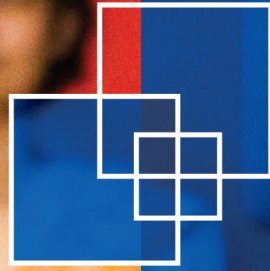




International
Labour
Organization



INDISPENSABLE YET UNPROTECTED

*Working conditions of
Indian domestic workers
at home and abroad*



fundamentals

INDISPENSABLE YET UNPROTECTED:

Working conditions of Indian domestic workers at home and abroad

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

FUNDAMENTALS

Indispensable yet unprotected: Working conditions of Indian Domestic Workers at Home and Abroad / International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS) - Geneva: ILO, 2015.

ISBN: 978-92-2-129839-7 (Print); 978-92-2-129840-3 (Web PDF)

International Labour Office; Fundamental Principles and Rights at Work

domestic worker / migrant worker / international migration / Indian / working conditions / migration policy / workers rights / legal aspect / India / Saudi Arabia - 13.11.6

ILO Cataloguing in Publication Data

NOTE

This study was elaborated by the Self-Employed Women's Association (SEWA), based upon results of field work conducted by members of SEWA-Delhi and SEWA-Kerala. The report was edited by Ms. Asha D'Souza and the project was supervised by Leanne Melnyk of the ILO Special Action Programme to Combat Forced Labour (SAP-FL)/FUNDAMENTALS.

Funding for this ILO publication was provided by the United Kingdom Department of International Development (DFID) (Project RAS/11/10/UKM).

This publication does not necessarily reflect the views or policies of the UK DFID, nor does mention of trade names, commercial products, or organizations imply endorsement by the United Kingdom Government.

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Visit our website: www.ilo.org/fundamentals

FOREWORD

In 1998, the International Labour Conference adopted the ILO Declaration on Fundamental Principles and Rights at Work, which requires all ILO member States to respect and promote core labour standards, including the elimination of all forms of forced or compulsory labour. In 2001, the Special Action Programme to Combat Forced Labour (SAP-FL) was established to spearhead activities against forced labour and human trafficking, to contribute to the global knowledge base, and to reinforce the capacity of ILO constituents and other stakeholders in this regard.

Since then, the ILO has provided technical support to governments, workers' and employers' organizations, non-governmental organizations, national justice systems and others in efforts to build their capacity to prevent forced labour and human trafficking and to prosecute perpetrators. The ILO also initiated the "Global Alliance against Forced Labour" with the International Trade Union Confederation and the International Organisation of Employers to build the strength of the social partners to effectively address forced labour challenges.

In India, the exploitative labour arrangements that prevail in domestic work trap many women, men and children in poverty. The exploitation revolves around a complex web of actors and circumstance often involving unscrupulous labour agents and employers, the concept of advance payment of wages or loans, wage deductions and the absence of labour law. These work arrangements sometimes compel the workers to contribute their labour until their advance or debt is settled. As a result, the workers have very little or no freedom to change their employer. They are forced to work for long hours, live at worksites that lack basic health and sanitation facilities and rarely secure a minimum wage as prescribed by the law. In some cases, such practices may amount to forced labour as defined in The ILO Forced Labour Convention 1930 (No.29).

One of the most vulnerable sections of the population is women and girls who have no option but to undertake distress migration in search of work away from their home areas. Their lack of skills and income generating opportunities, land and assets at home, illiteracy and lack of awareness, coupled with existing social inequalities based on caste and ethnicity, push the poorest women and girls to migrate elsewhere to try to meet their subsistence need, often as domestic workers. But in destination areas, they may be faced with severe physical, social and economic hardships, exploitative labour conditions and a total absence of social protection. The ILO's Domestic Workers Convention (No. 189) and the accompanying Recommendation (No. 201), both adopted in 2011, offer a historic opportunity for India and other countries to overcome some of these challenges.

In the context of Indian workers going to work in the Middle East, the occurrence of forced labour and human trafficking is often linked to ineffective labour migration governance, which leaves migrant workers particularly vulnerable to exploitation. The ILO promotes a rights-based approach to labour migration and tripartite participation in the development of labour migration policy, in accordance with ILO Conventions – specifically those relating to labour migration, i.e. the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – and the Multilateral Framework on Labour Migration.

This study aims to provide policy-makers and service providers with deeper insight into the nature of forced labour and trafficking in this region. Armed with this knowledge, action to combat trafficking in the region will become more effective, finally bringing an end to this unacceptable form of human exploitation.

CONTENTS

■ Foreword	iii
■ Acknowledgements	vi
■ Acronyms	vii
■ Executive Summary	viii
■ 1. INTRODUCTION	11
■ 1.1 Methodology	14
■ 2. THE KERALA - ARABIAN GULF MIGRATION ROUTE	15
■ 2.1 Returnees	16
2.1.1 Profile of returnees	16
2.1.2 Emigration history	17
2.1.3 Travel experiences	19
2.1.4 Working conditions	20
2.1.5 Response to harassment	22
■ 2.2 Potential migrants	23
2.2.1 Profile of potential migrants	23
2.2.2 Migration plans	23
2.2.3 Preparedness for emigration	23
■ 2.3 The legislative and institutional framework for migration	25
2.3.1 Ministries that control emigration	25
2.3.2 Anomalies in the Emigration Act and procedures	25
2.3.3 Discrimination against unskilled women workers	27
2.3.4 Illegal agent racket	28
2.3.5 Ambiguous status of migrant women workers	28
2.3.6 Recommendations for correcting institutional anomalies	29
■ 2.4 Mitigation attempts	30
2.4.1 In Kerala	30
2.4.2 In Saudi Arabia	31
2.4.3 Responses from NGOs	32
■ 2.5 Conclusion	33
■ 3. MIGRANT WORKERS ON THE JHARKHAND – DELHI ROUTE	34
■ 3.1 Returnees	36
3.1.1 Profile of the respondents	36

3.1.2 Migration details	36
3.1.3 Experiences en route to their destination	38
3.1.4 Work experience in Delhi	39
3.1.5 Exit routes for those who felt harassed	40
3.1.6 Suggestions to ameliorate their conditions.	41
3.1.7 The agent nexus	42
3.1.8 Problems faced by employers	43
■ 3.2 Response of workers presently in Delhi	43
3.2.1 Profile of Migrant workers	43
3.2.2 Prior to the Migration process	44
3.2.3 The recruitment process	45
3.2.4 The journey to Delhi	46
3.2.5 Experience at work	46
3.2.6 Opportunities to ameliorate their situation	48
■ 3.3 Potential migrants	49
3.3.1 Profile of the group	49
3.3.2 Migration plans	49
3.3.3 Preparedness to migrate	50
■ 3.4 Need for legislation on domestic work	50
3.4.1 Child Migrant Workers	51
3.4.2 Adult Migrant Workers	52
■ 3.5 Recommendations to improve conditions for migrant domestic workers	53
■ 3.6 Conclusion	54
■ 4. CONCLUSIONS OF THE STUDY	55
■ 4.1 Recommendations to overcome the institutional anomalies	56
■ 4.2 Steps forward	57
■ BIBLIOGRAPHY	59
■ APPENDICES	62
I Interview Schedule - Returnee domestic workers	64
II Interview Schedule – Potential international migrant domestic workers from Kerala	68
III Interview Schedule – Interstate migrant domestic workers in Delhi	69
IV Interview Schedule – Potential migrant domestic workers from Jharkhand	72

ACKNOWLEDGEMENTS

This study was possible with the generous funding provided by The UK Department for International Development (DFID), as part of the pilot research for the ILO- DFID “Work in Freedom Programme”, which offered the opportunity to look more closely into the issues of Indian migrant domestic workers.

Special thanks to the Self-Employed Women Association (SEWA), whose extensive research in the field and community outreach was crucial for the elaboration of this study. The field work for this study was conducted by members of SEWA-Delhi and SEWA-Kerala, most notably Nalini Nayak. Particularly thanks to Ms Namita and Ms Stuti in Delhi, Ms Sheena Bashir (who also did the data processing), Ms Kavitha, Ms Sharanya in Kerala and the members of Nirman and Nirmala Niketan in Delhi, particularly Mr Subash Bhatnagar, Ms Chinmayi and Ms Adriyani, as well to Dr P.M Nair IPS, Mr Anurag Gupta IPS, Ms Bharati Sharma and Dr Praveena Kodoth, who helped throw more light on the issues at stake and suggested ways of tackling them.

We would like to thank our colleagues from Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK), ILO Country Office for India and ILO Regional Office for Arab States for their support and comments through the elaboration process. The report was edited by Ms Asha D’Souza, with the contribution of Leanne Melnyk, Erica Mildner and Ioana Raluca Balas from the Special Action Programme to Combat Forced Labour (SAP-FL).

As always, it is the actual respondents who gave of their time to answer questions and tell their stories and experiences that are the core of this study. They remain anonymous. Our gratitude to them will be expressed in the measure in which we are able to take this work forward through advocacy and awareness raising to make migration for domestic work safe and decent.

ILO and its partners certainly have a challenge ahead.

Beate Andrees
Special Action Programme to Combat Forced Labour (SAP-FL)
Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)

ACRONYMS

CLA	Criminal Law Amendment Act
CWC	Child Welfare Committee
ECR	Emigration clearance required
ECNR	Emigration clearance not required
GOI	Government of India
ILO	International Labour Organization / Office
ITPA	Immoral Traffic in Persons Act 1956
JJA	Juvenile Justice Act 2000
MOIA	Ministry of Overseas Indian Affairs
NREGA	National Rural Employment Guarantee Scheme
NRI	Non-resident Indian
NGO	Non-government Organization
Norka-Roots	Non-resident Keralite Affairs Department
OWRC	Overseas Workers' Resource Centre
PGE	Protector General of Emigrants
PoE	Protector of Emigrants
RSBY	Rashtryia Swasth Bhima Yojana (National Health Insurance Scheme)
SEWA	Self Employed Women's Association
SJPU	Special Juvenile Police Unit
UAE	United Arab Emirates
UN	United Nations

EXECUTIVE SUMMARY

The demand for domestic workers is on the increase both within India and in several other countries. This indispensable yet unrecognised and invisible labour force is vulnerable and subject to abuse. This study seeks to understand the problems of migrant labour in domestic work and to assess the nature and extent of abuse with a view to ascertaining whether these workers have been victims of forced labour or trafficking for labour exploitation as defined in the ILO Forced Labour Convention 1930 (No.29) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol).

It examines two of the most frequented migration routes for female domestic workers: one emigration route from the state of Kerala in Southern India to the Arab countries and the other being an internal route in Eastern India from the state of Jharkhand to New Delhi.

The study reveals that in Kerala, the need for money to meet present day exigencies is the major push factor for women, particularly widows and single mothers to travel abroad as domestic workers. In Jharkhand, the majority of migrants are young women, some still below the age of sixteen, who leave mainly because of lack of work opportunities locally and for mere survival.

In the case of the Kerala, the majority of migrant workers depend on agents to facilitate the process and pay them large sums of money as service charges. The large majority of these women are ignorant of official emigration requirements and many unwittingly become irregular migrants.

Inadequate regulation and loopholes in existing emigration procedures have allowed unregistered agents to exploit potential migrants for monetary gain. These agents have succeeded in creating an efficient mechanism to not only facilitate irregular emigration through a process called 'pushing' but also to assist workers who get trapped in the process to return home through informal assistance networks¹. The agents' access to informal assistance networks builds their degree of credibility, especially in the eyes of a distressed migrant worker.

As a result, emigrant workers are prone to different kinds of abuse and even to situations of forced labour. In many cases, individuals in host countries can profit from immigration by issuing 'free' visas, thereby providing further scope for illegal transactions. Further, as many of the Arab States have not so far recognized domestic workers as workers in their national labour law, these workers may have no recourse to grievance redress from the labour establishments of either the host country or their country of origin.

Lured by better prospects and hoping that their migration journey will be a successful one, women tend to play down the difficulties and hardships they may face abroad. A few more vocal ones advocate for stronger government intervention, for instance, by calling for the creation of an appellate body for grievance redress.

In the case of inter-state migration from Jharkhand to Delhi, labour agents play an increasingly important role. Unscrupulous ones not only earn by charging employers in urban areas large placement fees but also demand travel costs from the workers and make deceitful deductions from their salaries. They have developed a widely acceptable system of engaging workers for periods of eleven months at a time during which the worker cannot leave the employer under any circumstances.

The majority of migrant domestic workers from Jharkhand are live-in workers, many of whom report physical abuse, use of abusive language, restriction of movement, long hours of work and lack of clarity regarding actual wages – conditions that denote deception, abuse and forced labour.

Currently, there is no law regulating the recruitment of domestic workers in India. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1978 only applies when five or more workers are placed with a single employer by a contractor. Since domestic workers usually work alone or with one other worker per household, the recruitment regulations in this Act are not implemented. In some states, placement agencies are asked to register under the Shops and Commercial Establishment Act. Although this action helps identify placement agencies, it does nothing to regulate the conditions of work of domestic

¹ Please see reference to The Kasargod Embassy in part 2.1.4. on Working Conditions

workers. The employment of minors as domestic workers is still common practice in India despite the inclusion by the Government of India (GOI) of this occupation in the list of hazardous child labour (2006), prohibiting it for boys and girls under the age of eighteen. The Juvenile Justice Act 2000 has been effective to some extent in the rescue of workers below the age of eighteen. However, the Child Labour Act has included domestic work in prohibited employment for children only up to age fourteen. Therefore, children above age fourteen are legally allowed to work under certain conditions and do not fall under the jurisdiction of the Juvenile Justice Act.

In the case of Kerala, there are several semi-government institutions and NGOs that reach out to these emigrants, as well as a growing number of domestic worker organizations in Delhi. However, only a tiny percentage of these workers either know of or belong to them. Those more aware of their rights express the need for emotional support and shelter in case of need.

The anomalies within the existing legislative framework lead to impunity in cases of abuse of Kerala workers that embark towards Middle East. One of these is stated in the Pre-Departure Training Manual for Intending Emigrants issued by the Government of Bahrain and available on the MOIA website. It lays down the conditions required to emigrate in seventeen countries in the region and among other conditions, it is required that the domestic workers should possess emigration clearance and that they should be at least thirty years old. Such discrimination in relation to domestic work creates a stigma, discriminates on grounds of gender and provides scope for exploitation both during recruitment and at work.

This study reveals that the majority of migrant domestic workers to the Arab States and some of the internal migrants from Jharkhand are victims of trafficking and forced labour according to the international definitions of these crimes. In 2013, the GOI adopted the Criminal Law Amendment Act (CLA), which declared trafficking an offence in national law, based on Palermo Protocol's definition. Notably, the term "forced labour" has been decidedly omitted from the law. Section 370 (1) of the CLA defines exploitation as "any act of physical exploitation or any or any form of sexual exploitation, slavery, or practices similar to slavery, servitude, or the forced removal or organs".

Although the GOI has developed an Integrated National Plan of Action against Trafficking and is taking steps to put some remedial measures in place in the form of Integrated Anti-Trafficking Units and Anti-Trafficking nodal cells, there is a need for a more comprehensive legislation on labour trafficking. In the same time, the law regulating interstate migration, the Inter-State Migrant Workmen Act of 1978 would also require major amendments. Serious efforts are deemed necessary on the government's part to plug loopholes and punish corrupt practices particularly in existing control mechanisms.

1.

INTRODUCTION

1. INTRODUCTION

The demand for domestic labour is on the increase both within India and abroad. With the rapid changes in the Indian economy there has been a rise in poor rural women seeking work in the urban areas with some even venturing abroad. Taking advantage of the information gap between job seekers and job providers, various players have surfaced as recruitment agents or ‘merchants of labour’ as the International Labour Conference, 2004 on labour migration termed them. These players were defined as “public and private agents who move workers over national borders.” At that conference, the ILO tripartite constituents recognised that “recruitment can play a key role in creating vulnerabilities in the final employment stage”. They recommended that a nonbinding, multilateral framework “proposing guidelines and principles for policies based on best practices and international standards” be developed, particularly in the area of “licensing and supervision of recruitment and contracting agencies”².

This recommendation confirmed the shift away from the monopoly of the State in job placement introduced by the adoption of the Private Employment Agencies Convention, 1997 (No. 181). Christiane Kuptsch (2006) predicted that migrants would gradually reduce their dependence on private fee-charging recruiters and use more informal networks thereby forcing governments to change regulations concerning recruitment with the maturity of the labour flows. She believed that international organizations and governments could shape the emerging recruitment industry, much like they shaped the evolving remittances industry. However, this does not seem to be the case, particularly for unskilled labour in India, that over the past twenty-five years or more has been seeking work within or outside the country and who continue to be encumbered by procedural requirements and extortionist agent networks.

It is in this context that the ILO mandated SEWA (Self-employed Women's Association) to undertake a study focussed on reducing trafficking of women and girls for domestic work. This baseline study seeks to obtain a more accurate understanding of the risk factors and migration patterns of women and girls at risk of trafficking for domestic work. It reveals some of the abusive labour practices that domestic workers are subjected to during recruitment and in employment and makes recommendations that can help to design direct interventions and promote legitimate and safe migration of women workers.

According to the National Human Rights Commission (2002-2003), ninety percent of trafficking in India is internal. The non-availability of jobs in rural or tribal areas such as Jharkhand facilitates the continuous supply of women workers to Delhi and other cities. India is also a source and transit route for trafficking of women and girls going to the Middle East for domestic work (D'Souza, 2010). Within this process of migration there are risks particularly of deceptive recruitment practices or abuses at the hands of their employers. The exclusion of domestic workers from key protections in national labour laws, immigration policies that give employers inordinate control over workers, and the isolation of domestic workers in private homes, are the main factors that increase their vulnerability to exploitation.

