is continuing because workers and farmers whose income is not adequate for survival are searching for better opportunities: where workers are migrating to cities in search of work in factories and construction sector etc. According to Dwivedi defective implementation of the numerous welfare legislations as well as schemes have contributed towards the

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[31] During the time of fieldwork three months (April-June, 2019) period was spent to identify and interview the respondents of the study at the source as well as at the destination places mentioned in the chapter 1.

[32] The term 'unskilled workers' signifies the workers who does not possess the necessary special skill or training through diploma/ degree.

[33] The term 'skilled workers' signifies the person who possess the necessary special skill or training through diploma/ degree.

migration of rural poor. It is also true that migration is a natural phenomenon and it can't be stopped.

4.2.2 Policies and Programmes in India

Very recently, with an aim to bring transformation in relation to labour including migrant work, some major steps were taken by the MLE: In October 2014, a unified web portal called Shram Suvidha Portal which provides a Unique Labour Identification Number to establishments was launched for transparency and accountability in the enforcement of labour laws (MLE, 2014 October) and it is expected that it would reduce the discretionary powers of Inspectors and would bring transparency in inspection and in return, would help in minimising the harassment of employers.

Furthermore, realising the huge damage that the issue of HIV[34]/ AIDS[35] brings, the Ministry brought the *National Policy on HIV/ AIDS* and the world of work based on the principles of human rights with an aim to, prevent transmission of HIV infection amongst workers and their families, protect rights of those who are infected and provide access to available care, support and treatment, protect workers from stigma and discrimination related to HIV/AIDS by assuring them equity and dignity at the workplace, and ensure safe migration and mobility with access to information services on HIV/AIDS (MLE, 2009). This national policy applies to all employers and workers (including applicants for work) in the public and private sectors, all workplaces and contracts of employment, and all aspects of work – formal and informal and the self-employed worker including the spouse and children or other dependent family members of a worker, where employers' and workers' organizations, ministries/ departments (government) at the national and state levels, public/ private sector companies,

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[34] HIV stands for Human Immunodeficiency Viruses.
[35] AIDS stands for Acquired immunodeficiency syndrome.

multinational companies which are operating in India, and the other social partners are advised to use its policy framework in formulating and implementing the workplace policy in their individual workplaces (MLE, 2009).

The *National Policy on Safety, Health and Environment* at the work place was also brought by the Ministry to achieve the following objectives: "continuous reduction in the incidence of work-related injuries, fatalities, diseases, disasters and loss of national assets; improved coverage of work-related injuries, fatalities and diseases and to provide for a more comprehensive database for facilitating better performance and monitoring; continuous enhancement of community awareness regarding safety, health and environment at workplace related areas; continually increasing community expectation of workplace health and safety standards; and improving safety, health and environment at the workplace by the creation of "green jobs" contributing to sustainable enterprise development" (MLE, 2009 February).

The Government appointed a panel i.e. Working Group on Migration, set up in 2015 by the Ministry of Housing & Urban Poverty Alleviation (MHUPA) that recommended certain legal and policy frameworks: enumeration based on migrants' caste, entree to PDS at any places, transfer of money with minimum charge, non-discriminatory procedures (PIB, 2017 March 1). It was also endorsed to detect the contribution by the migrants to the growth economy and the protection of rights offered through the Constitutional (PIB, 2017 March 1). Again, on International Workers Day, 2017 the Labour Ministry launched a scheme "One IP-Two Dispensaries: to provide medical benefits and it seems to be more beneficial for migrant workers:

> *"Under One IP- Two Dispensaries scheme ESIC has given an option to an Insured Person (IP) to choose two dispensaries, one for self and another for family through an employer. This will benefit all IPs, especially migrant workers who are working in other than home State, while their families are living in their native States. Because of non-availability of option of second*

dispensary, the dependant members of family are often deprived of medical benefits. By introducing the concept of 'One IP- Two Dispensaries', IP as well as their family members would now be able to get treatment from either of the dispensaries and in case of emergency from any ESI Institution" (PIB, 2017 May 1).

As most of the social protection policies and programmes in India need registration of beneficiaries due to the lack of documents such as identity proof, local resident etc. often short-term seasonal migrant workers are unable to register under such programmes. As a result, they are unable to access the subsidised food and banking facility, and even their health is also affected by various factors. Therefore, due to this gap in the social protection, policies and programmes have failed to ensure the rights and entitlements to them (UNESCO[36] & UNICEF[37], 2012).

Besides, considering the necessity of policies for Indian workers who are working in foreign countries, the Ministry of Overseas Indian Affairs (MOIA) entered into the Bilateral Labour Agreement with destination countries such as Malaysia, Jordan, Bahrain, Kuwait, Qatar, Oman, and United Arab Emirates (UAE). With an aim to safeguard and protect them, the Ministry has taken initiatives such as – *Overseas Workers Resource Centre, New Delhi* which provides "a 24x7 helpline to handle the issue of workers as well as to prove information"; *Indian Workers Resource Centre, Dubai* that provides "information to the Indian workers and handles workers issue"; *Bilateral Social Security Agreement* to provide "protection of the interest of Indian professionals going abroad"; and establishment of *Indian Community Welfare Fund* in the Indian Missions in order to "give urgent relief to the Indian workers in need and distress" (PIB, 2011 November 24).

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[36] UNESCO stands for United Nations Educational, Scientific and Cultural Organization.
[37] UNICEF stands for United Nations Children's Fund

The above-discussed labour laws and policies and programmes show less concern over the migrant workers of the country even if they have some schemes which indirectly include these unorganised workers. It may be due to the fact that most migrant workers are unaware, illiterate or working short-term on a seasonal basis preventing them from fully enjoying the benefits out of these existing schemes. But, since they also contribute to the development they too deserve the benefits of the policies and programmes. Therefore, it can be stated that, primarily due to the lack of appropriate legislation in relation to migrant workers, the migrant workers and particularly migrant workers of unorganised sectors are in a vulnerable situation and become the victims of exploitation at the hands of the middlemen.

An important point to note here is that just placing the rights for all the citizens in the Constitution is not enough because, to materialise those, formulation of certain appropriate policies and programmes as well as its implementation is necessary or else it would remain only on white paper. Apart from that, the schemes are also needed to be based on the subjects related to the socio-economic rights that are contained in the ICESCR or the provisions of the Directive Principles of State Policy of the country so that those schemes respond to the need of the workers including organised as well as unorganised migrant workers as these groups are most vulnerable and are not covered by most of the existing social security policies and programmes.

Even though India has a huge number of policies, programmes, as well as laws, the workers in general and migrant workers in particular, have been facing problems for long. It is because of the neglect of the state governments that labour laws have not been properly implemented: another factor is the negligence of the employers and the ignorance of the employees in the context of certain welfare policies and programmes. Therefore, the labour laws which aim to protect migrant workers have remained only

on paper. Jane (2016: 83), in the context of *Inter-State Migrant Workmen (Regulation and Conditions of Service) Act 1979* said that due to the overwhelming ignorance of state governments and lack of enforcement provisions, it is not been used to create a better policy environment in practice. Now, India has initiated the labour law reforms which is yet to complete. The labour reform has grouped Indian labour laws into – the *"Code on Wages", "Occupational Safety, Health and Working Conditions Code, 2019" "Code on Social Security, 2019"* and *"Industrial Relations Code, 2019"* (MLE, n.d.).

To be precise, rights contained in the Constitution of India apply to all the citizens of India by the virtue of being a citizen of the country. This there includes workers, migrant workers, unskilled workers or unskilled migrant workers[38]. The mentionable point here is that some of the rights contained in the Constitution of India also apply to the foreign nationals[39]. Besides, the existing labour laws of India also apply to the workers and migrant workers of the country. But the unskilled workers or unskilled migrant workers are rarely covered by the existing labour laws due to which they remain underprivileged.

4.2.3   Civil Society Organisations and Welfare Initiatives in India

Considering the despicable condition of migrant workers, including unskilled migrant workers and their families, several organisations are working towards improving or enabling them to enjoy the entitlements, take for example *Krishak Sabha and Panchayats, West Bengal, and DISHA:* Labourers as migrants lack bargaining capacity for which they are paid fewer wages in comparison to locals and hence they are bound to remain in poor living conditions. Observing such unfortunate situations, the Krishak Sabha as well as Panchayats in the state of West Bengal have intervened in the matter

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[38] In this study 'unskilled migrant workers' are those who does not possess the necessary special skill or training through diploma/ degree.
[39] Here in this study foreign nationals signify the people of foreign country, other than Indian citizen.

and negotiated with the employers and workers, also helped in the improvement of their relationships. In Ahmadabad, an NGO called DISHA has been working for the improvement of living as well as working conditions of workers of the construction sector who are mainly from Gujarat's Panchmahals area. The labourers have also been given shelter by forming the union for them (Srivastava & Sasikumar, 2003: 12).

KMDS, SEWA and Mobile Crèche Organisation: In Odisha, an organisation called Kimidi Multisectoral Development Society (KMDS) works towards finding solutions to the problems faced by the women of the Saora tribes. The challenges faced is caused by the male outmigration and therefore the society provides the women with financial assistance for self-sufficiency. In doing so, Royal Netherland's Embassy helps KMDS through financial assistance (IOM[40], 2005: 120-122). In Gujarat, Self Employed Women's Association (SEWA) set up a project called the Banaskantha Women's Rural Development Project (BWRDP) and through that, dairy and handicraft activity projects were started in Gujarat's western district of Banskantha. Over time, the project helped in the decline of seasonal migration from the district (IOM, 2005: 120-122). In Mumbai, Mobile Crèche Organisation was created in the year 1986 to meet the needs of migrant workers' children of the construction sector to give them basic literacy as well as numeracy skills jointly with health education. Similarly, in Delhi too this type of crèche programme works with the help of Aga Khan Foundation (IOM, 2005: 120-122).

Aajeevika Bureau: Migrant workers in India face verities of challenges in their day-to-day lives and hence, looking at this situation an organisation called Aajeevika Bureau was formed that set a mission to providing a lasting solution to economic and socio-legal problems/ issues of migrant workers by offering service of security both at the

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[40] IOM stands for International Organization for Migration.

source and destination (Aajeevika Bureau, n.d.). Presently, the organisation works for registration and photo ID (Identity Document), skill training and employment, legal education and aid, financial inclusion, health care, empowerment, destination support, knowledge and capacity building (Aajeevika Bureau, n.d.). In 2008, the photo ID provided by the organisation was authorised by the Department of Labour, Government of Rajasthan and very recently in August 2011 the organisation also launched a programme called Labour Line in Rajasthan's Udaipur to help the workers (UNESCO, 2013: 24).

Labournet: In Bengaluru, Karnataka, an organisation named Labournet was formed with the mission "to improve the real income of 10 million individuals in the informal sector by 2022 through sustainable intervention with education, employment and entrepreneurship" (Labournet, n.d.). Hence, its main focus is "to formalise the informal by improving the socio-economic status of people associated with the unorganised value chain" (Labournet, n.d.). Presently, the Labournet-registered-workers of unorganised sector and migrants are provided with identity cards. In addition to that Labournet gives skill training and skill assessment to workers.

Disha Foundation: Since 2002, the Disha Foundation of Nasik, Maharashtra is working for inter and intra-state seasonal migration, public health and related developmental issues. The objective of the organisation is "to develop different models of problem-solving intervention with the migrant community including stakeholders, creating a network of supportive programmes involving various government and non-governmental agencies to address different needs of the migrant community, create a strong database by conducting research and collect extensive information related to the same and networking with the different governments as well as NGOs at the micro and macro level to advocate for suitable policies as well as programmes" (Disha

Foundation, n.d.). In order to achieve their objective Disha Foundation has issued trade union/ identity cards to migrant workers enrolled in the trade unions' various sectors and this card is being authorised by the local government of the source village (UNESCO, 2013: 16). In addition to that, Disha Foundation and Maharashtra's Labour Department have jointly initiated a cell in relation to grievances of workers and for which a complaint box was placed at labour markets, and the organisation also helped migrant workers to get temporary ration cards under PDS in Nasik (UNESCO, 2013: 25-34).

Aid de Action: Aid de Action NGO which is working in the field of education engaged in creating a safe environment for young migrants in worksites by proving care as well as education to their children through child care and learning centres, health care services as well as entitlements through linkage with governmental institutions, such as local government, school, hospital and so on (Aid de Action, n.d.).

Indo-Global Social Service Society (IGSSS): IGSSS which was formed in 1960 works on many factors, such as development, capacity building, the enlightenment of the vulnerable communities etc. The organisation considers youth as change-makers and homeless residents of the city as CityMakers. According to IGSSS, CityMakers are those people who play a constructive role in city building as construction workers, a rickshaw pullers, rag pickers and daily wage earners. IGSSS launched this CityMakers programme to work on the issues of urban homelessness and at present, "the organisation works in 22 Indian states consisting of 83 districts and 1,22.258 families" (IGSSS, n.d.).

SETU and Lokadrusti: SETU which is a Centre for Social Knowledge and Action is a non-profit organisation in Ahmadabad, Gujarat. After its formation in 1982, its work has been primarily on deprived, oppressed and marginalised communities. Since SETU

also works for education, it too runs seasonal hostels for children of migrant workers (SETU, 2011 August 1). Similarly in Odisha, Lokadrusti has also set up seasonal hostels for children of migrant workers who move to other states in search of work (Lokadrusti, n.d.).

Butterflies: A voluntary organisation named Butterflies was formed in 1989 "to protect as well as empower children, especially of vulnerable groups" (Butterflies, n.d.). Mobile Education programme was also one of the programmes of Butterflies and they try to reach to the children through this programme as the organisation considers that 'if the children cannot come to school, let us take the school to them (Butterflies, n.d.).

Besides, Nirman Mazdoor Panchayat, National Campaign Committee for Construction Labourers, and National Federation of Construction Labourers are also working mainly for improving the wages and working conditions of labourers of the construction sector. The organisation named Nirman has also come up with mobile day-care centres (mobile crèches) for construction workers' children. In Kerala also, the Government of Kerala has initiated certain programmes (IANS, 2012; Krishnakumar, 2012). In November 2010, the Bhopal Municipal Corporation launched a scheme called "Ram Roti Yojana" to provide food and shelter at low cost for poor persons on a temporary basis and it is operational in Bhopal, Indore, Gwalior and Jabalpur, Madhya Pradesh (UNESCO, 2013: 37). Besides, many NGOs are working concerning HIV[41] issues of migrant workers say for instance – Rural Multimedia Publicity and Promotion and Association for Socio-Cultural & Environmental Development in Assam, and Institute of Applied Dermatology (IAD) MP Commercial Complex, Solidarity Movement of India, Kerala Association for KASWW Kollam Social and Women's Welfare (KASWW), CSWs,

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[41] HIV stands for Human Immunodeficiency Virus.

and Naranganam Rural Development Society in Kerala (Srivastava & Sasikumar 2003: 54).

4.3   Migrant Workers in India

4.3.1   Migration in India

Migration is a common phenomenon and therefore it takes place at different levels ranginginternational level   to national level. For instance till 2019 international migrants have increased to about two hundred seventy-two million which was only about eighty-four million in 1970 (Brahma & Paul, 2020). Likewise, in India also migration is common and it takes place in different forms such as within districts, within states and within the country and it is legal for every Indian to migrate within the boundary of the country[42] unless there is a need for permission to enter into the area. In this regard, Sharma (2010: 193) is of the view that there is nothing illegal about north or south Indians migrating to any part of the country and it is entirely legal to move from one place to another to live or to work, either temporarily or permanently. But, in certain places of some states particularly restricted places people can't settle permanently as an inhabitant of the particular state. In the previous chapter (chapter 3), it is already been stated that migration usually takes place due to different factors which are social, political, economic and environmental. Census of India states that migration takes place due to diverse reasons such as work, business, marriage, education, family migration, and natural calamities.

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[42] The free movement is one of the fundamental rights of Indian citizens and it does not restrict internal movement within the country. Article – nineteenth (one) of the Constitution states that 'all citizens shall have the right (d) to move freely throughout the territory of India, and (e) to reside and settle in any part of the territory of India' (The Constitution of India, 1950a).

Table 4.5: Reasons of Migration in India: Comparison of Census and NSSO			
Reasons for Migration			
Census 1981	**Census 1991**	**Census 2001**	**NSSO[43] (1999-2000)**
1. Employment 2. Education 3. Family moved 4. Marriage 5. Others	1. Employment 2. Business 3. Education 4. Family Moved 5. Marriage 6. Natural calamities like drought, floods, etc. 7. Others	1. Work/Employment 2. Business 3. Education 4. Marriage 5. Moved with birth 6. Moved with household 7. Any other reason	1. In search of employment 2. In search of better employment 3. To take up employment/better employment 4. Transfer of service Contract 5. Proximity to place of work 6. Studies 7. Acquisition of own house/flat 8. Housing problem 9. Social/Political problem 10. Health 11. Marriage 12. Migration of parent/earning member 13. Others

Source: Bhagat, R. B. (2008). Assessing the Measurement of Internal Migration in India. *Asian and Pacific Migration Journal*, *17*(1), 91-102.

Over time, forms and reasons for migration have been categorised, where male migration, it is seen that work is the reason for migration and is followed by the migration with family whereas, in the case of a female, marriage appears to be the major cause of migration followed by family migration. Bala (2017: 54) is of the opinion that in India, migration data was recorded based on the place of birth in the 1881 census, in 1961 census place of birth and duration of residence was included, in 1971 census supplementary information on place of last residence and duration of stay at the place of enumeration were incorporated and information on reasons for migration was incorporated in 1981 census and modified in consecutive censuses. Bhagat (2008) has also compared the reasons for migration in India developed under the census of India

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[43] NSSO stands for National Sample Survey Organisation

and the National Sample Survey (NSS). It shows that NSSO identifies migration with more causes (table 4.5).

Table 4.6: Reasons for Migration in India (%): 1981-2001						
Reasons for migration ↓	**1981**		**1991**		**2001**	
	Female	**Male**	**Female**	**Male**	**Female**	**Male**
Work/ Employment	1.9	31.0	1.8	27.0	1.7	28.5
Education	0.9	5.3	0.8	4.8	0.4	2.6
Family Moved	14.5	30.2	11.0	26.6	10.9	18.9
Marriage	72.4	3.1	76.1	4.0	70.1	2.4
Business	NA	NA	0.6	6.9	0.2	2.6
Natural Calamities like Drought, Floods etc.	NA	NA	0.2	1.1	--	--
Moved after Birth	--	--	--	--	3.0	10.2
Others*	10.3	30.4	9.5	29.6	13.7	34.8
Total (Million)	**145.2**	**62.5**	**167.8**	**64.3**	**218.7**	**90.6**

Source: Census of India (1981). *Migration 1981.* India: Office of the Registrar General & Census Commissioner; Census of India (1991). *Migration 1991.* India: Office of the Registrar General & Census Commissioner; Census of India (2001). *Migration 2001.* India: Office of the Registrar General & Census Commissioner as cited in Bhagat, R. B. (2011). Migrants'(denied) right to the city. In Faetanini Marina (Ed.), *Urban Policies and the Right to the City in India: Rights, Responsibilities and Citizenship (48–57).* New Delhi: UNESCO.
Note – NA= Not Available, *= Include Business, Natural Calamities such as drought, floods, etc. & Excludes Assam & Jammu & Kashmir for 1991.

The process of migration especially, workers migration takes place due to the lack of

sufficient socio-economic conditions and their living status although the reason has not

achieved the required attention.

Table 4.7: Distribution (per 1000) of Migrants by reason												
Reasons for migration	**Migrated in**											
	Rural Areas						**Urban Areas**					
	1993		**1999-00**		**2007-08**		**1993**		**1999-00**		**2007-08**	
	M	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**	**M**	**F**
Employment related reason	477	83	303	10	286	7	415	49	519	30	557	27
Studies	41	11	53	4	107	5	180	79	62	13	68	22
Marriage	23	616	94	888	94	912	9	317	16	585	14	608
Movement of parents/earning member	208	237	260	63	221	44	283	495	270	310	252	294
Other reasons	251	53	290	35	292	32	113	69	133	62	109	49
All	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**	**1000**

Source: NSSO (1993). *Migration in India.* Government of India: Ministry of Programme Implementation; NSSO (1999-00). *Migration in India.* Government of India: Ministry of Programme Implementation; NSSO (2007-08). *Migration in India.* Government of India: Ministry of Programme Implementation as cited in Srivastava, R. (2012: 8). Internal Migration India: An Overview of its Features, Trends and Policy

Challenges. In *National Workshop on Internal Migration and Human Development in India,* Workshop Compendium, Vol. II: Workshop Papers (1-47). New Delhi: UNESCO.

The Census of India (1981, 1991, 2001 and 2011) and NSSO (1993, 1999-2000, 2007-2008) data of various periods shows that one of the dominant factors of migration among females is marriage and among the male, is work or employment (table 4.6 & 4.7) but at present women also take up jobs in urban areas by joining the pool of migrant workers (UNESCO, 2013: 6). In this way, work-related migration becomes one of the most dominant factors. Among the migrants, students migrate due to the lack of educational institutions as well as in search of better institutions for higher education. Sharma (2010: 192-193) is of the opinion that economic, social, environmental and political issues have been some of the push factors of population migration in India. Further, Sharma states that companies' demand and abuses of rights have also compelled the people to migrate in search of safety, security and a sustainable livelihood. Ananda Padmanabhan (2016) is also of the opinion that in developing countries like India, migration mostly takes place due to various reasons such as poverty, unemployment, natural calamities and underdevelopment at the origin place.

Table 4.8: Trends of Migration in India (Millions)			
Census	**Male**	**Female**	**Persons**
1981	59.1	142.3	201.4
1991	61	164.6	225.6
2001	90.6	215.9	306.5
2011	140.9	312.6	453.6

Source: Census of India (1981). *Migration 1981.* India: Office of the Registrar General & Census Commissioner; Census of India (1991). *Migration 1991.* India: Office of the Registrar General & Census Commissioner; Census of India (2001). *Migration 2001.* India: Office of the Registrar General & Census Commissioner as cited in Srivastava, R. (2012). Internal Migration India: An Overview of its Features, Trends and Policy Challenges. In *National Workshop on Internal Migration and Human Development in India,* Workshop Compendium, Vol. II: Workshop Papers (1-47). New Delhi: UNESCO; Census of India (2011). *Migration 2011.* India: Office of the Registrar General & Census Commissioner. **Note:** Census of India, 2011 (Figures are provisional; all durations of residence include unspecified duration, and the place of the last residence unclassifiable as Rural or Urban is included in Total).

