



DAILY NEWSPAPER ANALYSIS

THE HINDU

(18th June, 2019)

**Topic: GS2 - Critical Analysis of
Draft Emigration Bill**



THE HINDU
Daily News Paper

A blinkered understanding of migration

Context:-

- Recently government put **draft emigration bill** in public domain.
- While the bill addresses many contemporary issues related to emigration, but it personifies the government's primary view of emigration policy as **a means for managing the export of human resources rather than a humanitarian framework to safeguard Indian migrants overseas.**

State of Emigration in India:-

- India has been home to one of the longest and largest episodes of emigration in the world, form one of the world's largest populations of emigrants.
- This population is also diverse in every aspect, from its geographical presence and skill sets to their purposes for migration and migration strategies.

Importance of Emigrants in Domestic Sphere:-

- A large emigrant population has many benefits for India:
 - the much-discussed international **remittances** (which touched \$80 billion in 2018), and also a **positive impact on foreign direct investments, trade and foreign relations.**

- The Indian diaspora also provides *much needed philanthropic activities in health and education to help achieve the Sustainable Development Goals.*

Issues Facing by Indian Migrants:-

- There is another side to the Indian emigration story, which is characterised by **information and power asymmetries** in the global labour markets to include *exploitation, inhuman living conditions, violence and human rights violations.*

Emigration Policy Issues in India and Need for Updated Policy for Emigration:-

- In order to safeguard migrant's rights and welfare, the government enacted the **Emigration Act, 1983**.
- Perhaps it was an Act that was *'formulated with the mindset of the 19th century, enacted in the 20th century and implemented in the 21st century'*.
- In the last 35 years, to cite the government, **"the nature, pattern, directions, and volume of migration have undergone a paradigm shift"**.
- So, in an effort to update and *upgrade this framework, a draft Emigration Bill, 2019* was released. Almost a decade in the making, it *aims to move from the regulation of emigration to its management.*

Positives of Draft Emigration Bill:-

- **Abolition of Two Passport Regimes:** Draft Bill included all students and migrant workers within its purview and the abolishment of the two passports (emigration clearance required and emigration clearance not required, or ECR and ECNR) regime based on a person's educational qualifications.
 - This will significantly improve the collection of migration flow data when compared to the current system, which excludes most migrants leaving India.
- **Regulation of intermediaries:** The draft Bill incorporates many already established ad hoc regulations and obligations for recruiting agents. It also includes subagents (often a relative or friend of the potential emigrant) and student enrolment agencies into its regulatory purview. These intermediaries play an instrumental role in minimising information asymmetries and migration costs. Thus, any regulatory framework needs to balance strong disincentives for migrant welfare-destroying practices with the efficient supply of affordable intermediary services for prospective workers and students.

Issues in Draft Emigration Bill:-

- **Not Comprehensively Inclusive in Nature:** Despite above developments, most trajectories of migration from India continue to be excluded.
 - **Family Migrants:** Many family migrants often convert their immigration status and become workers, which is a factor not given thought in the 2019 draft Bill.
 - In an increasingly hostile political environment for migrants globally, these “dependent

- migrants” have increasingly little economic or political freedom at their destinations, an example being the recent attempt by the Trump administration in the U.S. to repeal the employment eligibility of spouses of **high-skilled H1B immigrants** (a majority are from India).
- Also alarming are numerous instances of Indian spouses being ‘lured’ abroad in marriage and then stranded or exploited. Between January 2015 and November 2017, the government received 3,328 such complaints.
- **Irregular and Undocumented Migrants:** The perception is that undocumented migrants are those persons who leave India through informal channels, but most migrants become irregular on account of expired visas/permits.
 - In West Asia, when migrant workers flee their employers to escape exploitation, a single police complaint can make them ‘undocumented’ for no fault of theirs.
 - Data from the U.S. and Europe reveal a dramatic rise in the number of Indians being apprehended for immigration-related crimes.
 - These migrants live in incredibly precarious situations, with many living in poverty.
- **One Size fits All Approach:** Given that student enrolment agencies have a different business model and a completely different customer base, i.e. students applying overseas, it is unclear why they are prescribed the same regulations as recruitment agents.

- **Rely on Ad-hoc Measures rather than Long Term Solution:** Draft continue the post-1983 ad hoc approach towards emigration, relying on the regulation of recruiting agents/employers and the discretion of the government. In fact, the bulk of it focusses on establishing new statutory bodies and giving them broad and vaguely defined duties.
 - in the past decade, while emigration from India to West Asia has been decreasing, **emigration from Bangladesh to this region has increased in the same period**, which is **attributed to a more liberal emigration policy**. This suggests that the prescribed regulatory process in India has inadvertently created barriers to migration — for instance, nurses can be recruited only through government recruitment agencies — and increased the cost of emigration.
- **Missing the Complete Migration Cycle and Returning of Migrant does not Covered:** To effectively ensure their welfare, any emigration policy framework needs to be considerate of the **complete migration cycle: *the pre-departure, journey, destination and return***.
 - The 2019 draft Bill addresses only the first three parts of the cycle while completely ignoring return migration.
 - **Globally, one in four migrants today is a return migrant**. In fact, most Indian migrants in West Asia return home — the current estimate of return migration in Kerala alone ranges between 1.2 and 1.5 million according to the Kerala Migration Surveys conducted by the Centre for Development Studies since 1998.

Way Forward:-

- Migration is a **complex and highly dynamic process** with constantly evolving profiles of migrants and their destinations.
- Only an **ex ante-migrant rights-based approach** that is *inclusive of all Indian migrants* abroad can be considerate of this and provide them **adequate security and welfare**.
- There are a whole host of **multilateral migration-related treaties and conventions** which can provide the necessary guidance for a truly visionary and future-proof Indian emigration policy framework.
- Without drastic changes to the draft Bill's approach, we will miss the opportunity to fulfil the hard-fought shared objectives of the **Global Compact for Safe, Orderly and Regular Migration**.