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New Institutional Economics of Informal Sector Migration of Labour in India: A Case Study of Nuapada District of Odisha

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Abstract

Distress seasonal migration to the informal sector is the most important livelihood diversification strategy in the backward regions of Odisha. But the element of exploitation associated with it is intolerable. Exploitation of the migrants is due to informalisation, which is rooted in informal institutions working at different levels. In this paper, basing on empirical data from study conducted by him in Nuapada district of Odisha in 2012-13, the author attempts to examine the role of institutions in informalisation in the perspective of the New Institutional Economics. The study concludes that distress migration in the study area is due to the weak institutions and transforming weak institutions into strong institutions through proper intervention can ameliorate the plight of the poor through proper diversification of livelihood that ensures safety and dignity.

Key words: *informalisation, livelihood, migration, institutions, intervention*

1. Introduction

Internal migration of labour has been in focus in academic researches and policy debates over decades as it has implications for economic development (UNESCO 2017; Deshingkar and Grimm 2005) and hence, its several dimensions need proper appraisal at appropriate levels. The scholars and the research publications by the Non-Government Organizations (NGOs) have unraveled interesting facts about the lacuna in the official data that does not capture all types of migrations and their related dimensions (Bhagat 2005; Deshingkar and Grimm 2005; Deshingkar and Akter 2009). Owing to the gap in cognizance of the phenomenon the outcome of public policy intervention is at conflict with the stated goals. It is revealed that migration from the underdeveloped regions is normally undertaken by the poor, during the post-Kharif period to cope with the problem of distress in livelihood, in the direction of informal sector, which they eventually accept as the economic asylum for survival (Rajan et al. 2023; Smita 2007; Mitra and Murayama 2008; Meher 2019; Mander and Sahgal 2012). The phenomenon, designated as distress seasonal migration, is associated with multi-dimensional poverty, lack of access to employment and debt burden of the masses (Meher 2019; 2023; Smita 2007) and is construed as an exit route out of poverty (Shah 2010) although it throws them into 'perennial cycle of debt' rather than

uplifting them economically and socially (Meher 2019). Studies emphasize upon the role of informal institutions in migration as well as in inter-linkage among various types of rural markets (Mishra 2020; Meher 2017) in which patron-client relationship plays an important role (Deshingkar and Akter 2009; Meher 2023). Concepts propounded by the New Economics of Labour Migration (NELM), such as, 'reference group' and 'social network' have also been discussed in literature to explain the phenomenon of migration by the poor (Banerjee 1983; Meher 2023; Aslany 2021). The present paper specifically focuses on the distress seasonal migration to the informal sector destinations and seeks to examine the role of institutional factors in informalisation. It seeks to establish whether institutions promote migration and become means of exploitation of migrants. Thus, the study examines the informalisation in migration in the perspective of New Institutional Economics (NIE), and finally, suggests improvements. For the research investigation the author employs analytical approach and utilizes the primary data collected from 225 sample migrant households in Nuapada district of Odisha state during 2012-13. Nuapada being an important constituent of the Koraput Balangir Kalahandi (KBK) region in the state of Odisha has always been in the forefront in terms of mass poverty and other socio-economic malaise (Harichandan 2010; Sainath 1996). Researches reveal that poverty is a 'multi-dimensional social phenomenon' that encompasses institutional factors too (Narayan et al. 1999; Narayan et al. 2000; Spikar 2007; Lister 2004; Sen 2004). As per the NITI Aayog's National Multidimensional Poverty Index (MPI) 2021 report, 29.35 per cent (pc) of the State's population is multi-dimensionally poor. The MPI has been calculated considering three equally weighted dimensions - health, education and standard of living. In Nuapada district, the ratio is 38 per cent. The total no. of rural households in the District is 1,44,299 as per the 2011 census. The Below Poverty Line (BPL) families in the district comprises of 78% of the total population. The total Scheduled Caste (SC) and Scheduled Tribe (ST) population comprise 13.46 % and 33.80 % of the total population respectively. The magnitude of migration from the Nuapada district in Odisha is very high although it cannot be revealed with exactness. The migration is mostly of distress nature undertaken seasonally and is mostly circular such that it is repeated year after year during the same season. Studies have found that seasonal migration has been the most preferred alternative livelihood diversification strategy for the poor in the event of uncertain employment in agriculture and Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) (Meher 2019, 2023).