Besides the improvement in recognising the internal migrants in India, Census data of the country conducted in different periods shows that over the periods of time with the increase of population in the country, the number of migrants have risen (table 4.8). Census of India conducted in different periods shows the increasing trend of migrants in the country, take for example – migrants increased from about two hundred-one million to about two hundred twenty-six million during 1981-1991, about two hundred twenty-six million to about three hundred-six million during 1991-2001, about three hundred-six million to about four hundred fifty-four million during 2001-2011 (table 4.8). The increase of migrants is not only in any particular group, however in both the groups i.e. male as well as female. Out of the about three hundred fourteen million migrants in India during the 2001 census, about three hundred nine million were internal migrants (MHUPA, 2017: 3; Upadhyaya, 2015: 61). Besides the 2011 Census of India, India had about thirty-one million male and about one hundred-twelve million female migrants in rural areas, and about twenty-eight million male and about thirty million female migrants in urban areas during the 1981 census; about thirty-one million male and about one hundred twenty-eight million female migrants in rural areas, and about thirty million male and about thirty-seven million female migrants in urban areas during 1991 census; and about forty-two million male and about one hundred sixty-two million female migrants in rural areas, and about forty-eight million male and about fifty-three million female migrants in urban areas during 2001 Census of India (Srivastava, 2012: 5).

Table 4.9: Distribution of Internal Migrants (%) in India by stream									
Stream Census	R-R	U-R	Un-R	Total Rural	R-U	U-U	Un-U	Total Urban	Total
1981	65.03	6.11	0.08	71.22	16.59	12.1	0.1	28.79	100
1991	64.21	5.97	0.29	70.47	17.67	11.7	0.16	29.53	100
2001	55.51	4.2	7.45	67.16	16.71	11.82	4.32	32.85	100

Source: Census of India (1981). *Migration 1981*. India: Office of the Registrar General & Census Commissioner; Census of India (1991). *Migration 1991*. India: Office of the

Registrar General & Census Commissioner; Census of India (2001). *Migration 2001.* India: Office of the Registrar General & Census Commissioner (the migration figure exclude the figure of 1981 and 1991 of Assam and Jammu & Kashmir respectively) as cited in Srivastava, R. (2012: 6). Internal Migration India: An Overview of its Features, Trends and Policy Challenges. In *National Workshop on Internal Migration and Human Development in India,* Workshop Compendium, Vol. II: Workshop Papers (1-47). New Delhi: UNESCO.

Note1: R-R= Rural-Rural, U-R= Urban-Rural, Un-R= Unclassified-Rural, R-U= Rural-Urban, U-U= Urban-Urban, Un-U= Unclassified-Urban.

Note2: Stream= R-R, U-R, Un-R.

Table 4.10: Distribution of Internal Migrants (%) in India by distance			
Census Distance	**1981**	**1991**	**2001**
Intra-District	64.96	62.14	62.57
Inter-District	23.02	26.05	24.12
Inter-State	12.02	11.82	13.31
Total	**100**	**100**	**100**

Source: Census of India (1981). *Migration 1981.* India: Office of the Registrar General & Census Commissioner; Census of India (1991). *Migration 1991.* India: Office of the Registrar General & Census Commissioner; Census of India (2001). *Migration 2001.* India: Office of the Registrar General & Census Commissioner as cited in Srivastava, R. (2012: 6). Internal Migration India: An Overview of its Features, Trends and Policy Challenges. In *National Workshop on Internal Migration and Human Development in India,* Workshop Compendium, Vol. II: Workshop Papers (1-47). New Delhi: UNESCO.

Note: Distance= Intra-District, Inter-District, Inter-State.

The available data of various census reports show the high record of rural to rural migration in comparison with other streams such as urban-rural, unclassified-rural, rural-urban, urban-urban, and unclassified-urban (table 4.9). On the other hand, according to the Census of India, intra-district migration stands at the highest followed by inter-district and inter-state (table 4.10).

Table 4.11: Migrants Duration of Residence in India					
Census	**Total migrants**	**Duration**			
		Less than 1 year	**1-4 year**	**5-9 year**	**10 year and above**
2001	314541350	8885724	47281223	42134395	170563612
2011	453641955	20688225	71825676	68910827	291462799

Source: Census of India (2001). *Migration 2001.* India: Office of the Registrar General & Census Commissioner; Census of India (2011). *Migration 2011.* India: Office of the Registrar General & Census Commissioner.

Note: Total migrants of the 2001 Census of India includes all durations of residence, and 2011 Census of India figures are provisional, and all durations of residence include unspecified duration.

Since the Census of India classifies migration based on duration i.e. less than one year, one-four years, five-nine years, ten years and above. Data of the 2001 and 2011 census

also show the increase of migrants in each category of durations of migrants' residence in the country (table 4.11). Therefore, migration is divided mainly into two categories i.e. long term and short term or seasonal/ circular movement where among the Indian states, Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Andhra Pradesh Chhattisgarh, Jharkhand, Odisha, Uttarakhand and Tamil Nadu constitute the major source, and Delhi, Maharashtra, Gujarat, Haryana, Punjab and Karnataka and Kerala constitute the major destination of internal migrants (UNESCO 2013: 4).

Table 4.12: Population of Migrants in India: 2007-2008				
Rural Areas	Gender	Migrants	Short-term migrants	Return migrants
	Male	20618579	10671627	4894476
	Female	173193548	1912980	18357100
	Total	193812127	12584607	23251576
Urban Areas	Gender	Migrants	Short-term migrants	Return migrants
	Male	35705919	876633	4161885
	Female	58325264	159891	6093890
	Total	94031183	1036524	10255775

Source: NSSO (2007-08). *Migration in India.* Government of India: Ministry of Programme Implementation as cited in Chandrasekhar, S., & Sharma, A. (2012: 19). *On the Internal Mobility of Indians: Knowledge Gaps and Emerging Concerns.* Mumbai: Indira Gandhi Institute of Development Research.

According to the latest report of NSSO (2007-2008) on migration in India during 2007-08, there are more than one hundred ninety-three million migrants in rural areas and ninety-four million in urban areas, about twelve million short-term migrants in rural areas and one million in urban areas, and about twenty-three million return migrants in rural areas and about ten million in urban areas. Out of the about two hundred eighty-eight million migrants (rural and urban), women appear to be the dominant group and in fact, that can be connected through marriage which is considered by the Census of India and NSSO as one of the reasons for migration in the country whereas in case of short-term migrants men occupy the dominant group and in this regard, it can be due to the identification of migration based on work/ employment (table 4.12).

In short, it can be stated that over the periods of time, India has proved the increasing trends of migration in the country where internal migration[44] constitutes the major portion. In future also, migration is likely to increase in the country which would be majorly influenced by political, economic and environmental crises (Deshingkar & Sandi, 2012: 74-75). In addition, the preliminary estimate also indicates that by 2050 or before, there could be around two hundred million people worldwide who may become displaced largely due to sea-level rise, flood, drought and so forth (Myers, 2002: 611). In days to come, if such a condition comes into existence, migration may become the appropriate strategy to cope up with the future situation where India may not be an exemption.

Whatever be the cause of migration, one can't deny its contribution to the growth and development say for instance – in the region such as Asia, Africa and Latin America approximately forty percent of the growth in urban areas is caused by rural-urban internal migration (UNESCO/ UN-HABITAT, 2012: 20). In the context of India, urban population increases mainly for natural increase, net rural to urban migration, expansion of boundaries and net re-classification, and during 1971-81, 1981-91, 1991-2001, rural-urban migration contributed around twenty percent of the increase in the population of urban areas (HPEC, 2011: 10-11). In 2001, India's urban population was around two hundred eighty-six million (UNESCO, 2013: 5) and it was increased to about four hundred fifty-four million in 2011 (Census of India, 2011). By 2030 it is again expected to increase to around six hundred million (Planning Commission, 2011: 34). Looking at the increasing trend of rural-urban migration, urban population and their contribution to the development it has been forced to think for their welfare. The Draft Twelfth Five

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[44] In this study the term 'internal migration' signifies the movement of the people such as intradistrict, interdistrict and interstate within the country.

Year Plan (Planning Commission, 2012: 320) rightly stated that "cities should be able to provide basic services to migrant workers, their families and other vulnerable sections of society including women and children". But, migrants' access to government services as well as welfare programmes need to be improved so that it becomes a helpful factor in the improvement of their lives. Apart from that, better inclusion of migrants based on human rights including cultural diversity and social cohesion appears to be one of the most important necessary steps towards urban sustainable development (UNESCO, 2013: 6).

Internal migrants in India face many kinds of difficulties, among which some of the pertinent difficulties are lack of formal residency rights, proof of identity, political representation, adequate housing; low payment; insecure and hazardous work; vulnerability of women as well as children to trafficking and sexual exploitation; and discrimination. Further, in the absence of documents such as identity proof and residence, they are unable to assert social protection and forced to stay away from the government schemes and programmes. In addition to that children face disruption in their regular schooling which negatively affect human capital formation and contribute to the transmission of poverty from one generation to another (UNICEF/ UNESCO, 2013; see UNESCO/ UN-HABITAT, 2012: 9). Therefore, it has rightly been stated that "regulations and administrative procedures exclude migrants from access to legal rights, public services and social protection programmes accorded to residents, on account of which they are often treated as second-class citizens" (UNESCO, 2013: 7). But, one thing that needs to be noted here is that the internal migrants, particularly seasonal or circular, are migratory in nature which leads to the loss of their access to certain social protection policies and programmes that linked to the particular place of residence (UNESCO, 2013: 7).

Migrants are generally treated as aliens in the destination places, of which India is not an exemption. Bhagat (2011: 92-93) found that "migrants' right to the city is most strongly denied by the political defence of the 'sons of the soil' ideology, which aims to create vote banks along ethnic and linguistic lines, and which divide migrant communities into those belonging to the state (same linguistic group) and those from other states (different linguistic groups). This leads to the marginalisation of the migrants in the decision-making process in the city and exacerbates their vulnerabilities with regard to the vagaries of the labour market, the risks of discrimination and violence, health risks, and also the risks of natural calamities like floods and landslides because their shelters are located at vulnerable sites within the city. As social protection programmes are hardly geared towards migrants, they are underpaid and exploited; they lack proper housing, access to improved sources of drinking water, sanitation and health services". Among the migrants, migrant women appear to be one of the most vulnerable groups as they encounter violence based on gender, physical, sexual – leading to psychological abuse, exploitation and trafficking (UNICEF/ UNESCO, 2013: 8). Further, dismissive picturisation by the media houses, branding based on communalism and partialities by leaders, detestation propaganda has appeared to be the most pertinent cause of the gloomy picturisation of internal migrants (UNICEF/ UNESCO, 2013: 8).

Even if internal migrants are portrayed negatively, it is impossible to deny their contribution to the nation more particularly to the destination place and hence internal migration stands as an integral part of the development. In India, they are the migrant workers, who mainly work in the agricultural sector, construction sector, brick kiln, textile, mines and quarries, head-loaders and coolies, and other work such as diamond cutting and polishing, rickshaw pullers, regular workers and so forth (Srivastava, 2012: 20) and by working in these sectors they too send remittance to their origin. In 2007-

08, it was estimated that the domestic (India) remittance market to be roughly USD ten billion (Tumbe, 2011: 26). Deshingkar and Akter (2009: 78) found that migrants contribute about ten percent of India's GDP. The remittance of the internal migrants may be encouraged to spend on human capital formation but there is also a chance of the increase in school dropouts as family members sometimes travel with their earning member (Deshingkar and Sandi, 2012).

In return, besides the financial remittance, migrants carry social remittances such as skills, innovations and knowledge back to their origin place which in return contribute to the social as well as economic changes (Bhagat, 2011: 92). In addition, migrants also get an opportunity to get away from caste divisions, atrocities, rigid societal norms, and work with dignity and freedom (Deshingkar and Akter, 2009: 46). Furthermore, migration also appears to be one of the most pertinent strategies in raising ones' income, health and education (UNDP[45], 2009: 1).

4.3.2   Migration from India

Besides, the internal migration in India, there is also another phenomenon to be discussed in the context of migration and that is Indian migrants in foreign countries. It includes both the migrants of organised as well as unorganised sectors. It is already been stated earlier that in this process of migration, globalisation has made a tremendous contribution particularly in the context of sharing employment opportunities, transport and communication etc. Further, it has also contributed towards the increase of workers which includes semi-skilled and unskilled workers. In 2015, the number of international migrants[46] increased to two hundred forty-four million and that is an increase of seventy-one million compared to 2000 (UNDESA, 2015: 1). Simply,

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[45] UNDP stands for United Nations Development Programme
[46] They are the international migrants who are living in a country other than where they were born.

it was one hundred seventy-three million in 2000, one hundred ninety-one million in 2005, two hundred twenty million in 2010 (Migration Data Portal, n.d.) and recently, in 2017, the international migrants were estimated to be two hundred fifty-eight million and that shows the increase of eighty-five million since 2000 (UNDESA, 2017: 1). Recently, it has again increased to around two hundred seventy-two million in 2019 (UNDESA, 2019).

ILO's India International Labour Migration Update[47] reveals that in 2015, out of two hundred forty-four million international migrants, twenty-eight million persons are from India where fourteen million constitute the migrant workers (ILO, 2016 August: 1). Most recently, the India International Labour Migration Update (ILO, 2018: 1) reveals that there are more than thirty million Indian overseas, with more than nine million of the Indian diaspora concentrated in the GCC (Gulf Cooperation Council) region which is presently known as the Cooperation Council for the Arab States of the Gulf. Further, it was also made clear that over ninety percent of Indian migrant workers where most of whom have been identified as low as well as semi-skilled workers work in South East Asia and the Gulf region.

4.3.3 Migrant Workers in India: The Case of Internal Migrants

In today's world, India is one of the most populous countries and it has a huge number of workers around the country including migrant workers. The human rights which are enshrined in the Constitution of India are for all the citizens of the country without any discrimination. As it has already been discussed previously under 4.3.1 that to every

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[47] The migration update is based on Emigration Check Required (ECR) data and that excludes high skilled workers. Therefore, number of migrants from the state of Kerala is not captured under the present system as they have cleared tenth standards of class.

Indian it is legal to move from one place to another but certain states of the country have certain special rules i.e. Inner Line Permit (ILP) to enter into the state.

Table 4.13: Workers' Strength in India (Crore)			
Workers	2004-05	2009-10	2011-12
Organised	2.6	2.8	8
Unorganised	43.3	43.7	39
Total	**45.9**	**46.5**	**47**

Sources: MLE (2009-2010). *Annual Report 2009-2010*. Ministry of Labour and Employment: Government of India; MLE (2011-2012). *Annual Report 2011-2012*. Ministry of Labour and Employment: Government of India; MLE (2012-2013). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India; MLE (2013-2014). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India; MLE (2016-2017). *Annual Report 2016-2017*. Ministry of Labour and Employment: Government of India.

According to the survey carried out by the NSSO the strength of the workers in India is almost forty-six crore in 2004-05, over forty-six crores in 2009-10 and forty-seven crores in 2011-2012 (table 4.13), and as per as 2001 Census is concerned, over thirty-one crore (over three hundred fifteen million) people have changed their place of residence within the country and out, and out of this nine percent has left for work. According to the Economic Survey Report (2016-17) of the Government of India, the annual work-related migration in the country is about nine million (projection is based on railway passenger traffic data) which becomes almost double of 2011 Census. Between the 2001 and 2011 Census, the annual interstate migration was about five to over six million only (MF[48], 2017).

Reports (MLE, 2009-2017) of the Labour Ministry reveal that out of the total strength of workers in India, the unorganised workers are employed in various sectors such as – agriculture, construction and so forth. The reports of the Labour Ministry clarifies that they are also engaged in manufacturing activities, trade and transport, handicraft (i.e. embroidery work), papad and agarbatti making, beedi rolling and tailoring but they are

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[48] MF stands for Ministry of Finance, Government of India.

not free from difficulties. The main challenge faced by these workers are seasonal temporary job and the absence of social security protection as well as the formal employee-employer relationship.

In the country, workers both locals, as well as migrants, are employed and since the latter is generally considered as the docile and cheaper labour, they are employed more in certain sectors. In this regard, the study of Rajeswaran (2015: 83-84) reveals that though the construction sector in India employs both local and migrant workers, the latter constitute the majority as they are cheaper and docile than local workers. The reason behind this is their background i.e. the migrant workers are illiterate, socially backward, unskilled and work in the informal and unorganised sectors. Khandekar (2010, November 17) is of the opinion that there are more than one million migrant workers in Delhi who belong mostly to Bihar, Uttar Pradesh, Madhya Pradesh and West Bengal, and they work as domestic helpers, rickshaw pullers, construction labourers and factory workers but suitably their workplaces can be best described as sweatshops.

The Annual Report (2016-17: 109) of the MLE also reveals that workers of the construction sector constitute one of the largest categories of workers in an unorganised sector where NSSO (2011-12) found around five crore workers employed in the sector. Considering the necessity, the Government of India enacted the *Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act (1996)* and *Building and Other Construction Workers' Welfare Cess, Act (1996)* legislation for construction workers (MLE, 2016-17: 109). These Acts are being made applicable to every establishment that employs ten workers or more in any building or other work of construction. The mentioned legislations provide for regulating employment as well as conditions of service including safety, health and welfare measures for workers of the construction sector. This has to be done at the state level

by setting up a Welfare Fund to be used for providing financial assistance in case of accident of the beneficiaries' families, pension for old age people, loans for housing, payment of insurance instalment, education of children, medical including maternity benefits and so on. But this fund is to be financed by the contribution made by the beneficiaries as well as a levy of cess on all construction work.

Table 4.14: Minimum wage rate for unskilled workers in India's Northeastern states				
Centre/State/ UT	2009-2010 (in RS)	2011-2012 (in RS)	2012-1013 (in RS)	2013-2014 (in RS)
Centre	78.00–186.00	156.00–256.00	166.00–279.00	NA
Arunachal Pradesh	55.00	134.62–153.85	134.62–153.85	NA
Assam	54.80–79.60	66.50–100.00	100.42	165.41–263.82
Manipur	72.40	122.10	122.10	122.10–132.60
Meghalaya	70.00	100.00	100.00	100.00–140.00
Mizoram	103.00	132.00	170.00	170.00–300.00
Nagaland	66.00–70.00	80.00	100.00	100.00–130.00
Sikkim	100.00	100.00	130.00	200.00–290.00
Tripura	62.00–98.08	65.77–130.00	96.15–132.69	53.00–349.25

Source: MLE (2009-2010). *Annual Report 2009-2010*. Ministry of Labour and Employment: Government of India; MLE (2011-2012). *Annual Report 2011-2012*. Ministry of Labour and Employment: Government of India; MLE (2012-2013). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India; MLE (2013-2014). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India.
Note: Centre=Central Government, State Government, UT= Union Territories, and NA= Not available

Table 4.15: Minimum wages rate for unskilled workers in certain major Indian states				
Centre/State/ UT	2009-2010 (in RS)	2011-2012 (in RS)	2012-1013 (in RS)	2013-2014 (in RS)
Centre	78.00–186.00	156.00–256.00	166.00–279.00	NA
Andhra Pradesh	58.25–163.00	68.96–153.85	69.00–231.71	58.00–474.31
Bihar	75.00–89.00	138.00–144.00	138.00–144.00	162.00–260.00
Delhi	142.00	234.00	279.00	279.00–369.00
Karnataka	73.96–133.10	82.57–227.89	130.08–220.73	114.23–280.34
Kerala	72.00–328.80	110.00–322.10	85.20–353.00	107.04–483.00
Maharashtra	46.13–201.30	95.65–248.15	100.00–248.15	100.00–359.85
Rajasthan	87.81–100.00	135.00	147.00	166.00–236.00
Tamil Nadu	57.94–158.70	81.91–222.35	88.29–222.35	85.00–273.36
Uttar Pradesh	76.31–115.87	100.00–160.15	100.00–171.20	100.00–209.44
West Bengal	57.01–126.42	112.50–146.53	112.50–169.30	112.50–205.77

Source: MLE (2009-2010). *Annual Report 2009-2010*. Ministry of Labour and Employment: Government of India; MLE (2011-2012). *Annual Report 2011-2012*. Ministry of Labour and Employment: Government of India; MLE (2012-2013). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India; MLE

(2013-2014). *Annual Report 2012-2013*. Ministry of Labour and Employment: Government of India.

Note: Centre=Central Government, State Government, UT= Union Territories, and NA= Not available

In India, in the context of workers' migration, migration takes place due to the lack of employment opportunities, better payment as well as more employment opportunities. As per the Economic Survey Report 2016-17 (MF, 2017), the annual work-related migration in India is around nine million (based on railway passenger traffic data) which is much higher than the (about) five to over six million of 2011 Census of India (MF, 2017). As I have already stated that workers migration takes place due to better wages in other places (table 4.14 & 4.15) but there is also a certain case where migrant workers are not paid minimum wages, sometimes the agreed wages are also not paid in time, no fixed hours of work, they are not provided extra wages for overtime work; no provision for financial and medical aid at the time of the accident, nobody owns the responsibility of death, non-availability of drinking water, toilets, canteens etc. for them etc. (Hussain, 2012). But apart from that migration of workers takes place because of more work opportunities in the destinations as well as due to available channels of migration such as friends, family members, relatives, and middleman.

But in the context of Northeast India, Singh (2013) says that the out-migration of workers from Northeast India is a recent phenomenon and it is taking place due to certain push as well as pull factors such as the lack of work opportunities, political instability in the region, and the availability of better work opportunities in major cities of the country. Chyrmang (2011: 85) is of the opinion that total out-migration from the states of Northeast India has been taking place due to work or employment, business, education, marriage, and others. Apart from that, often occurrence of conflicts, atrocities in the region and properly non-implementation of MGNREGA have

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furthermore fuelled the worker's migration particularly from the state of Assam to other places.