Trafficking is a widely prevalent practice and is differently understood in different contexts. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000, supplementing the United Nations (UN) Convention on Transnational Organized Crime, known as the Palermo Protocol defines trafficking in persons as:

... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

² For details please refer to “Resolution concerning a fair deal for migrant workers in the global economy”, ILC92-PR22-269-En.doc: http://www.ilo.org/public/english/protection/migrant/download/ilcmig_

On the basis of this definition, operational indicators of trafficking in human beings have been developed by the ILO and the European Commission. These indicators, which were completed in 2009 on the basis of a survey of experts, provide a means to distinguish between those that successfully migrate, exploited migrants and victims of trafficking for forced labour (where an element of coercion is present).

The ILO Forced Labour Convention 1930 (No.29) defines forced or compulsory labour as “all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily.”

Moreover, Article 3 (d) of the ILO Worst Forms of Child Labour Convention 1999 (No. 182) and Art 3 (e) of its accompanying Recommendation No. 190 categorise as hazardous, “work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.”

The recent ILO Convention No. 189 calls for Decent Work for Domestic Workers. Article 3 of it specifically states that “each member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers ... and take the measures set out in the Convention to respect, promote and realise the fundamental principles and rights at work”. Hence, institutional mechanisms to safeguard the rights of these workers have to be put in place. Understanding the existing problems of migrant domestic workers will certainly help evolve a system that is both practical and effective.

India has addressed trafficking both directly and indirectly in its Constitution. There are three Articles among the Fundamental Rights in Part III and Directive Principles of State Policy in Part IV that address trafficking-related issues. Article 23 of the Fundamental Rights prohibits trafficking in human beings and all forms of forced labour.

The following are two non-justiciable³ Directives of State Policy:

- **Article 29 (e)** ensures that the health and strength of individuals are not abused and that no one is forced by economic necessity to do work unsuited to their age or strength.
- **Article 29 (f)** states that childhood and youth should be protected against exploitation.

In 2006, the GOI declared domestic work as hazardous for children thus prohibiting those less than eighteen years of age to be employed as domestics⁴.

Domestic law in India recently incorporated a definition of trafficking in line with the Palermo Protocol in the Criminal Law Amendment Act, 2013 (CLA). However, the term “forced labour” was noticeably excluded from this law. Instead, the CLA uses the term “practices similar to slavery.” It is unknown if the courts will interpret “practices similar to slavery” as encompassing trafficking for labour exploitation. If not, the new amendment would continue to leave workers vulnerable and without full protection from all types of exploitation. This gap is not addressed by other legislation relating to trafficking. The Immoral Traffic Prevention Act, 1956 (ITPA) is restricted to sex trafficking. The Indian Penal Code 1860 stipulates punishment for a number of offences not specifically dealt with in the ITPA. There is as yet no central law on organized crime although India ratified the UN Convention on Transnational Organized Crime 2000 and its accompanying Protocol on Trafficking in Persons in May 2011.

The Ministry of Labour and Employment recently developed a National Policy for Domestic Workers that is awaiting Cabinet approval. This is a very comprehensive policy for securing the rights of domestic workers and giving them access to social security. It will hopefully lead to more comprehensive legislation on domestic work. In April 2012, the Indian Labour Conference recognised domestic labour as work and several States have declared minimum wages for domestic workers. Domestic workers have also been included in the Rashtriya Swasth Bima Yojana (RSBY- a national health insurance scheme)⁵ subsidised by the Central and State Governments. Some States have created Welfare Boards for domestic workers, but while the GOI is moving ahead to bring domestic workers within the ambit of legislation and social security, information gaps still persist and need to be addressed.

³ Not subject to trial in court

⁴ Domestic work was included in the list of hazardous occupations for minors (Notification No. S.O. 1742 (E) dated the 10th October, 2006 published in the Gazette of India, Extraordinary)

⁵ Available at <http://labour.nic.in/pib/PressRelease/ExtensionofRBYtoDomesticWorkers.pdf>

1.1 METHODOLOGY

This baseline study carried out over four and a half months examined two particular migration routes of low-skilled women seeking domestic work. Domestic workers, as defined by the ILO Domestic Workers Convention, 2011 (No. 189), include “any person engaged in domestic work within an employment relationship”⁶. While this definition encompasses both male and female workers, 83 percent of worldwide domestic workers are female, according to the most recent ILO estimate⁷. It is important to note that female domestic workers may face sex discrimination in addition to discrimination based on their race, ethnicity, or social origin. Since discrimination can increase domestic workers’ vulnerability to the risk of trafficking, this study specifically focuses on female domestic workers.

Although the two migration routes studied are by far not the only routes, they offer a good cross-selection of information; one being an internal route in Northern India from the State of Jharkhand to New Delhi and the other an emigration route in Southern India from the State of Kerala to the Arab countries. They are also informally known as some of the most frequented migration routes for domestic workers although very little official data is available to offer a more precise estimation. The study includes new data gathered through semi-structured interviews with migrant domestic workers, detailed case studies of some, as well as informal interviews with government officials and police officers, employers of migrant domestic workers, placement agents and representatives of organizations that deal with issues relating to domestic workers – a hundred and forty-three respondents in total.

■ THE WORKERS INTERVIEWED ARE DISTRIBUTED AS FOLLOWS:

- Twenty-five potential migrant workers from Kerala departing for the Arab countries and twenty-five workers who have returned to Kerala from these countries in the last two years;
- Twenty-five migrant workers who have been working in Delhi for at least two years;
- Twenty-five potential migrant workers from rural Jharkhand going to an urban area and twenty-five workers who have returned to Jharkhand in the last two years from an urban centre.

Among the challenges that SEWA faced in this study was the access to currently employed migrant domestic workers, which is made difficult by the fact that the large majority of them are live-in workers. Potential migrant workers are also difficult to locate as several of them do not want to openly say that they plan to migrate for domestic work. The data collection was facilitated by the fact that it was done by people working with domestic workers.

Interviews were conducted with employers in Delhi (2), agents/agency staff (two in Kerala and three in Delhi), with domestic workers’ organizations (5), with police and government officials (6).

⁶ See Article 1(b), C189, ILO Domestic Workers Convention, 2011.

⁷ International Labour Office, *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva: 2013).

2.

**THE KERALA - ARABIAN
GULF MIGRATION ROUTE**

2. THE KERALA - ARABIAN GULF MIGRATION ROUTE

According to Zachariah and Rajan (2009), Kerala the state that sends the largest number of workers from India. A recent survey shows that over fourteen percent of emigrants from Kerala are women but only about half of them move as workers. However, Nair (1999), with a sample only from Thiruvananthapuram, found that one out of six returnee migrants were women and that most of them were engaged in menial tasks. Interviews of fifty unskilled women who have returned from or desire to go to an Arab country to work gives us an understanding of the difficulties they encounter.

2.1 RETURNEES

2.1.1 PROFILE OF RETURNEES

There are several push factors that drive women to migrate for work, the most important being the need to earn more money. Whereas in Kerala the money earned is used to pay dowries for daughters or to repay debts, in Jharkhand it is for mere survival. In the two samples of returned and potential Keralite female emigrants, twenty-two and twenty-one of them respectively stated that higher wages was the main reason to seek work abroad. The study reveals that this is particularly the case for single women heads of households. In both samples of returned and aspiring migrants, there were a significant number of widowed and separated women eleven among the returnees and fifteen among potential migrants. Husbands deserting wives is a growing phenomenon in Kerala and single mothers are under pressure to fulfil the aspirations of their daughters to study further or to marry men who expect large dowries.

Despite Kerala being a state with high literacy rates, fourteen of the returned migrants interviewed had received no formal education, eight had only a primary education and three a secondary education. Levels of education were higher among potential migrants: only two of them had received no formal education, fifteen a primary education, six had attended secondary school and two had completed high school. The lack of vocational skills and work opportunities force women into domestic work and their low levels of education influence the way women are treated and deceived.

Seventeen of the returned migrants interviewed had been engaged in some income generating work before migrating. Upon return, there was a shift in their occupations – ten of them were not employed as half of these expected to go abroad again; none of them went back to agriculture and the majority were engaged in domestic work in Kerala or were self-employed as tailors. Among the potential emigrants, ten of them were domestic workers, six of them were self-employed either producing goods to sell or doing tailoring, four of them did other wage work, some as part of the National Rural Employment Guarantee scheme (NREGA) of the GOI and two worked in agriculture.

Among those respondents who had returned from the Gulf, twelve of them came from small households of less than four persons, an equal number came from households of four to seven persons and just one from a larger household. In contrast, fifteen of those who intended to emigrate were from small households. This indicates that the nuclear family is increasingly under pressure to survive economically, forcing mothers to migrate for work. In both groups, around twenty of the twenty-five came from families in which other members had also emigrated for work, often a close relative such as a sister or brother.

2.1.2 EMIGRATION HISTORY

Among the returned migrants, five of them were below the age of twenty-five when they arrived in the host country for the first time, eleven were between twenty-five and thirty and the rest were older, one of them being above forty. Thus, the majority of them emigrated when they were under the prescribed minimum age of thirty years. Eight of them went abroad only once, while three went twice, thirteen went thrice and one had been four times.

Figure 1. Destination countries of women migrant workers.



Table 1. Reason for choice of country

Reason Cited	Number
Reliable person was taking them	9
Relative/friend was there	8
Heard the wages were good	4
Other reason (newspaper or agent)	3
Group was going from the area	1
TOTAL	25

2.1 RETURNEES

Thirteen of the returnees interviewed had found work through agents, eight through relatives and four through friends. While a few had been influenced by information in the newspapers, seventeen of them had got in touch with agents through relatives. All the agents except one were men and most of them were not located near the homes of the emigrants. Whereas many women knew the actual location of the agents, five of them had only contacted them on the phone and did not know anything more about them. While most women had been helped by others through these procedures, especially the first time, there were some who managed them on their own, going alone to meet agents in other places, handing over money etc.

Table 2. Payments made for services rendered

Amount paid Indian rupees (INR)*	Number
No payment	5
Below 15000	1
15000-20000	7
20000-25000	8
25000-30000	2
Above 40000	2
TOTAL	25

* 1 USD = 45 INR (2011)

From the above table we see that five of the respondents did not pay anything to go abroad, whereas seventeen of them paid agents and three paid a relative who purchased their airplane tickets and arranged for their travel. The amounts paid to the relatives for travel varied between INR 15,000 to 30,000 (USD 333 and 666) indicating that, like agents, some relatives also charge for their services since a one-way air ticket to any of these countries costs less than INR 10,000 (USD 222). To cover their travel costs, nine of the returnees had sold their jewels, eight had borrowed money and the rest had managed to save enough on their own.

Surprisingly, none of the respondents were asked by authorities in India to produce their work contract before leaving the country, which indicates that none of them had actually received the required emigration clearance⁸. Four women who travelled from India to the Arab States with their employers had signed some papers ahead of their travel date, which may have been a form of work contract. None of the women who signed papers had any knowledge of what they had signed and none of the women in general were told what to expect at the other end (with the exception of two women who went overseas through their relatives). The majority were 'pushed'⁹ through at emigration without following the official channels for overseas employment and thus became undocumented migrants.

⁸ As explained later, the legal age for emigration for unskilled female domestic workers is 30 years. They require an emigration clearance to travel at which time they are also required to produce a work contract from the employer that gives the details of the employer and the wages to be paid.

⁹ 'Pushed' is the term presently used and understood to mean that their passage through emigration at the airport is obtained in exchange for bribes.

The majority of them were made to hand over their passports to the agents. As many as ten of the twenty-five returnees reported being subjected to forced labour during the recruitment phase and a few suffered from severe forms of sexual abuse at the hands of agents or middlemen. For example, two women had to go to Bombay to meet agents prior to their departure to the Middle East and were made to work in the agents' homes, cooking for them for three weeks. Two others were taken to Mumbai and sexually abused by middlemen.

2.1.3 TRAVEL EXPERIENCES

Whereas ten of these women had travelled by train to the airport from which they boarded their flight, the rest of them had left directly by air from a city in Kerala. Overall, eighteen of the returnee migrants travelled directly from their home to their overseas destination while the rest of them had to stay en route for periods ranging from a week to a month. Most of them were not told in advance about the route they would take and did not know what to expect.

Whereas thirteen of them were not accompanied by anyone on the journey, four were accompanied by the employer, four by relatives, and four by other workers. Seven of them did not have their travel documents with them. Most of the workers who travelled on their own also travelled without the necessary emigration clearance. The fact that such a large number went through irregular channels suggests that emigration regulations are not working effectively enough to detect such movements.

On arriving at the port of destination all but one of the women were met at the airport, in most cases by strangers. The one that was not picked up remained at the airport for two days before reporting to the airport authorities, after which her Arab sponsor came to take her. She described the harrowing anxiety she experienced while waiting. The stories of the women from this point onwards are varied and reveal how the placement chain works. Those who were taken across by relatives and who had not paid any money went directly to their employer's home. The others went to houses maintained mostly by female agents, and in some cases by male agents with a female supervisor.

The family – agent connection

Three women from Thiruvananthapuram went to Dubai with the help of a relative, John, who worked in Kuwait. He sent these women to a local person who was previously unknown to them. This person charged them INR 50,000 (USD 1,111) each to arrange for their passports, tickets and visas. When they reached Dubai, they were received by another unknown person who took them to a house, run by a Keralite woman, where there were several other workers. The employers came there to select those they wished to recruit. The agent translated the employer's requirements to the migrants before they went to their place of work. They learned that their salary of INR 5,000 (USD 111) per month (in 2006) would be paid through the agent and that the first three months' salary would go to John who had put them in touch with the agent in Thiruvananthapuram. They were not informed of this in advance. They were told that if the employer was dissatisfied with them, they would be brought back to this agent.

2.1 RETURNEES

2.1.4 WORKING CONDITIONS

The majority of women surveyed for the study migrated for work with a very minimal understanding of their working conditions that were communicated to them orally. They were told that the nature of work was domestic labour but no details were given about working hours, types of household duties, days off etc. They were cautioned about the fact that they would be dependent on the employer who had provided the visa. In the employer's home, sixteen of them were given multiple tasks such as cooking, cleaning, gardening, car washing and taking care of the animals, whereas the others did one specific job such as cooking, child care or looking after the sick.

There were major differences between the information given to the workers in advance and the situation they were put in. The majority of them said that the work and conditions of payment and living were worse than what they had been told. Indeed, three were even taken to a different country. While twelve of them got the payment they were promised and were allowed to leave after two years as agreed, thirteen of them had deductions made from their salaries of which they were not informed earlier. This was the money that finally went to pay their agents, relatives and others who had got them their visas. So despite a significant number saying that they paid nothing to go abroad, in most cases the deductions in their salaries were made deceptively by relatives or agents at a later date. As many as twenty-three of them said they felt they had no choice but to accept whatever payment and working conditions they received since they were in a foreign country and needed the protection of their employer or agent. Upon arrival in their destination countries, some of the women could not keep their passports. Others were told by their agents that they had to work for at least two years for their employer, even if they were exploited and abused. There were instances where exploitative employers registered false criminal cases against the domestic worker in retaliation for the worker wanting to leave prior to the expiration of the work contract.

The Kasargod Embassy

Jameela (age fifty), from Mallapuram, did not know about her rights when she was placed for work abroad through an agent. She worked from 5 a.m. to 11 p.m., cooking, cleaning and ironing for the family and their guests. If things were not done well, she was rudely scolded. She was given only leftovers for food and could eat if and when she managed to find the time. When she was sick and could not work, a week's wages were deducted. She was not allowed to talk to other workers in the house.

There was an old man she had to attend to – giving medication on time and taking him to the toilet. He used to harass her physically. One of the children was mentally challenged and used to throw things at her. A few times the lady employer slapped Jameela when she was unsatisfied with Jameela's work. Jameela tolerated this for a year, since she had paid a lot for her visa and needed to earn money for her family.

Then she met another Keralite maid who had accompanied a visitor to the house. She told her about a possible escape route through a place called the 'Kasargod embassy'¹⁰. Jameela called them and, after two days, she picked up the courage to leave the house, call a taxi and go to the 'embassy'. She was taken in by a man and given place to stay. There were other women there too. She stayed there for a week and was then taken to the airport and sent home with another passport. She knew there was a police complaint against her.

All, except one, of the migrant domestic workers interviewed faced problems at work and had a series of restrictions imposed on them.

¹⁰The 'Kasargod Embassy', is a centre run by a network of unregistered agents who produce and sell fake passports to migrant workers for their return home. Due to their illicit nature, the scope of the embassy's protection of migrants is still largely undocumented. However, migrants' reliance on the Kasargod Embassy reflects the need for stronger government support to migrant domestic workers in destination countries (See 2.3.4 Illegal agent racket for more information).

Table 3. Restrictions placed on the workers

Restrictions	Number
Not allowed to go outside the house	12
Not allowed to talk to other workers	7
No leave	2
No permission to make one's own food	1
No permission to make one's own food or go outside	2

Besides these restrictions, there were other pressures indicative of forced labour. For example, nineteen of the twenty-five women were forced to work overtime. They felt they could not refuse because their legal status and employment situation depended on their employer. Many were also threatened in different ways including loss of wages if they refused. Only two of them had their passports in their possession as they had gone on a free visa while all the others had handed over their passports to their employers, taking it for granted that this was the norm. They had not asked when and how they would get their passports back. Except for one, none of them felt free to leave the employer. They felt very insecure, as they thought that they could be pursued by the police, put in jail and may lose their passports permanently.

On the positive side, all of them were able to contact their families either on the phone or by post and all except one of them were able to send money back to their families either through the bank, through friends or relatives or by money order. This was necessary as in the case of twenty of the twenty-five, their families relied totally on their remittances.

The households the women worked in were generally large – fifteen of them had worked in households of four to seven members, three in those of eight to ten members, and seven in households of more than ten members. The employers were professionals, government employees, police officers or business people. While seven of the returnees said they were treated kindly, eleven of them said they were treated very rudely, and the rest said that their employers were sometimes rude and sometimes kind. Eighteen said that they received sufficient food while the rest did not and nineteen said they were paid on time while the others were not. The majority of them had heard stories of others being overworked, unpaid, very badly treated and even beaten, and in some cases sexually harassed.

