Un-Packaged Exploitation: Intra and International parallels in Issues of Migrant Labor

Dr Shashikala Gurpur, Dean, Faculty of Law, Symbiosis International University, Pune, India

'Capital is global; as a rule labor is local'[1]

Migration is incidental to international globalization. The market forces have expanded and catalysed the phenomenon of globalisation beyond trade and capital, to enfold people as 'trade-off between economic welfare and basic human rights'[2]. Packaging has been the facilitator for market. One packages goods in order to present them well so that a customer is attracted to buy. In political context, political packaging is a term of art denoting how the party and leaders present themselves to voters. Packaging of services is again through multiple modes of communication including advertisements and other forms of persuasion which form the core process of sale or purchase of one's service or one's labor. Whether the consumer or the customer perceives the true agenda of the seller/provider or not, s/he is tricked into a relationship, which may not always be an endearing or an equitable one. Transnational studies have proved that only if trade can concur with labor standards, the lives of workers will improve. Better labor standards are laid down by countries in response to trade pressure, customer incentives and incentives from the government. [3]

In the backdrop of such interconnections between trade, customer, government and the labor, this paper dwells on and unpackages those issues of migrant labor which in their core, encrypt the plight as the package of exploitation, while the right against exploitation is one of the cardinal principles in all human rights instruments and constitutional guarantees. Yet, the ironical cycle of exploitation unifies migration, at least in case of Indian migrant labor, intra-nationally and internationally. In the light of Right to Development and Millenium Development Goals[4], juxtaposed with the guarantees in the Constitution, it argues for a comprehensive, new approach in addressing the migrant labor both intra and internationally.

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[1] ManuelCastells,*The Rise of the Network Society*, (Cambridge: Blackwell:1996), pp .475

[2] Elsewhere, the author has laid out the exclusive case of transnational migrant worker, see www.slideshare.com, with presentation at the Symbiosis-Sussex Joint International Seminar on 'Globalisation and Human Rights' December 10, 2007

[3] 'Globalisation and labor standards in action', *Labour Law Global*: Institute of International Economics, Can Labour standards improve under globalization? pp111-126, at www.iie.com accessed through www.google.com, hails the role of ILO, in view of developments in China, Pakistan, Cote d'Ivoire, Cambodia and Bangladesh

[4] See respectively, *Declaration on the Right to development 1986* and subsequent *Vienna Declaration and Program of action* in www2.ohchr.org/English/issues/development/right/index.htm; and, *Millenium Development Goals* in www.undp.org/mdg/basics.html

In the following section, two different cases are discussed. These cases are chosen as snapshots of reality and entry-point to show the parallels in facts, circumstances and policy-blindness at the intra-national (India-specific) and international level

Case A: Karuna and many others

Karuna boarded the bus to Mumbai from a remote village in the coastal district of Costal Karnataka in Southern India with the dream of big money to alleviate her family from hunger, poverty and destitution, only to never return. For last six years, her parents and the extended family nurse hopes of her return and enquire with everyone, although they had no evidence of the agent who mediated her departure or the details of the destination.

Such cases set out the multiple factors underlying migration like gender, poverty, lack of information and awareness; therefore, making the migrant vulnerable. News report of Karuna's type frequently carry the stories of young girls who go missing after they board the transport to Mumbai for 'jobs'. One such report was probed further, only to reveal the plight of the villages where the means of production/income have not kept pace with the population growth. Land resources are controlled by a few and they have remained constant while the population has increased mani-fold. The traditional routes of migration are to Mumbai through the road transport network and most recently the railway network. The system is fuelled by the network of agents who mediate such migration of girls as domestic servants to rich families. The 'missing' cases of girls account for either untimely death due to some illness or forced prostitution or abuses culminating in suicide or murder. Karuna's report has urged that systematic documentation be maintained in the local police station with details of the receiving family and their undertaking to keep the village family informed from time to time, alongside the networking between the regulatory authorities of the two sites. Further, it calls for awareness-creation in the villages, in particular, with the parents and family of such girls who become the 'saviors' for their family poverty and end up as victims.[5]

Case B: The 'Outsiders'

Though unspecific in terms of individual references, another intra-national migration issue has been the large scale interstate and rural urban migration. To escape both poverty and exploitation and often persecution for reasons of caste or religion, such migrants move from the original site, although their unfamiliarity and poverty might only transform rather than end their vulnerability. Nearly 60% of the Indian labor force is

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[5] '*Story of Karuna*', Udayavani Kannada Daily (vernacular newspaper in Kannada language) at www.udayavani.com

agrarian, while the informal sector accounts for 93% of total workforce.[6] Migration to industrial metros are due to increase in labor demands and some authors attribute such increase in labor demand elasticity to trade liberalization with other factors such as weakening of the bargaining power of trade unions and easing of labor regulations in mid-1990s. While one does not note any important change in labor laws or in union's formal presence or power, other factors may have increased flexibility. These include, weakening law enforcement, recourse to temporary workers, increasing use of casual and contract labor and shifting stand of judiciary.[7] In addition to this, it is observed that the gendered nature of unorganized economy where significant percentage of women, besides working as 'unpaid family workers,' project the specific aspects of ineffectiveness of protective labor laws, which seeks paradigm shift in policy'.[8]