4.3.4 Migrant Workers from Assam

In the state of Assam also, migration is common phenomenon. People migrate to Assam and people from Assam also migrate to outside the state of Assam. This phenomenon of migration from Assam is no exception to workers migration including unskilled workers. This migration is backed by various push and pull factors including the human rights violation in the state of origin.

Table 4.16: Internal Migrants from Assam (Place of Birth)			
Destination State/ UT	**Number of Internal Migrants, 2011**		
	Total	**Male**	**Female**
Jammu & Kashmir	1,452	743	709
Himachal Pradesh	1,837	1,006	831
Punjab	11,441	5,113	6,328
Chandigarh	1,361	670	691
Uttarakhand	4,936	2,419	2,517
Haryana	14,672	5,461	9,211
NCT of Delhi	24,474	12,324	12,150
Rajasthan	11,264	4,084	7,180
Uttar Pradesh	29,773	10,731	19,042
Bihar	14,156	2,041	12,115
Sikkim	2,864	1,609	1,255
Arunachal Pradesh	107,242	57,670	49,572
Nagaland	55,766	31,766	24,000
Manipur	8,325	2,988	5,337
Mizoram	17,815	11,469	6,346
Tripura	29,868	9,835	20,033
Meghalaya	68,340	31,683	36,657
West Bengal	169,018	69,279	99,739
Jharkhand	4,865	1,646	3,219
Odisha	4,241	2,014	2,227
Chhattisgarh	4,026	1,951	2,075
Madhya Pradesh	4,253	2,011	2,242
Gujarat	10,810	6,572	4,238
Daman & Diu	1,688	1,504	184
Dadra & Nagar Haveli	1,624	1,434	190
Maharashtra	30,697	20,141	10,556
Andhra Pradesh	6,652	3,669	2,983
Karnataka	23,497	17,314	6,183
Goa	1,773	1,403	370
Lakshadweep	6	3	3
Kerala	8,262	7,089	1,173
Tamil Nadu	7,395	4,898	2,497
Puducherry	177	98	79
Andaman & Nicobar Islands	656	377	279
Total	**685,226**	**333,015**	**352,211**

Source: Census of India (2011). *Migration 2011*. India: Office of the Registrar General & Census Commissioner.

The above table shows (table 4.16) that people from Assam (based on place of birth) have migrated primarily to West Bengal (169,018) followed by Arunachal Pradesh (107,242), Meghalaya (68,340), Nagaland (55,766), Maharashtra and other states of the country which also includes the state of Kerala (Census of India, 2011).

Table 4.17: Internal Migrants from Assam, 2011 (Place of the Last Residence)			
Destination States/ UT	Number of Internal Migrants, 2011		
	Persons	Males	Females
Jammu & Kashmir	1,906	1,095	811
Himachal Pradesh	2,134	1,303	831
Punjab	11,925	5,314	6,611
Chandigarh	2,166	971	1,195
Uttarakhand	5,731	3,093	2,638
Haryana	14,088	5,271	8,817
NCT of Delhi	26,233	13,433	12,800
Rajasthan	12,936	5,316	7,620
Uttar Pradesh	30,157	11,041	19,116
Bihar	15,221	2,922	12,299
Sikkim	2,621	1,485	1,136
Arunachal Pradesh	88,963	47,424	41,539
Nagaland	51,397	29,151	22,246
Manipur	7,720	2,746	4,974
Mizoram	15,056	9,804	5,252
Tripura	29,423	9,704	19,719
Meghalaya	61,022	27,748	33,274
West Bengal	166,400	68,903	97,497
Jharkhand	4,940	1,783	3,157
Odisha	4,732	2,273	2,459
Chhattisgarh	3,888	1,936	1,952
Madhya Pradesh	4,901	2,340	2,561
Gujarat	13,030	7,691	5,339
Daman & Diu	1,622	1,452	170
Dadra & Nagar Haveli	1,484	1,324	160
Maharashtra	30,614	20,017	10,597
Andhra Pradesh	7,155	3,910	3,245
Karnataka	23,651	17,163	6,488
Goa	1,502	1,179	323
Lakshadweep	5	5	0
Kerala	8,469	7,027	1,442
Tamil Nadu	7,860	5,143	2,717
Puducherry	283	153	130
Andaman & Nicobar Islands	459	281	178
India	659,694	320,401	339,293

Source: Census of India (2011). *Migration 2011*. India: Office of the Registrar General & Census Commissioner.

Similarly, based on the place of the last residence, the above table also shows (table 17) that primarily people from Assam have migrated to West Bengal, followed by Arunachal Pradesh, Meghalaya, Nagaland, Maharashtra and other states of the country which also includes the state of Kerala (Census of India, 2011). These migrants from Assam have been classified by various reasons work or employment, business, education or higher education, marriage, family migration, and for other reasons.

Table 4.18: Factors of Migration from Assam by Place of Last Residence, 2011			
Reasons for migration ↓	Persons	Male	Female
Work/ Employment	161,127	138,847	22,280
Business	21,269	18,844	2,425
Education	15,213	10,567	4,646
Marriage	167,332	7,397	159,935
Moved after Birth	12,659	7,480	5,179
Family Moved	179,044	77,683	101,361
Others	103,050	59,583	43,467
Total	**659,694**	**320,401**	**339,293**

Source: Census of India (2011). *Migration 2011.* India: Office of the Registrar General & Census Commissioner.

The above table shows (table 4.18) that more than six lakh (based on place of the last residence) people have migrated for various reasons from Assam to other states of India where female migrants are more than male migrants (Census of India, 2011). The table also states that female migrants have migrated primarily for marriage whereas male migrants have migrated for work or employment. Besides, the people from Assam have migrated for other kinds of reasons which also stands at the fourth position among the number of migrants migrated for various factors.

Table 4.19: Underground Armed Groups' Attack on Masses			
Time	No of death/ Injured	Location	Underground Group
August 15th, 2004	18	Dhemaji	ULFA
October 30th, 2008	Approx. 100	Guwahati, Barpeta Road, Bongaigaon and Kokrajhar	NDFB
January 17th, 2014	5	Athiabari, Serfanguri PS	NDFB
December 23rd, 2014	Approx. 100	Kokrajhar, Chirang and Sonitpur	NDFB
2017	1	Kokrajhar Titaguri	Unidentified assailants

Source: Brahma, S. (2018). Understanding the Status of Human Rights and Peace in Assam. *Asian Journal of Research in Social Sciences and Humanities, 8*(5), 91-105.

Besides, the existence of the underground armed groups, their activities and conflicts also push the people of the state to move out from the state. For instance, because of the existence of the United Liberation Front of Asom (ULFA), National Democratic Front of Boroland (NDFB), Bodo Liberation Tiger Force (BLTF), Karbi Longri National Liberation Front (KLNLF) the state of Assam had been witnessing a number of issues of human rights violations in the state (see table 4.19). Even today the existence of splitting underground groups such as ULFA creates the issue of human rights violations in the state.

On Independence Day, 2004 ULFA bombarded a school of Dhemaji, Assam where eighteen people were killed and many people were injured and most of the victims were school children of twelve to fourteen years of age and their mothers (BBC News, 2004 August 15; Talukdar, 2004 August 16). On thirteeth October 2008, the state of Assam witnessed a serial bomb blast by NDFB in different places of the State - Guwahati, Barpeta Road, Bongaigaon and Kokrajhar. In that incident also many innocent people lost their valuable lives and many people were injured. Presently, the day is observed as *Black Day* in the state (Choudhury, 2010 October 30; Correspondent, 2011 October 31).

On January seventeenth, 2014 passengers of night super named *Swapna* was attacked by suspected NDFB (S) at Athiabari under Serfanguri Police Station where four out of five Hindi speaking people were shot dead and others were seriously injured (Choudhury, 2014). In response to that attack, there was a search operation in the area where some civilians were taken by the para-military forces without informing the police station of the area and were tortured in the name of the service provider but those activities went unreported. In the same year, on twenty-third December, NDFB (S) was found to be linked with the killing of Adivasi people in Kokrajhar, Chirang and Sonitpur

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(Bhattacharjee, 2014 December 26; PTI, 2014 December 25). The starting point of the attack was Pakriguri of Serfanguri area but in the later period, many Bodo people were tortured by security forces due to the launch of Operation in the name of link man with NDFB and some people were mercilessly beaten sometimes to death but went unreported. The most unfortunate things for the Bodo community is that instead of naming the name of a particular attacking group the term *Bodo and Bodo militant* has been used by the different media to link with many incidents done by the armed groups.

In 2016, another incident took place in Balajan Tinali of Kokrajhar District of Assam where thirteen civilians lost their lives (maximum Bodo people) and another nineteen people were seriously injured (Pisharoty, 2016; Talukdar, 2016). In the subsequent year, a student leader named Lakiful Islam was gunned down by unidentified assailants in Kokrajhar Titaguri (Kashyap, 2017).

Table 4.20: Conflicts in Assam: 1993-2014			
Year	**Community**	**Estimated number of deaths**	**Estimated population of displaced people**
1993	Bodo-Muslim	50	Not Available
1994	Bodo-Muslim	100	
1996	Bodo-Santhal	200	2,00000
1998	Bodo-Santhal	50	80,000
2008	Bodo-Muslim	70	1,00000
2012	Bodo-Muslim	100	4,00000
2014	Bodo-Santhal	80	3,00000

Sources: Brahma, K. (2013). *Politics of Identity: A Case Study of Bodos in Assam* (Unpublished -Doctor of Philosophy thesis). Silchar: Assam University; Compiled from various Reports.

Besides, the state has also witnessed a number of conflicts (table 4.20) between the different communities where a number of households have been damaged, properties have been destroyed and particularly many people lost their lives. Even if the groups in those conflicts have been identified clearly, the source of those conflicts lies in the lack of mutual understanding between particular communities, instigation of enemies, and the survival of anti-social activities and so on. But, in those conflicts, mainly the mass has been the victims.

Collectively, those incidents have contributed towards the development of the feelings of insecurity of life as well as population movement to escape the situation including migration of workers which in return brought shortages of workers in the origin place and being filled by the other migrant workers of many states of the country including the some of the states of Northeast India and suspected Bangladeshi workers. Particularly Northeastern states such as Assam, Meghalaya, Sikkim and Manipur have been the major destination of migrant workers in the region. But, the migrant workers who are working in Northeast India particularly in Assam, Meghalaya Manipur are subjected to exploitation, extortion, conflicts, and insurgency. Therefore, Misra (2007: 273) says that the migrant workers especially Hindi speaking petty tradesmen in the state of Assam are in pathetic condition.

Table 4.21: Underground Groups' Attack on Migrant Workers			
Time	**Victim**	**Location**	**Underground Group**
May 2007	Hindi speaking migrant workers	Assam	ULFA
August 2007	8 Hindi speaking migrant workers of two families	Assam	ULFA and the Karbi Longri National Liberation Front
2008	Migrant workers from Bihar	Manipur	Militants (Underground)
June 2008	Four migrant workers	Thoubal District of Manipur	Unidentified gunmen
June 2013	Eight coal miners	Garo Hills region, Meghalaya	Unidentified assailants

Source: Brahma, S. (2018). Understanding the Status of Human Rights and Peace in Assam. *Asian Journal of Research in Social Sciences and Humanities, 8*(5), 91-105.

The observation of Misra to a certain extent is true because the life of migrant workers in Northeast India is being threatened (table 4.21) and they are being treated as outsiders despite being Indian. Say for example, in 2007, Hindi speaking migrant workers were found to be killed by ULFA in Assam (BBC News, 2007 May 16). Again in 2007 itself, the outlawed ULFA and the KLNLF carried out an operation where Hindi speaking migrant workers of two families were found to be killed and three were seriously wounded (News18, 2007). In the subsequent year, fourteen migrant workers who were mostly from Bihar were gunned down by militants in Manipur (The Sangai Express,

2008 March 19) and in the same year, another four migrant workers were killed by the unidentified gunmen in Thoubal district of Manipur (The Sangai Express, 2008 June 26). In Garo Hills, Meghalaya as well eight coal miners were killed and three were wounded due to the attack carried out by a group of unidentified assailants (IANS, 2013 June 25).

Among the states of Northeast India, the experience of migrant workers in Sikkim is somewhat different in comparison with other states even if they are being exploited by the middleman. Rai (2013) found that due to the demand of the large number of workers in the construction of dams and airport at Pakyong and other developmental projects in the state, a large number of migrant workers from other states such as Bengal, Bihar, Orissa, and Jharkhand have come up to the state through constructors. Since they have come up to the workplace with the help of constructors they are being exploited. On the other hand, the migrations of workers particularly male workers have also created such kind of situation where family maintenance has remained in the hands of the wives for instance in Kerala (Zachariah, Mathew & Rajan 1999: 39). In this way, migrant workers' wives become the main pillar of the family. Sometimes the migrant workers are not paid in time by the middleman as in some of the places contractors or employer gives their salary in the hands of the middleman. In certain cases, it has been reported that even after permanently returning from the particular work the workers and their wives are not given the amount of money which they have to get for their work. Collectively, the above-discussed issues have appeared to be the push factors of migration and factors responsible for the insecurity of life.

On the other hand, though, India is having a huge number of policies, programmes as well as laws to protect the workers in the country their basic entitlements are being violated and exploited. Observing the situation of the young migrant construction

workers in the unorganised urban sector of the Chandigarh, Panchkula and Mohali, Pattanaik (2009) stated that 'although these migrant workers are earning higher wages compared to what they might in their home-place, the systematic violation of social and human rights of these young hardworking construction workers constitutes a violation of universal human rights'. In Bangalore, several migrant workers have been living for more than twenty years but only a small percentage of them are enjoying voting rights due to the absence of voter card. The reason behind that is the negligence of authority, workers' busyness in their contract work, some do not bother for a card, some workers do not know whom to approach for a card (Ramani, 2010 March 18) and due to the short duration of residence in a specific place. But, according to law eligible voters living outside constituencies cannot vote unless they are physically present at the place of polling but the law allows an ordinary resident to register for voting those who have been living at their current address for at least six months preceding the election (Ramachandran, 2016 August 22).

According to the reports, the migrant workers in Gurgaon face problems like discrimination on the basis of place of birth though there is a prohibition of discrimination on grounds of religion, race, caste, sex or place of birth under the Constitution of India (TNN, 2011 May 7) for instance an eighteen year-old Bodo migrant domestic help named Ranjeeta Brahma in Gurgaon found death on tenth March 2017 (Dayal, 2017 March 13) and it resulted in the emergence of protest in front of Sushant Lok police station demanding the arrest of a couple on charges of abetting the suicide of an eighteen year-old woman employed at their home (Singh, 2017 March 12).

4.4 COVID-19 and Migrant Workers in India

The COVID-19 pandemic which outbroke in December 2019 in the city of Wuhan in China has greatly impacted many countries in various areas (WHO, 2020 April 17). Primarily the Coronavirus pandemic has greatly impacted the health and medical facilities, transport and communication, information communication, society, culture and entertainment, political system, and economy. Besides, the pandemic has also exposed the number of migrants, whether it is internal or international, and their rights protected through the existing laws.

Among the migrants in India, the migrant workers working far away from their home state have been impacted significantly during this Coronavirus pandemic. The pandemic has brought a great loss with regard to migrants' employments as well as incomes. Migrant workers became jobless, homeless, miles away from their family (see PTI, 2020 March 29) and were left stranded in many Indian states. Further, the loss of employment and income has threatened migrants' access to the basic necessity for survival such as – edible food and drinks, non-edible items, housing, and shelter. March 2020 onwards, after the declaration of the first nationwide lockdown, the major impact of the pandemic was felt more by the migrant workers in the informal sector. Whereas, the guidelines issued by the Central government to close the borders of the state as well as districts pushed migrants from their temporary shelters to come out on the roads in large number and move back to their homes.

During this pandemic, even if restrictions persisted, migrant workers have attempted to travel thousands of miles on foot, cart, truck, cycles, inside containers and cement mixers. Besides during the lockdown migrant workers themselves managed bus, bicycle, and motorcycles including flight tickets. At the same time, governments also managed special train (Shramik special train) and buses for migrants. During the time

of movement, migrants stayed under flyovers, on roadsides, and wrecked cars, where in certain places migrants were provided with food, fruits, water by the local people, volunteers and railway employees. Whereas in some places due to the running out of money migrants faced eviction (Pon Vasanth B.A., 2020 April 18) although there were pleas from the government to allow migrants to stay wherever they are during the nationwide lockdown period.

If it is looked at, there are news reports of migrants dying on the road and railway tracks (sixteen migrants died on train tracks in Maharashtra, while resting), and there are also a significant number of cases of migrants being lathi-charged in the hands of police. But in the monsoon session of the Indian Parliament, the Union Labour Department cleared that no data was available on the number of migrant workers who died during the nationwide lockdown in the country (The Wire Staff, 2020 September 14). But the database maintained by four persons Aman, Kanika Sharma, Krushna and Thejesh GN states that during the lockdown (March 14, 2020 to July 4, 2020) the number of death is nine hundred seventy-one where nine hundred six death is for "exhaustion (walking, standing in lines); starvation and financial distress; police brutality or state violence; lack of medical care or attention, death by crimes associated with lockdown (not communal); accidents due to walking or during migration, and alcohol withdrawal-related deaths and suicides; and suicides due to fear of infection, loneliness, & lack of freedom of movement, inability to go home" and which also includes "deaths in Shramik trains; and deaths in quarantine centres" (Aman, Sharma, Krushna & Thejesh GN, 2020 July; The Wire Staff, 2020 September 16). But due to the lack of information sixty-five deaths during the period have been unclassified by Aman, Kanika Sharma, Krushna and Thejesh GN (Aman, Sharma, Krushna & Thejesh GN, 2020 July; The Wire Staff, 2020 September 16). Whereas in certain places migrants were made to feel

unwelcome in their homes as well as villages as they were barred to enter (Express News Service, 2020 March 30). But there are cases of self-isolation of migrant workers in some native states such as Odhisa (ANI, 2020 March 31), and Assam after returning from the destination states.

India lacks the exact figure of the migrant workers though the Census of India reports provide the number of migrants. But Coronavirus exposed the figure of migrant workers of the country and has challenged the existing policies of the country with regard to migrant workers. The state of Odisha claims that around one hundred and twenty thousand migrant workers from the state are stranded in various other states of the country (Barik, 2020 March 31).

During this pandemic, the Central and State governments announced measures of support although it reached poorly to the target groups. Therefore, it is clear that the Central government primarily failed to understand the problems faced by migrants whereas the governments tried to bring under the nomenclature of law and order issue.

A recent study by Ravi Srivastava (2020) states that the government's response to the pandemic has been tilted in favour of the supposed interest of employers, without taking into account the huge humanitarian costs to the migrant workers. And the Central government in its submission to the Supreme Court on twenty-seven May, claimed (averred) that over nine million migrants had been transported, out of which some had been transported by buses. Eighty percent of these migrants went to Uttar Pradesh and Bihar as their final destination. The study also states that the successive notifications issued by the government have been excessively restrictive, and at each state put increasing barriers to their repatriation; the Central government did not want migrant workers to return to their homes but to wait at destinations, and there has been a significant reluctance on part of states to send or receive migrant workers.

The COVID-19 pandemic has exposed the despicable condition of the migrant workers' community of India to the world and the pandemic has challenged the existing policies of the country. Further, it can also be found that the policies taken during the pandemic reached the target poorly for which they found walking on roadsides and railway track, cycling, riding motorcycles, and sometimes travelling by cart, truck, inside containers and cement mixers. Therefore, states like Uttar Pradesh which have huge number of migrant workers in different states of country say that in order to engage back the migrant workers of the state, destination state or entity must seek prior permission from the origin state assuring socio-legal as well as monetary rights to provide (Scroll Staff, 2020 May 25). With regard to the movement of the total number of migrant workers in India from first May, 2020 to third June, 2020 only through four thousand two hundred twenty-eight Shramik special trains is about ten million (Thomas, 2020 June 06).

Conclusion

In India, the idea of rights significantly developed during the national freedom movement of the country through Swaraj Bill, Commonwealth of India Bill, Nehru Report, Karachi Report and Sapru Report but the philosophy of equality and brotherhood lies in the religious scriptures. The rights which were identified as essential for the survival of human beings, particularly citizens during the time of national movement were: liberty, equality, freedom of speech and expression, freedom of religion, right to property, right to petition, equality before the law, freedom to assemble peacefully and so on. Further, the thinkers of various religions spread those philosophies such as equality, self-determination, nonviolence, free speech, religious freedom and many through their religious messages.

The time to incorporate those rights came when India achieved its independence from British rule in 1947. While the Constitution was being drafted, the idea of rights as well

as the philosophy to have those rights was considered by the drafting committee. At the same time, the idea of Sapru Committee to make certain rights justiciable and non-justiciable was also taken care of. As a result of that, the Constitution of India provides fundamental rights and directive principles of state policy. Later on, the Karachi Resolution's idea to have fundamental duties was also materialised through the forty-second Constitutional Amendment of 1976.

In due course of time, to protect the rights of the citizens including the working population different laws were made and is continuously amended. Besides, many international labour laws excluding the ICRMW are also ratified to meet the necessity of the moment. But misery here is that rights which are often considered human rights are being violated where migrant workers are not an exemption. The migrant workers, particularly those from the unorganiseed sector are the victims of exploitation in the hands of contractors, middlemen or employers. The reason behind this is the non-implementation of those existing laws whereas in the case of the migrant workers of the unorganised sector very few Indian Labour Laws are applicable.

The law designed particularly for migrant workers in the country is only Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and even it is also poorly implemented. At the same time, the provisions of the law are being rarely followed by the employers of migrant workers. Therefore, the condition of the migrant workers is pathetic in the country. The migrant workers of the unorganised sector mainly face the problems like non-payment of minimum wages, deduction in agreed wages, non-payment in time, no fixed hours of work, no extra wages for overtime work, no financial and medical assistance at the time of the accident, no responsibility of death, non-availability of drinking water, toilets, canteens and many. But India has initiated the labour law reforms which is yet to complete and it has

grouped Indian labour laws into the Code on Wages; the Occupational Safety, Health and Working Conditions Code, 2019; The Code on Social Security, 2019; and The Industrial Relations Code, 2019.