While half of them said that they had no major problems and therefore did not feel the need for help, one said that she would approach the *pravasi* organization¹¹ in case she needed assistance. Others felt they could rely on their relatives and friends and one said she would seek help from the agent. There was a small group of returnee respondents that were more vocal about their needs and said that domestic workers were treated so badly that the government should do something about it. They said that there was really no official appellate body when something goes wrong. Instead, workers are dependent on well-intentioned individuals to respond to their needs. They were aware that they are exploited both by the agents and the employers and that it is they who are at the losing end despite working so hard and spending so much money. Most of the returned migrants did not even realize they were undocumented and had travelled through irregular channels.

¹¹ A branch of NORKA in countries of destination that rescues migrants from Kerala in distress.

2.1 RETURNEES

In case of accident

Saleema, from Mananthawadi, emigrated for the first time in 1999 when she was twenty-five years old with a passport on which her age was stated as thirty-two. Since then, she had worked in several places – Saudi Arabia, Oman, Bahrain and lastly Dubai. Although her travel arrangements were made by relatives, she had paid INR 25,000 (USD 555) initially and finally INR 75,000 (USD 1,665). It was in Dubai that she met with an accident and hurt her foot. The employer had her admitted in the Government hospital and then deserted her. She had to fend for herself.

A social service organization called Sneha Taalvara came to her rescue and publicised her case through the media, thus forcing the employer to pay her compensation. After three months spent in the hospital, it took three months more for her to walk normally. The employer was obliged to pay for her return ticket home. But by that time her visa had expired and when she was about to board her flight she was arrested and incarcerated for a month and a half. Once again the organization supported her and helped her to get another ticket to go home.

Although Saleema understands that all is not well for women who emigrate, she is totally unaware of the fact that there is an underground placement network through which most women migrate. She knows that she should be protected since she pays for her visas and does honest work. She called a meeting of other migrants like her who have returned to encourage them to join the welfare scheme called Santhwana created by NORKA Roots that provides financial assistance to returnees in need.

2.1.5 RESPONSE TO HARASSMENT

While the majority of those interviewed did not report excessive harassment, five of them did. Three of these actually ran away because of the difficult working conditions two went back to the agent and one took shelter with relatives. Of the two who went to the agent, one was placed in another house and, for the other, the agent was able to get the employer to pay a part of the wages due as well as a part of her return ticket. The latter was very disillusioned by the whole experience. The woman who stayed with her relatives was able to earn more money through clandestine work but knew this was risky because she had overstayed her visa. Finally, one day when a moratorium was announced, she managed to leave without major hassles as the ‘embassy’ gave her back her passport. In all these cases, it was mainly the informal Keralite network (the ‘Kasargod Embassy’) where the workers received assistance and not the official Indian Embassy.

One of the workers was sexually abused by a young man of the household. When she complained to the lady of the house, she laughed saying he was only a boy. The worker used to hide herself whenever the young man came into the work area but she did not always succeed. He used to tease and touch her. When she rebuked him, he used to respond playfully. She said she could not leave despite this constant harassment because she needed money to get her daughter married.

One of them who had worked on a free visa was harassed by the police as she did not work in the place for which the visa was issued. She managed to escape but lived in constant fear although there were other Keralites who were willing to bail her out. As she was a good cook, she was able to make enough money working on an hourly basis. But she also had to pay the men who gave her protection. Then she befriended a man from Kerala with whom she lived. She was finally forced to leave the country and will not be able to return to Abu Dhabi again.

Interestingly, most women who return from the Gulf do not reveal the hardships they face abroad to others. They tend to play down the difficulties and are willing to go again hoping they will not be unlucky. Theresa, for instance, who had faced great harassment from the agent and was forced into prostitution from which she escaped, was still prepared to give it another try. In many ways, it is difficult to understand their reasoning since in many cases, the wages they receive abroad are not much higher than the wages they would receive in Kerala. Moreover, while the majority of domestic workers in Kerala refuse to be live-in workers within the State, as they have domestic responsibilities, they have no qualms about emigrating. If they have an opportunity to migrate, they make arrangements to put their children into alternative care options, get the money somehow and leave. This suggests that women may falsely believe that they will make more money overseas than they can in Kerala, or that there are alternative motivations behind their departure which should be taken into account.

2.2 POTENTIAL MIGRANTS

2.2.1 PROFILE OF POTENTIAL MIGRANTS

Of the twenty-five women interviewed, the majority were working – ten of them were domestic workers, six were self-employed mainly as tailors, four of them did other wage work (some under the NREGA) and two worked in agriculture. The remaining three that did not work were planning to go abroad because there were no job opportunities at home. Except for one, none of the potential migrants interviewed had worked abroad earlier.

2.2.2 MIGRATION PLANS

While four of the respondents were planning to migrate within the coming three months, the large majority (eighteen) were planning to migrate within the next three to six months and a few within the coming year. Most of them had been encouraged to go abroad by their friends and relatives who would provide them with information and assist with their visas, seven had decided to go abroad on their own and one of them was trying to join her husband. Nine of these women also knew agents who could get them across. Except for one of them, the others knew where they would like to go, some of them having only one preference and a few having two as indicated in the table below.

Table 4. Preferred country of destination

Country	1 st choice	2 nd choice
Saudi Arabia	7	-
UAE	5	1
Oman	5	-
Kuwait	3	1
Qatar	2	-
Bahrain	1	2
Not sure yet	2	6
No option	-	15

2.3.3 PREPAREDNESS FOR EMIGRATION

Except for one, the potential migrants did not know exactly how much they would have to pay to go abroad to work. Two of them who were going through relatives said they wouldn't have to pay any money, twelve of them said it would be between INR 30,000 (USD 666) and INR 50,000 (USD 1,111), five said it would be more than INR 50,000 (USD 1,111) and another five said it would be less than INR 30,000 (USD 666). Of these, four of them had their own money to meet this expense and three would sell some of their jewellery to raise it, but all the others said they would borrow money or at least a part of it. While nine said they would take a bank loan, seven said they would borrow from relatives and friends and another six proposed to get

2.2 POTENTIAL MIGRANTS

assistance from their micro credit groups. Except for three of them, they also knew that they would have to pay interest ranging from 5 percent for those who would borrow from their micro credit groups to 20 percent for those who would borrow from banks or money lenders. While eleven of them had calculated approximately how long it would take them to repay the loans, the rest of them had not.

Twenty of them knew that they needed a valid passport to travel and sixteen of them knew that they needed a visa. Interestingly, eleven of them also knew that they required a contract if they went with an employer and three said they needed a work permit.

The existing mandatory work contracts only give details of the employer, the wages and the repatriation requirements. But a good number of the workers felt that such contracts should contain more information as indicated below.

Table 5. Contents of contracts expected by workers

Contents of contracts	Yes	Don't Know
Nature of work	20	5
Housing / Accommodation	19	6
Location of the employer	17	8
Number of hours of work per day	16	9
Number of leave days	14	11
Salary	13	12
Duration of employment	13	12
Return airfare	10	15
Provision that migrant workers can retain their identity or travel documents	5	20
Medical insurance	4	21
Legal status	3	22
Other facilities	3	22

Interestingly, twenty of these workers were unsure about the right to keep their travel documents with them while five of them emphatically said that employers did not have the right to retain their travel documents. These were the workers who were going abroad directly with the employer.

Several of these workers had some idea of the difficulties that domestic workers faced abroad – not getting the wages promised, long working hours, being ill-treated and even sexually harassed, yet these risks did not deter them. While five of them did not know what they would do if they faced any problems abroad, only two of them said that they would go to the Indian Embassy, seven of them said they would refer back to the agent

while seven others said they would seek refuge with relatives or friends that were there. Four of them thought that they could go to the police. None of these workers were aware of the various schemes and welfare funds of the government for workers in distress.

Even if many of these women were confident about being taken abroad by relatives, they were aware that they have to finally get the assistance of agents who help them to migrate. But eighteen of these women did not know that only recruiting agents that are registered under the Emigration Act 1983 are permitted to recruit workers for overseas employment. Those who were aware of this also knew other women who were taken abroad by employers directly.

It was revealing that while twenty-four of them knew what sexual harassment implied, twenty of them did not know what forced labour entailed. They knew that they would be expected to put in long hours of work and do any work that the employer wanted but had no concept of what an actual working day should be or under what conditions they should work. They expected to get decent food and some rest.

2.3 THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR MIGRATION

Friends and relatives together with placement agencies play a central role in matching domestic workers with the demand. They function with varied terms and conditions placed by the employer and in services offered to the worker and differ considerably in their objectives. Several legislative and institutional frameworks guide the recruitment, placement and emigration process.

2.3.1 MINISTRIES THAT CONTROL EMIGRATION

The management of emigration and its necessary documentation procedures are currently being handled by three Central ministries – the Ministry of External Affairs that issues the passports and manages the functioning of Indian Missions in foreign countries, the Ministry of Overseas Indian Affairs that regulates emigration and undertakes the responsibility of protection and welfare of emigrants through the Protector General of Emigrants, and the Ministry of Home Affairs that monitors the flow of emigrants from the country at the ports of embarkation. The Indian Emigration Act 1983 and the Indian Passport Act 1967 define the institutional contours governing emigration from India.

Pursuant to the Emigration Act 1983, the office of the Controller General of Emigrants then in the Ministry of External Affairs was renamed the Protector General of Emigrants (PGE). The office was transferred to the Ministry of Labour and Employment and attributed new responsibilities and powers. The protection and welfare of emigrants, along with the regulation of recruitment practices in the country is now the responsibility of the PGE whose office has been transferred to the newly created MOIA.

2.3.2 ANOMALIES IN THE EMIGRATION ACT AND PROCEDURES

The Emigration Act 1983 aims to safeguard the interests of migrant contract workers and ensure their welfare. Under the Act, only recruiting agents registered with the Ministry of Labour and Employment can recruit for overseas employment after obtaining a registration certificate from the PGE. There are eight offices located in Chandigarh, Chennai, Hyderabad, Kochi, Kolkata, Mumbai, New Delhi and Thiruvananthapuram under the PGE which appoint private agents for recruitment to various foreign jobs.

2.3 THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR MIGRATION

The Act, now in its twenty ninth year of existence is in need of strengthening. From procedure delays, to the limited security fee and penalties prescribed for recruiting agents who default, the Act seems to fall short of the aims it seeks to address (Menon and Bhushan, 2010). Amended several times, most recently in 2009, there are several provisions that still require revision if this piece of legislation is to be made more emigrant-friendly.

While the GOI has realized that the institutional framework created by the Emigration Act is not as effective as it should be and that it lacks coherent legal, administrative and policy structures necessary to implement it, there is little or no acknowledgement that the existing framework discriminates against 'low-skilled' emigrants from the country in general and 'low-skilled' women migrants in particular. The Act divides citizens into two categories according to their educational qualifications: low-skilled migrants whose passports are marked Emigration Clearance Required (ECR) and others who do not require such clearance (ECNR – Emigration Clearance not required). Ostensibly, this is done in order to protect less educated migrants. However, it does not offer sufficient protection to 'low-skilled' emigrants from the country, particularly women. In fact, it prohibits the movement of specific categories of women – especially single, uneducated, domestic workers below the age of thirty.

...it is this discriminatory state intervention that has served to produce and sustain a form of 'controlled informality' in the emigration process, a regulatory impasse that promotes the use of informal, largely unauthorized agents and procedures and indirect routes of acquiring clearance. This takes the form of a shadow institutional space and a powerful parallel economy with an extensive network across India and the Middle East that serves to replicate the functions of the State. Unauthorized agents not only organize emigration clearance, in the case of applicants who may not have the required qualifications, but, in association with State officials at airports, also manage 'pushing' i.e., sending women workers through without the requisite clearance.

Kodoth And Varghese, 2011

According to the Protector of Emigration (PoE) – Kochi, his office has very clear instructions regarding the granting of clearance to those passport holders who require emigration clearance including domestic workers¹². This clearance is given only if the worker is above thirty years of age and has a valid contract of work which includes the employer's details, the salary, the repatriation details, etc. This ensures that the worker gets all the necessary assistance from the Indian embassy whenever necessary. At present, people who require clearance can register on-line and the clearance sticker is produced from the on-line data. Hence, there can be no tampering with it. However, he is also aware that several domestic workers go to work abroad through irregular channels.

One reason for this may be insufficient inter-ministerial coordination - the PoE comes under the MOIA whereas the Bureau of Immigration comes under the Ministry of Home Affairs which keeps the data concerning all those who migrate. In contrast, the MOIA only keeps data on those who migrate with emigration clearance. As many low-skilled workers who officially require such clearance are unable to secure the work contract which is a pre-requisite for obtaining it, they use irregular channels and are at the mercy of unregistered agents who 'push' them through as ECNR emigrants.

These agents, while making large sums of money in the process, seem to have a more paternal approach towards the workers who in return put their total trust in them. As workers who travel abroad with visas have made all due payments, they do not realise that they are actually undocumented emigrants.

¹² Informal interview

2.3.3 DISCRIMINATION AGAINST UNSKILLED WOMEN WORKERS

Another factor that encourages unskilled women workers to opt for irregular channels of migration is the changes in government policy concerning emigration and the restrictions placed on migration of unskilled women workers:

In 1999 the GOI banned deployment of Indian workers for employment as housemaids or male domestics in Kuwait. The ban sought its justification in the post-war turmoil in Kuwait and the resultant harassment of foreign workers, especially those working in the domestic sector. The Ministry of Labour later lifted the ban on deployment of male domestics in Kuwait subject to attestation of documents by the Indian embassy at Kuwait. But the order, dated 29 May 2000, made “no change in the decision regarding the deployment of housemaids in Kuwait.” The Ministry through another order (dated 26 February 2002), as instances of violation of the earlier order came to its notice, reiterated the decision. Further, through an order (dated 9 July 2002) the Ministry fixed thirty years as the minimum age prescribed for deployment of Indian citizens as housemaids in the Gulf countries, with immediate effect. Through still another order (dated 20 November 2003), in the light of the recommendation of the National Commission for Women, the Ministry directed all POEs not to give emigration clearance to women who are below 30 years of age if they are seeking employment as housemaids/domestic-workers in any foreign country. The newly established Ministry of Overseas Indian Affairs (MOIA) brought an air of relief to prospective women emigrants when it issued its first order in this regard on 4 May 2007. The order lifted the prescribed minimum age criterion for all household service workers in the case of ECR countries. However, that order was not only short-lived but also a prelude for more proscribing interventions by the Indian Government. Exactly after seventeen days, on 21 May 2007, the MOIA came out with another order directing all the PoEs that “women below the age of thirty years, who seek any kind of employment including employment as housemaids, domestic workers, hair dressers, beauticians, dancers, stage artists, labourers, general workers, etc. in any foreign country, may not be granted emigration clearance”

Rajan et al, 2009

The next reform concerning women emigrants came on 1 Aug 2007, which reiterated that for the protection and welfare of women emigrants, the age restriction of (Rajan et al, 2009) years would henceforth be made mandatory in respect of all women emigrants with an ECR passport (by that time the qualification for getting an ECR passport had been lowered to completion of high school), irrespective of the nature/category of employment. The order also made a direct employment contract between the worker and the employer mandatory, which should provide a minimum wage of USD 400 per month. Besides, every household worker was to receive a pre-paid mobile facility provided by the employer. In addition, every foreign employer recruiting an Indian woman emigrant was obliged to make a security deposit of USD 2,500 in the form of bank guarantee, with the Indian Mission concerned. The PoE could seek a copy of the bank guarantee duly attested by the Indian Mission before granting emigration clearance. The measures restricted regular channels available to low-skilled workers and consequently, may have pushed more and more migrants to use informal and irregular channels of emigration.

On 12 September 2007, the Ministry withdrew its order on the minimum wage and the security deposit, which proved unrealistic at the time. It had however already had a negative impact on migration of women for unskilled and semi-skilled work as the recruitment of such categories came to be stigmatized by some stakeholders. Almost all the credible recruiting agencies have stopped recruiting unskilled women for overseas jobs and agents that continue to do so do not recruit openly.

2.3 THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR MIGRATION

2.3.4 ILLEGAL AGENT RACKET

The existence of irregular procurement of visas and identification documents for overseas employment has been highlighted by the media in India. An article in *The Hindu* on October 16 2010 reported on the visa racket and how undocumented domestic workers are referred to a fake embassy – the ‘Kasargod Embassy’ to help them when in distress. Several such reports appear in the press after disasters such as the plane crash in Mangalore in 2009 when some of the ill-fated passengers returning from work abroad were found travelling on passports with false names (Radhakrishnan, 2010).

In their study Rajan et al (2009) conclude that

Along with mounting labour emigration, overseas recruitment practices have become increasingly complicated and pose a formidable challenge to the Government and its regulatory organs. The process of recruitment allegedly involves corruption and exploitation on an enormous scale. In fact, the GOI has admitted that the system it had put in place to regulate and streamline the emigration process has failed to generate the desired results. On the other hand, this administrative apparatus itself has accentuated corruption as a result of the nexus formed between erring government officials and recruiting agencies, leading to increasing exploitation of the poor.

Our case studies reveal that regardless of the risks involved, those women desirous of emigrating have great faith in informal networks as these are perceived as being more responsive than the government mechanisms.

2.3.5 AMBIGUOUS STATUS OF MIGRANT WOMEN WORKERS

In their paper *Emigration of Female Domestic Workers from Kerala: Gender, State Policy and Politics of Movement*, Kodoth and Varghese (2011) analyse the complexities that create the ambiguous status of migrant women workers. While many have argued that bans and restrictions to prevent women workers from falling into abusive situations only drive the process underground, it is obvious that their security and rights depend heavily on appropriate and enforceable legal frameworks in the receiving countries (Chammartin, 2004: p. 22).

Labour laws in most Arab League States do not cover women migrant domestic workers hence they are not considered employees, and “the specificity of their employment relationship is not addressed in national legislation” (Ibid., 17). Significantly, in India too there has been a lack of clarity regarding the status of domestic workers and it is only in recent years that they have been recognised as workers. But there is still no legislation in place to guarantee them their rights and social protection.