The paper is divided into six sections. The present section gives the introduction in brief with a brief profile of the study area. The section states the objectives of the study and the sample taken for investigation. The second section gives the brief profile of the migrants from the study area. The third section gives an overview of the livelihoods through the informal sector. The next section defines institutions and links it to informalisation. The fifth section examines distress seasonal migration from the study area focusing on informality in a 'New Institutional Economics' (NIE) perspective. The sixth section concludes the paper and suggests recommendations.

2. Brief Profile of The Migrants

The distress seasonal migration from the study area dominated by females is mostly inter-state in nature with 79 percent of the sample migrating to Andhra Pradesh alone. The migrants mostly belong to Below Poverty Line category (76 %), are illiterate and majority of them belong to Scheduled category (69 %). Interestingly, 29 % of the migrants are children. The migrant households have insignificant land possessions with 91 percent of them holding less than 0.6 acres

of land and that too of non-irrigated nature. Migration takes place for 8 to 9 months in a row starting October-November every year to the informal sector where majority are engaged in brick kiln activities. In the brick kiln migration piece rate is common and 86 per cent have received piece wage. The child migrants remain unpaid (Smita 2007).

3. Livelihoods through Informal Sector

The proliferation of the informal sector as a sequel to the adoption of globalisation policy in the Indian sub-continent has certainly made a drastic transformation in the employment scenario in the country (Chen 2016). Informal sector operations are characterized by informalisation and wield the strategy of employing cheap labour from among the poor masses mostly from rural areas (Breman 2013). These units are classified under unorganised sector where production activity is executed 'underground' and do not come under the scanner of government for which the legislation to protect minimum labour standards in employment and ensuring the provisions of several laws and regulations concerning payment of minimum wage and regulation of employment do not apply for them. The strategy of informalisation is to reduce average costs of production and to gain excess profit. National Sample Survey (NSS) data reveal that the unorganised informal sector employed about 82.6 per cent and 85 percent of the total workforce in the country during 2011-12 and 2017-18 respectively (Murthy 2019). The figures indicate rampant nature of unorganised informal employment and the trend was almost consistent during the period. They employ the migrants who are least caring about the wage and working conditions, the characteristics that enhance their vulnerability and benefit the employers in terms of greater scope of accumulation as exploitative surplus becomes high. The Human Development Index (HDI 2011) pegs India in the 134th position in terms of the availability of the survival needs and other important parameters. In Nuapada district of Odisha, distress seasonal migration occurs in the form of 'Dadan' from most of the villages in the direction of the informal sectors located mainly in the southern states of the country in which family migration dominates and is perennial (Datta 2020; Smita 2007; Meher 2017, 2023). Migration occurs to brick kilns of Andhra Pradesh and Tamil Nadu in which mostly all members of the family migrate to a single destination devoid of expectation of earnings worth of the labour rendered by them and suffer denial of justice, rights and freedom (Smita 2007; Breman et al. 2010). Mishra (2020) explains how exploitation of migrants is attributed to the 'neo-liberal capitalism' and 'neo-bondage' (Breman et al. 2010). The administrative lacunae, political ill-will as well as social institutions subjugate the legal enforcement mechanism and hence promote exploitation. Hence, the policies directed towards proper diversification of livelihoods do not make any improvement in the rural economy. In a subsequent section we shall examine how the free play of the forces under 'neo-liberal capitalism' has created a regime of 'neo-bondage' denying rights and freedoms to the vulnerable masses who hopefully consider the seasonal migration as the viable livelihood diversification strategy. The present study shall throw light upon how inherent modes of production and relations of production under the informalisation in production turns out to be an exploitation strategy on the part of the employers to build the colossal of their wealth at the cost of the greater mass of the poor migrant labourers.