Migrant workers due to their migratory nature fail to enjoy the benefit of certain initiatives such as AABY, SGSY, PMGSY, SGRY, NFFWP, IAY, IWDP, PDS taken by the various Ministries and Departments of the Government of India. For instance, due to the lack of documents, migrant workers in many places fail to avail the benefits of subsidised food and non-food items under the PDS, and due to the negligence of authority as well as the fact that they stay busy and occupied in their work, the migrant workers don't have voter card for which they are not eligible for a vote even if they are eligible to be voters. Apart from that, due to their migratory nature, their children offer suffer from lack of proper education.

Considering the despicable conditions of migrant workers and their families many organisations such as Krishak Sabha, Mobile Crèche Organisation, Aajeevika Bureau, Labournet, Disha Foundation, Aid de Action, Indo-Global Social Service Society, Lokadrusti, Butterflies, SETU, DISHA, KMDS, SEWA etc. have come up and these NGOs are working for migrant workers' registration, identity card, skill training and employment, knowledge and capacity building, health care, empowerment, and destination support. Some of these organisations are also working to increase the bargaining capacity of migrant workers, education of migrant workers' children and many. Notably, as a result of those initiatives, children of migrant workers are getting an education through mobile crèche and schools on wheels of Door Step Schools, and migrant workers are getting subsidised food and non-food items in certain places. On the other hand, the right to life of the migrant workers is being threatened due to the existence of underground armed groups in certain states which includes the state of

Assam. But the outbreak of the Coronavirus pandemic has challenged the existing structure in the country as a whole and internal migrants as well as out migrants from the country have faced unimaginable difficulties where the help of Sonu Sood (Bollywood star) remains unforgettable as an individual.

Chapter – 5

Unskilled Assamese Migrant Workers in Kerala

Introduction

The south Indian state of Kerala is an Indian state. Thiruvananthapuram is the state capital. The state has fourteen districts including Ernakulam, Malappuram and Kannur. The available sources state that Keralite emigrants reside in UAE, Saudi Arabia, Oman, Kuwait, Bahrain, Qatar followed by the USA. According to the Kerala Migration Survey, in 2014 Malappuram district has the highest number of return emigrants followed by Thiruvananthapuram and Kollam. The sources also reveal that the Malappuram district has the highest number of emigrants by districts, followed by Kannur and other districts including Ernakulam.

Besides, the Kerala Migration Survey also confirms that the state also has the record of out-migration within the country but the latest survey of 2014 shows the decreasing trend of the same. According to the various Kerala Migration Survey reports (1998, 2003, 2008, 2011, 2014), there is a decreasing trend of return out-migrants in the state whereas a Survey of 2014 reveals that Kollam has the highest number of return out migrants followed by Thiruvananthapuram. But this continuous migration of workers have contributed towards the emergence of the workers' gap in the state and as a result, the state has also become the destination of interstate migrant workers.

The state of Kerala has a unique experience in the context of migrant workers where the progress of migration has brought benefited to the locals of the state in terms of with respect to employment as well as remittances. But emigration has deprived the state of manpower for which the state at present has to depend on migrant workers from other states. The other states have understood the scenario of potential employment in

Kerala which has been exposed due to the scarcity of workers there particularly, in the case of unskilled workforce. In this backdrop, the study tries to understand, what attracts the Keralites to migrate outside the state and what pulls others to Kerala, followed by how the knowledge and experience of migrant workers from Kerala to other destination state or country have influenced the state of Kerala to ensure human rights of unskilled migrant workers from other states, with special reference to Assam in Perumbavoor, Manjeri and Urathur. It will also find how the welfare schemes of the state of Kerala have benefited the unskilled migrant workers especially from Assam[49] in the said destination places.

5.1   Kerala: Source as well as Destination of Migrant Workers

Kerala has been one of the states of India which is the source as well as the destination of migrant workers. Rajan and Zachariah (2010: 19) state that they do not have the reply to the query of how many Indians work abroad but based on the facts they have, Kerala has the biggest number of immigrants in Gulf countries. Zachariah, Mathew and Rajan (1999: 4) are of the view that in the 1940s, the state had the experience of internal migration only, but in the 1970s international migration started and until 1999, that became fifteen lakhs leading to a collective income of over rupees four thousand million a year just by way of remittances sent to home.

Table 5.1: Keralite Emigrants: 1998-2014					
Districts ↓	Total Number				
Year →	2014	2011	2008	2003	1998
Thiruvananthapuram	241727	229732	308481	168046	130705
Kollam	199933	167446	207516	148457	102977
Pathanamthitta	141343	91381	120990	133720	97505
Alappuzha	93096	144386	131719	75036	62870
Kottayam	107931	117460	89351	106569	35494
Idukki	23967	7690	5792	7880	7390
Ernakulam	191373	136113	120979	121237	103750
Thrissur	230081	198368	284068	178867	161102
Palakkad	70506	142020	189815	177876	116026
Malappuram	455696	408883	334572	271787	296710

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[49] In this chapter the term 'unskilled migrant workers from Assam' denotes those migrant workers from Assam who does not possess the necessary special skill or training through diploma/ degree.

Kozhikode	226499	206719	199163	167436	116026
Wayanad	22568	26874	13996	7704	4552
Kannur	291321	283045	119119	202414	88065
Kasaragod	104334	120425	67851	71449	38747
Kerala	**2400375**	**2280543**	**2193412**	**1838478**	**1361919**

Source: Zachariah, K. C., & Rajan, S. I. (2012: 4). *Inflexion in Kerala's Gulf Connection Report on Kerala Migration Survey 2011*. Thiruvananthapuram, Kerala: Centre for Development Studies; Zachariah, K. C., & Rajan, S. I. (2015: 34). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014*. Thiruvananthapuram: Centre for Development Studies.

The study of Zachariah and Rajan (2012: 4) showed that the number of emigrants from Kerala living abroad was over thirteen lakh sixty-one thousand in 1998, about eighteen lakhs forty thousand in 2003, about twenty-one lakhs ninety thousand in 2008 and over twenty-two lakhs eighty thousand in 2011 (table 5.1). Another study by Zachariah and Rajan (2015: 6) reveals that in 2014 the number of Kerala emigrants living abroad was over twenty-four lakh (table 5.1).

Table 5.2: Country of Residence of Keralite Emigrants: 1998-2014					
Countries ↓	Total Number				
Year →	**2014**	**2011**	**2008**	**2003**	**1998**
UAE	898962	883313	918122	670150	421959
Saudi Arabia	522282	574739	503433	489988	510895
Oman	189224	195300	167628	152865	139571
Kuwait	183329	127782	129282	113967	68163
Bahrain	149729	101556	101344	108507	74654
Qatar	106107	148428	121613	98953	62969
Other west Asia	21221	6696	0	2047	0
Sub-Total	**2070854**	**2037813**	**1941422**	**1636477**	**1278211**
USA	69559	68076	102440	98271	29862
Canada	11200	9486	13695	4777	0
United Kingdom	38316	44640	38894	22520	0
Other Europe	19453	10602	9861	14331	0
Africa	15327	12834	12600	15696	0
Singapore	8842	11160	11504	14331	0
Maldives	2947	7254	7091	13649	0
Malaysia	9432	13392	12052	4777	0
Other SE Asia	53643	16182	8766	7507	0
Australia/New Zealand	38316	24552	21364	6142	0
Other Countries	62485	24552	13726	0	53882
Total	**2400375**	**2280543**	**2193415**	**1838478**	**1361955**

Source: Zachariah, K. C., & Rajan, S. I. (2015: 46). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014*. Thiruvananthapuram: Centre for Development Studies.

The majority of emigrants from Kerala have mostly migrated to UAE, Saudi Arabia, Oman, Kuwait, Bahrain and Qatar, and among these destination countries, UAE

appears to be the top destination country (table 5.2). The previous study of Zachariah, Prakash and Rajan (2002: 5) reveals that the stock of Indian emigrants in the Arab region was estimated to be thirty lakhs seventy thousand in 2000 out of which ten lakhs were reported to be in the UAE whereas it reached five lakhs in UAE during 2001 with regard to Kerala emigrants.

Table 5.3: Return Emigrants: 1998-2014					
Districts ↓	Total Number				
Year →	2014	2011	2008	2003	1998
Thiruvananthapuram	218945	196101	215280	103059	118878
Kollam	127978	116927	124066	69314	74106
Pathanamthitta	36285	15297	60554	83502	54537
Alappuzha	70104	54688	51024	43109	34572
Kottayam	33898	11846	26448	28368	18164
Idukki	3242	6738	3213	3766	5017
Ernakulam	69545	62312	68860	74435	45028
Thrissur	103803	149132	174655	86029	116788
Palakkad	12383	83388	85318	55008	39238
Malappuram	299857	154122	219736	141537	123750
Kozhikode	107491	114424	72405	109101	60910
Wayanad	12581	14489	1930	3852	3327
Kannur	109145	125303	26416	45394	28263
Kasaragod	47212	45580	27222	47468	16667
Kerala	**1252471**	**1150347**	**1157127**	**893942**	**739245**

Source: Zachariah, K. C., & Rajan, S. I. (2015: 36). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014*. Thiruvananthapuram: Centre for Development Studies.

At present, Kerala has also return emigrants (table 5.3) who are relatively old with an average of forty plus years and among which, a few are very old and too sick to work. Most importantly, they have relatively poor levels of general education and technical education where lies the problem of their rehabilitation (Zachariah, Nair & Rajan, 2001: 3-4).

Table 5.4: Keralite Out-Migrants: 1998-2014					
Districts ↓	Total Number				
Year ↓	2014	2011	2008	2003	1998
Thiruvananthapuram	69965	44382	80565	51949	58282
Kollam	66461	76161	57869	50957	71300
Pathanamthitta	87798	25069	93230	94147	86485
Alappuzha	33580	101331	99308	83538	89523
Kottayam	64898	64247	58908	149836	37722
Idukki	29718	20752	1006	4138	9128
Ernakulam	62481	82498	59586	45457	34205
Thrissur	31513	90424	60085	78305	85663
Palakkad	31759	189346	217294	252617	73220

Malappuram	36202	44165	43339	50330	23823
Kozhikode	31596	48332	46133	66466	28340
Wayanad	17856	19390	12427	3626	2618
Kannur	103383	81770	47410	135161	46015
Kasaragod	33130	42856	37226	49074	45371
Kerala	**700342**	**930724**	**914387**	**1115601**	**691695**

Source: Zachariah, K. C., & Rajan, S. I. (2015: 40). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014.* Thiruvananthapuram: Centre for Development Studies.

On the other hand, the Keralites living in other states in India was about nine lakhs fourteen thousand in 2008, nine lakhs thirteen thousand in 2011 (Zachariah & Rajan, 2012: 31), and about seven lakhs in 2014 (table 5.4) (Zachariah & Rajan, 2015: 10) and they have been in different states of India.

Table 5.5: State of Residence of Keralite Out-Migrants: 1998 – 2014					
States ↓	**Total Number**				
Year →	**2014**	**2011**	**2008**	**2003**	**1998**
Karnataka	231557	268723	248571	219773	89229
Tamil Nadu	120977	238511	189562	237623	109288
Maharashtra	101129	178618	168151	263282	222726
New Delhi	56708	68903	81465	105982	65019
Andhra Pradesh	29299	45052	49610	56896	29743
Gujarat	24101	36042	28199	54664	26976
Uttar Pradesh	13704	9540	15666	25659	15909
Jammu & Kashmir	12759	6360	15666	2183	0
Madhya Pradesh	12759	10070	15666	18965	0
West Bengal	9451	7420	11489	13387	0
Bihar	8506	2650	3655	5094	7833
Chhattisgarh	7561	3180	5744	5822	0
Punjab	7561	10601	12011	12272	0
Andaman Nicobar	6616	530	3133	2183	0
Rajasthan	6616	6360	16711	24543	20751
Others	51037	38163	49087	67273	104221
Total	**700342**	**930724**	**914387**	**1115601**	**691695**

Source: Zachariah, K. C., & Rajan, S. I. (2015: 47). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014.* Thiruvananthapuram: Centre for Development Studies.

As per the study of Zachariah & Rajan (2015: 47), the Keralite out-migrants have constantly used the state of Karnataka as their major destination place during 2003-2014 (table 5.5). The above-discussed data shows the trend where international migration from Kerala is increasing (table 5.1 and 5.2) and internal migration from the same is decreasing (table 5.4 and 5.5). In this regard, it can be stated that the improvement of connectivity, easily accessible information, as well as proper working

of migration networks, have helped in the rise of migration. Zachariah *et al.* (1999: 21-22) are of the opinion that the emigration and out-migration are caused by socioeconomic and demographic variables; emigration and out-migration, in turn, cause remittances; remittances produce social and economic changes; and these changes, in turn, become factors favouring migration. The procedure repeats itself in cycles. In this respect, remittance is an intermediate determinant of the outcomes.

Table 5.6: Return Keralite Out-Migrants: 1998-2014					
Districts ↓	Total Number				
Year →	**2014**	**2011**	**2008**	**2003**	**1998**
Thiruvananthapuram	64201	25244	51922	48671	95709
Kollam	84951	30621	38368	35774	83759
Pathanamthitta	40610	14184	67851	108023	52034
Alappuzha	40641	37939	81909	98381	160481
Kottayam	23293	4185	66651	63509	49220
Idukki	5624	7523	5308	2836	7546
Ernakulam	12732	39389	46463	151730	45272
Thrissur	11260	102278	137634	143469	193238
Palakkad	4166	139960	139960	127296	129872
Malappuram	29607	23821	15113	48749	26655
Kozhikode	23199	23625	17352	57677	50211
Wayanad	8534	7179	8356	9757	20436
Kannur	26606	51433	17564	26793	34176
Kasaragod	14466	3276	4409	68898	22198
Kerala	**389890**	**510658**	**686198**	**994139**	**958826**

Source: Zachariah, K. C., & Rajan, S. I. (2015: 42). *Dynamics of Emigration and Remittances in Kerala: Results from the Kerala Migration Survey 2014*. Thiruvananthapuram: Centre for Development Studies.

Now there is also the record of out-migrant returnees (table 5.6) in Kerala. Initially, migration contributed towards the minimisation of poverty as well as unemployment in the state, but as a result, nearly a million married women are living away from their husbands and the state has been dependent on migration for their employment, sustenance, housing, household amenities, institution-building etc. (Zachariah *et al.,* 2000: 4-7). Further, migration of the skilled workers has also contributed to the creation of the scarcity of workers (Zachariah & Rajan, 2005: 49) in the state and has contributed towards an increase in the wages of workers which has attracted the people of other states like Tamil Nadu, West Bengal, Orissa, Assam, Uttar Pradesh and Bihar who are pushed by their poor socio-economic condition as well as low living standard (Aswathy

M J, 2015) and have started replacing migration in the state. PTI (2013, February 16)

report also reveals that the Malayali people are famous for going abroad in search of a

job and the gap of those Malayali workers are being filled by the migrant workers who

are engaged in manual work including construction sectors.

Table 5.7: Interstate Migrants in Kerala, 2011		
Districts	Migrants based on place of birth	Migrants based on place of last residence
Thiruvananthapuram	73,441	68,514
Kollam	25,754	29,144
Pathanamthitta	18,480	27,317
Alappuzha	19,261	27,735
Kottayam	26,586	32,576
Idukki	49,958	45,315
Ernakulam	74,526	80,675
Thrissur	42,157	53,091
Palakkad	73,955	79,290
Malappuram	34,140	34,297
Kozhikode	48,842	47,710
Wayanad	22,738	22,995
Kannur	40,974	44,689
Kasaragod	65,037	61,075
Kerala	**615,849**	**654,423**

Source: Census of India (2011). *Migration 2011*. India: Office of the Registrar General
& Census Commissioner.

When the discussion comes in the context of the stock of interstate migrants[50] in the

state of Kerala the number varies as there is no consensus among the studies on

migrants. According to the Census 2011 (table 5.7), there is about six lakh sixteen

thousand (based on place of birth) and about six lakh fifty-four thousand (based on

place of the last residence) interstate migrants in Kerala but a study by Zachariah &

Rajan (2015: 44) puts interstate migrants at about fourteen lakh forty-one thousand in

2011 and about ten lakh ninety thousand in 2014 where remains the duty of Census of

India to revisit the number of interstate migrants in India with special reference to the

state of Kerala.

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[50] Interstate migrants are those who migrate from one state to another within the country. They are a
subcategory of internal migrant workers.

On the other hand, the report of GIFT prepared by Narayana and Venkiteswaran (2013: 11-12) also reveals that there are around twenty-five lakh migrant workers in Kerala and out of which twenty percent are from West Bengal, about eighteen percent are from Bihar, about seventeen percent are from Assam and about fifteen percent are from the state of Uttar Pradesh and they have come through relatives, friends, contractors and other channels of migration. Further, Narayana and Venkiteswaran, in their report reveal that the first batches of Assamese workers came into the state in the late 1980s and early 1990s in the aftermath of a legal ban on wood felling and the consequent closure of wood industries in Assam and when wood industrial units were being set up in Perumbavoor; followed by other reasons such as unemployment, lack of work etc.:

> *In the case of Assamese workers, the first batches came to Kerala in the late 80's and early 90's in the aftermath of a legal ban on wood felling and the consequent closure of wood/plywood industries in their state. It was also a time when wood industrial units were being set up in Perumbavur; they came in groups to work here, and were much preferred due to their experience and expertise in it. Later, when the construction boom started in the mid-90's many of them moved to construction, where the wages were much higher (Narayana and Venkiteswaran, 2013: 20).*

The report also discloses that the overall living condition of the migrant workers in Perumbavoor, Chavadimukku and Thirumala (Thiruvananthapuram), and Ramanthali (Kannur) is despicable and mostly, they stay in crowded rooms where there is hardly space to move.

It has been reported that workers' migration takes place in Kerala due to higher wages, more employment opportunities, scarcity of local workers, better working condition in comparison with the origin state, relatives and acquaintances working in Kerala, poor economic condition in origin state, relatively low wages in the native region, repayment of the debt, purpose of purchase of land/ construction of the house (Saikia, 2008: 9; 2014: 38). In this way, Kerala has become a new Gulf for migrant workers where they can earn about three hundred-fifty rupees per day and enjoy better living conditions

(TNN, 2012 October 12) in comparison with their origin states. Menon (2011, July 27) is of the opinion that even though the migrant workers get less than the wages that the unskilled workers from Kerala, yet Bengali migrant workers consider Kerala as their Dubai and they are filling the massive labour gap in the state by working in different sites such as construction sites, petrol pumps, hotels, tea estates including the paddy fields. Maheshwari (2016: 23-24) also agrees on the point and says that migrant workers get lesser than the local worker for the same job which becomes similar to other working places and state.

It has also been found in different reports that the migrant workers in Kerala are ready to do any cheap work even if it is for a longer duration. Zachariah and Rajan (2004: 5) are of the opinion that the emigrants from Kerala have converted the state of Kerala itself into a Gulf for other migrant workers of different other states of the country and by accepting low wages and poor living conditions, the migrant workers have been taking away lots of work which could have gone to the local Keralaite work force. But the fact is that local workers are reluctant to do the same work done by the migrant workers. At the same time, the people in Kerala are all looking for white-collar jobs (Maheshwari, 2016: 23) which further results in a shortage of workers. In this way, migrant workers are becoming the backbone of the contemporary growth of the State (Ravindranath, 2015, November 8).

Presently, among the districts of Kerala, Ernakulam has the highest number of migrant workers followed by Kozhikode, Palakkad and Thiruvananthapuram, Thrissur, Kannur, Kollam and Malappuram (V B Unnithan, 2016 March 30). Krishnakumar in the report says that in Perumbavoor there are around one lakh migrant workers who are mostly from Assam, Odisha, West Bengal and Bihar and they work as gardeners, casual labourers, shop assistants, waiters in hotels, construction workers, and in other lines

like rubber tapping, coconut harvesting and kitchen hands but their living conditions are miserable (ET Bureau, 2016 August 16). Since the area has become heavily dependent on migrant workers for work, many working sites would have to be shut down if they decided to go home (TNN, 2016, April 30). Prasad-Aleyamma (2011: 164) revealed that Perumbavoor, which is a small town in Kochi, has been a meeting point of migrant workers from North and Northeast to spend leisure time as well as has become a centre to send money home, so much so that the market is popularly known as "Sunday Bengali Market". Similarly, the Manjeri town of the Malappuram district is also a place where migrants gather to meet friends as well as to find daily work.

In the state of Kerala, the migrant workers are considered as wealth creator but Padmanabhan (2016: 25) is of the view that even if they are considered wealth creator, they rarely get the attention of the government for which, they are still forced to live and work in crowded slums and in hazardous locations. Saikia (2008: 13; 2014: 42) also revealed that the living condition of the workers is despicable as they stay in construction sites where rooms are crowded without proper drinking water and sanitation. In 2016, considering their difficulties, an order was issued by the Kerala High Court to shut down the overcrowded lodge of Ambalamugal near Kochi with an aim to stop the human rights violation of migrant workers (Correspondent 2016, June 21). Reports reveal that at certain times, instead of recognising their contribution to the state they are generalised as well as branded as unreliable outsiders and criminals (Kumar, 2011b) and carrier of diseases in the state (TNN, 2013 February 24; Nair, 2015 August 23). But, this type of treatment is not exclusive in the state of Kerala only, as Keralites in other countries like Gulf also get ill-treated by their employers (Venkiteswaran, 2017: 68) however this cannot be taken as a reason for the treatment of migrants from other states. Surabhi and Kumar (2007: 25) also states that "there are

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reports of widespread violation of human rights in the hands of the police. This is another area which requires exploration. Migrants are sometimes branded as 'unreliable outsiders' and criminals by some local people".

But sometimes the migrant workers are also caught with certain items which are banned in the state. Say for instance, in 2015, when teams of officials from excise and police departments carried out search operation named "Operation Bhai" in the Ernakulam district of Kerala in which they recovered banned tobacco products leading to the arrest of twenty-one people (Correspondent, 2015, July 18). Besides, there is also generalised opinion that with the increase of migrant workers in the state the crimes rate has also increased (Radhakrishnan, 2012, April 28) and that may be because of the involvement of migrant workers in the creation of incidents such as – the rape case of a Dalit law student in Perumvavoor, Ernakulam District where two migrant workers were arrested in connection with the case (ANI, 2016 May 5) – one of these two migrant workers was identified as Amiyur ul Islam from Assam (ET Bureau & Agencies, 2016 June 17; TNN, 2016 June 26).