State policy and social regulation have had serious consequences for the prospects of emigrant domestic workers in the host country. Sabban (2004, 89, 95) points out that the position of foreign domestic workers in the labour market in the United Arab Emirates (UAE) is linked to the status of women in the sending countries. Up to the 1970s, immigrant domestic workers in the UAE were mostly from India, drawing on a long history of cultural and economic relations, but since the late 1970s and 1990s, the Philippines and Indonesia respectively have grown as source countries. More recently, the numbers of Filipina and Indian domestic workers was “not growing at the same pace as before”, beginning a trend of Indonesians replacing

Filipinas in the middle and upper income households and Ethiopians replacing Indians in the lower income households. Ethnicity and nationality are significant determinants of wage rates of domestic workers in the Gulf States.

The study conducted for the ILO in four Arab League States indicates that the exploitative and stressful working conditions of domestic workers are facilitated by the absence of a clear and just legal framework (Esim and Smith, eds., 2004). In particular, the Kafala (sponsorship) system keeps the domestic worker at the mercy of the sponsor / employer, for she does not have the right to change her job unless she leaves the country. Besides, the employer usually takes possession of her legal documents, depriving her of any bargaining power (Sabban, 2004).

The state needs to provide effective safeguards against exploitation and abuse alongside incentivizing legal emigration through social protection coverage. Problems with the legal framework generate irregular migration and related problems even where sending States are strongly supportive of migrants as is the case with the Philippines and Indonesia. The Philippines embassies in the Gulf countries mediate in disputes, refer cases to the courts and bear the expenses of litigation and where possible attempt, in association with recruitment agencies, to find new employers. In contrast, the attitude of the Indian embassies towards domestic workers has been described as more passive' or 'reluctant'. Al-Najjar (2004, 38) suggests that their attitude stems from a sense of shame over the issue of emigrant domestic workers, which is shared by influential sections of academics and the public. Furthermore, the embassy seems reluctant to confront local influential families in the Gulf who employ migrant domestic workers.

Kodoth and Varghese thus suggest there is need to probe the implications of gender in the prevalent understanding of sovereignty as discussions on a new migration policy in 2008 opined that gender was not a serious concern,

- a) As women's migration had gained momentum in the higher education categories;
- and
- b) Because the flow in depressed categories such as domestic work was on the decline.

The latter statement was substantiated by the decline in numbers of women emigrating in the ECR category despite evidence that it is likely that their numbers are under estimated because of the use of irregular channels. Further, a survey of domestic workers in Kuwait in 2001 showed that fourteen out of forty-three Indian women workers had education of up to high school or above indicating that they may migrate in the ECNR category as well. (Godfrey et al, 2004) Thus there is need for a gender perspective in a broader sense.

2.3.6 RECOMMENDATIONS FOR CORRECTING INSTITUTIONAL ANOMALIES

Justice K Sukumaran (2005) opines that the Emigration Act in its current form is primarily regulatory in nature and consequently does not provide the much needed legislative basis for the promotional and welfare considerations related to migration in general. There is a lack of communication and effective coordination among the various stakeholders: the two Ministries, the PoE, recruiting agents and Indian missions in the destination countries. The Act is silent on the role played by the State Governments. As emigration is a subject on the Union list of legislative powers, the State governments do not have the power to legislate on the matter. Consequently, the State police often do not act in a timely and efficient manner in cases of reported irregular migration. The inadequacy of bank guarantees, lack of control over the recruiting agents or employers etc. pose added problems.

The Indian Overseas Workers' Welfare Fund is meant to provide the necessary funds to concerned embassies or high commissions for arranging return tickets for workers who are stranded in foreign countries, for assistance to migrant workers who become partially or permanently disabled or for transportation of dead

2.3 THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR MIGRATION

bodies. It is operational at Indian Missions in about seventeen countries for which emigration clearance is required. Such workers' welfare schemes would be more effective if all emigrant workers are entitled to them. The GOI also has an Overseas Workers' Resource Centre (OWRC) to provide information and assistance to intending emigrants and the family members of migrant workers on all aspects of overseas employment. Eighteen Migrant Resource Centres have also been set up but provide services only to those workers who have legal contracts. None of these centres assist or provide information on skill up-gradation required of the workers. Neither do they inform them of the laws in the host countries, or provide minimum language skills that would help workers adapt to the new situation or defend themselves against possible accusations and law suits against them. To improve this situation, welfare officers should be posted both at the Missions in the destination countries as well as at various local centres within India to solve problems faced by emigrants and communicate these to the Ministry for follow-up.

The standard work contract that workers presently require for emigration clearance is very minimal. A model work contract that is universally applicable to all employers seeking to recruit workers from India should be drawn up. This model contract should contain certain basic mandatory provisions such as salary, hours of work, overtime pay, conditions for termination of contract and provision of other benefits such as medical check-up, legal services, compensation in case of injury or accident, etc. The model contract should be flexible enough to allow adaptation to the labour laws of the receiving countries.

The particular needs of women migrant workers should be specifically addressed. The division between persons requiring emigration clearance and those that do not require it should be done away with. If State governments are given more powers within the framework of the Emigration Act, they would assist in legal placement of unskilled workers. They would also be able to develop more constructive programmes to assist them with better certified skills. It is crucial that the minimum age for women to migrate should be revisited in consultation with the National Women's Commission that has also developed a good draft Bill on domestic work in India.

2.4 MITIGATION ATTEMPTS

2.4.1 IN KERALA

In order to assist emigration processes in Kerala where the number of emigrants is large, Norka-Roots (Non Resident Keralite Affairs Department) of the Government of Kerala was created in 2002. It has three offices in the State, in Kochi, Kozhikode and Thiruvananthapuram, and two outside it, in Mumbai and New Delhi and it has an integrated programme for overseas job seekers. It conducts pre-migration and pre-departure orientation programmes twice a year in each district, developing awareness among aspirants about the general job situation abroad and imparting essential information relating to passports, visas, emigration rules, employment contract laws, travel formalities etc. It is also an authorised agency for manpower recruitment. It has an online platform for employers to hire quality talent¹³ as well as a 16-hour call centre with a toll free number. It is noteworthy that even though the Overseas Department at NORKA is authorised to recruit domestic workers, they are reluctant to do so because domestic workers are not covered by any protective legislation in the Gulf countries and hence cannot obtain legal redress there.

Faced with numerous issues confronting the workers, NORKA has a scheme for providing legal assistance to weaker sections of returnees and another to give assistance to returnees in distress to cover medical bills, funeral expenses etc. as well as a Karunya scheme to repatriate deceased workers. NORKA also provides an identity card for those working abroad with residential permission for more than six months. Such persons are entitled to accident coverage of INR 200,000 (USD 4,444). In case of harassment, NORKA assists with repatriation.

In addition, there is a programme called Ujjwala of the GOI, for rehabilitation of women workers. However, very few women workers are aware of this programme and of procedures to access it.

¹³ www.jobsnorka.gov.in

There is a special Non Resident Indian (NRI) cell at the Police headquarters in Thiruvananthapuram to deal with issues of the NRIs. It mainly takes up cases of cheating by recruiting agents. They say that in the last nine years they have received complaints from only 9 domestic workers. Four years ago they had received a complaint regarding physical harassment and overwork, but as there was no clear evidence it was not possible for them to pursue the case. They have received no complaints of sexual harassment. Since the minimum age for migration is thirty years, women below thirty have migrated illegally and hence their cases cannot be registered by the police.

2.4.2 IN SAUDI ARABIA

More recently, the Saudi Arabian government has taken some steps to improve the situation of migrant domestic workers. For example, the Ministry of Social Affairs operates a shelter in Riyadh for domestic workers who need assistance in securing exit visas to return home or in claiming unpaid wages from their employers. The Ministry of Labour has begun penalizing employers who have mistreated their workers by barring them from hiring foreign workers for the next five years and, in some cases, for life.

Moreover, the Ministry of Labour announced plans to extend its wage protection system to domestic workers and has begun signing a number of memorandums of understanding on the recruitment of migrant workers with several countries of origin¹⁴. The inclusion of domestic workers in this system would require employers to put workers' wages in banks and an alert would be issued if there is a period of unpaid wages.

These reforms point in the right direction but are not sufficient to prevent abuse from occurring. For this, changes in the current system of sponsorship are needed. The kafala system gives the employer immense power over the domestic worker because she cannot leave the country or change employers without his/her consent. Domestic workers are especially at risk of abuse because they are not covered under the Labour Law and its protections concerning limits on working hours, weekly days of rest, and overtime pay. Unfortunately, this deep power imbalance and lack of regulation too often results in exploitation.

The Ministry of Labour has proposed key reforms to address these issues, but the Government has been slow to adopt them. One proposal is to change the sponsorship system so that a few large labour agencies would act as foreign workers' sponsors instead of individual employers. Such a change would help workers leave abusive employers more easily, though such agencies would need to be monitored rigorously and are likely to be more interested in their profits than in the rights of the workers they recruit.

The Ministry of Labour has also drafted, but not yet adopted, an annex to the Labour Law 2005 specifying the rights and duties of domestic workers. If this annex provides domestic workers with equal rights with all other workers, it could provide a model for the region.

The Protection from Abuse Law, which was approved by the cabinet in 2013, extends rights such as nine hours of free time daily, regular payment of salaries, sick leave, and a one-month paid vacation every two years to domestic workers. Despite these advances, the law continues to restrict workers' freedom of movement, excludes a provision for labour inspection (due to the principles of the privacy of the household in Arab countries), and does not change the kafala system, restricting job mobility.

In a troubling development in August 2013, the Government announced that it will substitute domestic workers from Ethiopia and the Philippines with workers from Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Vietnam, Cambodia, Bangladesh, Nepal, Laos, and India. This announcement has been viewed by some as the Government's attempt to evade meaningful bilateral cooperation with the traditional countries of immigration and any subsequent improvement of its labour governance system. The perception is that the new countries being recruited from are more eager to please and less demanding for protection.

¹⁴ Between January and February 2014 Saudi Arabia signed a memorandum of understanding (MoU) on the recruitment of domestic workers with India, Indonesia, and Sri Lanka.

2.4 MIGRATION ATTEMPTS

2.4.3 RESPONSES FROM NGOS

Non-governmental organizations (NGOs) have also begun to highlight the exploitation that is occurring of unskilled migrants. Several NGOs working on labour and health have started incorporating the migrant dimension into their work.

The Migrant Workers' Forum is one example of an NGO working solely on issues related to migrants particularly on what they refer to as the 'feminization of migration'. Its branch in Kerala organises pre-departure trainings in areas from where there is high migration. They also work with the families of migrants in order to assist them in case of difficulties faced by their migrant members or to help them manage their financial affairs as they are often highly indebted.

Its parent organization Caritas (2009) strongly feels that "if we don't regulate the sector of migrant domestic workers and leave them without a safety net, the burden on this group of people will double. Having no work to maintain the family at home and possibly returning with empty hands, puts the survival of the family at risk".

■ CARITAS SUGGESTS SOME KEY ELEMENTS THAT SHOULD BE INCORPORATED INTO REGULATION FRAMEWORKS, NAMELY:

- Safe and affordable recruitment
- Channels for legal migration of domestic workers
- Regulation of work by a legal contract which determines duties and rights of the employees and the employers
- Responsible States
- An ombudsperson for domestic workers.

These have been further elaborated by the organization. Admission to legal migration channels for domestic workers should not put an excessive financial and bureaucratic burden on families. Temporary employment-based visas for migrant domestic workers non-specific to employers and administered through labour authorities could be an option. Pre-departure information and counselling should be part of preparation for migration.

The employer/service receiver should get a well-informed and well-trained employee. The employee in exchange should have a reliable working agreement, guaranteeing labour rights. Both should be assisted, by public or private agencies, duly controlled, to ensure the quality of the working agreement.

The State has the responsibility to care for people within its territory and the country of origin should provide support for its citizens. Recruitment, mediating and au-pair agencies should be effectively controlled and licensed. Receiving States should draft legislation to protect the rights of domestic workers, with a clear definition of domestic workers' duties and implement such legislation.

There should be an independent functionary in each country with whom domestic workers can file complaints independently, regardless of their legal status. This ombudsperson should have the mandate to investigate cases and find means to solve them via mediation between the worker and employer or by bringing them to court. According to the evidence collected, necessary changes in legislation could be made or new legislation put in place.

2.5 CONCLUSION

We see from the interview process that a large number of women workers who go overseas as domestic workers experience extreme forms of labour exploitation abroad.

The report highlights the growing role of informal intermediaries and unscrupulous private employment agencies operating outside the legal and regulatory framework that prey especially on low-skilled workers. Accompanying abuses involve one or more of the following: deception about the nature and conditions of work; retention of passports; deposits and illegal wage deductions; debt bondage linked to repayment of recruitment fees; threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country. A combination of these abuses can amount to human trafficking and forced labour.

In June 2014 the International Labour Conference adopted a Protocol to ILO's Forced Labour Convention, 1930 (No. 29) and a Recommendation on Supplementary Measures for the Effective Suppression of Forced Labour. Cumulatively, these instruments play a critical role in creating a level playing field with regards to the recruitment and placement of workers, notably across borders.

The new Protocol also brings the existing ILO Convention 29 on Forced Labour, adopted in 1930, into the modern era by addressing practices such as human trafficking and by creating new obligations on protection, prevention and remedies, including compensation. The accompanying Recommendation provides technical guidance on its implementation. The new Protocol reaffirms the obligation to punish perpetrators of forced labour and to end the impunity that is still pervasive in so many countries.

The Protocol and Recommendation, alongside ILO Domestic Workers Convention, 2011 (No. 189), provides a solid international normative framework for respect of migrant domestic workers rights at home and abroad. They should provide a good direction for India, and other countries of origin and destination to put effective protective legislation in place while building mechanisms for grievance redress.

As the demand for domestic workers is great in India's capital city of Delhi, the supply of them is also a lucrative business. In all too many cases, norms on age and conditions of work are blatantly flouted. With living conditions in the rural areas of several eastern states in jeopardy, there is a regular stream of migrant workers coming towards Delhi in search of greener pastures.

The districts of Gumla and Sintega, in the state of Jharkhand in East India, are tribal or adivasi pockets from where a large number of workers go out in search of work. The region is composed of vast expanses of dry lands and semi-degraded forest. It is a poorly developed area with few schools, a hospital and limited means of transport. Furthermore, it is at present under the siege of Naxalite insurgents. Although most families own a substantial amount of land they remain at subsistence level with only one rain-fed crop of rice a year and sometimes a few animals. In the lean period, people survive on what they can gather from the forest and from work in road construction and in brick kilns. For this seasonal work, they are paid a pittance in cash and some of the payment is in kind. The ration shops in the area that sell subsidised basic necessities are poorly frequented as people have no cash to purchase these. Families are of an average size of six and each of them has one or more girls and sometimes boys who have migrated. With such a large number of migrant workers from these districts, working elsewhere for the past twenty to thirty years, one would expect improvements in living standards. But this is, unfortunately, not the case. The little money the migrants earn outside the State just helps their families to survive.

When talking to the families of migrants, one realises how little they know about the whereabouts of their daughters and the work they are engaged in outside. They know that they are with families in Delhi or Mumbai but most do not know their working conditions, salaries or what the girls actually experience there. Discussions with returned migrants revealed that they tend not to share their difficulties with other villagers, accepting it as their fate. Some of them harboured resentment towards their families, others were emotionless. Several of them had returned to the village to be married off. For them, the cycle will start all over again – children, invariably a migrant or drunken husband and poverty.

Most of these women and girls moved to the urban centres through informal contacts. Initially, about thirty years ago, nuns organised their placement. They worked in rather safe conditions but were paid only about INR 200 (USD 4.44) a month, most of which they saved to take back when they went home at the end of the year. So while the living conditions were safe, the conditions of work – food provided, hours of work and wages were left to the discretion of the employer. When they returned to work, they would bring a few of their neighbours with them and place them in other families they had met. For several of these girls, city life was more attractive than being at home. They were exposed to different ways and eventually some of them even found partners there and did not return. This caused alarm in their villages and news quickly spread about what was termed 'bad girls'. It made parents reluctant to continue to send their girls away.

Gradually the demand for domestic workers in the urban areas increased and people were willing to pay large amounts of money to get one. Seizing this opportunity for profitable business, both men and women from the area began to supply labour and take groups of girls to the city. As living conditions in their place of origin continued to deteriorate, this became an accepted practice and since young women were going in groups, parents were willing to send them along, lured by prospects of a better life elsewhere for their children and some remittances for themselves.

One incident that has had an impact on out-migration from the area was the disappearance of thirteen girls in 2010 who had been taken as a group and did not return. This seems to have frightened the younger girls who were intending to migrate. As a result, most of them are now hesitant to leave Jharkhand and prefer to go to work in cities like Ranchi or Dhanbad within the State rather than in distant Delhi or Mumbai.

3.

**MIGRANT WORKERS ON THE
JHARKHAND - DELHI ROUTE**

3. MIGRANT WORKERS ON THE JHARKHAND - DELHI ROUTE

Interviews were conducted with twenty-five young women who had returned to Jharkhand in the last two years after working in Delhi.

2.1 RETURNEES

3.1.1 PROFILE OF THE RESPONDENTS

Only three of the respondents were from Ranchi, the rest were from the rural areas. They were spread over a wide age range.

Table 6. Age at the time of the interview

Age	Number
Below 18	2
19-24	6
25-30	11
30-35	5
Above 35	1
TOTAL	25

When they first migrated, thirteen respondents were below the age of sixteen and eleven were below the age of eighteen while the oldest one was thirty years old.

At the time of the interview, sixteen of them were married and only two of them had no children. Fourteen women came from large households of five to seven members and four from those of eight to ten members. Only six women had just three other members in their households.

Their educational backgrounds were varied seven of them had received no formal education, four had completed high school and the rest were in between. One of them had also gone for skill training as a security guard after returning from Delhi where she had done domestic work. As many as nineteen of the twenty-five had family members who were still working outside.