4. Institutions and Informalisation

New Institutional Economics (NIE) defines institutions as "... the humanly devised constraints that structure political, economic and social interaction" (North 1991). North (1990) distinguishes two types of institutions, one, formal referring to the legal rules and obligations that must be adhered to by all concerned; and informal referring to the sanctions, customs and traditions framed

by the society following which is not legally binding. Strong institutions promote efficiency and in contrast weak institutions cause several imperfections (Acemoglu & Robinson 2012).

Informalisation in the migration process is both cause and effect of bad and weak institutions. Thus, informalisation is not only promoted by institutions but also is the process that disapproves the formal rules to act. In informalisation process the informal constraints supersede and suppress formal rules and laws. Informalisation in the context of Distress Seasonal Migration can be understood at three levels, one, at the level of the origin of migration where labourers are recruited, two, at the level of the employment sector that recruits migrants from the rural areas, three, at the level of the public policy programmes executed for upliftment of the weaker sections as well as for general welfare, and, four, at the level of enforcement of laws and acts enacted to benefit the poor masses participating in migration.

5. Migration from the Nuapada District to the Informal Sector

Inter-state migration occurs to the brick kilns located in Andhra Pradesh and Tamil Nadu after the *Nuakhai*, the celebrated festival of the Western Odisha. It is in the nature of mass migration that begins October-November every year and the return to the origin occurs during May and June next year. The advance payment, which distinguishes the livelihood diversification from all other means of survival, is very important in seasonal migration and works as the principal driver of migration as well as the means of exploitation (Marius-Gnanou 2008).

Though the history of migration of the poor people from the study area is not clear, the way it is reported to have begun has interesting correlates. It has been reported that migration from the region started as early as 1921 to the tea plantations in Assam. Later, the mass movement occurred to places within the state for laying railway tracks. The unprecedented and frightening famine in 1965-66 in the region was a landmark in distress migration. It created a swarm of livelihood seekers migrating to far-off places both inside and outside the state. As reported by some distinguished persons in the district, it was the in-migrants from Andhra Pradesh who initially prodded the poor people in the locality to move to the brick kilns of Andhra Pradesh after knowing their capability to work only in the unskilled manual jobs and since then the southern states like Andhra Pradesh and Tamil Nadu continue to be the hubs of informal sector migration (Meher 2017). In view of the complexities involved in the distress seasonal migration in the study area the present study attempts to examine the problem in the perspective of the New Institutional Economics. The study focuses on how institutions are intertwined in several issues implicit in the phenomenon, such as, exploitation of migrants, contractual enforcement in migration, migrants' behaviour, cartel like behaviour of the informal sector employers and the violation of formal rules and acts. Understanding of the institutional dimensions of all such aspects shall be helpful in suggesting the appropriate course of action for improvement.

Exploitation

The exploitation associated with informal sector employment is quite intolerable nonetheless the sector is the means of survival for a huge proportion of rural poor in the district (Mishra 2020; Srivastava 2019; Smita 2007; Breman et al. 2010; Jain and Sharma 2019; Meher 2019). Exploitation is directly correlated with the informality, which is rooted in contractualisation, cartel like behaviour of employers and creation of barriers to discourage unionization of the migrants. All these strategies are wielded to put migrants in bondage, which facilitates the employers to get cheap labour. Bonded labourers are 'forced labourers'. They are put to work hard under unhygienic and hazardous work conditions (Mosse et al 2002) with no obligation of the employer

to provide insurance. Lack of unionism among them, due to informal institutional constraints, leads to weak bargaining power in all matters. Such informal constraints need elaborate discussion and explanation. The following sections shall examine how these informal constraints work visibly or invisibly to cause exploitation.