There are also some examples of incidents done by migrant workers in the state. For instance: in 2016 a migrant worker from Bengal was shot with an airgun to be hospitalised by the employer (TNN, 2016 October 31) and in the same year in May, a migrant worker of Assam was killed in suspicion of theft in which he was tied up and left to die in the sun (Kashyap, 2016 May 6). Later on, a person named Varghese was arrested in connection with the incident and sent to custody (Philip, 2016 May 9). Even if those incidents occurred and were reported in the news reports, the Labour Commission is not aware of the fact but states that usually the Commission does not receive complaints from workers regarding physical harassment rather they receive complaints of not giving the promised wages as report states (TNN, 2016 October 31).

Hence, the report further states that "Keralites are very eager to raise voice for their rights. But when it comes to migrant labourers, they are not different from others. Labour department officials and the government should take stern action to nip the physical harassment incidents in bud itself as Kerala economy cannot survive without migrant workers" (TNN, 2016 October 31).

Since there is no exact figure of the migrant workers[51], certain steps are being taken by the government for their welfare such as the Migrant Labourers' Welfare Scheme, 2010 which "provides every migrant labourer who joins the scheme paying an annual fee of Rs. 30, among other things, Rs. 25,000 as healthcare assistance, Rs. 25,000 as a terminal benefit if he has worked in Kerala for a minimum period, up to Rs. 3,000 every year as education allowance for their children, Rs. 50,000 as compensation to the next of kin if the labourer dies in an accident, Rs. 10,000 in case of natural death and up to Rs.15,000 for transporting the body to their hometown, in case of death in Kerala" (Krishnakumar, 2011) and insurance scheme (Onmanorama Staff, 2016, July 18). Though, the Government issued new guidelines to make registration of migrant workers mandatory with an aim to initiate certain welfare schemes and to have a check on their whereabouts, only sixty-three thousand two hundred workers are registered with the police in Kerala till July 2012 (PTI, 2012 July 11) and only around fifty-three thousand persons had registered under the Kerala Migrant Workers Welfare Scheme till June 2016 (PTI, 2016 June 28).

In 2014, looking into the inadequate facilities of migrant workers and recognising their contribution to the development of the state, Kerala Government decided to provide accommodation by charging minimum rent (J. Binduraj, 2014 June 4). As a result, the

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[51] According to Ilankath (2016, June 19) as per the government record, there is nearly one lakh fifty thousand migrant workers in Kerala but the GIFT puts the number more than twenty thousand lakh.

state Urban Affairs Department, Kerala began the construction of the night shelter for the migrant workers as well as for the natives at Perumbavoor near Kochi which is one of the largest hubs of migrant labour population where they can stay for two-three days (PTI, 2014 December 23).

Understanding their difficulties and realising their necessity to mingle with the society, KSLMA designed to launch a programme to enable illiterate migrant workers to read and write in Hindi and Malayalam and to make them aware of legal, health and environmental matters (The Hindu, 2016 November 9). Besides, recently the state government has also started a creche facility for the children of working migrant mothers which will be availed by children between six months to three years of age in which a vehicle would be arranged for picking the children from homes at seven o'clock in the morning and to drop them back by six o'clock in the evening (The Hindu, 2017 September 16). However, the scheme couldn't succeed in their objective.

5.2   Background of the Study Area and Respondents

Presently all the districts of Kerala have migrant workers from different corners of India who are engaged in mining, construction, hotel and restaurant, agriculture, manufacturing, and trade. If it is looked at from the Northeast and North India perspective, the place called Perumbavoor is one of the oldest settlements. Initially, the place was one of the main destination places of Assamese Migrant Workers in Kerala[52]. But at present, they can be found working in different pockets of Malappuram and Kannur followed by other districts. For the present study, one hundred fifty workers from Assam working at Perumbavoor, Manjeri and Urathur have been interviewed including employer, agent or dalal, police, and civil society. The workers have been

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[52] The term 'Assamese Migrant Workers' imply the workers from Assam in Kerala.

interviewed both at the working places as well as at the native places to understand the status of human rights of unskilled migrant workers from Assam as well as the role of the state of Kerala in various welfare schemes.

Table 5.8: Age Group and Sex						
Age Frequency	Male		Female		Total	
	Nos.[53]	%	Nos.	%	Nos.	%
14 years >	0	0.00	0	0.00	**0**	**0.00**
15-25 years	65	43.33	0	0.00	**65**	**43.33**
26-36 years	49	32.67	0	0.00	**49**	**32.67**
37 years <	36	24.00	0	0.00	**36**	**24.00**
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.[54]

The above table 5.8 provides the information that 65 respondents which represent 43.33% of the total respondents are under 15-25 years of age, 49 respondents which represent 32.67% of the total respondents are under 26-36 years of age, and 36 respondents which represent 24% of the total respondents are above 37 years of age.

The data presentation states that the respondents belong to different age groups, where the maximum number of respondents fall under fifteen to twenty-five years of age. On the other hand, the sample has also been classified into male and female to identify the participation of the migrant workers in the labour force but the present study was unable to interview other than male respondents during the fieldwork as the women migrant workers were not accessible due to certain restrictions by employer and reluctance of the migrant women workers. In this regard, Ajith[55] says that the fish processing unit also engages women migrant workers but it is difficult to get access to those women migrant workers. Further, he says that in the fishing sector, certain times migrant workers go missing and sometimes some workers can come back but some can't. In

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[53] Nos. stands for number of responses from the fieldwork and in the following tables Nos. have been used to indicate the number of responses from the respondents.
[54] As I have already stated in the chapter 4 that during the time of fieldwork April, May and June, 2019 was spent to identify and interview the respondents of the study.
[55] Ajith is one of the researchers of the CMID, Kerala.

that situation, NGOs like CMID and other activists of labour rights intervene and they are sent back to their native place.

Table 5.9: Caste and Religion

Religion →	Hinduism		Islam		Christianity		Total	
Caste↓	Nos.	%	Nos.	%	Nos.	%	Nos.	%
General	3	2.00	46	30.67	0	0.00	**49**	**32.67**
ST	39	26.00	0	0.00	49	32.67	**88**	**58.67**
SC	0	0.00	0	0.00	0	0.00	**0**	**0.00**
OBC	11	7.33	0	0.00	2	1.33	**13**	**8.67**
Other	0	0.00	0	0.00	0	0.00	**0**	**0.00**
Total	**53**	**35.33**	**46**	**30.67**	**51**	**34.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above table 5.9 shows that 49 respondents which represent 32.67% belongs to the General category and among them 3 (2%) respondents are Hindu and 46 (30.67%) respondents are Islam, 88 respondents which represent 58.67% are Scheduled Tribes and among them 39 (26%) respondents are Hindu and 49 (32.67%) respondents are Christian, and 13 respondents which represent 8.67% are Scheduled Caste and among them, 11 (7.33%) are Hindu and 2 (1.33%) are Christian). In short, 53 (35.33%) respondents are Hindu, 46 (30.67%) respondents are Islam, and 51 (34%) are Christian.

As everyone knows, the Indian society is consisting of various castes and religions, the working groups of people in Kerala are also comprised of diverse castes as well as religions. Similarly, the migrant workers also consist of various castes such as General, ST, SC, OBC and religions such as Hinduism, Islam and Christianity. The study also found the Hindu migrant workers are the highest number followed by Christians and Islam among the respondents.

Table 5.10: Educational Status

Education ↓	Total	Percent
Illiterate	**22**	**14.67**
I-VII	**60**	**40.00**
VIII-XII	**68**	**45.33**
Bachelor degree	**0**	**0.00**
Diploma	**0**	**0.00**
Total	**150**	**100.00**

Source: Fieldwork, April-June 2019.

Table 5.10 shows that among the total respondents of study 22 (14.67%) respondents do not hold formal education, whereas 60 (40%) respondents hold primary education (class I-VII) and 68 (45.33%) respondents hold secondary education (class VIII-XII). The data also states that none of the respondents of the study holds a Bachelor degree and diploma of skill training. But it has been reported that there are many skilled migrant workers in Kerala.

Table 5.11: Dwelling Place and Rent per person (Per Month in Rs.)															
Rent →	Free		200-399		400-599		600-799		800-999		1000-1199		1200 <		Total	
Persons in a room ↓	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%
1 – 3	13	8.67	0	0.00	6	4.00	12	8.00	0	0.00	8	5.33	2	1.33	41	27.33
4 – 6	11	7.33	0	0.00	13	8.67	10	6.67	0	0.00	5	3.33	1	0.67	40	26.67
7 – 9	10	6.67	0	0.00	33	22.00	0	0.00	0	0.00	0	0.00	0	0.00	43	28.67
10 – 12	24	16.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	24	16.00
12 <	2	1.33	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	2	1.33
Total	60	40.00	0	0.00	52	34.67	22	14.67	0	0.00	13	8.67	3	2.00	150	100.00

Source: Fieldwork, April-June 2019.

According to table 5.11, 60 (40%) respondents live free of cost at the expenses of the employer; 52 (34.67%) respondents live by paying in between 400-599 rupees per month individually, 22 respondents live by paying in between 600-799 rupees per month individually, 13 (8.67%) respondents stay by paying in between 1000-1199 rupees per month individually, and 3 (2%) respondents live by paying more than 1200 rupees per month individually. Further, the table also shows that 28.67% (43 respondents) of the respondents stay in a room where 7-9 persons can be accommodated followed by 41 (27.33%) respondents who stay in a room where 1-3 persons can be accommodated, 40 (26.67%) respondents who stay in a room where 4-6 persons can be accommodated, 24 (16%) respondents who stay in a room where 10-12 persons can be accommodated, and 2 (1.33%) respondents who stay in a room where more than 12 persons can be accommodated.

The above data interpretation presents that almost every respondent stays in a sharing room, either provided by the employer or taken on rent. It is observed that the dwelling places are overcrowded with low maintenance and limited water. The report of the

GIFT prepared by Narayana and Venkiteswaran in 2013 also state that migrant workers live in crowded rooms in Kerala where there is hardly any space to move. In comparison, mostly the free accommodation rooms are worse than the rented rooms. Further, the unhygienic living standard of the migrant workers are worse in some of the dwelling places.

Table 5.12: Cooking Arrangement and Fuel						
Cooking →	**Individual**		**Common**		**Total**	
Fuel ↓	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**
Kerosene	0	0.00	29	19.33	**29**	**19.33**
Liquefied Petroleum Gas (LPG)	0	0.00	10	6.67	**10**	**6.67**
Firewood	0	0.00	24	16.00	**24**	**16.00**
Diesel	0	0.00	68	45.33	**68**	**45.33**
Total	**0**	**0.00**	**131**	**87.33**	**131**	**87.33**

Source: Fieldwork, April-June 2019.

Above table 5.12 shows that the majority of the migrant workers, which represents 131 (87.33%) respondents, prepare their food jointly. Further, the table shows that the majority of the respondents use diesel as fuel for cooking followed by kerosene (29 respondents and 19.33%), firewood (24 respondents and 16%), and LPG (10 respondents and 6.67%). From the fieldwork, it has also been observed that out of the 150 respondents 14 (9.33%) respondents have been provided free food all the time by the employer, and 5 (3.33%) respondents have been taking their food from hotels and restaurants.

It has been found that migrant workers are mostly provided breakfast in the morning and lunch at around midday by the employer or contractor and those who are not provided carry lunch along with them. It is observed that in some of the resident of migrant workers the preparation of their dinner is also unhygienic. A notable point here is that some residents of workers itself are of low quality, particularly their kitchen and toilet where the unhygienic living standard worsen.

Table 5.13: Toilet and Drinking Water						
Facilities for migrants	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
Toilet	150	100.00	0	0.00	150	100.00
Drinking water	150	100.00	0	0.00	150	100.00

Source: Fieldwork, April-June 2019.

According to table 5.13, all the respondents of the study are availing the toilet and drinking water at the resident. But according to the majority of the respondents and some other migrant workers issues lies in the quality of the basic facilities which need to be improved for better living standard and health security of the migrant workers.

5.3   Civil and Political Rights

The civil and political rights discussed in chapter 2, 3 and 4 are of utmost importance in human life as it defends individual freedom from violation. As it has been stated in chapter 4 that under this rights, the Constitution of India offers freedom of movement to each human being. Therefore, every citizen including migrant workers of the country moves to different places backed either by the push factors or pull factors, or both to work in various working sectors.

Table 5.14: Push Factors of Migration						
Factors of out-migration	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
Threat to life	0	0.00	0	0.00	0	0.00
Unemployment	49	32.67	0	0.00	49	32.67
Lack of job opportunities	0	0.00	0	0.00	0	0.00
Poverty	70	46.67	0	0.00	70	46.67
Low wages	27	18.00	0	0.00	27	18.00
Natural disaster	0	0.00	0	0.00	0	0.00
Reluctance	1	0.67	0	0.00	1	0.67
Own will	3	2.00	0	0.00	3	2.00
Other	0	0.00	0	0.00	0	0.00
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above table 5.14 shows that the majority (70 respondents) of the respondents which represents 46.67% have moved from Assam due to poverty followed by 49 (32.67%) respondents who have moved due to unemployment, and 27 (18%) respondents who have moved due to low wages. Besides, 3 (2%) respondents have moved at their own will though they didn't face any one of the listed push factors of migration, and 1

(0.67%) respondent has moved due to reluctance to work at their locality. In this way unemployment, poverty and low wages appear to be the dominant factors of migration but the reluctance of work at the source and migration at own will also form the basis for migration.

It has also been observed that the previous occurrence of conflicts (see table 4.20), attacks of armed groups (see table 4.19 and 4.21), and the existence of underground armed groups, directly and indirectly, became the obstacle to the development of the state. Further, instead of engaging workers through developmental projects and governmental schemes like MGNREGA, the existence of underground groups and properly non-implementation of the schemes have pushed the workers to move for work in other places.

Table 5.15: Pull Factors of Migration						
Factors of in-migration	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
More work opportunity	40	26.67	0	0.00	**40**	**26.67**
Better wages	99	66.00	0	0.00	**99**	**66.00**
Better facility	0	0.00	0	0.00	**0**	**0.00**
Better working condition	8	5.33	0	0.00	**8**	**5.33**
Own will	3	2.00	0	0.00	**3**	**2.00**
Other	0	0.00	0	0.00	**0**	**0.00**
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above table 5.15 shows that out of the total respondents, the majority (99 respondents and 66%) of the workers have migrated to Kerala due to better wages followed by 40 (26.67%) respondents who have moved due to more work opportunity, 8 (5.33%) respondents due to better working condition, and 3 (2%) respondents who have moved at their own will.

The data present that due to better wages and availability of work opportunities workers from Assam often have used the various places of the state of Kerala as their destination for work. The majority of the respondents of the study have migrated for higher wages to Kerala from Assam (see table 4.12 and 4.13) followed by more work opportunities.

But migration at own will and for better condition also form the basis of workers migration to Kerala. In fact, the better working condition with specified working hours by the employer, breakfast in the morning and lunch (in some workplaces), cheap medical facility, and open labour market appear to be the attracting factors of migration to Kerala.

Channel of migration	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
Family members	10	6.67	0	0.00	**10**	**6.67**
Friends	111	74.00	0	0.00	**111**	**74.00**
Relatives	14	9.33	0	0.00	**14**	**9.33**
Former migrants	14	9.33	0	0.00	**14**	**9.33**
Agents	0	0.00	0	0.00	**0**	**0.00**
Contractors	0	0.00	0	0.00	**0**	**0.00**
Other	1	0.67	0	0.00	**1**	**0.67**
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Table 5.16: Channels of Migration

Source: Fieldwork, April-June 2019.

In this process of workers' migration, channels of migration have played a pertinent role. The above table 5.16 shows that the majority of the respondents i.e. 74% (111 respondents) of the total respondents have moved to Kerala through friends. 14 (9.33%) respondents have migrated through relatives and former migrants, 10 (6.67%) through family members, and 1 (0.67%) respondent has moved through other channels. In short, friends, relatives, former migrants and family members appear to be the frequently used channels of migration of workers from Assam in Kerala. In this regard, the report of GIFT prepared by Narayana and Venkiteswaran in 2013 also clarify that in the context of workers migration from different states of India to Kerala, family members, friends, relatives, former migrants, agents and contractors play a prominent role.

Family size	Male		Female		Total	
	Nos.	%	Nos.	%	Nos.	%
Without family members	147	98.00	0	0.00	**147**	**98.00**
With family members	3	2.00	0	0.00	**3**	**2.00**
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Table 5.17: Family Size

Source: Fieldwork, April-June 2019.

Migration is a process which is often accompanied by family members without the exception of workers' migration. The above table 5.17 shows that the maximum number of respondents that is 147 (98%) respondents stay without family members in the destinations whereas 3 (2%) respondents stay with their family.

In fact, it has been observed that there are many migrant workers from Assam and other states who stay with family. The migrant workers with family members rarely come forward for interactions which hinders the researcher to find the difficulties faced by them. Notably, the migrant workers who move to Kerala with family members enrol their children in schools. As some of the migrant children do not originally belong to Kerala, they face language barriers in schools for which some children drop their schooling whereas some of the parents face difficulties of enrolling due to the lack of required documents such as school transfer certificate, previous mark sheet etc.

Table 5.18: Medical Treatment		
Treatment	Total	Percent
Employer	125	83.33
Personal	5	3.33
Owner - Contractor	20	13.33
Total	150	100.00

Source: Fieldwork, April-June 2019.

Above table 5.18 presents that the majority (125 respondents or 83.33%) of the respondents receive medical treatment from the employers, 20 (13.33%) respondents receive from the factory owner and contractor whereas 5 (3.33%) respondents take care of their medical issues personally. It has been reported that although the employer bears the cost of medical treatment it remains only as first aid but the cost of medical treatment is also covered by the *Aawaz Insurance.*

In this regard, Vishnu Narendran says that there is a lack of compensation for injuries even if first aid is provided by the employers whereas in some cases NGOs like CMID take care of the issues for a solution. Ajith states that workers who suffer from medical

issues such as injury, fever prefer to go to their native place as there is no one to look after their issues and as the workers' friends are busy with their work. In case, if ill/ sick or injured and workers don't possess the money to go back to the home, they collect it from their worker friends and after the recovery from their issues they resume their work.

Table 5.19: Aawaz Insurance					
Yes		No		Total	
Nos.	%	Nos.	%	Nos.	%
50	33.33	100	66.67	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above Table 5.19 states that only 50 (33.33%) respondents of the study enjoy a free insurance facility under *Aawaz Insurance* from the state of Kerala as it is properly functioning in Perumbavoor. This insurance facility failed to reach the migrant workers of Manjeri and Urathur. Therefore, the migrant workers of Manjeri and Urathur remain deprived of insurance coverage which includes free medical treatment worth fifteen thousand a year and compensation for accidental death. It has also been reported that there are examples of work-related accidental death and permanent damage by accidents. In such condition, some employer gives a certain amount of money and send the dead body or damaged persons home and sometimes workers collect the expenditures of travelling for the same.

Table 5.20: Personal Security		
Security issues	Yes	No
Threat to life	0	150
Arbitrary arrest	0	150
Detention without warrant	0	150
Physical torture or torture of any kind	**0**	**150**

Source: Fieldwork, April-June 2019.

Personal security is of utmost importance for each human being and among them security of life appears to be more important as without life there is no meaning to other rights. Therefore, intending to understand personal security such as the threat to life,

physical torture, detention without warrant, or any other security-related issues a question was asked during the interview.

In response to that, the respondents are of the opinion that they haven't faced any kind of personal security issues (see Table 5.20) in their working experience although there are reports of physical attacks on migrant workers in Kerala, say for instance a migrant worker from Assam was killed in 2016 on suspicion of a thief (Kashyap, 2016 May 6), and a migrant worker was shot by an air gun by the employer in 2016 (TNN, 2016 October 31). Besides, it has also been reported that there are also some of the issues of ill-treatment on migrant workers in some places of Kerala which have gone unreported.

Case Study 1: Pahar Rabha

Pahar Rabha is a thirty year old migrant worker from Kokrajhar, Assam who belongs to the Rabha community. He states that due to his poor financial conditions, he migrated to Urathur to work in a laterite mining, leaving his family behind. He is urged to migrate to Urathur as his relatives and friends have been working there for last three years. Pahar Rabha revealed that he used to work as a daily wage worker for Rs 300 per day in his hometown, which is less than his current Rs 700 wage per day in Urathur. He sends a portion of his earnings as remittance in almost every month to his family through customer service points of banks.

His living conditions in Urathur is described as confined and crowded. He lives with his friends in a congested room with minimal space. Pahar Rabha expressed that one of the major challenges that he faces is the scarcity of water to do daily ablutions such as washing, bathing etc. in their camps. Therefore, Pahar Rabha and his fellow workers usually visit the site of an old laterite mining where there is no proper sewage for rainwater. However, he points out that in some of the rented houses, owners provide water tank. Pahar Rabha also mentions an incident where he, along with his friends,

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was advised to wear lungi instead of short pants. He recalls an occasion when he was pushed off the road by a local scooter rider for no apparent reason. However, he did not report the incident to the police thinking that would further aggravate the situation.

He further points out that the wages in the mines of Urathur are fixed by the respective owners. Thus, it varies from mine to mine for the same work. Migrant workers cannot bargain for wages in most of the workplaces of Urathur. Whenever migrant workers request for increase in wages, employers would ask them to leave the site to look for work in other places. He also states that injuries ranging from minor to major are very common in mining sites. But Pahar Rabha and his fellow workers often have to bear the expenses of the treatment. In case of a major injury, in the absence of any medical insurance, fellow workers shoulder the expense.

Pahar Rabha's experience depicts that migrant workers' living conditions in the camps could be improved in Urathur. They expect employers to provide health provisions for the injuries during the work in the absence of *Aawaz Insurance* and better living conditions in the camps. In the absence of accommodation provided by employers, they prefer to stay in a single room to save expenses. Though Pahar Rabha appears to present certain negative experience regarding health and living, they prefer to work at Urathur for higher wages as compared to their native place.

Source: Field Work, April-June 2019[56].

Table 5.21: Challenges to Migrant Workers			
Problems	Yes	No	Total
Slavery	0	150	150
Bonded labour	0	150	150
Sex Trafficking	0	150	150
Child labour	27	123	150

Source: Fieldwork, April-June 2019.