3.1.2 MIGRATION DETAILS

Respondents were asked to name, in order of priority, the three main reasons behind their decision to migrate for work. As with workers from Kerala emigrating to the Gulf, the main motive to migrate from Jharkhand was financial.

Table 7. Reasons for leaving the home (number of respondents)

Reasons	Priority 1	Priority 2	Priority 3
To earn more money	11	6	3
Desire to experience life outside	7	5	1
Forced by the family to go	3	2	7
To find better work opportunities	3	7	6
Had no other skills for work and so went in for domestic work	1	2	2
To widen one's knowledge		3	2

Interestingly, about half of the respondents had decided on their own to migrate having been encouraged by a relative or friend who had already been there, while for the other half the family had put some pressure on them to go. Their destination was in most cases Delhi, not because they specifically chose to go there but because most others were going there or because their relatives or friends took them there. Only three of the twenty-five had been to other cities – one to Bangalore, one to Mumbai and one to Kolkata.

Before leaving their areas, thirteen of them had been involved either in some independent productive activity or in wage labour.

Table 8. Occupation before and after migration (number of respondents)

Occupation	Before migrating	On return
Agricultural wage work	7	9
Student	7	2 (Doing skill development)
Housework	5	9
Construction & other wage work	3	
Own agriculture	2	
DW in another city	1	
Work in a computer center		1
In service with a doctor		2
Self-employed in catering		1
Collecting wood for sale		1

3.1 RETURNEES

Whereas nine had returned to get married and therefore were presently not earning a living, a substantial number returned to agricultural wage work. A few branched off into entirely new occupations on return from a city. This could be because they had learned to speak Hindi, had more work exposure which helped them to interact with people and were more mature.

As the workers generally return home on leave after one or two years, many of them had left their homes several times. While five of them had left their place only once, seven had been to work outside twice, six had been thrice and seven had been more than three times.

3.1.3 EXPERIENCES EN ROUTE TO THEIR DESTINATION

The large majority had travelled by bus to Ranchi (six to eight hours) and from there by train straight to Delhi. They were accompanied either by other workers, relatives or friends or by the agents themselves. Only one made some unexpected stops along the way. On arrival in Delhi, some stayed a day with a relative or friend before being placed, others went to the house of the agent or to convents if they had come through nuns and a couple to the domestic workers' cooperative called Nirmala Niketan.

In the 1980s, when this wave of migration commenced, things were different to what they are now. Young women found work in the cities through friends and relatives who were already working there and did not pay any commission to agents. Among the respondents, only four had found work through a female agent/broker whom they had not known personally and who was not from their area. Even these had not paid any money for placement. All of them had to spend between INR 1,500 to 3000 (USD 33.33 to 66.66) for their travel and stay in Delhi prior to placement. Since then, agents have gradually made it a business to take groups of girls to Delhi and charge placement fees to the employers with whom they are placed.

From domestic worker to agent

Adriyani went to Delhi in 1980 when she was fourteen years old. She came from a family of five children. Life was difficult for them as they had only an acre of dry land that did not produce enough for their needs. Much of the small cash income of the family was used to pay for the education of one of her older brothers. She looked after a buffalo that gave them milk. Although they needed money, her father was reluctant to send her out to work as one of their friends had apparently fallen into the trap of prostitution. Despite this, when her friends told Adriyani that there were some nuns in Delhi that trained girls for work there, she joined a group that was going there.

On reaching Delhi, she stayed with the nuns where she was taught how to clean and do basic cooking and child care. After fifteen days she was placed full-time in a doctor's home with a salary of INR 400 (USD 8.88) a month to look after a child. She came back to the nuns on Sundays. She stayed for two years in this family where she learned to read and write, among other things. Her employer also sent money home to her parents by money order. When she went home on leave after two years, the doctor paid her train fare and her wages that she took back home. When she returned after two months, she was placed in another family. She came to know that the nuns took money from the employer for her placement. The next time she returned from leave, she found her own employer and began to earn more money. She worked with a variety of employers including a convent in Saharanpur where she learned needlework and supervised other women doing it.

Subsequently, each time Adriyani went back to Delhi she took other girls with her whom she placed for work as she had met other employers who needed domestic workers. She explained that placement was now being done by 'agents' who made it a business to take girls to Delhi and who charged money to the employers for doing so. Although the parents of the girls trusted them, they really did not know where the girls were being placed. There were several cases of harassment, exploitation and even death, but never did the truth reach home. Nobody wanted to tell the parents how difficult life was in the city. Indeed, some of the young women felt that life was no better at home.

Among these respondents, the majority had encountered no problems during the recruitment phase. However, two of them were forced to work in the house of the agent while awaiting departure and one of these was also being forced into sex which she resisted.

3.1.4 WORK EXPERIENCE IN DELHI

The majority of them had worked with professionals like doctors, teachers, journalists, government employees and business people while a couple had worked with retired people who were totally dependent on them. Most of the households they worked in were small with a maximum of four members, but there were also a few large ones of up to eight members and one with ten members.

Concerning the tasks assigned to them, seventeen of them were employed to clean and cook, six to take care of children and the remaining two only to clean. Only two of them had signed a contract when they started work. These contracts did not define their working conditions but served to ensure that the worker was bound to work for that employer for eleven months and that her salary would be paid to the agent. Eleven others received oral instructions from the agent concerning their tasks. Most were not even informed of their salary and neither did they ask about it.

Table 9. Comparison between promises made and actual conditions of work

Promises	No earlier information	Similar	Better	Worse	No answer
Nature of job	2	21	-	-	2
Location	3	20	-	-	2
Amount of earnings & regularity of payment	15	7	1	1	1
No. of hours of work	22	1	-	1	1
Days off	15	6	-	3	1
Annual leave	18	6	-	-	1
Living conditions	16	3	3	2	1

Since, in most cases, workers received very little information during the recruitment phase they could not be said to have been deceived. However, eleven of the twenty-five had restrictions placed on them by their employers that violated their right to mobility, food and dignity. Some were not allowed to go out or talk to other workers, one even being locked up inside; four of them were not allowed to contact their families at all, some could only phone them when they were within earshot of the employer; a few complained of getting insufficient food; one was constantly nagged and scolded while another was permanently watched by the employer as she was not trusted. Six of the eleven said they were forced to work long hours and two mentioned that they were obliged to do work beyond their physical capacity such as moving heavy furniture. They were harshly scolded and even beaten if they refused. Although the others said they were not forced to work overtime, many of them had taken it for granted that, as live-in workers, their normal working day was 16 to 18 hours long.

3.1 RETURNEES

The remaining fourteen said that the employer had placed no restrictions on them and nine said they were free to use the telephone when they wanted.

All these workers had migrated with the hope of earning money for their families. Nineteen of them were paid on time and could send money back either through friends or by money order. The rest of them could not as they would be paid only after eleven months of work. In some cases the agent told them that he/she had sent their money to their parents but there was no actual account of this.

Disoriented and miserably homesick

Navya, who was fifteen when she first went to Delhi, could not communicate with others in the house as she did not know Hindi. She longed for home food and was so home sick that she used to cry every evening. She was scolded by the employer for this although she tried to do all the work she was given. She was also surprised that houses looked the way they did. She had no idea about such things and wondered which world she was living in. But since there were other girls like her in the neighbourhood, she could sometimes speak to them when she went downstairs but that was not very often.

Madam woke her up before dawn to help in the kitchen. Then she cleaned the house and washed a big pile of dishes. At the end of the day, she would just drop off to sleep. The relative that had placed her there came to visit her once in a way but otherwise she had no contact with her family for the entire year. At the end of the year, when she went home again, her parents received a lump sum of money representing her wages from the relative who had placed her. She recalls that her mother bought two goats with that money. After two months, she returned to Delhi with her relative and worked in another home.

Twelve of them felt they could leave their jobs whenever they wanted; the rest of them could not. The latter were the younger ones and those that had gone to work for the first time. They said that they would be threatened both by the employers and the agent if they complained or tried to leave as they had committed to work for periods ranging from eleven months to two years. While one of them said the employer was totally dependent on her as there was nobody else in the house, another was told that she could leave only if she produced a substitute and two of them were told that they would not get any payment at all if they left. This made them very insecure and they felt obliged to accept the treatment they got.

3.1.5 EXIT ROUTES FOR THOSE WHO FELT HARASSED

Whereas eighteen of them had not felt harassed, the others had managed to get out of difficult situations in different ways. One of them just did not go back to the same employer after the first eleven months. As for the others, they had either left with the help of the agent, the nuns or their friends. One had run away but was harassed by the agent who had placed her. Two of them got another job, the other got money somehow to go back home. One of them received assistance from Nirmala Niketan to get her due wages fully paid and to make a police complaint. The two that returned to the village decided not to go back to the city to work. But one of them felt that she would work again when needed as there were organizations like Nirmala Niketan that could come to their assistance.

Vital role of NGOs

Saroj, who is now happily married with one child, retold her gruesome story of how at the age of sixteen, she and her sister were taken to Delhi by a village boy (Philander), with the consent of their parents. Philander had told their parents that he would take them to their cousin in Delhi which he did not do. He actually placed them for work through another placement agency and never met with them again.

For two years, the parents of Seeta and Saroj were not able to contact their daughters as Philander said they should ask the cousin. Finally the parents were directed to Nirmala Niketan through other girls from the area.

Nirmala Niketan was able to confront Philander, contact the agency and trace Saroj in Janakpuri. They were able to rescue her, get her wages that had not been paid for two years from the employer and send her safely home. Saroj did not know where Seeta was and had no contact with her. The agency also claimed it did not know. But Nirmala Niketan got the support of the police and forced the agent to bring the girl to the police station and hand her over to her father and pay her wages for two years.

Several returnees acknowledged that they had managed to survive because they had got to know of organizations that assisted migrant domestic workers. There were just two who said that they did not know whom to turn to in times of trouble. Some of them emphatically said that it was very important to have organizations like Nirmala Niketan that could provide shelter in case they needed to leave an employer and legal help to fight for their wages and other rights. They all knew of other workers who had serious problems like being beaten, forced into hard labour and even sexually harassed. One wonders whether they had all faced such situations but were ashamed to say so up front in an interview that was conducted in their homes in the presence of other family members. With such experiences, twelve women said that they would not recommend that their relatives go to the city to work. The others remained optimistic and said that they would prepare them better to face the realities there and tell them about their rightful conditions of work and the means by which they could get help if needed.

It was apparent from the responses, that young migrant workers tend to accept any conditions at first, but they gradually learn to negotiate their own space and even choose the employers they work with. They are able to broaden their support networks after a few years.

3.1.6 SUGGESTIONS TO AMELIORATE THEIR CONDITIONS

Very few of these women had suggestions about how conditions could improve for migrants like them. Still fewer understood the way the present agent nexus worked and the massive exploitation in the process that had worsened in the last five to eight years. Whereas they had no suggestions regarding exploitative agents, three of them suggested that there was need for more shelter homes in Delhi so that they could go there when necessary, especially while moving from one employer to another. They said it was imperative that there should be more programmes to help the girls before they migrate so that they would know their rights and be able to contact organizations like Nirmala Niketan and Chetnanilaya in Delhi that would support them in times of need.

3.1 RETURNEES

3.1.7 THE AGENT NEXUS

Shockingly, the newspapers in Delhi have a story almost every week on how harassed domestic workers are rescued or die while fleeing. Yet there is a steady flow of workers to Delhi and there are over three hundred placement agencies, some professional and very well-known while others are one-person operations with just a mobile phone.

One of the better known ones is run by Mr T. He was earlier a bank employee and had given up his job to run a domestic worker and security guard recruitment agency. He gets domestic workers through regular agents who bring him two or three girls at a time. For each girl they bring, they are paid INR 10,000 to 12,000 (USD 222 to 267) according to the age and experience of the person. He has a long waiting list of prospective employers and places the girls directly without any training. He tells the girls what they are expected to do and confirms that they will work for eleven months after which they will get their salary and a month's vacation to go home. At present, their monthly salaries are between INR 1,000 to INR 3,000 (USD 22 to 66) payable when they go home. They are told how much they will be paid and that they can take advances on salary from him, if required, of which he keeps an account. He assures them that they will be safe and that if they have any problem they can contact him.

The first month's salary is taken by him as his placement fee. The workers are not told what he actually takes from the employer – it varies from INR 3,000 (USD 66) for an untrained worker to INR 4,500 (USD 100) for a good full-time worker. When he places the worker, he charges the employer a placement fee of INR 23,000 (USD 511) for eleven months. The waiting time to get a worker is just three to four days.

Other agents are not as outspoken as this one. An agent in Rani Bhag agreed to give an interview, but was very reluctant to share any information. He emphasised that all his work is legal and that he maintains proper records of all the workers but none were available to be shared. He said that most of the workers came from Bihar, Jharkhand and West Bengal due to acute poverty and lack of opportunities in those States. He said he went to the area himself, as he too was from Bihar, and brought women who were all above eighteen, by train and accommodated them in a rented facility until they were placed. But there was no address or details of this house. He said he takes full responsibility for the workers and even gets their police verification done. He fixes the salary with the employer who pays it to him. He also stays in touch with the employers in case the workers have any problems. He said he takes a commission from the employer which varies between INR 7,000 to 10,000 (USD 156 to 222) but nothing else.

While the employer of one of the workers he had placed said she paid INR 5,000 (USD 111) as salary, the worker did not know how much she was actually paid. Her father had got a sum of money from the agent when she came to Delhi. She was now receiving INR 500 (USD 11) a month from the agent and would be given the rest at the end of the contract period.

An interview was also conducted with a man from Jharkhand who is coordinating a network of placement agencies called the National Adivasi Development Sewa Sanstha, with an office in Pujabi Bagh. It claims to be a professional body that takes a contribution of INR 5,000 (USD 111) a month from each of its members. He said that all the placement agencies who are members are registered under the Shops and Establishment Act of the State where they are based. Most agencies registered themselves as a precaution following a case of one molested worker. As the Chief of Police took the case in hand, it resulted in nineteen minor girls being rescued and a number of agents being arrested.

He said that agencies charged between INR 20,000 and 26,000 (USD 444 and 578) as registration fees to employers but they also paid between INR 10,000 and 12,000 (USD 222 and 266) to the sub-agents who brought the girls to Delhi. He admitted that records of the whereabouts of employers and agents were not properly maintained by the agencies, making it a kind of “anonymous trade deal”. However, the agents who ‘supply’ the workers also complain that they do not always get the entire sum of money they are promised. For many of them labour contracting is not their main occupation. Like Philander who is a construction worker in Delhi, they bring back a couple of workers when they go home and are pleased to make a one-time windfall.

The coordinator of the network of placement agencies was well informed about the legislative processes taking place in the field of domestic work. He knew about the draft bill of the National Commission for Women, and thought it was a good draft. He was also aware of the ILO Domestic Workers Convention, 2011 (No. 189), although he did not know its details.

He felt that migration was a right and that agents had an important role to play in matching those workers and employers. He felt that there should be proper norms which they were willing to follow and that this would stop malpractices by the agents.

3.1.8 PROBLEMS FACED BY EMPLOYERS

Employers often find that the domestic workers supplied to them lack the necessary skills for the job. One of the employers interviewed had got a seventeen year old girl from Bengal through a placement agency called Secure Placement Agency in Kakrola, Dwarka in 2009. Initially, she could not speak Hindi and had no training in housework. At first she did only the dishwashing and cleaning and gradually learned to cook. The employer paid the agent a commission of INR 12,000 (USD 267) and the first two months the salary of INR 3,000 (USD 67). Subsequently, the agent was not contactable as the number had been changed. From then onwards, the employer related directly to the worker. She was sent home by the employer every year for three weeks to one month and her money was regularly sent to her parents. She did not get weekly time off but was permitted to go out whenever she wanted. Now that she is trained, she cooks, cares for the dog and manages the house. She has been with the employer for three years and now earns INR 4,500 (USD 100) a month and receives clothes and toiletries. This employer considered herself fortunate.

Another employer felt trapped when he tried to bypass the agent. He had an untrained worker from Assam whom he had taken on as a nursing assistant. She was brought by an agent who took INR 15,000 (USD 333) from the employer every month and who in turn paid the woman INR 6,000 (USD 133) for live-in work. When the woman realised this, she told the employer that she would stop work for ten days and then come back to work for him directly for a salary of INR 8,000 (USD 178). However, every month after that she demanded a raise and threatened to leave. Finally, the employer contacted another agent and replaced her during her absence. After a few days, the first one returned and tried to prevent the other woman from working in the house. She left only after the second agent intervened and threatened her. The employer did not understand what had gone on.

3.2 RESPONSE OF WORKERS PRESENTLY IN DELHI

Interviews with migrant workers presently working in Delhi throw light on the existing situation. Contacting them was not easy as the majority of them are live-in workers, who are kept under close supervision by their employers. In fact, one of the workers was reluctant to respond during the interview as the employer remained within ear-shot. Contact with these workers was facilitated because the researcher also employed a migrant worker from Jharkhand who knew others in the area. All the interviews were conducted while they were at work.

3.2.1 PROFILE OF MIGRANT WORKERS

Among the twenty-five migrant workers that were interviewed, seventeen of them were live-in domestic workers, seven of them worked in two homes and one did not live-in but worked full-time in one home. Three of them were still below the age of eighteen, while fifteen were between nineteen and twenty-four, five

3.2 RESPONSE OF WORKERS PRESENTLY IN DELHI

were between twenty-five and thirty and two were above thirty years of age. They were largely uneducated seventeen had received no formal education, while seven of them had received a primary education and one a secondary education. All but one came from a rural area. Fourteen were unmarried, five were married, four separated and two widowed. While just two of them came from small households of four members, twenty came from larger households of four to seven members and a few even more. Only seven of them did not have any other member of the family in Delhi while the rest of them had their husbands or a sister, brother, cousin or aunt there.

Only five of the respondents had done other jobs like helping in a tea shop, cleaning an office and working in a small hotel before they were placed for domestic work.