Enforcement of Contract

Enforcement of contract is the most important task before the employer. Instead of negotiating directly with the migrants the employers engage middlemen with different nomenclature, such as, 'Sardar', 'Dalal' and 'Mistry', for different assignments in the migration process (Deshingkar and Akter 2009). All these entities constitute various parts of the supply chain of labour and hence get their due share out of the total receipts against supply of labour. The employer pays a lump sum to the Sardar for a given quantity of labour power required to accomplish a given task and the Sardar pays a part of the amount received to the Dalal to proceed with recruitment process. Dalal hires Mistries to directly negotiate with the migrants. Negotiation process is completed with the migrants being tied up in bondage with payment of a lump sum amount to each of them as advance. Thus, the total payment made by the employer towards labour purchase includes not only the payment received by the migrants but also the residual surplus with each agent in the supply chain. More residual means less amount being paid as advance to each migrant unit and vice versa. Therefore, the bargaining process and strength of the middlemen to bargain determine the payments received by the migrants. This is a Coasian interpretation of 'transaction costs' involved in the labour purchase agreements. Thus, if the transaction cost is high the exploitation is high. This depends on economic and social vulnerability of the migrants and hence their bargaining power. The motives of the middlemen to get more residual is accomplished because the migrants comprise the labour units who are not covered under the safety net of getting jobs that ensures payment of minimum wage. Thus, contract enforcement involves the 'principal-agent problem'. This problem creates a situation that causes more exploitation of migrants. The right incentive to the middlemen is necessary.

At the worksite the amount paid as advance is recovered by paying less than the actual amount of money wage due to the migrant. This is easily done because migrants are paid on a piece wage basis. The modality followed is determined by the employer himself, though, of course, similarity is observed among the similarly positioned employers. The real wage rate received by them is too low as compared to the amount of labour rendered. Instead of paying the due amount of wage, thus, the employer pays only a meagre amount called 'Kheri'. Kheri literally means the daily allowance for maintenance the amount of which ranged between 150 to 200 rupees a week during 2012-13 and now it has become 300 to 400 rupees a week per person. The underpayment of wage is due to lack of unionism among the migrants and that they are bonded labourers. The migrants endure the exploitation. The employers also have prior knowledge of the *endurance level*. Endurance level is determined by the bargaining strength of the labourer and the *coercive power* of the employer. After the contract is enforced and migrants have reached the worksite, the employer makes his own calculations about the payment as the role of the middlemen in the contract is over. Contract has already been fixed for payment of a given amount which the migrants do not know. Such 'asymmetry of information' about the wage works to the detriment of the migrants. This can be termed as the *wage squeezing* strategy of the employer. The *wage squeezing* strategy is strengthened by the cartel like behaviour of the employers observed during demand for migrant labourers as well as the piece-rate payment followed by them. Srivastava (2016b) coins the term

‘non-standard forms of employment’ to mean that the workers face difficulties in forming unions and associations to prove their bargaining strength so that they can fight exploitation at the workplace.

Another important factor that induces the informal sector employers to hire middlemen is risk-sharing. By employing middlemen the employer minimises two types of risks: one, the risk of payment made to the migrants, and two, the risk of getting labour power. These two risks are almost zero for the employer as the middlemen shoulder the responsibility of recruiting and supplying labour to the employer for a fixed amount of contract and hence the employer’s risk in the event of cheating on the part of migrant to join work after receiving advance is minimised. After the contract is enforced through payment of advance the migrant becomes an ‘indentured labour’ and the employer does not take any extra effort of spending money through advertisement or anything else to get labour power. Thus, by paying the cost of labour power alone the employer can purchase labour power without failure. Thus, it is a cost-saving strategy of the employers. As stated earlier, the total payment made towards hiring migrants, i.e. the cost of labour power is equal to the payment received by the middlemen and the migrants.