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[56] In addition to the field work, a telephonic interview has been conducted with Pahar Rabha on 21st April, 2022 to update the information of this case study.

The prevalence of discrimination, as well as exploitation, also appears to be pertinent for the study as even in this present-day world, migrants are not free from slavery, sex trafficking, child labour etc. Considering this issue of human rights violations, the study tried to understand the prevalence of slavery, bonded labour, sex trafficking, child labour in Kerala. In response to that 27 respondents of Perumbavoor are of the view that there are some workers who are under 14 years of age in Perumbavoor (Table 5.21). One of the NGO workers from Barpeta, Assam working in Kerala also agreed to this statement. According to him, such workers also work as dish and plate cleaners in hotels and restaurants but owners hide them during inspections. Among the 27 respondents, one respondent from Nogaon, Assam made a point that sometimes employer are compelled to give them job by hiding their truth and sometimes workers' friends collect money to send them back to the home state.

Besides, some of the workers of Urathur also suspect that a few workers from Karnataka are under-14-years-of-age and school-going children who come to work during vacations. But Benoy Peter[57] disagrees on the existence of child labour in plywood factories of Perumbavoor. Besides, James John says that there is a practice of prostitution in the Perumbavoor area. But during interrogation, women do not reveal but defend it as something for sexual pleasure only. So, it appears to be very difficult to tackle the issue. Further, he pointed out that migrants usually approach police for help in certain cases only such as theft, missing partner, and assault.

Table 5.22: Dignity of Migrant Workers						
Problems	**Yes**		**No**		**Total**	
	Nos.	**%**	**Nos.**	**%**	**Nos.**	**%**
Crime record	0	0.00	150	100.00	**150**	**100.00**
Detection of new disease	0	0.00	150	100.00	**150**	**100.00**
Stealing job	0	0.00	150	100.00	**150**	**100.00**
Total	**0**	**0.00**	**150**	**100.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

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[57] Benoy Peter is the Executive Director of the CMID, Kerala.

In destination place, migrants are rarely free from branding which may be for crime record hike, detection of a new disease, stealing job. Considering the situation, migrant workers were asked about their dignity as well as social status in working places of Kerala. In an interview, respondents (Table 5.22) state that though they have not been directly branded for crime record hike as well as for stealing job in Kerala they have heard of this particular stereotyping. The report of GIFT (Narayana & Venkiteswaran, 2013) also states the branding of migrant workers for the above-said reasons in Kerala.In this regard, one of the local persons from Perumbavoor is of the opinion that there are only around one-two percent of the people who try to create issues in the area and for them, they can't generalize migrant workers as a whole.

In an interaction with an autorickshaw driver of Perumbavoor, the driver made a point that the migrant workers do not commit any crimes nor do they create any troubles but instead credits them for getting more trips and benefitting economically. One of the residents of Perumbavoor made a point that "I personally do not have any direct experience of any bad experience from the workers" but still he blames the migrant workers for creating troubles because of the occurrence of various crimes such as – rape, murder etc. where migrant workers' association have been reported.

Similarly, another local person who used to work in Dubai and Saudi Arabia is also of the view that they can't generalize the migrants from Assam and other states for some incidents in the area done by some bad persons. Perumbavoor area would run slow if they return to their native places and plywood factories would be closed down along with other shops e.g. hotel, restaurant, footwear shops, garment shop, and many. Therefore, he opined that the Keralite can't imagine the running of the town without the migrants. Migrant workers come to Kerala to work but most of the local workers work in Kerala to earn the travelling cost to other countries like Dubai and Saudi Arabia

or Gulf countries. In Kerala, local people are reluctant to work in those work where migrants are working as they have a degree in many areas such as MBA, Engineering etc.

One of the researchers from Palakkad named Akila[58] is of the opinion that people in Kerala still treat migrant workers as "the other "which further increases their problems. Similarly, Vishnu Narendran has also pointed out that in Kerala, migrants have been treated as others by the locals due to their low living standard and wearing of shabby attire. Some of the migrant workers of Urathur have also reported that in Urathur, initially, there was a restriction on the wearing of short pants and that they were pressurised to put on lungi while staying there. Further, some of the workers have also pointed out that, one day a local person of Urathur kicked off the migrant workers from the scooty where the migrant workers fell and suffered from injuries. Besides, respondents of the opinion that Assamese migrant workers in Manjeri and Urathur are being called Hindicar/ Hindicari as they mostly speak Hindi, and Bengali/Bangali as they are also mostly Bengali speaking people in Perumbavoor. But apart from the issues of dignity and social status, they face language barriers during their initial time but according to the respondents over time, they learn basic Malayalam for their daily needs from the locals.

Table 5.23: Workers Union					
Yes		No		Total	
Nos.	%	Nos.	%	Nos.	%
0	0.00	150	100.00	**150**	**100.00**

Source: Fieldwork, April-June 2019.

Table 5.23 presents that none of the respondents of the study is a member of any worker union. It is reported that sometimes certain amount of money is collected in the name of workers' union and promised to help at the time of difficulties. Therefore, due to the

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[58] Akila is a researcher at CMID, Kerala.

lack of union membership and migrant workers union, they have failed to remain united and to raise their voice for their entitlements and any kind of injustice.

Age Frequency	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
14 years >	0	0.00	0	0.00	**0**	**0.00**
15-25 years	54	36.00	11	7.33	**65**	**43.33**
26-36 years	49	32.67	0	0.00	**49**	**32.67**
37 years <	36	24.00	0	0.00	**36**	**24.00**
Total	**139**	**92.67**	**11**	**7.33**	**150**	**100.00**

Table 5.24: Voter Card Holder

Source: Fieldwork, April-June 2019.

The above Table 5.24 shows that out of 150 (100%) respondents only 139 (92.67%) are voters who are having voter card and among them, 54 (36%) respondents are under 15-25 years of age, 49 (32.67%) respondents are under 26-36 years of age, and 36 (24%) respondents are 37 years of age. Among the 11 (7.33%) respondents who are not voter till now, some of them haven't completed 18 years of age, some of them have applied for, and some of them are waiting for registration in the source state. The data interpretation states that none of the respondents of the study holds the voter card of the state of Kerala although some of the migrant workers have been found working for more than 3 years in the same area. But as per the norms, a citizen in India can enrol for an electoral roll when someone completes eighteen years of age at his state and in other state fulfilling certain minimum criteria such as citizen of India, 18 years of age, or 6 months residential proof for migrants.

In fact, the study reveals that due to the frequent migration to various places, absence of necessary documents, and negligence of the migrant workers they are out of the electoral roll of the state. The lack of authority's attention on migrant workers also forms one of the reasons for the same. In this connection, Vishnu Narendran[59] is of the opinion that in enrolling as a voter in Kerala, there are no difficulties provided and that

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[59] Vishnu Narendran is one of the team members of CMID, Kerala.

workers can submit all the required documents, primarily residential certificates. Therefore, the respondents of the study are deprived of the rights to vote in Kerala. But it is reported that during every parliament or state assembly election, Kerala is greatly impacted by shortages of workers as migrant workers leave for voting in their respective states.

As India is a secular country each human being is free to follow any religion of their faith. As a result, every citizen enjoys religious freedom and follow their religion. Similarly, the migrant workers working in Kerala also follow their religion and they celebrate the religious festivals in certain specific places, say for instance – Christians celebrate Christmas in Church, Muslims do religious prayers in Masjid but Hindus celebrate mainly during Biswakarma and Diwali with certain restriction put by the house owner and locality of the living places. Especially, during Onam employers give some kind of treat to the workers in certain working places.

5.4 Economic, Social and Cultural Rights

The economic, social and cultural rights discussed in chapter 2, 3 and 4 include freedom, privilege and entitlement and it plays an important role in human lives, including migrant workers. To deliver the economic, social and cultural rights, the states hold the responsibility to respect, protect as well as fulfil. Therefore, the study tries to understand the employment opportunities, working sectors, and wages at the destination places.

Table 5.25: Present Working Sector and Duration of Work											
Duration →	0-6 months		7-12 months		1-2 years		2-3 years		3 years <		Total	
Sector ↓	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%
Construction	2	1.33	0	0.00	1	0.67	0	0.00	5	3.33	8	5.33
Plywood	22	14.67	0	0.00	0	0.00	0	0.00	2	1.33	24	16.00
Mining	56	37.33	14	9.33	15	10.00	1	0.67	4	2.67	90	60.00
Hotel	3	2.00	7	4.67	1	0.67	0	0.00	0	0.00	11	7.33
Restaurant	0	0.00	0	0.00	0	0.00	1	0.67	1	0.67	2	1.33
Garage	4	2.67	0	0.00	0	0.00	2	1.33	4	2.67	10	6.67
Garment Shop	0	0.00	0	0.00	1	0.67	0	0.00	0	0.00	1	0.67
Poultry farm	1	0.67	0	0.00	2	1.33	0	0.00	0	0.00	3	2.00
MTS at School	0	0.00	0	0.00	0	0.00	0	0.00	1	0.67	1	0.67
Total	88	58.67	21	14.00	20	13.33	4	2.67	17	11.33	150	100.00

Source: Fieldwork, April-June 2019.

The above Table 5.25 shows that at the present majority (90 respondents and 60%) of the respondents are working in the mining sector followed by 24 (16%) respondents who are working at plywood factory, 11 (7.33%) respondents who are working at a hotel, 10 (6.67%) respondents who are working at the garage, 8 (5.33%) respondents who are working at the construction sector, 3 (2%) respondents who are working at Poultry farm, 2 (1.33%) respondents who are working at a restaurant, and 1 (0.67%) respondents who are working at the garment shop and school as a multi-task serviceman. Further, the table also shows that maximum (88 respondents and 58.67%) respondents of the study have worked for the period of 0-6 months, secondly 21 (14%) respondents have worked for the period of 7-12 months, thirdly 20 (13.33%) respondents have worked for the period of 1-2 years, fourthly 17 (11.33%) respondents have worked for more than 3 years, and 4 (2.67%) respondents have worked for 2-3 years.

The data interpretation states that the mining sector is the dominant one among the respondents of the study. The plywood sector is also one of the dominant sectors of migrant workers in Kerala. Ajith believes that in Perumbavoor majority of the workers from Assam work in the plywood industry as experienced workers whereas workers from the state of Odisha and West Bengal (majorly from Murshidabad) work as helpers in the industry. Besides, one of the pharmacists of Perumbavoor is of the opinion that restaurant and hotel, garment shop, saloon engage migrant workers in Perumbavoor. Similarly, in Manjeri also migrant workers can be found working in restaurant and hotel, garment shop etc. but since Urathur doesn't have a proper market like Perumbavoor and Manjeri, migrant workers mostly can be found engaged in the mining sector where they earn more money than workers of other places. In fact, although the data has not represented the more numbers of respondents in construction, hotel and

restaurant, garment shop, and poultry farm there are several migrant workers which have been observed throughout the fieldwork.

Duration →	0-6 months		7-12 months		1-2 years		2-3 years		3 years <		Total	
Sector ↓	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**
Construction	10	6.67	0	0.00	0	0.00	0	0.00	5	3.33	**15**	**10.00**
Plywood	10	6.67	6	4.00	3	2.00	0	0.00	1	0.67	**20**	**13.33**
Mining	18	12.00	2	1.33	11	7.33	1	0.67	1	0.67	**33**	**22.00**
Hotel	2	1.33	0	0.00	0	0.00	0	0.00	2	1.33	**4**	**2.67**
Restaurant	2	1.33	0	0.00	1	0.67	0	0.00	0	0.00	**3**	**2.00**
Garage	0	0.00	2	1.33	0	0.00	0	0.00	0	0.00	**2**	**1.33**
Garment Shop	0	0.00	0	0.00	1	0.67	0	0.00	0	0.00	**1**	**0.67**
Other	0	0.00	0	0.00	14	9.33	0	0.00	26	17.33	**40**	**26.67**
Total	**42**	**28.00**	**10**	**6.67**	**30**	**20.00**	**1**	**0.67**	**35**	**23.33**	**118**	**78.67**

Table 5.26: Working Sector and Duration of Work of Past in Kerala

Source: Fieldwork, April-June 2019.

The above Table 5.26 represents that in the previous working sectors, the majority (40 respondents or 26.67%) respondents worked at various sectors (e.g. construction, plywood, mining, hotel and restaurant) followed by 33 (22%) respondents who were working in the mining sector, 20 (13.33%) respondents who were working at plywood sector, 15 (10%) respondents who were working at construction, 4 (2.67%) respondents who were working at a hotel, 3 (2%) respondents who were working at a restaurant, 2 (1.33%) respondents who were working at the garage, and 1 (0.67%) respondent who was working at garment shop.

Therefore, from the above data, it could be understood that migrant workers work in construction, plywood, mining, hotel, restaurant, garment shop with no exception to garage. The majority of the respondents of the present study migrate frequently to different workplace based on the availability of works whereas some of the respondents move on in search of their choice of work.

Wages →	200-399		400-599		600-799		800-999		1000 <		Total	
Working sector ↓	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**	**Nos.**	**%**
Construction	0	0.00	0	0.00	3	2.00	5	3.33	0	0.00	**8**	**5.33**
Plywood	0	0.00	21	14.00	3	2.00	0	0.00	0	0.00	**24**	**16.00**
Mining	0	0.00	2	1.33	0	0.00	6	4.00	82	54.67	**90**	**60.00**
Hotel	6	4.00	5	3.33	0	0.00	0	0.00	0	0.00	**11**	**7.33**
Restaurant	0	0.00	0	0.00	2	1.33	0	0.00	0	0.00	**2**	**1.33**
Garage	1	0.67	5	3.33	4	2.67	0	0.00	0	0.00	**10**	**6.67**

Table 5.27: Working Sector and Wages (in Rs.)

Garment Shop	0	0.00	0	0.00	1	0.67	0	0.00	0	0.00	**1**	**0.67**
Poultry farm	0	0.00	0	0.00	0	0.00	3	2.00	0	0.00	**3**	**2.00**
MTS at School	0	0.00	1	0.67	0	0.00	0	0.00	0	0.00	**1**	**0.67**
Total	**7**	**4.67**	**34**	**22.67**	**13**	**8.67**	**14**	**9.33**	**82**	**54.67**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The Table 5.27 shows that majority (82 respondents or 54.67%) of the respondents earn more than 1000 rupees wages in a day and all of them work in mining sector, secondly 34 (22.67%) respondents can earn in between 400-599 rupees wages in a day and among them 21 (14%) respondents work in plywood factory, 5 (3.33%) respondents in hotel as well as in garage, 2 (1.33%) respondents in mining and 1 (0.67%) respondents at school as multi task work sector, thirdly 14 (9.33%) respondents can earn in between 800-999 rupees wages in a day and among them 6 (4%) respondents work in mining, 5 (3.33%) respondents work in construction and 3 (2%) respondents work in Poultry farming sector, fourthly 13 (8.67%) respondents can earn in between 600-799 rupees wages in a day and all of them 4 (2.67%) respondents work in garage, 3 (2%) respondents work in construction as well as in plywood factory, 2 (1.33%) respondents work in restaurant and 1 (0.67%) respondents work in garment shop, and fifthly 7 respondents can earn in between 200-399 rupees wages in a day and all of them 6 (4%) respondents work in hotel and 1 (0.67%) respondent work in garage.

The above interpretation of data states that the majority of the respondents of the study work in the mining sector where the majority of them earn above the minimum wage rate of unskilled workers (table 4.13 & 4.13) in the state of Kerala followed by the plywood sector. In the plywood sector majority of them earn the minimum wage rate of unskilled workers or above. In short, the data states that wages of the workers primarily depend on the sectors where they are engaged in the destination workplace.

Table 5.28: Working Hours and Wages (in Rs.)											
Wages →	200-399		400-599		600-799		800-999		1000 <		Total	
Hours ↓	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%
8 hours >	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	**0**	**0.00**
8 hours	0	0.00	5	3.33	9	6.00	11	7.33	18	12.00	**43**	**28.67**
8 hours <	7	4.67	29	19.33	4	2.67	3	2.00	64	42.67	**107**	**71.33**
Total	**7**	**4.67**	**34**	**22.67**	**13**	**8.67**	**14**	**9.33**	**82**	**54.67**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

Working hour is an important feature of worker rights and its origin can be traced back to the movements of the industrial revolution which demanded eight hours of working time in a day (see chapter 2). According to Table 5.28 among the total respondents of the study majority (107 respondents or 71.33%) of the respondents works for more than 8 hours in a day and out of which majority i.e. 64 (42.67%) respondents can earn more than 1000 rupees in a day, secondly, 29 (19.33%) respondents can earn in between 400-599 rupees in a day, thirdly 7 (4.67%) respondents can earn in between 200-399 rupees in a day, 4 (2.67%) respondents can earn in between 600-799 rupees in a day and 3 (2%) respondents can earn in between 800-999 rupees in a day, and 43 (28.67%) respondents work 8 hours in a day and among them majority i.e. 18 (12%) respondents can earn more than 1000 rupees in a day, secondly 11 (7.33%) respondents can earn in between 800-999 rupees in a day, thirdly 9 (6%) respondents can earn in between 600-799 rupees in a day and 5 (3.33%) respondents can earn in between 400-599 rupees in a day.

The above data states that the majority of the respondents (54.67%) earn above one thousand a day which again appears to be more than the minimum wage rate of unskilled workers in India presented in table 4.12 & 4.13. Further, out of the 54.67% respondents of the study majority of them work beyond eight hours a day which is against the working time as per the existing law in the country. In short, working hours also form one of the bases of wages. Comparatively, the wages of the workers depend more on the sectors than the working hours.

Although the respondents enjoy better wages in Kerala there are some issues concerning wages of the migrant workers in some working places say, for example, one of the migrant workers of Manjeri named Nidan expressed that when he resigned from one shopping mall working for 14 days, he failed to get the wages. In this regard, Vishnu Narendran also pointed out that non-payment remains the hard-core issue among the migrant workers in Kerala and the harassment of workers by the police during complaining of the non-payment issue. Vishnu Narendran further says that in such a situation language becomes the barrier for the workers to discuss the issue properly with the police and employer for the solution where the employers take advantages.

Table 5.29: Equality of Payment		
Response	Total	Percent
Yes	106	70.67
No	44	29.33
Total	150	100.00

Source: Fieldwork, April-June 2019.

The above table 5.29 shows that 106 (70.67%) respondents enjoy equal pay for equal work whereas 44 (29.33%) respondents disagree on the same. James John[60] says that migrant workers themselves accept less amount of money in comparison to local workers and they are satisfied with the wages in the area.

In this regard, one of the migrant workers from Odhisa is of the opinion that in the Perumbavoor area, new migrant workers accept less amount of wages which is lesser as compared to older migrants. It is observed that the workers who do not enjoy equal pay for equal work, are unhappy with the prevalence of unequal payment practices in the destination. But the prevalence of unequal payment is not only in the case of Kerala because such practices can be seen in other states as well although the Constitution of India and Labour Laws state equal pay equal work.

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[60] James John is a Civil Police Officer, Perumbavoor Police Station, Kerala.

Case Study 2: Banjit Narzary

Banjit Narzary is 35 years old belongs to the Bodo community who hails from Udalguri, Assam. Since Banjit Narzary has no regular work to take care of his family's expenditure, he decided to migrate to Manjeri where his friends were working with higher wages.

Banjit Narzary points out that he was initially working in a wood mill where his employer had kept his original Identity Cards such as Voter Card and Aadhaar Card so that he was not able to look for better works for quite some time. This act clearly reflects how his freedom was compromised. While he was working in the mill, he met with an accident where one of his fingers was cut while putting pieces of wood into the machine. Banjit Narzary was then admitted to a hospital for treatment at his own expenses, though he could have received medical coverage under *Aawaz Insurance* that provides medical treatment worth fifteen thousand a year. After his recovery, he moved to other workplaces in Manjeri for work. Presently, he is working as a male domestic labourer in a local Keralite house with a monthly salary of fourteen thousand for a year.

Banjit Narzary states that during his stay at Manjeri, he has witnessed wage differences between migrant workers and local workers for the same work. However, Banjit Narzary, also points out that on many occasions migrant workers are preferred by employers as local workers work for a fewer hours for similar wages. Therefore, employers are reluctant to employ local workers in certain workplaces.

The personal interaction with Banjit Narzary reveals that hard working nature of migrant workers are getting due recognition among employers in Kerala but lack of health support from employers during health emergencies show the existing necessity to create awareness among migrant workers and employers regarding *Aawaz Insurance, a scheme* available *to take care* of medical treatment for the migrant workers during

health emergency across Kerala. Though such insurance scheme is available in Kerala for migrant workers during health emergency, both employers and migrants do not give adequate attention to avail it.

Source: Field Work, April-June 2019[61].

Table 5.30: Bonus for Overtime Work		
Response	**Total**	**Percent**
Yes	**136**	**90.67**
No	**14**	**9.33**
Total	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above table 5.30 shows that the majority i.e. 136 (90.67%) of the respondents avail bonus for overtime work and 14 (9.33%) respondents do not. It has been reported that the bonus for overtime work is dependent on the employer. As migrant workers are dependent on employers for work opportunities, they hold less bargaining space for wages as well as bonus. Therefore, employers decide the overtime payment including the wages.

Table 5.31: Collective Bargaining						
Wage deciding method	**Yes**		**No**		**Total**	
	Nos.	**%**	**Nos.**	**%**	**Nos.**	**%**
Will of employer	120	80.00	0	0.00	**120**	**80.00**
Discussion with employer	0	0.00	0	0.00	**0**	**0.00**
Discussion with Union	0	0.00	0	0.00	**0**	**0.00**
Worker – Contractor	20	13.33	0	0.00	**20**	**13.33**
Worker – Employer	10	6.67	0	0.00	**10**	**6.67**
Total	**150**	**100.00**	**0**	**0.00**	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above data of table 5.31 further reveals that primarily wage is decided by the employer at their own will although in some cases the migrant workers are also taken into consideration by the contractors and employers. In this context, the rights to collective bargaining could have played a dominant role. But it is observed that the migrant workers show less concern over the rights to collective bargaining in Kerala because their wages are more than what they get at their source place.

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[61] In addition to the field work, a telephonic interview has been conducted with Banjit Narzary on 22nd April, 2022 to update the information of this case study.