This profile indicates that it is mainly very young, unmarried women from rural Jharkhand that are migrating for work to urban areas even when they have a secondary education. Most of them already have a relative in Delhi. The majority of them are live-in workers to start with and then manage to move out after some years of experience. Some of them have made Delhi their home and live with their husbands in rented rooms.

3.2.2 PRIOR TO THE MIGRATION PROCESS

All the respondents had been engaged in wage work in agriculture, in brick kilns or in construction prior to migration, except for three who were housewives and another four who had been cultivating their own agricultural land. Seven of them had migrated to two or three other places before coming to Delhi. Two of them had migrated within the State to Ranchi and then to Patna while the others had gone to distant places like Kolkata, Ludhiana, and Pune.

Table 10. Reasons for migration

Reasons	Priority 1	Priority 2	Priority 3
Urged by the family to earn money	10	2	5
No work opportunities locally	9	7	9
To make more money	4	12	7
Desire to discover other parts of the country	-	3	2
To broaden one's knowledge	1	-	1
No other skills for work	1	1	1

The pressure from parents, because of lack of other opportunities for livelihood, seems to be the major reason for the girls/women to leave the area. This is related to the need to get better work and have cash at their disposal. A few of them mentioned their interest in seeing other places and enhancing their knowledge. Twelve of them had gone to Delhi because they had a relative there and six others because they had heard that the wages were better there. Another six had not specifically chosen Delhi as their destination but went along because a group was going there.

They were quite young when they first migrated – five of them were below sixteen and another sixteen were between seventeen and twenty years. The rest were above twenty-one years of age. Significantly, two of them did not know how long they had been in Delhi, four of them had been there for five to six years, eighteen for two to four years and one of them for a year.

3.2.3 THE RECRUITMENT PROCESS

About half the respondents had found work in Delhi through friends/relatives while the other half came through male or female brokers or agents. These were introduced to the agents by relatives who had worked in Delhi themselves. In some cases, the same agent did not go through the entire process with them. For example, Nitya's cousin gave her the number of a woman in her village who was on home leave. She brought Nitya to Delhi with her but then took her to the house of another woman that Nitya did not know where she stayed for two days before she was placed. She assumed this was the agent's office. Thus, the chain of intermediaries goes from the familiar to the unknown, but is generally mediated by a relative or friend. All the respondents said that the agents were from their area itself which is why she/he was identifiable and the majority had met them before they had left. Most of them were of the opinion that the agent was a professional with an office as he/she had a phone number and could be located. However, they had no idea exactly what an office should be like.

Interestingly, more than half of them had paid sums ranging from INR 1,500 to 6,000 (USD 33 to 133) to the agent for their travel. They were told this was the broker's placement fee, plus the cost of transportation to Delhi and living expenses until they found a job. In some cases this money was taken by the relative and the women did not know whether all of it went to the agent or not. Regardless of whether they had waited long or not at all in Delhi till they found a job, they had no claim on the money they had paid. Those who paid the lower amounts had managed to produce the cash without borrowing. Among the others, one had borrowed money at a low rate of interest, five of them had sold some land and four of them had sold some jewellery. None of them had been forced into doing any work or providing any services during recruitment. Their problem was that they had received very little information prior to departure. Only fifteen of the twenty-five knew they were going for domestic work and a slightly larger number knew they were being taken to Delhi.

Table 11. Comparison between promises made and working conditions

Promises	No earlier information	Similar	Better	Worse	Different
Nature of job	4	15	-	6	-
Location	2	17	-	4	2
Amount of earnings	4	5	7	9	-
Means of payment	4	20	-	1	-
Regularity of payment	4	13	1	7	-
Social Security	8	12	2	2	1
No. of hours of work	6	2	-	17	-
Days off	7	5	2	11	-

3.2 RESPONSE OF WORKERS PRESENTLY IN DELHI

Table 11. Comparison between promises made and working conditions (cont'd)

Promises	No earlier information	Similar	Better	Worse	No answer
Annual Leave	7	14	-	4	-
Living Conditions	7	1	4	10	-
Other	-	-	-	1	-

3.2.4 THE JOURNEY TO DELHI

Most of the respondents currently working in Delhi had travelled there directly by train or bus with a group of persons they did not know earlier. Six of them had stopped a few times on the way for periods ranging from a few days to a week. Two of them were asked to do cooking and cleaning at the places where they had stopped and others also had to work in the small eatery that was run by the family with whom they had stayed. In return, they were given food but no remuneration. Three of them who had stopped in another city such as Ranchi or Ambala en route to Delhi, had experienced sexual abuse from the agent or other men who were with him on the journey but did not want to describe what actually happened.

On arrival in Delhi, eight of them went directly to the employer's house while the rest stayed with relatives or agents for up to a week until they were placed. Only one of them stayed at the broker's residence for a whole month and had to work for the family while waiting to be placed. She was fed but not paid and seemed to consider this normal.

3.2.5 EXPERIENCE AT WORK

Interestingly, sixteen of them reported that they had signed a contract when they commenced work. As in the case of returnees, the contract was in fact an agreement between the agent, the employer and the worker saying that the worker would be placed for 11 months and her salary would be paid to the agent for a specific number of months or for all that time. There was nothing in it about the conditions of work, working hours, etc. In most cases, the worker did not know exactly how much her salary would be. Half of them said that they could have refused to take the job if they wanted; while the other half said that they did not have any option. They needed the money, they did not know how to earn it otherwise and so they felt obliged to accept the job.

Most of the live-in workers were informed of their working conditions by the employers. As many as twenty of the twenty-five said they worked excessively and that employers had no qualms about asking them to work overtime. Five of them, particularly the younger ones, also said that they were often beaten, scolded, abused and talked to very rudely. A few said they were forced to do heavy work beyond their capacity, like moving heavy furniture.

Employers placed restrictions on twenty of them. Seven were not allowed to go out of the house, one was not permitted to speak with the neighbours and two were not given any days off at all. As far as living conditions were concerned, only two of them had a separate room to keep their belongings and to sleep. Others slept on the balcony, on the kitchen floor, in the store room, or in the room of an old parent or the children. Some could use a toilet in the house while others had to go outside to common toilets and did not have access to them at night.

A matter of luck

Sixteen year-old Nimi had been in Delhi for just eight months and was still very frightened although she said her employers treated her well. She was often alone at home during the day. She tried to keep herself busy with work as there was always much to do but she missed home. Madam would phone her a couple of times from work and give her instructions and so she was happy. She was allowed to cook what she liked for her mid-day meal but she ate only when she was really hungry. Quite often she did not eat as she had no company.

She was initially afraid of handling the electrical gadgets but she had gradually learned to use the iron. It was also difficult to put the clothes that Madam had put into the washing machine out to dry, because the lines were high and the jeans were too heavy. She woke up at 5 a.m. and slept only at 11 p.m., but could take a nap in the afternoon until the child came back from school. She kept her few possessions in a corner in the enclosed balcony and slept on a mat in the children's room. She looked forward to Saturdays as she went shopping in the car with Madam. On Sunday evenings she went to the church that was nearby and there she met many other friends, some from her area. That is also how she had got to know of Chetnanilaya, the organization started by the church to assist domestic workers.

Divya¹⁵ (twenty) was not so fortunate. Her brother-in-law had brought her to Delhi in January 2011 and she found work through Prashant Placement Service. As she had been feeling unwell for some time, she refused to wash the clothes one day. The employer beat her on her back and legs with the wooden paddle used to wash clothes till she became unconscious. The employer immediately took her to a private clinic where she was given some medicine. He called up her brother in-law while in the clinic and said that Divya was suffering from tuberculosis and that he should come and take her to a bigger hospital.

First she was taken to Ram Manohar Lohia hospital, from where she was referred to Safdarjung hospital and then finally to AIIMS trauma center but they refused to take her in. She was brought back to the Safdarjung Emergency Unit but was not given any attention by the doctors and lay outside the hospital on a stretcher.

Her brother in-law then informed the Domestic Workers Forum of Chetnanilaya who came to her rescue and publicised the case through the media. She was finally admitted in H- block, Ward No. 17. Only later that evening, under great pressure, the police filed a First Information Report. The Doctors confirmed that she had a broken cervical bone that had weakened the movement of her arms and legs and which may cause paralysis. At the time of writing, she was in the neurosurgical ward getting treatment.

Like Nimi, seventeen of the twenty-five workers interviewed felt they were not forced to do anything untoward although they had long working hours in general. Their employers were professionals, businessmen and women or government officials. Sixteen of them were fortunate to have employers who were kind to them, a few said they were very rude. Most said they were free to leave the job whenever they wanted but those who were employed for the first time felt they were bound by their commitment to work for eleven months. Twenty-two of them were allowed to contact their parents. Some of them had their own phones but were not allowed to use them without permission, four were allowed to use the employer's phone once a month, and another four had to use a public phone booth. Five workers complained that the food they were given was insufficient and consisted only of leftovers. Sending money back to the family was of utmost importance as ten of them said that their families depended totally on their remittances. However, four of them could not send money back to the family as they would be paid only after the eleven months of work and another four said they were not paid on time.

Two of the respondents were reluctant to answer questions about their employers and were silent when asked about the treatment they were given. Two reacted to ill-treatment by running away and two others had gone to the police through Chetnanilaya when they did not get full payment. These had succeeded in getting their

¹⁵ Case study provided by Chetnanilaya

3.2 RESPONSE OF WORKERS PRESENTLY IN DELHI

dues although the employer kept making excuses and giving false statements. Another two had changed employers with the help of the agency and in the case of one of them the agency had warned the employer to behave better. They had picked up the courage to get away from an exploitative situation with the help of their friends despite restrictions on interaction with others. While a few of them had used the phone, the others had told workers in the neighbouring houses about their problems. It was again friends, and in one case, the agent, who had helped them with accommodation until they had found other work.

Part-time workers are generally better off. They live alone or with their husbands in rented rooms in housing colonies where migrants from specific locations congregate and support each other. These as well as the live-in workers often change employers when offered better working conditions. In fact, only three of the workers had not changed employers since their arrival in Delhi while some had moved from one employer to another as many as seven or eight times. This indicates that, after the first placement, workers are free to find their own employers, more so when the worker realises that the agent collects the worker's wages and gives her only a part of it. But there are a few who have a sense of loyalty to the agent and remain with the employer that the agent placed them with.

All these respondents had been obliged to register at the police station. The Delhi police have made this mandatory for all domestic workers in order to prevent infiltration from neighbouring countries. This measure can be deemed discriminatory, especially since all citizens have the right to cross state borders in India without proof of identity.

3.2.6 OPPORTUNITIES TO AMELIORATE THEIR SITUATION

The low status attached to domestic work and the disdain with which they are treated by others caused nineteen of them to say that they were not proud of being domestic workers because it was work in which they were not treated with dignity and in which they lost their self-respect. The others felt that domestic work can be a meaningful and dignified occupation if they are paid well and are respected by the employer. Twenty of them said that domestic workers should have rights like all other workers especially a weekly holiday, minimum wages, medical allowance and even a savings scheme. One of the most important needs expressed was to have a safe place to stay while moving from one employer to another. Several of them felt life would be easier if they had a better understanding of their rights as workers and had access to legal assistance. But most of all they felt they needed emotional support for being away from home.

Isolated and busy as they are, little do these workers get an opportunity to link with local organizations or networks that can help them in times of distress. Twenty-one of them did not belong to any workers' organization. Of the four who did, two belonged to Chetnanilaya which is the organization started by the Catholic Church for migrant domestic workers and the other two did not name the organization but had received identity cards as domestic workers from Chetnanilaya. Six of them felt that they had no one to turn to in case of need, while the others felt they could rely on the friends or relatives who had taken them to Delhi. One of them who lived on her own said she could go to the police while three others were sure their employers would help them.

While the majority of the workers seemed confident that they could now take things in their hands and assert themselves, there were still nine who felt very insecure. As with the returnees, seven of them said they would not recommend that other family members come to Delhi, while a few said they would give them proper information about the best channels through which to come so that they are treated well.

It is evident that the stream of workers will continue to flow to urban locations as a good number of them find good employers and seem to be happy with their earnings. Some of them have been able to get in touch with support organizations and have acquired the confidence to demand minimal rights. But the real beneficiaries of labour migration are the agents who have made it a lucrative business. Some of these feel no responsibility towards the workers and do not abide by the law. Workers are still arriving at a very young age and some employers have no qualms about overworking them as they remain docile and have no alternatives. While some employers are becoming aware of the need to treat their domestic workers with respect, very few think that they should be treated like other workers, with a weekly off and regulated working hours.

3.3 POTENTIAL MIGRANTS

Interviews were conducted with twenty-five potential migrant workers of Jharkhand who intended to migrate to an urban location. It was not easy to locate these workers as they do not openly say that they intend to migrate for domestic work. While some of them were introduced by returned migrants, others were found in a skill development training centre where they were being trained to work either as security guards or as domestic workers.

3.3.1 PROFILE OF THE GROUP

Of the respondents who intended to migrate for domestic work, twelve were still below the age of eighteen, twelve were between nineteen and twenty-four years old and just one was above twenty-five. The majority were literate and had a better education than earlier migrants – six of them had a secondary education and eighteen had completed high school. One of them had even done some computer training. Only two were married and one of these already had a child.

Fifteen of them were engaged in some income-generating activity in the last year – five in agriculture, eight in other wage work such as construction or brick making, and two in domestic work in Ranchi. Of the remaining, a few were attending a skill training course and a few were occupied in their own households, tending goats for example.

3.3.2 MIGRATION PLANS

Twelve of them were planning to migrate within the coming six months and eight in the coming year, after completing the training they were undergoing. The others would migrate whenever the family required them to.

Table 10. Reasons for migration

Reasons	Priority 1	Priority 2	Priority 3
No work opportunities locally	10	1	-
To make more money	6	13	3
To broaden knowledge/skill level	5	6	-
To experience other parts of the world	1	-	1
Urged by family to earn money	1	1	12
To find better working conditions	-	2	6
No other skills for work	2	1	2
Other	-	1	1

3.3 POTENTIAL MIGRANTS

The new trend that makes migrants prefer to work closer to home was confirmed by the fact that fifteen of the respondents said that their first choice was to migrate to Ranchi, the capital of Jharkhand and one wished to go to Dhanbad which is also within the State. Only nine said they would choose to go to a large metropolis like Delhi or Mumbai.

All of them said that they would go with their relatives and friends and none of them mentioned any agents. Five of them had already made arrangements to move while the others were only considering migrating. Those who had made arrangements were sure that they only needed money for the train fare and one of them said she had arranged to sell some land in order to raise the necessary amount. The others had not begun to think that far ahead.

3.3.3 PREPAREDNESS TO MIGRATE

Although nineteen of the twenty-five knew others who were working in Delhi and other big cities, they were ignorant of their working conditions, whether they had succeeded in sending money home or not or how often they could return. Consequently, very few of them knew what to expect for themselves when they migrated for work.

Only eight of them knew that they would do domestic work in the city, twelve of them knew that they would get accommodation and four knew that they would not be able to come home for at least one year. Only two had some idea of what salary they could expect. Apparently, these potential migrants had very little information about their working conditions and had not tried to find out more.

Nevertheless, a large majority of them were aware that many of those who went to the cities also faced problems. The major issues that they mentioned were that they did not get payment either fully or on time, that they did not get proper food, when they were sick they were not treated well, they could not come home on holidays and were not able to contact their families. Only three had heard that some domestic workers were beaten by their employers, and four were aware of sexual harassment.

Five of them had heard that there were women's unions or organizations where they could go for assistance if needed. One of them specifically mentioned Nirmala Niketan, one said they could approach the church and seven of them said they could go to the police.

Only a small proportion of them were aware of their rights as workers. Thirteen of them knew that they were entitled to one day off for every six days of work, but only ten knew that there was a minimum wage that they were entitled to and a limit to working hours. Even fewer knew about the right to annual leave and a still smaller number that live-in workers had a right to sufficient food and safe accommodation. Only five of these women understood what sexual harassment and forced labour entailed. Very little of this is discussed in the area as there is a general feeling that when people go out to work, life will be better. They believe that they only have to produce the money for their travel and that the rest will be taken care of.

Only four potential migrants were aware that recruiting agents had to be registered under the Shops and Establishment Act of the State to recruit workers for placement outside the State. This was no surprise since most of them have been migrating with the help of relatives and friends and are unable to distinguish between an agent and a relative as many of the agents are from their home State.

3.4 NEED FOR LEGISLATION ON DOMESTIC WORK

The Ministry of Labour and Employment of the GOI has instituted a Task Force that drafted a comprehensive National Policy for Domestic Workers that is before Cabinet for approval. Several States in the country have recognised domestic work even before the National Labour Congress did so in April 2012. This means that domestic work will now be regulated and minimum wages announced. Despite these positive developments, and the GOI's support for the passing of the ILO Domestic Workers Convention, 2011 (No. 189), no legislation has yet been put in place to protect these workers. Clearly, for domestic workers to have decent conditions of work whether in their local areas or outside, a comprehensive legislation for their protection and social security should be adopted.

3.4 NEED FOR LEGISLATION ON DOMESTIC WORK

3.4.1 CHILD DOMESTIC WORKERS

According to a study conducted by the National Commission for the Protection of Child Rights on child abuse in India in 2007, 23.2 percent of all working children were domestic workers and 81.16 percent of these domestic workers were girls. As much as 19 percent were in the age group of ten to twelve years. Another study by two NGOs in Delhi, namely, Save the Children and Butterflies (Rani and Roy (eds), 2005) stated that 90 percent of child domestic workers were living with their employers, of which 22 percent were from South Delhi. Parents of 29 per cent had signed a contract with the agents who had brought them to Delhi. Twenty-two per cent had no contact with their families, 20 percent said they were overburdened with work, scolded, beaten and locked up, 35 percent were verbally abused and 5.14 percent were not allowed to speak to anybody outside the household.

Among the numerous newspaper reports of inhuman treatment of child domestic workers, the Hindustan Times on 2 May 2012 reported the case of a thirteen year-old domestic worker who was found locked in the house of doctors while they went on vacation to Bangkok and was surveyed by them on CCTV. She was rescued by the Child Welfare Committee (CWC) at the behest of an NGO. The report said that eight to nine child domestic workers were rescued every month according to data from the CWCs in Delhi. According to the police, 90 percent of these cases go unreported.