Several factors work behind the contract enforcement and tying the labourers in bondage. They are perennial debt-trap, mass poverty and vulnerability of the labourers due to illiteracy and ignorance. These factors help determining the *endurance level* of exploitation and wage. ‘Path dependency’ phenomenon in distress seasonal migration can be understood in terms of the factors, such as, *social bondage*, ‘social network’ and group behaviour that are considered important for enforcing contract. While enforcing contract the employers take cognizance of the social bondage of the migrants at the origin as well as the group behaviour. Migrants from the lowest socio-economic rung in the society are observed to have strong social bondage among them. Moreover, whenever migration to the informal sector takes place from the study area it is observed that they move in swarm like clusters. From this point of view group behaviour is important in distress seasonal migration. However, the group behaviour can be utilised for a more beneficial alternative that will be accumulative for them rather than becoming a coping strategy for survival. The group approach to poverty alleviation through Self Help Groups is a case in point. In Odisha, the ‘Mission Shakti’ movement has benefited women from economically weaker sections greatly. They have transformed the ‘social capital’ in the form of group behaviour to economic capital. Of course, intervention process has plays an instrumental role in the transformation. Even if they remain in migration the instruments of social capital, such as ‘Social network’ and group behaviour can be utilised for effective circulation of information among them and to promote new institutions like unionization. Lack of such motivations among the migrants contributes to strengthening the power of capitalistic exploitation. Thus, the rural institutions are promotive and the state institutions in the shape of acts and rules are restrictive as far as the livelihood diversification in the form of distress seasonal migration is concerned. Studies reveal that internal migration contributes to growth and poverty reduction and hence it should not be discouraged through deliberate measures (Deshingkar and Grimm 2005). But, the productivity of rural institutions in the form of promotion of the greater cause of sustainable livelihood lies in how effectively state level institutions are coordinated with the rural institutions.

The ‘Magic of Advance’ never ends here. It works to the migrant’s advantage too. After receiving advance the migrant feels comfortable that he/she has got a part of the dues in exchange of the labour to be rendered. This is a sort of ‘risk avoidance’ by being hired in the informal sector.

Moreover, advance amount received becomes helpful to him/her to a great extent since it is utilised for repayment of accumulated debt availed at usurious terms (Meher 2017). It is found that the interest rate charged for a debt hovers around 120 percent calculated at 10 percent monthly rate, though, of course, discrimination in rate charged is observed (Meher 2017). Still, for them, the informal source of credit is the only source to avail debt because their inability to produce required collateral in the formal credit institutions becomes the constraint that denies their accessibility to formal credit. Inter-linkage between labour and credit market exists in the rural areas, where the institutions like 'patron-client relationship' plays important role. Besides, advance amount helps them to manage bigger expenses on items that they cannot do by being employed in an occupation paying daily wage at the origin.

Cartel like behaviour by the employers

Behaving like a cartel by the employers in a locality to deal with the labour purchase is another facet of the story of exploitation. This behaviour of the employers enables them to face successfully any type of retaliation from the labourers in the form of raising voice against exploitation and their power of bargain over the wage. Such behaviour on the part of the employers interferes very successfully with the labourer's preferences. The cartel like behaviour is strengthened either due to informal coalition among the employers or due to the fact that all of them are in the same category with similar aim of maximising surplus.