Case Study 3: Narayan Das

Narayan Das is 28 years old belongs to Nowgaon, Assam who works in Perumbavoor. Narayan Das willingly migrated to Kerala as he was unable to get a job in his native place. He moved to Perumbavoor with the information of available working opportunities and better wages. He was working in a plywood factory in Perumbavoor where most of the workers are from Assam having similar working experience from their native place. He is of the opinion that many migrant workers are still working in plywood factories of Kutlipadam and Vallom but mostly those who work in Mudickal and Marampalli are with family members.

In the interview, Narayan Das states that physical injury was the main issue for him during his previous job. When he was injured during work, he was given neither compensation nor salary for the month. He was denied compensation as he was a registered under the scheme of *Aawaz Insurance,* because the expense of the medical treatment is covered under the scheme. Though, on reporting salary non-payment, the authority called both the employer and Narayan Das for amicable settlement of the issue, the issue remained unresolved as he and his fellow workers could not convince the officials due to the language barrier and communication gap, only resulted in the harassment of the complainant by the employer. Finally his fellow workers had to raise money to send him for a proper treatment. However, due to the lack of work opportunities available in his native place, he returned to Perumbavoor. Currently, he is working in a hotel for Rs 600 as daily wages for the last two years.

This case study reveals that migrant workers like Narayan Das face injuries during work are not compensated by employers and highlight the necessity of institutional structures for addressing such issues of migrant workers. Furthermore, it can also help the migrant

workers to avail the insurance policy schemes and other initiatives launched by the government of Kerala.

Source: Field Work, April-June 2019[62].

Table 5.32: Working Days in a Week		
Working Days	Total	Percent
1 to 2	0	0.00
2 to 3	0	0.00
3 to 4	0	0.00
4 to 5	0	0.00
5 to 6	133	88.67
7	17	11.33
Total	150	100.00

Source: Fieldwork, April-June 2019.

Above table 5.32 shows that the majority, 133 (88.67%) respondents, of the respondents, work for 5 to 6 days in a week and there are 17 (11.33%) respondents who work for 7 days in a week. It has been reported that among the 17 respondents who work for a whole week, there are some respondents who work due to the employers' pressure and there are some who work at their own will to earn as much as they can so that they can send more money to home to meet the needs of the family. It has also been observed that in Perumbavoor some of the workers engage themselves in computer downloading centres, tailoring, mobile repairing and selling shops, saloons, garment shop for additional earnings during every Sunday market. But the existing labour laws and the policies and programmes initiated by the successive governments states only six days as working days. The origin of the demand for working time, holiday or rest day can be traced back to the movements of the industrial revolution where workers demanded a rest day in a week along with eight hours working hours in a day.

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[62] In addition to the field work, a telephonic interview has been conducted with Narayan Das on 23rd April, 2022 to update the information of this case study.

Table 5.33: Monthly Expenditure (in Rs.)		
Expenditure	**Total**	**Percent**
1000-1999	**0**	**0.00**
2000-2999	**33**	**22.00**
3000-3999	**69**	**46.00**
4000-4999	**24**	**16.00**
5000 -5999	**24**	**16.00**
Total	**150**	**100.00**

Source: Fieldwork, April-June 2019.

The above table 5.33 shows that majority, 69 (46%) respondents' monthly expenditure is 3000 to 3999 rupees, secondly 33 (22%) respondents' monthly expenditure is 2000 to 2999 rupees, and thirdly 24 (16%) respondents' monthly expenditure is 4000 to 4999 rupees and 5000-5999 rupees. From the fieldwork, it has been observed that there are some workers who spend most of their earnings by playing cards and drinking alcohol and rarely send money home. It has also been found that there are workers who regularly send money for family maintenance, to return the debt, to recover family property, to build a house, to support the education of family member, to support friend's education etc. In this process some of the migrant workers use banks and some use other means such as money transfer centres: *"PayNearby"* powered by *Yes Bank* and *"Fino Payments Bank"*.

Further, with an aim to know the cultural rights enjoyed by the migrant workers in Kerala, an open-ended question was placed to the respondents of the study. In response to that, some of the respondents viewed that they enjoy certain cultural festivals such as Bwisagu or Bihu in room only among themselves. It is reported that in Kerala, employers and house owners restrict them from creating noise in the locality. During the fieldwork, respondents have expressed the availability of work with better wage, free insurance coverage, free food at work and free accommodation although it has been reported that there is inequality of payment between the local and migrant workers. But migrant workers in Kerala do face language issues and sometimes attack on suspicion, and dirty, degrading and dangerous jobs with lack of safety equipment.

With regard to the experiences of migrant workers in Kerala, the respondents express the enjoyment of better wages with more work opportunities than the origin state. Further, in regards to facilities enjoyed by migrant workers in Kerala, data reveals that only 33.33% (see Table 5.19) of the respondents avail free insurance facility provided by the Kerala Government that covers medical treatment worth up to fifteen thousand per year and compensation worth two lakhs for accidental death. Respondents say that they are provided travelling facility to work in some workplaces, travelling allowance by some of the employers, free food at workplace, and free accommodation by some of the employers (see table 5.11). Besides, residences named "Apna Ghar" for migrant workers have also been constructed in Palakkad district (Fieldwork, April-June, 2019).

In fact, apart from the above-mentioned facilities, Kerala has provided benefits for the migrant workers with Migrant Labourers' Welfare Scheme (2010) which provides healthcare assistance, education allowance for children, compensation for accidental death (Krishnakumar, 2011), literacy mission (The Hindu, 2016 November 9). Besides, NGOs like CMID is working for the issue of non-payment, compensation of injury and accidental death, and in case of missing migrant workers.

5.5   Naka[63] of Migrant Workers

Gandhi Bazar, Perumbavoor

Every morning at around six o'clock, migrant workers from different states of India gather at Gandhi Bazar of Perumbavoor nearby the Mahatma Gandhi Statue and wait for their contractors, heads of the small group of workers, and go to the workplace. Some of the workers go with the local people for temporary work who come in search of the various type of workers such as mason, helper, carpenter according to their needs

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[63] The term Naka has been defined by Benoy Peter and Vishnu Narendran as a 'junction' where workers gather (Peter &Narendran, 2017 June), at select junctions in most towns such as Gandhi Bazar (Perumbavoor) and Manjeri Town (Manjeri), early in the morning seeking for work.

and they pick up the workers as many as they can in a vehicle. According to daily wage workers, those who go with a temporary employers are of the view that they can earn more money, which is around Rs. 700-750 in a day in comparison to the workers who work in hotels and restaurants. They are also of the opinion that they can earn more than the workers of the plywood factory but they have to wait for the daily work on the roadside of the Bazar. At the same place, women migrant workers also wait for their work such as – cleaning, glass cleaning, helper and others.

At the Gandhi Bazar itself nearby the Mahatma Gandhi statue and old private bus stop of Perumbavoor, one can see the temporary tea stalls on the roadside every morning where migrant workers eat their breakfast and smoke Bidi, Cigarette etc. But those temporary stalls get closed in the morning at around eighty o'clock or eight-thirty in the morning. One of the notable features of the morning time of the Naka of Perumbavoor is that the workers who gather in the market side are mostly Bengali-speaking people who are mainly from Nagaon (Assam) and Murshidabad (West Bengal) where the remaining people are from different states of India such as Uttar Pradesh, Bihar, Odhisa etc. Ajith is of the opinion that every evening migrant workers coming back from their work come to Gandhi Bazar for roaming and mobile recharge.

And, on every Sunday migrant workers come to Gandhi Bazar which is popularly known as *Bengali Market* for shopping where since morning around six o'clock temporary shopkeepers arrange their shops (garment, footwear, sound system) on a temporary bed or table. But few workers with other jobs work in these stalls on Sundays instead of taking a rest. One of the workers from Nagaon who has been in Ernakulam district for around ten years and presently working in Perumbavoor is of the view that there is no benefit in staying without any work on Sunday as they are all there to earn for themselves and their family.

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On every Sunday market, most of the Malayali shopkeepers of footwear, garments, mobile repairing centre and tailoring engage migrants in their shops where owners provide around five hundred to one thousand rupees and lunch for a day. Interestingly, there are some hotels, saloons, betel nut shops, computer downloading centres which belongs to, or partly belongs to migrant workers.

Besides, in Manjeri Town also, migrant workers assemble every morning in search of daily work and workers' heads. And in the evening time, most of those workers come back for shopping. Similarly, workers of the Urathur visit Kalliad for shopping but there is no Naka at Urathur as it is away from the town. But workers go to various mining places in search of work opportunity.

Conclusion

From the above discussion, it is confirmed that the state of Kerala has a unique character with regard to migration as the state has been the source of internal migration as well as international migration and at the same time destination of internal migration. Considering the necessity, the state has conducted a migration survey which studies out-migration from the state as well as in-migration in the state. Besides, various reports have also come up in relation to internal migration in Kerala and according to those reports of GIFT and CMID, the state has a considerable number of internal migrants which is no exception to migrant workers.

The study showed that due to socio-economic, demographic and job factors, Keralites have moved to Gulf countries and other countries of the world. In course of time, this process of migration from Kerala has contributed towards the reduction in poverty as well as unemployment although the process of migration has also kept Keralite married women away from their husbands and made the Keralite people dependent on migration for many such as employment, sustenance, housing, household amenities, institution

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building. Over time, the Keralite migration has created a vacuum of the working force in the state to be filled by workers primarily from other states of India such as Assam, West Bengal, Uttar Pradesh, Bihar and Odisha. Further, it has also supported the rise of wages which has attracted the workers of other states with no exception to workers from Assam. Therefore, the prevalence of replacement migration can be observed in the state of Kerala.

When the study came across the age group of the respondents, the study has not found the workers below fourteen years of age but it has been reported that there are children below fourteen years of age whereas some of the NGO workers have agreed and some have disagreed on this matter. Further, the study examined the caste and religious composition of the migrant workers and came to know that the respondents of the study constitute various religions and castes.

Among the push factors of migration from Assam poverty, unemployment as well as poor wages appears to be the most prominent push factors among the respondents but human rights violation also forms the basis for their migration. There are cases of attacks on masses and migrant workers by underground armed groups in the state of Assam (table 4.19 & 4.20). On the other hand, better wages and more work opportunities in Kerala have appeared as the most prominent pull factors among the respondents of the study. In their process of migration, the respondents have mostly used friends, relatives and former migrants as a channel of migration to Kerala. Using the different channels of migration, migrants move with their family and without their family members. The respondents of the study stated that the migrant workers haven't faced threat to life, physical torture, detention without a warrant in the destination place but then there are some reports of migrant workers' death due to physical torture on suspicion by local people which is the reality. When the study attempted to understand

the enjoyment of basic political rights, i.e. rights to vote, of the respondents it has been found that none of the respondents has voting rights facility in the destination state as none of the respondents have enrolled in the voter list of the destination state for many reasons.

Coming to the working sector, employment and wages of the migrant workers it has been found that the majority of the respondents work in the mining sector followed by plywood factory with an experience of working in different sectors. Further, the study also clarifies that migrants enjoy better wages in the mining sector with more working time. In this regard, the majority of the respondents are of the opinion that if they work for extra time than specified by the employers, they get a bonus for that. But in deciding wages for the workers, employers themselves play a vital role. Furthermore, some of the respondents are of the opinion that there is no equality of payment for equal work between local and migrant workers in certain working places in Kerala. The present study also revealed that the majority of the respondents work five to six days a week but some of the respondents work all days in a week without any rest day at their own will. According to the respondents at every working place, they get leisure during the work.

Study revealed that most of the respondents are staying in Kerala without family members and the majority of the respondents reside in rented rooms, with their friends where there is hardly space to move and some of them stay in congested rooms provided by the employers without any cost. Therefore, the majority of the respondents cook jointly with Diesel, Kerosene, Firewood and very less with LPG and among the remaining respondents some of them eat lunch and dinner at hotels and restaurants, whereas some of them are provided with meals by the employer.

When the study attempted to understand the fundamental facilities being provided to migrant workers in Kerala, it has been found that though the migrant workers are provided, either by the employer and house owner, toilet as well as drinking water facilities the issue lies in its quality and the migrant workers' way of living at the resident. On the other hand, the study showed that none of the respondents is a member of any Workers Union or Labour Union and most importantly, respondents of the Manjeri and Urathur are deprived of *Aawaz Insurance* which provides free medical treatment of rupees fifteen thousand per year as well as insurance coverage of rupees two lakh in case of accidental death.

In Kerala, there exists a gap of understanding between the locals and migrant workers for which migrants have been branded for new diseases and stealing of jobs. Further, they are also blamed for crime record hike as there are cases of murder where the association of migrants have been found. On the other hand, as migrants are busy with their work, they are the least concerned about the celebration of cultural festivals and religious festivals. Even if they celebrate, they do so silently with certain restrictions given by the employers and house owners. But it has been noticed that Christian migrant workers in Manjeri jointly celebrate almost all the cultural and religious festivals.

In Kerala, there are some examples of schemes initiated by the state of Kerala for the welfare of migrant workers. Those welfare schemes have benefited the migrant workers in the area of healthcare, accidental death, educational allowance for children of migrants, resident, and crèche service. Further, the literacy mission has also enabled illiterate migrant workers to read and write in Hindi and Malayalam as well as to make them aware of legal, health and environmental matters. Besides, NGOs are also working for the welfare of the migrant workers such as the – issue of non-payment, compensation in case of injury and accidental death, and missing of migrant workers.

During the fieldwork respondents have expressed the availability of work with better wage although it has been reported that there is inequality of payment between the local and migrant workers. A notable point to be mentioned here at present is that the impact of the Coronavirus pandemic was also felt by the state of Kerala which greatly impacted the migrant workers, officially they are now called migrant guest workers, in the state of Kerala.

Chapter – 6
Conclusion

The basic entitlements of human beings are rooted in the state of nature and its foundation remains in the principles of various religions, secular scholarly works, and historical as well as contemporary documents. Those entitlements, termed as rights, gradually evolved and achieved social and legal recognition. On the other hand, the major concern over the rights of workers and the fundamental conditions to be a member of the working population developed during industrialisation where workers were victims of subjugation and exploitation. In the twentieth century, rights including the rights concerned with the working population attained the human rights nomenclature by UDHR which now considers rights as equal and inalienable. To be precise, human rights have been defined as the condition of life without which no one can lead a prosperous and dignified life. Further, the human rights of migrant workers have been guaranteed by the ICRMW. But discrimination as well as exploitation, have been the hindrances to the enjoyment of human rights by each individual with no exception to migrant workers.

Around the world, migrant workers are facing discrimination as well as exploitation in the hands of employers, recruiting agents, constructors, and dalals. India is not an exception to the situation where internal migrant workers do face the same. Yet, even in this situation also, there is continuous migration of working people to different states such as Delhi (Union Territory), Karnataka, Meghalaya and Assam. Again, in this scenario the state of Kerala is not an exemption. In fact, the state of Kerala has a unique experience with regard to migrant workers. The state has a combined character of being both the source as well as destination place for migration.

In this backdrop, the fundamental objective of the study has been carried out to examine the status and scope of human rights of unskilled migrant workers from Assam and as well to understand how the state of Kerala ensures those rights in the state with special focus on Perumbavoor, Manjeri and Urathur. The study commenced with a review of the central discourses on the origin and evolution of rights to human rights, and to understand the human rights of migrant workers. Later, legislative initiatives, programmes and policies of migrant workers in India have been investigated to review the status of rights in the country. Therefore, Kerala which has been the source and destination of migrant workers has been mapped to examine the status of human rights of unskilled migrant workers from Assam as well as the role of the state of Kerala in various welfare schemes with special reference to Perumbavoor, Manjeri and Urathur. This study reviews the fundamental objective with the help of fieldwork where insights have been drawn from the migrant worker, employer, agent, police, civil society, and local people. Besides, the analysis for the remaining objectives of the study have been made from the existing literature such as books, journals, newspapers, magazines, and working papers have been consulted as mentioned in chapter 1.

Chapter 2 and 3 of the study investigate the origin as well as the evolution of rights to human rights. The chapters attempt to understand the human rights of migrant workers in particular. The study presents that the rights which are believed to be the basic entitlements of the human beings as a member of the human society is rooted in the state of nature and its foundation can be traced back to religious messages, writings of secular thinkers, and historical and contemporary documents. According to social contract theorists – Hobbes, Locke and Rousseau, human beings had the right to life, liberty and property but with an aim to secure and protect those rights, social contract came into existence.

Over time, some of the rights secured social and legal recognition, and have been recognised as natural, moral and legal rights. The right to life, liberty and property which are considered to be enjoyed by the people in the state of nature are now referred to as natural rights and the rights which comes out from the ethical feelings are considered as moral rights for example – parents' rights over children. The rights which are recognised by the present form of state and enforced by the court of law are considered as legal rights but those kinds of rights have negative as well as positive character: where negative rights imply the existence of restrictions on the acts of the state upon the acts of individuals but positive rights imply the non-existence of the restrictions of the acts of state in improving the life of the citizens as well as in helping in their self-development.

According to natural rights theory, rights are natural and it came from nature itself therefore, not created by any artificial organisation. Some theorists even claim that rights are pre-social and these rights can be found everywhere and, in any place, whereas historical theory considers rights, law and state as the products of history but not the arbitrary creation of human will and nature. On the other hand, according to the social welfare theory of rights, rights and welfare are conditions of social welfare created by society with an aim to realise the social good whereas idealistic theory of rights considers rights as the external condition which is indispensable for the inner development of human beings. Unlike Marxists, who believe that rights are instruments of the dominant class through which they suppress the dominated class, therefore they believe in replacing the capitalist system with socialism after the revolution by the proletariat.

Contextualisation of rights with working people, who are also called as worker or labour in present day world, gives us an understanding of rights of workers or labour

as legal as well as human rights. The emergence of the voice for the rights of worker can be traced from the labour movement which resulted due to the long history of subjugation and exploitation where they used to work for long hours every day with no fixed hours of work in a day or in a week or month. This despicable history further influenced workers to raise their voice for improvement of their working condition and as a result, during the time of industrialisation in the nineteenth century, a strike was called in the USA to make eight hours of work in a working day and forty-eight hours in a week. Even though the strike was non-violent in its initial phase, it turned violent where many people were injured, few arrested and some people lost their lives and some were put in jail. But after all the difficulties, they finally achieved their ultimate goal.

In course of time, to secure as well as to protect the rights of all human beings, including those of the working class in different periods, many international institutions have come up such as League of Nations, ILO, UN where League of Nations was formed with an aim to maintain peace and security throughout the world after the first world war by preventing wars through collective security and disarmament, and by settling disputes through negotiation and arbitration. The Article twenty-three of the covenant of the LN states that members will work to ensure and maintain fair and humane working conditions for men, women, and children, both in their own countries and in all countries with which they have commercial and industrial relations, and will establish and maintain the necessary international organisations to do so. Later on, ILO was also formed to achieve universal and lasting peace where ILO believes that the same can be established only if it is based upon social justice. But due to the failure of League of Nations, UN was formed in 1945 and later on with the coming up of UN, rights as well as workers' rights secured the status of human rights.

Subsequently, with an aim to secure and protect those human rights of workers ILO brought many international conventions, importantly, concerning force or compulsory labour, freedom of association and protection of the right to organise, right to organise and collective bargaining, equal remuneration for work of equal value for both men and women, abolition of forced labour, discrimination in relation to employment as well as occupation, minimum age to come into employment, and doing away with the worse form of child labour. In course of time, these conventions set the core labour standards that is suppression of the forced or compulsory labour, protection of freedom of association, prohibition of discrimination, prohibition worse form of child labour, protection of right to organise, secure collective bargaining, secure equal pay for equal work without discrimination, set minimum age to enter into work. But the issue remained in its poor record of ratification, as without ratification it could not be implemented. Particularly, it has been found from the record of the convention that institutions are less concerned with the problems of migrant workers both at international as well as national level. But it can't be denied that in course of time rights of workers have been recognised as human rights through different international documents whereas the writings of different scholars have contributed too.

Further, the study states that human rights are those type of rights without which it becomes difficult to survive and it has its root in the religious messages, writings of secular thinkers, historical documents as well as contemporary documents as rights in general. Presently, the rights which people used to enjoy in the state of nature such as right to life, liberty and property also constitute the foundations of human rights. In the development of the concept of human rights the principal messages of various religious thinkers such as equality, self-determination, religious freedom, right to education, right to food, freedom of thought, non-discrimination, indigenous peoples' rights, against

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exploitation, and racial equality have also contributed. Similarly, the contribution of secular human rights thinkers can't be ignored and some of those contributions are liberty, right to property, right to security, right to justice, right to life, fair trial, against slavery, women's rights, right to work, freedom of association and thought, law as the only source of rights, and workers' rights. Again, the contributions of the early documents also can't be denied where the discussion on some of the following elements of human rights can be found– ban of forced labour, and abolition of slavery.

At present, the rights which appeared in those documents and messages have also been codified under the international law such as UDHR, ICCPR and ICESCR and with this codification it has achieved international status. In course of time the concept of human rights achieved various perspective where the universal perspective considers human rights as universal in nature and therefore it has to be enjoyed equally by all but according to relativists, human rights is not universal because different cultures have distinct consideration of rights. According to liberal perspective, individuals have inborn as well as inalienable rights whereas, according to socialist perspective, civil and political rights are not natural rights but those are the rights of the bourgeois which evolved with the coming up of capitalism to serve their interests. But, the third world or developing countries give it more importance rather than other rights.

When human rights achieved various regimes at international, regional and national level, the migrant workers also achieved a regime at international level i.e. ICRMW which aims to ensure the rights of migrant workers and the members of their families. The ICRMW defines migrant worker as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national". ILO's concern over migrant workers appeared through the *Migrant Workers (Supplementary Provisions) Convention in* 1975 and *Migrant Workers*

Recommendation in 1975. Unfortunately, even though there is a regime to ensure their rights, still violation of human rights as well as exploitation take place around the world which can be due to the weak record of ratification of the regime. But over time, the migration especially workers migration is increasing.