The first major issue therefore is that children continue to be inducted into domestic work and a large number of these are migrant live-in workers and therefore invisible to the public. India has the necessary legislative framework to protect them from exploitation.

The Child Labour (Prevention and Regulation) Act 1986 is restricted to children below the age of fourteen. As more and more cases of abuse of children in domestic work were publicised, the Juvenile Justice Act, 1986 was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA) that, in accordance with the UN Convention on the Rights of the Child 1989, provides for the protection, treatment and rehabilitation of children up to the age of eighteen. Article 29 of it provides for the constitution of district-level CWCs that have quasi-judicial authority to dispose of cases of violation of children's rights as well as to provide for the basic needs of victims. There are six such committees in Delhi. Further, in 2006, the GOI published a list of hazardous occupations prohibited for children under eighteen. Domestic work was included in it. Hence violators can be prosecuted and punished with imprisonment of three months to one year or a fine up to INR 10,000 (USD 222).

The CWCs constituted under the JJA have all the powers of a magistrate's bench to decide on cases of children in need of care and protection. According to Ms Bharati Sharma of Shakti Shalini, a child activist who was the first President of one of the CWCs that were constituted in Delhi in 2003, there are sufficient institutional mechanisms to carry out the orders of the CWC for the benefit of the child. It can summon the employer and order payment of wages that are due to the child. However, it has no powers to prosecute exploitative or abusive agents or employers. They have to be produced in a Magistrate's court. The CWC can file the case and prepare the brief for prosecution based on four laws: the JJA; the Abolition of Child Labour Act 1986, the Bonded Labour Act 1976 and finally the Indian Penal Code that provides sanctions for confinement, kidnapping, abduction. As several cases concerning child migrants can be classified as trafficking for labour exploitation, Ms Sharma strongly feels that the ITPA should be amended to allow prosecution of agents supplying child labour. This critique may have been addressed in light of the Criminal Law Amendment Act (2013), which includes sentences of ten years to life in prison for any person who is found guilty of trafficking a minor for physical exploitation, sexual exploitation, slavery, any practices similar to slavery, servitude, or forced organ removal¹⁶. However strong the case may be, agencies and employers are often able to influence the police and move things in their favour. Hence, despite the introduction of strict criminal penalties for violators, the implementation of the law has to be made more stringent to overcome the existing impunity of employers and agents who violate child rights.

¹⁶ Note that this amendment does not include the term "forced labour". Therefore, it is unknown if the prohibition of "practices similar to slavery" will be used to protect child domestic workers in forced labour situations.

3.4 NEED FOR LEGISLATION ON DOMESTIC WORK

Discussions with the Delhi Police and members of the Bachpan Bachao Andolan, an NGO working for the rights of the child, revealed that as per its mandate under the JJA and the corresponding rules of application, the Delhi Government has created a Special Juvenile Police Unit (SJPU) in each of the eleven police districts as well as for the railways and airports¹⁷. Every police station has designated two or three police officers with the appropriate aptitude, training and orientation as Juvenile or Child Welfare Officers, who deal with children in conflict with law as well as those in need of care and protection. At the State level the Office of the Joint Commissioner of Police, Special Police Unit for Women and Children at Nanakpura is the nodal office on issues relating to children.

In the absence of social workers which are yet to be appointed by the State Government, the SJPUs have sought assistance from voluntary organizations working in the field of child rights. These have been proactively working at the district and police station levels to train police personnel on the law relating to juveniles and promote sensitive treatment of children in difficult situations. In fact, the Rules for application of the JJA advocate for a stronger relationship between NGOs and government agencies.

One of the primary criticisms of the Rules is that they invest too much authority in the police, something that most child-friendly legislations seek to minimize. The effective implementation of the various Acts depends on the various State governments and the involvement of civil society. Very often the concerned Departments of Labour, Social Welfare or Women and Child Development, are ill-informed of the Acts. In 2010, the Supreme Court directed all State governments to create CWCs. However, most of these are ineffective because their members are not familiar with the law and its provisions. The Ministry of Child and Family Welfare admits this:

...these policies and legislations for children have on the whole suffered from weak implementation, owing to scant attention to issues of child protection, resulting in scarce resources, minimal infrastructure, and inadequate services to address protection problems.¹⁸

The Campaign against Child Trafficking in Delhi has been created to take these issues forward. The major anomaly in relation to child domestic workers is the age at which they are legally permitted to work. The minimum age for employment is fourteen years, but since domestic work has been declared hazardous for children they can only be employed as domestic workers after the age of eighteen. Moreover, the JJA bans labour for children up to the age of eighteen, in accordance with the international standards set in the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and UN Convention on the Rights of the Child. These inconsistencies should be resolved through a comprehensive legislation to define and protect the young worker.

3.4.2 ADULT DOMESTIC WORKERS

The law governing adult migrant domestic workers is the Inter-State Migrant Workmen's (Regulation of Employment and Conditions of Service) Act 1978¹⁹. The objective of the Act is to regulate the employment of interstate migrant workers, to safeguard their interest and to provide for their conditions of service and related matters. The provisions of the Act are applicable to every establishment in which five or more interstate workers are employed and to every contractor, who engages five or more interstate migrant workers.

¹⁷ Informal Interview

¹⁸ Available at <http://wcd.nic.in/welcome.html> Agenda No.4 Status of Implementation of ICPS,2010

¹⁹ Amended in 2011 to become the Interstate Migrant Workers (Regulation of Employment and Conditions of Service) Act 1978 in order to make it gender neutral

The Act also provides for registration by the Deputy Labour Commissioner of establishments employing these workers and for issuing licences to labour contractors. The employers and contractors are required to maintain registers and other records giving particulars of interstate migrant workers employed along with the nature of jobs performed by such workers and their wage rates.

This Act is not functioning in an effective manner and the Labour Departments themselves say that it needs to be substantially amended to effectively apply to the circumstances under which migration takes place today. Moreover, the work of migrants in private households requires specific provisions to guarantee their safety and give them access to social security.

One of the biggest limitations of this Act is its definition of the role of labour contractors. Section 2.1.e of the Act stipulates that “the agent/contractor that moves workers from one State to another State ...should be registered in the state of origin of the workers when hiring five or more workers”. Today, in the case of the domestic workers, labour contractors work through a series of sub-agents who transfer the workers from hand-to-hand in small numbers. The big agents are located in the host State supplying single workers to individual households. As our case studies have revealed, the majority of these labour suppliers are not registered, have just a phone number and no records. Even in cases where they do have an office, they keep in the good books of the vigilance police so that no raids or investigations on them are carried out.

3.5 RECOMMENDATIONS TO IMPROVE CONDITIONS FOR MIGRANT DOMESTIC WORKERS

As mentioned in the introduction, the out-migration of people from certain areas of Jharkhand, Bihar and neighbouring states has to do with the general lack of development in the area that has also triggered off various underground protest movements. The Labour Departments in these states are to a great extent ineffective as labour itself is not organized. In order to ameliorate this situation, the Jharkhand Anti-trafficking Network has been put in place. Through this programme the Police Department, has instituted a number of schemes for the emancipation of the area and its people albeit at a very slow pace.

One of the more effective programmes has been a skill development training spearheaded by Dr. P.M Nair, Indian Police Service, who is well versed on issues of trafficking as well as in dealing with the insurgency in the troubled areas of Jharkhand, Bihar and Orissa. He says this programme is very low key although it has already trained a large number of young tribal boys and girls and placed them in jobs locally²⁰. Dr. Nair himself has developed a protocol on the issue of trafficking and feels there is sufficient material available but these need to be collated and a comprehensive framework evolved with implementing and monitoring mechanisms that define the role of the different departments that presently deal with this issue.

IN ORDER TO FURTHER AMELIORATE THE SITUATION OF MIGRANT DOMESTIC WORKERS HE SUGGESTED THE FOLLOWING MEASURES:

1. The ILO should conduct an interdisciplinary workshop with a small group of participants in order to take stock of what has already been done to prevent and control trafficking – protocols, training manuals, the various legal regulatory measures, institutional mechanisms, etc. This will prevent reinventing the wheel and help consolidate the material that exists. Participants should represent concerned Ministries like the Department of Women and Children, the Home Department, the Labour Department, the Police, and some activists working on these issues. Based on what, has already been done, the workshop could decide what is still needed to be done by way of updating protocols, creating institutional mechanisms, legislative coverage, etc.
2. There is need to develop systematic training for the Labour Department personnel on trafficking issues and for Police Department personnel on labour issues. Comprehensive training modules should be developed, or existing manuals updated²¹ and efforts made for systematic training. One important category of people that would need such training is the Magistrates and Public Prosecutors.
3. While rescue of child and abused domestic labour is still important, post-rescue rehabilitation is equally important. He proposed several levels of skill development-cum-placement and suggested that funds and commitments towards this could be accessed through Corporate Social Responsibility.

3.5 RECOMMENDATIONS TO IMPROVE CONDITIONS FOR MIGRANT DOMESTIC WORK ---

The IPS – IG-CID, Crime in Jharkhand, said that the Government of Jharkhand is aware of the problems that the migrant workers face outside but realise that they do not have jurisdiction in other States²². They intend to protect them through the adoption of a good Migrant Workers Act within the State. At present, they are discussing the contents of this law and feel it should provide for the registration of workers with local bodies as these are more accessible to people. These bodies can create their own labour registers which can then be consolidated at State level. The State can thus directly supply labour to employers in different parts of the country as and when required for the payment of a fee thus bypassing the agents and assuring that the workers get their due. These fees will go into a fund that can be used both for the welfare of the workers as well as in emergency situations.

If the Jharkhand Government does this and makes it work, it will be a good practice that all the labour-sending states can adopt. In this way they will bypass the agents that traffic workers. Bank accounts for all migrant workers can be created in which employers deposit their monthly salaries. If a minimum wage is set, the Government can see that the workers get a wage appropriate to their level of skills and their years of service. In this way they will avoid forced labour and exploitation.

At present, it is private institutions like the Nirmala Niketan Cooperative that provide services and short stay shelters for migrant domestic workers. Besides, there are now several organizations of domestic workers like the National Forum of Domestic Workers, unions like SEWA, and local trade unions that defend the rights of domestic workers. This can be done only when such workers are organised and are willing to raise their voices collectively with the authorities. Loyalties to employers and agents, difficult access to live-in workers and the insecurity of being away from home make this task difficult. The nexus between the lucrative business of the agents and the police also makes busting the chain dangerous. Only a pro-active approach between the Department of Labour and the Police can help in this process.

3.8 CONCLUSION ---

The study shows that some women workers who migrated from Jharkhand to Delhi for domestic work are victims of exploitation and forced labour. Incidents of exploitation and forced labour were more common amongst workers below eighteen years of age. Agents were noted as part of this chain of exploitation, by deceiving workers about their conditions of work and binding workers to the employer for a period of eleven months.

Given the current situation, it is clear that much work needs to be done to improve the situation of migrant domestic workers in India. Part of the solution may be found in strengthening on-going initiatives such as the Campaign against Child Trafficking. In addition, there is hope that the recently formed National Platform, which advocates for Comprehensive Legislation for Domestic Workers, will succeed in securing the rights of these workers and conditions for safe and decent migration.

²⁰ Informal Interview

²¹ Dr. Nair has developed a training manual in 2006

²² Informal interview

4.

CONCLUSION OF THE STUDY

4. CONCLUSION OF THE STUDY

Regardless of the risks involved and the difficulties faced, the excessive pressure to earn money drives women to migrate internally and internationally for work. With poor, rural women having limited skills and with the rising demand for domestic help in urban locations, there are increasing avenues for employment in the domestic sphere. The urban locations within India promise better wages and women and even children from the troubled and less developed parts of East India respond to this need. Similarly, lured by better wages, women from Southern India, particularly Kerala, respond to the demand for domestic help in the Arab countries. While this is a legitimate means of livelihood, several of these women and girls for various reasons are put into difficult situations primarily because domestic work is not recognized as work, it is undertaken mainly by women and neither the state nor the employers at large feel obliged to recognize the rights of these workers.

While some women are fortunate to find employers who treat them well and pay them fair wages, the large number are not so fortunate, some facing sexual exploitation and many being exploited in terms of working hours, confinement and ill treatment. A good number of women emigrate despite bad experiences in the hope that they will eventually be able to make the money they desired to pay back debts and meet survival pressures at home.

Similarly, for poor women from Jharkhand who seek work in the flourishing urban locations like Delhi, their years of work away from home contribute to mere survival and have not improved their living standards. Lack of awareness about their rights, lack of organization as workers and lack of sufficient support structures make them vulnerable and therefore overworked and exploited.

It is the agent nexus that derives the greatest advantage from the lack of information, poor law enforcement and the legislative anomalies that shroud movement of workers in the country. Whereas this network of agents is better consolidated in the case of emigration from Kerala and runs like a parallel emigration route to that of the government thereby making workers believe that they are legal migrants, the agent chain is more crude and informal in the case of Jharkhand. On the other hand, whereas it is the workers who make exorbitant payments to the agents in the case of Kerala, it is the employers who are at the mercy of the agents in Delhi being forced to pay exorbitant amounts of money for placement. In addition, the workers are also indirectly duped as deceitful wage deductions are also made by agents.

Justifying 'labour supply' as a legitimate business, the National Adivasi Development Seva Sanstha claims to be a professional body of placement agencies. They are well informed about several legislative processes taking place in the field of domestic work: the National Policy for Domestic Workers, the draft bill of National Commission for Women and the ILO Domestic Work Convention, 2011 (No. 189).

There are several anomalies in the official emigration procedures that lead to women being trafficked:

- In effect, emigration laws discriminate against women by fixing a minimum age of thirty for emigration for domestic work. These women are required to get an emigration clearance unlike other 'skilled' workers;
- The lack of coordination between the Ministries responsible for the immigration process: whereas the emigration clearance is handled by the MOIA, the emigration service at the airport is under the Ministry of Home Affairs;
- Women workers who do not fulfil the emigration requirements are aided by agents, who charge exorbitant fees, to 'push' women through at emigration at the airport;
- Whereas agents in India take advantage of vulnerable women workers, the host countries also profit by supplying 'free visas' made use of by these agents to keep the network operating; Many countries within the Arab States exclude domestic workers from their labour laws; hence, they have difficulty receiving compensation or assistance in case of abuse;
- The agent network takes on the garb of a support structure in the host country successfully helping irregular emigrants to get out of trouble. This invisible network is what has begun to be called the 'Kasargod Embassy';

Thus, the legal framework covering domestic workers in countries of origin and destination need to be improved to better assist in protection of the rights of migrant workers. This includes addressing laws or policies that have the effect of discriminating workers on a gender basis.

Forced to migrate even in childhood, a large number of children are coerced into hard physical labour and treated inhumanly. The inconsistencies between the rather well-framed JJA and other anti-trafficking and labour laws prevent access to justice. India has not defined trafficking comprehensively in the ITPA. There is need for a more comprehensive Anti-Trafficking Act and coordinated anti-trafficking protocols. Efforts must also be made to develop some legal instruments to define and prosecute transnational organized crime.

The lack of sufficient orientation among public prosecutors on these issues is another stumbling block in the delivery of justice.

While a small percentage of the migrant workers are aware of their issues and are articulate about their rights and need for social protection, shelters and grievance redress mechanisms, the majority of them are still unaware of the various organizations that can help them get assistance particularly in the case of the migrant workers in Delhi. They resent being treated with disdain socially and hence do not easily reveal that they migrate for domestic work.

Hence despite the predicted view (Kuptsch-2006) that international organizations and governments would shape the emerging recruitment industry, much like they shaped the evolving remittances industry, it has still not occurred.

4.1 RECOMMENDATIONS TO OVERCOME THE INSTITUTIONAL ANOMALIES

- The GOI should take the necessary steps to make migration for women domestic workers safer, decent and secure. It should therefore undo the gender and labour discriminatory provisions in the Emigration procedures and incentivize legal/legitimate migration. This could be done in consultation with the National Women's Commission and organizations of domestic workers.
 - The Emigration Act 1983 which is primarily regulatory in nature, should be amended to provide the much needed legislative basis for the promotional and welfare considerations related to migration in general.
 - Effective measures should be taken to improve the communication and coordination among the various stakeholders such as the MOIA, the Home Ministry, the Protector of Emigrants, recruiting agents and Indian Missions in the destination Countries.
 - The State Governments should be taken on board to facilitate the Central Government's efforts to make emigration procedures transparent and effective. Their role in taking timely action in tackling the issues faced by migrants locally should also be clearly defined.
 - The OWRCs should reach out and be more proactive in providing information and assistance to intending migrants and the family members of overseas workers relating to all aspects of overseas employment.
 - The Indian Overseas Workers' Welfare Fund which is meant to meet emergency needs, should be extended to cater to all migrants.
 - Welfare Officers should be appointed both at the Missions in the destination countries as well as at various local centres within India to address problems faced by the emigrants and help in communicating the same to the ministry concerned for speedy remedial actions.
 - A Model Work Contract should be drawn up which could be made universally applicable to all employers seeking to recruit workers from India. This could be modelled on the one provided in ILO Recommendation 122 accompanying Convention 189 but made flexible enough to accommodate provisions of labour laws of the receiving countries.
 - Given the flow of cross-country migration for domestic work, the credibility of India's intentions to protect its emigrants will be enhanced when India ratifies Convention 189. Labour-friendly and gender-fair bi-lateral agreements could then facilitate safe and decent migration.
 - In cases of abuse of child domestic labour, the implementation of the JJA can be made more effective through increased and extensive public awareness and participation. The CWCs constituted under it, while having adequate powers to protect children below the age of eighteen, have no jurisdiction on the perpetrators of abuse thereby jeopardising the delivery of justice.
 - Police action in cases of child abuse is curtailed by the lack of eligible persons to be represented on CWCs and in the SJPU. Awareness raising among labour inspectors and public prosecutors is key to the delivery of justice.
-

4.2 STEPS FORWARD

According to the definition of Trafficking in Persons in the Palermo Protocol and the operational indicators on trafficking developed by the ILO and the European Commission, this study concludes that women and girls are being trafficked for domestic work both within and outside the country. While some of them are forced or coerced at work, and others abused by agents and employers who exploit their vulnerability, a large number of emigrants to the Gulf are blatantly deceived and do not even realise that they are irregular migrants. While the focus on child labour in India has given rise to a large number of advocacy groups that have forced the government to engage more proactively with the issues of children being trafficked for domestic work, there is unfortunately less advocacy on the issue of trafficking of women for this purpose.