The response to outbound migration from one's own state is problematic and is further evident in the emerging political currents where new parties harp on the right of the local over the migrant and advocate their manifesto around the economic rights. [9]

Parallels can be drawn between such political agenda in various countries which crystallize into exclusionary policies of work or naturalization or visas for foreigners or refugees[10]. The magnitude of migration is astounding as the numbers have constantly increased from 175 million living outside their country as of 2000.[11] Some of the transnational migrants receive the package of exploitation in terms of wage disparity

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[6]TK Oommen: 'Indian Labour Movement: Colonial Era to the Global Age',pp.81-89, *Economic and Political Weekly*, Vol XLIV No 52, Dec 26-Jan 1,2010, , citing NCEURS states that culture matters in the analysis of labor movement in India and not escape impact of globalization.

[7] Bishwanath Goldar, 'Trade Liberalisation and Labor Demand Elasticity in Indian Manufacturing', *Economic and Political Weekly*, Vol XLIV No 34, August 22-28, 2009

[8] Padmini Swaminathan, 'Outside the Realm of Protective Labour Legislation: Saga of unpaid labor in India', *Economic and Political Weekly*,Vol XLIV No.44, 2009, pp 80-87 at 87

[9] Refer to the emergence of Maharasthtra Nav Nirman Sena (manase/MNS) and its agenda on Right to work, often taking the shape of forceful eviction of migrants from small trade, business and work in order to induct locals, where the narrow concept of 'Manus – the human being' is articulated to exclude or contain 'outsiders' (refer to Objective 4: 'the interest of the Marathi Manus is of prime importance...'. Further, in the section on Core Beliefs, first core program reads, 'control the political dominance of migrants and protect the opportunities of the Marathi Manus', www.manase.org, accessed on 30/3/10 at 7.04 pm.

[10] See K.C. Zakariah, B.A Prakash and S. Irudaya Rajan, *Gulf Migration Study: Employment, Wages and Working conditions of Kerala Emigrants in United Arab Emirates*,2002, available at www.cds.edu.; also refer to provisions regarding concept of 'control' for H-1B visas under the US Immigration and Nationality Act

[11] For detailed statistics and analysis,see Martin Ruhs and Ha Joon-Chang: 'The Ethics of Labour, Immigration Policy', *International Organisation*,58, 2004, pp.69-102 at 69 to 70,accessed on www.google.com

based on nationality, visa scams, job insecurity, dubious and vague job contracts which ultimately result in debt traps and suicides[12].

These two cases prove that striking similarities exist between the intra and international migration in terms of commonality of causes and responses, wherein the intra-national resistances target the perceived 'privileges' of migrants in the same fashion as the international responses do[13].

Unpackaging Exploitation and Rights Approach:

Scholars argue for transcending and deterritorialising approaches to ensure rights and justice with democracy, good governance and gender equality as part of development agenda. These are prescribed in order to reduce push factors for migration and to reshape it as an informed choice and development- friendly. Further they favour, 'circular migration' to alleviate poverty, instead of 'managed migration' which feeds the black economy[14].

India hopes for containing rights-violations and meting out justice to such invisible population through the new initiative of 'smart cards' which may tackle cracks of 'migration unrecorded and migrants going undocumented', by pressing technology into action, under the leadership of Mr Nandan Nilekani, IT leader. It addresses the need for domestic labor law, labor registry, to include unorganized sector as labor is the important mode of transaction. Such reform goes against the powerful entrenched interests and is very much in consonance with what various authors have argued for, 'not to sever migration from global development'[15]. In all, it asks for what Santos calls as 'globalization from below: the cosmopolitanism of the oppressed' linking social groups, networks, initiatives, organizations and movements that oppose hegemonic globalization, wherein the law- focused activity, 'the cosmopolitan legality ' holds much promise[16].

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[12] See *supra* Note 2, the author has been a witness and listener to such unfair situations in UAE during the tenure as HR Head between 2004 and 2007; also see various reports from *Gulf News* (daily newspaper of highest circulation in UAE).

[13] For a comprehensive discussion of situation, approaches and action, see *Migration In an Interconnected World: New Directions for Action* (Report of the Global Commission on International Migration: Switzerland:2005), available at www.gcim.org.

[14] For a detailed analysis, see Satvinder Singh Juss, *International Migration and Global Justice*, citing International Development Sixth Report on Migration and Development', he argues for new theory and new paradigm in migration analysis, (London: Ashgate:2006), pp.291-293.

[15] *Ibid*

[16] Fran Anslay, 'Local Contact points at global divides: labor rights and immigrant rights as sites for cosmopolitan legality' in Santos B.D and Rodriguez-Garavito (ed) 2005, *Law and Globalisation from Below: Towards a Cosmopolitan Legality*,(London: Cambridge: 2005), pp.158-181, at p.169