In brief, Chapter 2 and 3 reveal that rights is a basic entitlement of human beings as members of the human society which is rooted in the state of nature and its foundation remains in the religious principles, works of secular scholars, and historical as well as contemporary documents. Gradually, some of those rights secured social as well as legal recognition which further has been categorised as natural, moral and legal rights. In the context of rights with regard to workers, the strong consciousness emerged with the call of a strike in Haymarket against the subjugation as well as the exploitation of workers where they had to work for long hours a day with no fixed hours of work in a day or a week or month. Even though the strike resulted in bloodshed, workers achieved some of their goals: specified working time and number of working days.

In course of time, the rights of workers achieved protection from international institutional regime through international law which set the core labour standards. Besides, with the arrival of UDHR, rights and rights concerned with workers attained the status of human rights where it has been recognised as equal and inalienable for all the members of the human family for freedom, justice and peace around the world. Further, after the arrival of UDHR, also several international conventions came into existence which further provided the protection of human rights and became the regimes. Particularly, migrant workers also achieved a regime at the international level from ILO in 1975 through the conventions: *Migrant Workers (Supplementary Provisions)* and *Migrant Workers Recommendation.* Also, the UN provided a regime

in 1990 through ICRMW which ensure the rights of migrant workers including those of their family members.

Chapter 4 investigates legislative initiatives, programmes and policies of migrant workers in India. The discussion reveals that in India, the origin of the idea of rights developed during the national freedom movement through Swaraj Bill, Commonwealth of India Bill, Nehru Report, Karachi Report and Sapru Report but the philosophy of equality and brotherhood can be found in the Rigveda. Some of the rights that have been recognised as crucial for the survival of human beings, particularly citizens of the country during national freedom movement are liberty, equality, freedom of speech and expression, freedom of religion, right to property, right to petition, equality before the law and freedom to assemble peacefully.

After her independence India incorporated those rights. In this regard, the idea of Sapru Committee to make some rights justiciable and non-justiciable was also considered. As a result, India came up with the idea of providing fundamental rights and directive principles of state policy. Today, on violation of fundamental rights, one can go to the court of law whereas the latter remains only as directives of governance. Later on, the idea to have fundamental duties was taken up in the Karachi Resolution and it was materialised through the forty-second Constitutional Amendment of 1976.

In course of time, with an aim to protect the rights of the working population, different laws were made and being continuously amended. Besides, many international labour laws have also been ratified to meet the need of the time except ICRMW. But still their rights are being violated where migrant workers are not an exemption. With regard to migrant workers, particularly in unorganised sector, they are the victims of exploitation in the hands of contractors, middlemen or employers due to lack of proper implementation of the existing laws as well as due to inadequate laws.

Though India came up with *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act* in 1979 due to its inadequate implementation condition of migrant workers is pathetic in the country. In unorganised sector, the migrant workers face issues like non-payment of minimum wages, deduction in agreed wages, non-payment in time, no fixed hours of work, no extra wages for overtime work, no financial and medical assistance at the time of accident, nobody owns the responsibility of death, non-availability of drinking water, toilets, canteens and many.

Migrant workers and their families, due to their migratory nature cannot enjoy the benefit of the initiatives such as AABY, SGSY, PMGSY, SGRY, NFFWP, IAY, IWDP, and PDS implemented by the relevant Ministries and Branches of Government of India. Therefore, considering the pathetic condition of migrant workers as well as their families several organizations such as Krishak Sabha, Mobile Crèche Organisation, Aajeevika Bureau, Labournet, Disha Foundation, Aid de Action, Indo-Global Social Service Society, Lokadrusti, Butterflies, SETU, DISHA, KMDS, SEWA have come up. Presently, when some of the organisations are working in different areas such as registration, identity card, skill training and employment, knowledge and capacity building, health care, empowerment and destination support, some are working to increase the bargaining capacity of migrant workers, education of migrant workers' children and many. As a result, children of migrant workers are getting an education through *mobile crèche* and *school on wheels of Door Step School*, and migrant workers are getting subsidised food and non-food items in some places.

In brief, Chapter 4 reveals that the idea of the concept of rights developed primarily during the national freedom movement in India, although the philosophy of equality and brotherhood can be traced from the Rigveda. After India's independence, rights have been materialised through the constitution of the country. Some of those rights

have been placed into fundamental rights and directive principles of state policy where the former has been made justiciable. Again, fundamental duties were brought up in 1976. In order to provide more protection to the rights of workers including internal migrant workers, labour laws were made and amended over time with the need of the hour. But the important international convention (ICRMW) of the UN remained unratified. Although India has *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act*, the insufficient execution of the Act has led internal migrant workers to accept low payment, deduction in wages and unspecified working time, lack of bonus and financial and medical support. What's more, nobody owns the responsibility in case of death as well as there is lack of accountablity when it comes to provisions like drinking water, toilets, canteens and others.

Besides, the migratory nature of migrant workers also keep them bereft of benefit of the governmental policies and programmes: AABY, SGSY, PMGSY, SGRY, NFFWP, IAY, IWDP, and PDS. Therefore, various civil society organisations developed welfare initiatives for migrant workers in the country concerning registration, identity document, skill training, job, capacity building, health security, destination support, bargaining power, and education of migrant children. Further, it has resulted in imparting education through *mobile crèche* and *school on wheels* service to migrant children and subsidised food and non-food items in some of the locations.

The discussion through chapter 5 reveals that indeed, the state of Kerala has a unique character with regard to migration. Kerala is mainly a source of international migration and destination for internal migration, also known as inter-state migrants. Realising the necessity, the state of Kerala has been conducting migration survey which studies primarily its out-migration and in-migration. Apart from the migration survey, various

institutions such as CDS (Centre for Development Studies, Kerala), GIFT, CMID have also conducted a survey and study in relation to internal migration in Kerala. According to their reports, the state has a considerable number of internal migrants and they are the migrants who have filled-up the workers' gap in the state.

Among the Keralites, the search for better livelihood as well as the purpose of improving the socio-economic and demographic factor, have served as reasons for the migration of the natives to different countries particularly to the Gulf countries. But as a result, it has also created a vacuum of workers to be filled by migrant workers which further invited workers from other states such as West Bengal, Assam, Odhisa, Uttar Pradesh and Karnataka. Further, this replacement migration kept married Keralite women away of their spouse, and made the Keralite dependent on migration for employment, sustenance, housing, household amenities, and institution building.

The study revealed that all the districts of the state of Kerala engaged migrant workers in mining (laterite mining), construction, hotel and restaurant, agriculture, manufacturing, and trade. Whereas Perumbavoor appears to be one of the oldest settlements for migrant workers from Assam but currently they are found working in different pockets of Malappuram and Kannur followed by other districts. The study, conducted in Perumbavoor, Manjeri and Urathur as mentioned in the previous chapter 1, showed that the respondents belong to different age groups where the maximum number of respondents falls under 25 years of age. These respondents of the study consist of General, ST, SC, OBC categories who belong to Hinduism, Islam and Christianity. None of the respondents of the study hold a Bachelor's degree and diploma in skill training. But it has been reported that there are many skilled migrant workers in Kerala.

The study revealed that every one of the respondents stays in a sharing room provided by the employer or rented, that are mostly overcrowded with low maintenance and limited water. The report of the GIFT prepared by Narayana and Venkiteswaran in 2013 also found that the dwelling place are crowded ones where there is hardly any space to move. The free accommodation rooms appear worse than the rented rooms. Whereas, the unhygienic living standard of the migrant workers appears worse in some of the dwelling places. Besides, it is also observed that in some of the residents of the migrant workers the preparation of their dinner is also unhygienic due to the limited water and their standard of living. Further, the study presents that although the respondents and migrant workers are availing the toilet and drinking water in the workplace as well as at the residence, the problems remain in the quality which need to be improved for better living standard and health security.

The study found that the respondents have been pushed by unemployment, poverty and low wages from Assam to different places, although the reluctance of work at the source and migration at own also form the basis for migration from the state. Further, the previous occurrence of conflicts in the state, attacks of armed groups, and the existence of underground armed groups, directly and indirectly, have appeared as obstacles in the development of the state which has resulted in the migration of workers. Besides, the failure to engage workers through developmental projects and governmental schemes like MGNREGA, the existence of underground groups, and properly non-implementation of the schemes have also pushed the workers to move out for work in other states that include Kerala.

The study showed that due to the better wages and available work opportunities, workers of the state of Assam have often made use of the state of Kerala as their destination where majority of the respondents have been to Kerala for higher wages,

followed by more work opportunities. Besides, the better working conditions with specified working hours by the employer, breakfast in the morning and lunch (in some workplaces), cheap medical facility, and open labour market appear to be the attracting factors of migration to Kerala. The migration of workers from Assam have also been accompanied by the family members where friends, relatives, former migrants and family members have played as channels.

The study revealed that the employer bears the cost of first aid medical treatment. Besides, the cost of medical treatment is covered under the *Aawaz Insurance* up to fifteen thousand a year in Perumbavoor although the respondents of the Manjeri and Urathur are deprived of it. In a situation like work-related accidental death and permanent damage caused by accidents, some employers give a certain amount of money and send the dead body or injured persons home and sometimes workers collect the expenditures of travelling for the same. This insurance facility has also failed to reach all the migrant workers in Kerala. Therefore, the migrant workers of Manjeri and Urathur remain deprived of insurance coverage which includes free medical treatment and compensation for accidental death.

The study found that although none of the respondents have faced any kind of personal security issues, such as arbitrary arrest, detention without warrant and physical torture or torture of any kind, in their working experience yet there are reports of physical attacks on migrant workers in Kerala where a migrant worker from Assam was killed in 2016 on suspicion, and a migrant worker was shot by an airgun by the employer in the same year. Besides, it has also been reported that there are issues of ill-treatment on migrant workers in some places of Kerala which have gone unreported.

Although the data of the present study presents the absence of slavery, bonded labour, sex trafficking practice in the study area, there are some respondents who express the

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existence of workers who are less than fourteen years of age in plywood factories in the Perumbavoor area. One of the NGO workers from Barpeta, Assam working in Kerala also agreed to this point, according to him such workers work as dish and plate cleaners in hotels and restaurants but owners hide them during inspections. In Urathur also, some of the workers have a suspicion on the workers of Karnataka during the vacation of schools, school-going children come to work who could be below fourteen years of age. But the present Executive Director of the CMID, Kerala disagreed on the existence of child labour in plywood factories of Perumbavoor. Besides, James John says that there is a practice of prostitution in the Perumbavoor area but during interrogation, women do not reveal but defend as it is for sexual pleasure only. Further, he pointed out that migrants usually approach police for help in certain cases only such as theft, missing partner, assault etc.

The study found the existence of a gap between the migrant workers and the locals in Kerala because of which migrant workers are being branded for crime record hike, detection of new disease and stealing jobs. In some respect migrant workers can be regarded as a necessity for various kinds of work where they fill the job gaps that the locals have left because the local prefers to work outside the state and country as well as they are reluctant to work in the state. In this context, some of the Keralite respondents have also agreed. On the other hand, it is also true that there are some murder cases where association of migrants can be found. Besides, it has also been reported that the local people of Kerala treat migrant workers as others which should be encouraged.

The study presents that none of the respondents is a member of any worker union. Therefore, due to the lack of union membership and migrant workers union, they have failed to remain united and to raise their voice for their entitlements and any kind of

injustice. But it is reported that sometimes, money is collected in the name of workers' union with a promise to help at the time of difficulties. Besides, the study also reports that none of the respondents of holds a voter card of the state of Kerala, although some of them have been found working for more than three years in the same areawhich is due to the frequent migration to various places, absence of necessary documents, and negligence of the migrant workers they are out of the electoral roll of the state. In addition, the lack of authority's attention on migrant workers also forms one of the reasons for the same. It is reported that during every parliament or state assembly elections, the state of Kerala is greatly impacted by shortage of workers as migrant workers leave for voting in their respective states. But the migrant workers in Kerala follow their religion and they celebrate the religious festivals.

To be very clear the migrant workers working in Kerala follow their religion and they celebrate religious festivals in certain specific places, say for instance – Christians celebrate Christmas in Church, Muslims do religious prayers in Masjid but Hindus celebrate mainly during Biswakarma and Diwali with certain restriction put by the house owner and locality of the living places. During Onam employers give some kind of treat to the workers in certain working places.

In this study the respondents have been found working in construction, plywood factory, mining, hotel and restaurant, garage, garment shop, poultry farm, and school ranging from zero-six months to beyond three years working experiences. Among them nearly one-fourth of the respondents (see table 5.27) have multiple working experience in construction, plywood, mining, and hotel and restaurant followed by mining, plywood, construction, hotel and restaurant, garage, and garment shop. It is reported that in Perumbavoor, majority of the workers from Assam work in the plywood industry as experienced workers whereas workers from the state of Odisha and West Bengal

work as helpers followed by restaurants and hotels, garment shops, and saloons. Likewise, in Manjeri too migrant workers are also found working in restaurants and hotels, garment shops whereas migrant workers are mostly found engaged in the mining in Urathur. But it is observed that although the data has not represented more numbers of respondents in construction, hotel and restaurant, garment shop, and poultry farm there are several migrant workers.

The study also presents that the majority of the respondents work in the mining sector where the majority of them earn above the minimum wage rate of unskilled workers presented through table 4.13 and 4.13 through chapter 4 followed by the plywood sector where again the majority of them earn the minimum wage rate of unskilled workers or above. The study reveals that wages of the workers primarily depend on the sectors as well as working time. The study further reports that although quite a few migrant workers enjoy better wages, non-payment still remains a major concern among the migrant workers in Kerala as well as the harassment by the police during complaints for the non-payment issue.

The study presents that wage is primarily decided by the employer although in some cases the migrant workers are also taken into consideration by some of the contractors and employers where the migrant workers show less concern over the rights to collective bargaining in Kerala because their wages are more than what they get at their source place. Further, the migrant workers are dependent on employers for overtime pay as they are dependent on employers for work opportunities. Therefore, bonus is also decided by the employers. But the study has found that equality of payment for equal work is also yet to prevail in some of the working places in Kerala although the Constitution of India and Labour Laws state equal pay equal work.

Furthermore, the study has also revealed that although the majority of the respondents work for five to six days a week, there are some of the respondents who work either due to the employers' pressure or at their own will to earn as much as they can to send more money home to meet the needs of the family.

The study has showed that out of the income through wages, the respondents spend up to six thousand a month for daily expenses and they also send the income for their family maintenance, to return the debt, to recover family property, to build a house, to support the education of family member, to support friend's education through various means: *PayNearby* and *Fino Payments Bank*.

Further, with an aim to know the cultural rights enjoyed by the migrant workers in Kerala an open-ended question was placed to the respondents of the study. In response to that, some of the respondents viewed that they enjoy certain cultural festivals such as Bwisagu or Bihu in their rooms only amongst themselves. It is reported that in Kerala, employers and house owners restrict them from creating noise in the locality. During the fieldwork, respondents have expressed the availability of work with better wage, free insurance coverage, free food at work and free accommodation although there have been reports on the inequality of payment between the local and migrant workers. But migrant workers in Kerala do face language issue and sometime attack on suspicion, and dirty, degrading and dangerous kind of jobs with lack of safety equipment.

In the destination state, there are some examples of schemes initiated by the state of Kerala for the welfare of the migrant workers. Those welfare schemes provide healthcare assistance, accidental benefit, educational allowance for children of migrants, financial assistance for death and for transporting body, medical treatment, resident, creche service, and literacy mission to enable illiterate migrant workers to read

and write in Hindi and Malayalam as well as to make them aware about legal, health and environmental matters. Besides, NGOs are working for issue of non-payment, compensation of injury and accidental death, and missing of migrant workers. But the outbreak of the COVID-19 pandemic has weakened the existing policies of the state. Even though there are some examples of workers' strike, at initial period of nationwide lockdown in the country, primarily for transportation to their home state, the state of Kerala has managed to help the migrant guest workers to their level best.

Those migrant workers in Kerala gather at workers' Naka to get the information about the work. As there is a lack of proper working hours, collective bargaining for wages and equal pay for equal work, there is a space for intervention by Union of workers as well as Government of Kerala.

Considering the migrant workers condition in Kerala it can be stated that there are some important areas which need attention from the employers, Government of Kerala as well as Government of India to ensure the enjoyment of human rights of migrant workers in the destination state of Kerala. Among those, some of the pertinent areas are physical torture in suspicion, working hours in a day, unequal remuneration, lack of collective bargaining, non-enrolment in voter list, non-formation as well as non-joining of workers in union, prevalence of child labour, lack of social dignity of migrant workers, regional discrimination on wages and insurance policy. But other states of India such as Assam can learn many lessons from Kerala such as Kerala Migration Survey, Insurance Policy for migrant workers and scheme to teach local language to migrant workers.

On the basis of discussion on the study it has also found that in the working sectors of Kerala migrant workers from various states of India have filled up the gap of workers. But the present study has primarily examined the human rights of unskilled migrant

workers from Assam in Kerala. Therefore, a separate study can be conducted, taking care of sample size, study area, number of stockholders for interview and women migrants, to examine the human rights of migrant workers from various states of India in Kerala.

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Appendix

Interview Schedule

Sir/ Madam,

I am a PhD Research Scholar of the Department of Peace and Conflict Studies and Management, Sikkim University doing a research on the topic 'Human Rights of Migrant Workers in India: A Study of Workers from Assam in Kerala'. In this regard, I am conducting this field work to examine Human Rights of Migrant Workers. I assure you that the collected information will be used only for the purpose of research and the same will be kept confidential.

Thank You

Swgwmkhang Brahma

(Swgwmkhang Brahma)

To be filled by the Respondents
Please use the tick (√) mark wherever necessary

Part I: Profile of Migrant Workers

1. **Migrant's Profile**

   Name: …………………………………………………...…(Optional)

   Religion:

   [1]. Hindu   [2]. Islam   [3]. Christianity

   [4]. Buddhism   [5]. Other ....

   Age:

   [1]. Below 14 years   [2]. 15-25 years   [3]. 26-36 years

   [4]. Above 37 years

   Gender:

   [1]. Male   [2]. Female   [3]. Other ....

   Educational status:

   [1]. Illiterate   [2]. I-VII   [3]. VII-XII

   [4]. Bachelor degree   [5]. Diploma   [6]. Other ....

   Caste:

   [1]. General   [2]. ST   [3]. SC

   [4]. OBC   [5]. Other ....

2. **Do you have voter ID?**

   [1]. Yes   [2]. No

   If yes, voter ID of which state?   [1]. Kerala   [2]. Assam

Part II: Factors and Channels of Migration

3. **What is the most important factor that led you to migrate from your native place?**

   [1]. Threat to life   [2]. Unemployment   [3]. Poverty

   [4]. Poor wages   [5]. Natural calamities (Flood, drought etc.)

   [6]. Other ....

4. **What is the major reason that attracted you to migrate to Kerala?**

   [1]. More work opportunity   [2]. Better working condition

   [3]. Better wages

   [4]. Family members, Relatives & Friends working in Kerala

   [5]. Other ....

5. **Who helped you in migration and placement of work?**

   [1]. Family members [2]. Friends   [3]. Relatives

   [4]. Former migrants [5]. Agents   [6]. Contractors

   [7]. Other ....

Part III: Residence in Kerala

6. **Working place of Migrant Workers**

   Name of working place: .... **(Optional)**

   District: .... **(Optional)**

7. **Are you staying with your family in Kerala?**

   [1]. Yes   [2]. No

   If yes, do your children go to school?

   [1]. Yes   [2]. No

   Number of persons in a room/house:

   [1]. 1-3   [2]. 4-6   [3]. 7-9

   [4]. 10-12   [5]. Above 12

   Cooking arrangement:

   [1]. Individual   [2]. Common

Fuel:

[1]. Kerosene   [2]. Firewood   [3]. Gas

[4]. Other (specify)……

Toilet:

[1]. Yes   [2]. No

Drinking water:

[1]. Yes   [2]. No

Rent per Month per person in Rs:

[1]. 200-400   [2]. 400-600   [3]. 600-800

[4]. 800-1000   [5]. 1000-1200   [6]. Above 1200

Monthly expenditure (in Rs)?

[1]. 1000-2000   [2]. 2000-3000   [3]. 3000-4000

[4]. 4000-5000   [5]. Above 5000

Part IV: Employment and Wages

8. **Have you stayed in Kerala earlier?**

    [1]. Yes   [2]. No

    If yes, place ………………….… and duration ……………………….............

9. **What is your present occupation/sector of working?**

    Occupation/ sector ………………....….... and duration ……………………

10. **Are you a member of any Workers' Union?**

    [1]. Yes   [2]. No

11. **How many hours do you work in a day?**

    [1]. Below 8 hours   [2]. 8 hours   [3]. Above 8 hours

12. **How many days do you work in a week?**

    [1]. 1-2 days   [2]. 2-3 days   [3]. 3-4 days

    [4]. 4-5 days   [5]. 5-6 days   [6]. 7 days

13. **What is your wages in a day (in Rs.)?**

    [1]. 200-400   [2]. 400-600   [3]. 600-800

    [4]. 800-1000   [5]. 1000-1200   [6]. Above 1200

14. If you work more than 8 hours in a day, do you get extra wages?

[1]. Yes   [2]. No

15. Who decides your wages?

[1]. Employer   [2]. Union   [3]. Agent

[4]. Worker   [5]. Other _____

16. Do all workers get equal pay for equal work?

[1]. Yes   [2]. No

17. How do you get the treatment of your medical issues?

[1]. Employer   [2]. Personal

Part V: Security of Migrant Workers

18. Have you ever faced any personal threats?

[1]. Threat to life   [2]. Arbitrary arrest   [3]. Detention

[4]. Physical torture or torture of any kind   [5]. Other _____

19. Have ever noticed the practice of following issues in Kerala?

[1]. Slavery   [2]. Bonded labour   [3]. Child labour

[4]. Trafficking for pornography   [5]. Other _____

20. Have you ever heard about the branding of migrant workers for any of the following issues in Kerala?

[1]. Increase of crime record   [2]. Detection of new disease

[3]. Stealing job from local workers   [4]. Other _____

Part VI: Celebration of Cultural programmes and Personal experience

21. What are the cultural programmes do you celebrate?

………………………………………………………………………………………

………………………………………………………………………………………

………………………………………………………………………………………

22. What are the experiences and facilities you enjoy in Kerala as Migrant Worker?

………………………………………………………………………………………

………………………………………………………………………………………

………………………………………………………………………………………