Governments, labour unions, civil society organizations and human rights groups have spared no efforts to advocate for the rights and protection of domestic workers which resulted in the adoption of the ILO Convention 189 in 2011. This has also attracted more attention from a variety of organisations to this particular sector.

With this study, ILO and its partners hope to put forward and shed highlight on the problems that migrant domestic workers face. Moreover, there are hopes to lead to interventions that will eventually dispel the existing anomalies in legislative procedures, thereby safeguarding the rights of migrant domestic workers to work with dignity, enjoying social security and protection.

BIBLIOGRAPHY

BIBLIOGRAPHY

Abolition of Child Labour in India Strategies for the 11th Five Year Plan, submitted by the National Commission for the Protection of Child Rights (NCPCR), to the Planning Commission of India, 2007

Al-Najjar, S. 2004. – Women domestic workers in Bahrain, in S. Esim and M. Smith (eds): *Gender and Migration in the Arab States: the Case of Domestic Workers* (ILO, Regional Office of the Arab States, Beirut).

D'Souza, A. 2010. – *Moving towards Decent work for Domestic workers: An Overview of the ILO's work*. ILO Working Paper 2 (ILO Gender Bureau, Geneva).

Bajpai, G.S. 2006 – Making it Work: Juvenile Justice in India, Paper presented at the National Seminar on Care & Protection of Disadvantaged Children in Urban India (RCUS, Lucknow, India).

Caritas, 2009 *Needed and exploited – the Invisible suffering of migrant domestic workers* Available at http://www.caritas.org/activities/women_migration/needed_and_exploited__the_invisible_suffering_of_migrant_domestic_workers.html

Chammartin, G. 2004 – Women Migrant Workers' Protection in the Arab League States, in S. Esim and M. Smith (eds): *Gender and Migration in the Arab States: the Case of Domestic Workers* (ILO, Regional Office of the Arab States, Beirut).

D'Sami, B. 2000 – *Migration Patterns and Challenges for Indians Seeking Work Abroad: A Special Focus on South India* (National Forum of Migrant Workers Rights, India).

Godfrey, M., Ruhs, M., Shah, N. and Smith, M. 2004 – Migrant domestic workers in Kuwait: Findings based on a field survey and additional research, in S. Esim and M. Smith (eds): *Gender and Migration in the Arab States: the Case of Domestic Workers* (ILO, Regional Office of the Arab States, Beirut).

Kodoth, P. and Varghese, V.J. 2011 – *Emigration of Women Domestic Workers from Kerala: Gender, State Policy and the Politics of Movement*, Working Paper Series 445, (Centre for Development Studies, Thiruvananthapuram, India).

Kumari, V. 2009 – *Juvenile Justice: Securing the rights of Children 1998-2008* in NUJS Law Review, India.

Kuptsch, C. 2006. – *Introductory Overview in Merchants of Labour*, C. Kuptsch (ed), Institute of Labour Studies, ILO, Geneva.

Nair, P.R.G. 1999 – *Return of Overseas Contract Workers and the Rehabilitation and Development in Kerala (India): A Critical Account of Policies, Performances and Prospects*, International Migration, Vol. 31(1), pp. 209-242

National Human Rights Commission, UNIFEM – ISS Project. 2002-2003. *A Report on Trafficking in Women and Children in India*

Menon, L. and Bhushan S.B. – 2010 – “Emigration framework in India: Requirements, Practical Limitations and Recommendations”. Paper presented at a Workshop on Indian Emigration Procedures (National University of Advanced Legal Studies, Kochi, India)

—

Pattadath, B. 2008. – Making Sense of Illegality and Strategies of Survival under Regulative Regimes: The Case of Women Domestic Workers from Kerala in the UAE. Paper presented at the workshop on Illegal but Licit: Transnational Flows and Permissive Policies in Asia (Centre for Development Studies, Thiruvananthapuram, India)

—

Radhakrishnan, M.G. 2010 – *The Republic of Kasargod*, India Today, June 11

—

Rajan, I., Varghese, V J, and Jayakumar, M S. 2009. – Beyond the Existing Structures: Revamping the Overseas Recruitment System in India. Report submitted to the MOIA (New Delhi, India)

—

L. Rani and M. Roy (eds). 2005 – *Child Domestic Work: A violation of Human Rights. Assessment of situation in Delhi City*, (Butterflies and Save the Children)

—

Sukumaran, K., 2005 – *The Emigration Act: A Critical Analysis, Report of the Review Committee, Government of Kerala*

—

UNODC, 2011 – *Report of the Tenth Alliance against Trafficking in Persons Conference -Responses to Human Trafficking in Bangladesh, India, Nepal and Sri Lanka*. Legal and Policy Review, (New Delhi, India).

—

Sabban, R. 2004. – Women Migrant Domestic Workers in the United Arab Emirates in S. Esim and M. Smith (eds): *Gender and Migration in the Arab States: the Case of Domestic Workers* (ILO, Regional Office of the Arab States, Beirut).

—

Hameed S. et al. 2010. – Background Information on Human trafficking in India A Supplement to *Human Trafficking in India: Dynamics, Current efforts and Intervention Opportunities for the Asian Foundation*, International Policy Studies

—

S. Esim and M. Smith (eds). 2004. – *Gender and Migration in the Arab States: the Case of Domestic Workers*, (ILO, Regional Office of the Arab States, Beirut).

—

OSCE, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010 – *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Report of the Tenth Alliance against Trafficking in Persons Conference (OSCE, Vienna)

—

Zachariah, K.C and Rajan, I. 2009. – *Migration and Development: The Kerala Experience*, (New Delhi, DanishBooks)

APPENDICES

I. INTERVIEW SCHEDULE - RETURNEE DOMESTIC WORKERS

(Either from the Gulf to Kerala or from urban areas in India to Jharkhand)

Start with the presentation of project, the interviewers and obtain informed consent.

DATE OF INTERVIEW _____

INTERVIEWERS _____

REFERRING ORG/INDIVIDUAL _____

INTERVIEW LANGUAGE _____

NAME OF INTERPRETER _____

PLACE OF INTERVIEW _____

CASE NUMBER _____

A. PROFILE OF THE MIGRANT WORKER

AGE AT THE TIME OF THE INTERVIEW _____

MARITAL STATUS _____

NO. AND AGES OF CHILDREN _____

PLACE OF LIVING IN COUNTRY OF ORIGIN (RURAL/URBAN) _____

NO. OF PERSONS IN THE HOUSEHOLD _____

EDUCATION LEVEL _____

ECONOMIC STATUS OF THE HOUSEHOLD _____

HAVE OTHER MEMBERS OF YOUR FAMILY MIGRATED? _____

ACTIVITY BEFORE MIGRATING _____

ACTIVITY WHILE ABROAD _____

ACTIVITY ON RETURN _____

B. PRIOR TO THE MIGRATION PROCESS

How many times did you go to work abroad / outside your place of origin? (If more than once) Can you please tell us the other places you've worked in and when?

Why did you decide to leave your place / country? What were your main motives?

Whose idea was it to send you abroad/ to Delhi to work?

Why did you choose that particular host country / Delhi to migrate to?

How old were you when you arrived in your host country/Delhi for the first time?

C. RECRUITMENT

Did you have more than one job or employer overseas/outside your place of origin? When? Why did you leave them?

Did someone help you find your job? What is the profile of the recruiter?

Did you have to pay something to get the job / to travel / for documents? How much did you pay, for what purpose and to whom?

Did you sell land or jewellery to get the money? Did you have to borrow money and if so, from whom, and how much? How much interest do you pay on the sum borrowed?

Did you need a work visa? Did you have a work visa? If so, how did you get it? Did you pay for it?

Were you forced during the recruitment phase to do something you did not want to do? (e.g. hand over your passport, forced sexual abuse, threats of violence etc.) By whom and by what means?

D. TRAVEL

How did you get to your destination? Which countries / locations did you go through? How long did you stay in each place?

Did someone help you to organize your trip? Who was it? Did this person inform you of the route you would take?

Did you have to cross borders? Did you have travel documents for crossing the border?

Did someone accompany you during the journey? Who?

Did someone meet you upon arrival? Who?

Were you forced during the journey to do something you did not want to do? (e.g. hand over your passport, forced sexual abuse, threats of violence etc.) By whom and by what means?

I. INTERVIEW SCHEDULE - RETURNEES DOMESTIC WORKERS

E. WORK EXPERIENCE

Did you sign a work contract? Where did you sign it? Did you understand its content? Did you sign another contract upon arrival in the new country? Was it in a language that you understood? Was it different from the contract you signed in your country/place of origin?

If no, did you have an oral agreement about the job?

What kind of work did you do? Where?

Did the work correspond to what you were promised?

	Was promised	What I got
Location		
Nature of the job		
Type of employer		
Amount of earnings - Means of payment, Regularity		
No. of hours of work		
Days off		
Annual leave		
Living conditions		
Health insurance		
Social benefits		
Legal status		
Other		

If you had wanted to, could you have not taken the job when you discovered that it was different from what was promised? If not, what did you risk? Why?

Is there anything that your employer prohibited you from doing?

Were you at any point in time forced by your employer to work overtime or do something that you did not want to do? If yes, why did you do it and what did you risk if you refused? Why?

Did you contact your family? If so, how and how often?

Were you able to send money back to your family and friends? On average, how much and how often? To what extent does your family rely on your remittances?

Who kept your passport/other key documents? Did you agree to give these documents? How did you get it/ them back?

Were you free to decide when you want to leave your job/employer? If not, what means does your employer/ recruiter use to prevent you from leaving? What are the associated risks?

Can you tell us more about your employer?

If you were in trouble, who would you approach for support?

Have you heard about others who have had problems while working abroad?

Is there anything else you would like to add?

F. POST-EXPLOITATION PHASE

Only for Assisted Victims

How did you manage to leave your job?

Did you know how to get help? How did you get in touch with them?

What type of assistance did you need? Who helped you purchase your return ticket?

Did you face any problems on return? Who assisted you?

Have the people who exploited you been charged or brought to trial?

Do you still feel at risk of being exploited again now or in the future? Why?

Have you heard about others who have had problems while working here?

Is any other member of your family working in the Middle East region/Delhi?

Would you recommend that your child/niece/nephew should go abroad/to other cities to work?

Is there anything else you would like to add?

G. ADDITIONAL INTERVIEW DATA AND REMARKS

II. INTERVIEW SCHEDULE – POTENTIAL INTERNATIONAL MIGRANT DOMESTIC WORKERS FROM KERALA

A. PROFILE OF WORKER

(Questions relating to age, education, marital status, children - same as Appendix 1)

Have you worked during the last twelve months? (If yes) What work have you done? (If no) What was the main reason for not working?

B. PLANS FOR MIGRATION

Are you considering migrating abroad for domestic work in the near future?

When are you planning to migrate? Why do you want to go abroad?

How did you find information about domestic work opportunities?

Which country do you intend to migrate to?

C. KNOWLEDGE TESTING QUESTIONS

Do you know what the requirements are for working abroad legally?

Do you know that you should have a work contract before going abroad? What clauses do you think such contracts should include?

Do you know what the Indian Community Welfare Fund is and who can use it?

Who would you contact if you have a problem with your working conditions while abroad?

Do you know that daily maximum working hours and minimum salary are set out by laws in your potential host country?

How much do you think, you will have to pay to go abroad (inclusive of all travel, documents, recruitment fees, etc)?

From where do you expect to find the fund to pay this? How much would you have to borrow? Who can you borrow from? What rate of interest do you think you will have to pay?

Do you have any idea how many years it will take you to pay back the loan for going abroad?

Do you think the following statement is true or false: Only recruitment agents registered under the Emigration Act can recruit workers for overseas employment

Have you heard that people have had problems when they went abroad to work? (If yes) What problems have they had?

When in your destination, do you think your employer has the right to restrict your movement and keep your travel documents?

Do you know what sexual harassment is? (Give examples)

Do you know what forced labour is? (Give examples)

Do you know what human trafficking is?

III. INTERVIEW SCHEDULE – INTERSTATE MIGRANT DOMESTIC WORKERS IN DELHI

Conducted with those who have migrated in the last five years

A. PROFILE OF WORKER

(Same as Appendix 1)

B. PRIOR TO THE MIGRATION PROCESS

Did you work in any other places outside your home town before coming to Delhi?

Why did you decide to leave home? What were your three main motives?

Whose idea was it to send you to Delhi?

Why did you choose Delhi to work in?

How old were you when you arrived here the first time?

How many years have you been in Delhi?

How many times have you been back to your place since you first arrived?

Do you intend to settle in Delhi or go back to your home town?

C. RECRUITMENT

Who helped you find your work here?

(If a relative or friend) Had she/he worked in Delhi earlier?

(If not a relative or friend) How did you get in touch with the person who brought you here? Please give details of the person. Was the person from your village? If not, from where was she / he? Did you actually meet him /her before you left home?

What did you have to pay? Who took the payment from you? What were you told the payment was for?

How did you get the money to make the payments? If borrowed, at what rate of interest?

Before you left your place, did the person tell you anything about the following?

- Type of work
- Amount of salary
- Living arrangements
- Leave

Were you forced during the recruitment phase to do something you did not want to do (forced sex, forced labour, other violence)? By whom and by what means?

III. INTERVIEW SCHEDULE - INTERSTATE MIGRANT DOMESTIC WORKERS IN DELHI _____

D. TRAVEL

By what mode of transport did you reach Delhi?

Did you stop in any place/places on the way? For how long? Were you told before you left which route you would take?

Did someone accompany you during the journey? (If yes) Who did?

Did someone meet you upon arrival? (If yes) Did you know the person?

(If no one met her) What did you do? Where did you go?

Were you forced during the journey to do something you did not want to do?

E. WORK EXPERIENCE

After arriving in Delhi, how long did you have to wait to get a job?

Where did you stay during this time? Did you get food? Did you have to spend money?

(If yes) How much money did you have with you?

When you started work did you sign a contract? (If yes) Did you understand its contents?

(If no) Did the employer explain to you what you were expected to do, your hours of work, wages, etc.?

Was it different from what you had been told before you left your place? (Table same as in Appendix 1)

If you had wanted to, could you have not taken the job when you discovered that it was different from what was promised?

(If not) What did you risk? Why?

What kind of work did you do in your first job? Was it full-time or part-time?

(If she is a live-in worker now) Did your current employer explain to you the timings of your work?

Do you have any rest time during the day?

Where do you sleep? Where do you wash, change clothes? Where is the toilet you use?

(If part-time) Where and with whom do you live?

Are you free to decide when you want to leave your job/employer?

Is there anything that your employer prohibits you from doing?

Were you at any point in time forced by your employer to work overtime?

Have you ever been forced to do something that you did not want to do?

(If yes) Why did you do it and what did you risk if you refused?

Are you able to contact your family? (If yes) How and how often?

Are you able to send money back to your family? To what extent does your family rely on your remittances?

Can you tell us more about your employer? What work do they do? How many in the household? Are they kind or rude? Do you get sufficient food? Do they pay you on time?

Is there anything else you would like to add about your work or about your life in Delhi?

How many times have you changed your employer since you came to Delhi?

Can you give reasons why you had to change?

F. AT PRESENT

Are you a member of any workers' organization? If yes, which one?

Do you have an ID as a domestic worker?

To whom would you turn if you have a problem?

Are you proud of being a domestic worker? (If no) Why?

Do you think that domestic workers should have rights like all other workers? (If yes) What sort of rights?

Are you aware that domestic workers are included in the RSBY?

Have you been forced to register in the police station?

What kind of support do you feel you need as a migrant domestic worker?

G. IF HARASSED

How did you leave your employer? Who helped you?

Did your employer/recruiter prevent you from leaving?

Did you know how to get help? From whom? How did you get in touch with them?

If you were working full time, where did you stay when you left?

What type of assistance did you need subsequently?

Have those who exploited you been charged or brought to trial?

Do you still feel at risk of being exploited again now or in the future? Why?

Have you heard about others who have had problems while working here?

Would you recommend that your child/niece should come to Delhi to work?

Is there anything else you would like to add?

IV. INTERVIEW SCHEDULE – POTENTIAL MIGRANT DOMESTIC WORKERS FROM JHARKHAND

A. PROFILE OF WORKER

(Same as Appendix 1)

B. PLANS FOR MIGRATION

(Same as Appendix 2)

C. KNOWLEDGE ABOUT DESTINATION AND RIGHTS OF WORKERS

Do you have any idea of the kind of work and conditions under which you will work?

Do you know of others who have gone to work and are they happy?

Do you know who you can contact if you have a problem?

Do you know that as a worker you have certain rights (minimum wage, maximum working hours, weekly day off, adequate food and accommodation, annual leave)?

Do you think the following statement is true or false?

“Only recruitment agents registered under the Shops and Establishment Act or with the Labour Department can recruit workers for work outside the State”?

Have you heard that people have had problems when they went to work outside? If yes, what problems have they had?

Do you know what sexual harassment is? (Give examples)

Do you know what forced labour is? (Give examples)

**Fundamental Principles and
Rights at Work Branch
(FUNDAMENTALS)**

Governance and Tripartism Department

ILO

4 route des Morillons
CH1211 - Geneva 22 – Switzerland
Tel: +41 (0) 22 799 81 81
Fax: +41 (0) 22 799 87 71
e-mail: fundamentals@ilo.org

www.ilo.org/fundamentals

ISBN 978-92-2-129839-7



9 789221 298397