'Satisficing' behaviour

Todaro's model of migration and also the New Economics of Labour Migration (NELM) premise that the individuals and family are maximising entities when they make decision on migration (Todaro 1969; Taylor 1999). But, for the poorest of the poor people maximisation or minimisation does not count while making migration decision. Since, the decision makers consider migration as an 'exit route out of poverty' it is immaterial for them to choose about destinations or the occupation or even the payment at the destination. While taking migration decision they are less caring about the left-out members in the family too (Meher 2019). Hence, their decision making can be explained in the framework of Herbert Simon's 'satisficing' objective. The migrants 'satisfice' rather than maximise satisfaction. This is because they are 'boundedly rational' in the sense that they have no alternative choice before them and given their environment and potentiality, migration to a particular decision is taken regardless of whether they derive maximum satisfaction from it or not. If they stay idle at home they shall deprive of livelihood. If they eye upon any other choice, their potentiality in the form of skill and connection or 'social network' shall serve as a constraint. Therefore, their decision making is governed by limited rationality. Another important constraint that causes them to be boundedly rational is group behaviour. These factors play very important role in making decision about the choice of destination (Meher 2017) and during enforcement of contract. Besides, behavioural pattern shows that often household head exercises his or her *clout* either displaying his or her supremacy within the household or by being influenced by others called the 'reference group' in their socio-economic environment. Sometimes the *clout* is also exercised by the influential head of the society the migrants belong to, whose decision is obliged by the group members (Meher 2013). Such institutional factors also influence migrant's decision making.

Violation of the Labour laws, Workers' Right and Justice

Informal sector intentionally eludes laws and acts as it does not come under the scanner of government. This practice erodes the freedom, equity, justice and security of labourers in informal

sector jobs. Payment of minimum wage is a fundamental right (Article 23) granted by the Constitution, which is utterly violated. The provisions to ensure justice to the migrant labourers, such as, the Contract Labour (Regulation and Abolition) Act, 1970 with Central Rules 1971, the Equal Remuneration Act, 1976 that provides for ensuring equality in payment of remuneration irrespective of sex as per the Article 39 of the Constitution, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to safeguard the interest of the inter-state migrant labour and to secure effective protection against their exploitation are also not abided by the employers. They formulate strategies tactfully to smoothen all related operations escaping the scanner of government for which 'Pareto optimality' condition is violated. The allocations may be efficient on the ground that they maximise their profit given several physical and institutional constraints and the migrants satisfy though do not maximise, but the informal sector flourishes at the cost of the poorest of the poor. This is supplemented by the distress in livelihood and the institutions prevailing in the society, which they belong to. This interpretation has the implication of ensuring justice to the migrants in terms of equal treatment to equals, payment of minimum wage and adhering to all provisions of several acts to ensure their safety and security.

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) has been enacted and mandated by the Parliament to ensure food security to the rural poor through 100 days employment guarantee on demand to at least one member of every rural household. But, in practice, the provisions of the act are not properly adhered to at various levels due to several institutional bottlenecks (Meher 2013; 2023). One such institutional factor is that the rural poor suffer from social and economic exclusion that forbids them to let their voices and demands heard at appropriate levels. The attitude of being inferior and excluded in the society constrains them to reap benefits from MGNREGA.

6. Conclusion

Contract enforcement and forced labour amidst violation of rules and regulation is the core of informal sector employment in the country (Mishra 2020). The exploitation of workers is pushed beyond the tolerable limits in both pecuniary and real terms. Physical exploitation with harsh treatment without caring for any mishap during work violates the human rights provision. All these issues reflect inefficient and weak institutions in the rural society. There is a need to understand the types and nature of the rural institutions and streamlining policies in line of the institutions prevailing in the society shall help promoting employment and livelihood generation. The 'social capital' in the form of group behaviour and 'social network' needs to be productively utilised for greater cause. Role of intervention in the right direction can reap positive benefits. Proper intervention can transform weak institutions to strong institutions (Acemoglu & Robinson 2012). The 'microfinance model' of addressing poverty is a right approach that reflects the institutions like group behaviour. Besides, mass awareness should be created to ensure protection of rights of people to survive with dignity. Unless and until the intervention process takes off effectively there shall be no let up in the plight of workers. They shall be deprived of their freedom and the rights as granted by the constitution. Strong institutions can be helpful in promoting unionization of labourers to fight against exploitation during contract enforcement and at the worksite. It will also help migrants to respond to the cartel like behaviour very effectively. Similarly, they can help address the issue of violation of Acts and rules to safeguard the rights and dignity of the migrants.

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