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**Indispensable yet unprotected:  
Migrant domestic workers from India at risk**

**SEWA - India**

**Special Action Programme to combat forced labour  
International Labour Office  
Geneva  
2012**

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First published 2012

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ILO / SEWA, India

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Geneva, International Labour Office, 2012

ISBN (print)

(web pdf)

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Printed in Switzerland

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## ACKNOWLEDGEMENTS

SEWA thanks the ILO and Ms Leanne Melnyk in particular, for offering it the opportunity to look more closely into the issues of migrant domestic workers in India. This section of workers, while increasingly indispensable, has attracted little or no attention from policy makers. They are also poorly organised and therefore invisible. As this study throws more light not only on the problems they face but also on lacunae in the legislative framework that should be remedied in order to make migration safe and decent, we hope that policy makers as well as trade unions and other workers' organizations will be able to utilise aspects of this study to consider how best these workers can be protected.

The field work for this study was conducted by members of SEWA-Delhi and SEWA-Kerala and I particularly thank 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.

I also thank 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.

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.

SEWA certainly has a challenge ahead.

NaliniNayak  
Secretary  
SEWA Bharat

## ACRONYMS

CWC	Child Welfare Committee
ECR	Emigration clearance required
ECNR	Emigration clearance not required
GOI	Government of India
ILO	International Labour Organization
ITPA	Immoral Traffic in Persons Act 1956
JJA	Juvenile Justice Act 2000
MOIA	Ministry of Overseas Indian Affairs
NREGA	National Rural Employment Guarantee Scheme
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	<i>Rashtryia Swasth Bhima Yojana</i> (National Health Insurance Scheme)
SEWA	Self Employed Women's Association
SJPU	Special Juvenile Police Unit
UAE	United Arab Emirates

## EXECUTIVE SUMMARY

The demand for domestic labour 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 assesses the nature and extent of abuse with a view to ascertaining whether these workers have been victims of trafficking for labour exploitation as defined in the Palermo Protocol.

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

The Kerala study reveals that the need for money to meet present day exigencies is the major push factor for women, particularly widows and single mothers. The majority of migrants from Jharkhand are young women, some still below the age of 16, who migrate mainly because of lack of work opportunities locally and for mere survival.

In the case of the Kerala, despite the existence of informal networks that assist migration to the Arab countries, 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 illegal migrants.

Various loopholes in existing emigration procedures and lack of coordination between the Ministries of Indian Overseas Affairs (MOIA), Home and External Affairs have encouraged unregistered agents to exploit the legislative anomalies and the ignorance of potential migrants for monetary gain. These agents have succeeded in creating an efficient mechanism to not only facilitate illegal emigration through a process called 'pushing' but also to assist workers who get trapped in the process to return home through what has grown to be called 'the embassy'. This has given them greater credibility in the eyes of workers who thus prefer to choose the informal rather than the formal channel for emigration.

As a result of this, emigrant workers are prone to different kinds of abuse and even to forced labour both during the emigration process as well as at work. Besides, Arab citizens also make profit from immigration by issuing 'free' visas, thereby providing further scope for illegal transactions. Further, as the Arab countries do not recognize domestic workers as workers, they 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 they will not be the unlucky ones, women tend to play down the difficulties and hardships they face abroad. A few more vocal ones advocate for government intervention, for instance, by creating an appellate body for grievance redress.

Labour agents play an increasingly important role in interstate migration from Jharkhand to Delhi. They 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 11 months at a time during which the worker cannot leave the employer.

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.

Whereas the Inter-State Migrant Workmen (Regulation of employment and Conditions of Service) Act 1978 is silent concerning recruitment processes, the Juvenile Justice Act 2000 has been effective to some extent in the rescue of workers below the age of 18. However, it is ineffective in punishing the perpetrators of the crimes that lie outside its purview.

There are several semi-government institutions and NGOs that reach out to emigrants in Kerala and 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 a shelter in case of need.

Various anomalies within the existing legislative framework lead to impunity in cases of abuse of these workers. The Emigration rules for domestic workers state that they require emigration clearance and that they should be at least 30 years old. Such discrimination in relation to domestic work creates a stigma, is discriminating on grounds of gender and provides scope for exploitation both during recruitment and at work. 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 18.

This study reveals that the majority of migrant domestic workers are victims of trafficking and forced labour according to the international definitions of these crimes. Unfortunately, domestic law in India lacks a comprehensive definition of trafficking which the present Immoral Traffic (Prevention) Amendment Bill of 2006 also fails to remedy. 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, a more comprehensive legislation on labour trafficking is the need of the hour. In the case of interstate migration, the Inter-State Migrant Workmen Act, 1978 requires major amendments. Serious efforts are required on the part of the government to plug loopholes and punish corrupt practices particularly in existing control mechanisms. Worker-friendly measures in raising awareness and providing shelters and hostels will go a long way in minimising trafficking for domestic work.

The National Domestic Workers' Policy, which is now before Cabinet for approval, is a comprehensive document which highlights measures to safeguard the rights of domestic workers and provide social security for them in accordance with the ILO Domestic Work Convention, 2011 (No. 189). It could eventually lead to the framing of comprehensive legislation on domestic work. Worker-friendly, gender-sensitive bi-lateral arrangements with host country governments could also facilitate decent and safe migration for women workers.



## 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".<sup>1</sup>

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 25 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 an accurate understanding of the risk factors and migration patterns of women and children 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

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<sup>1</sup> 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\\_](http://www.ilo.org/public/english/protection/migrant/download/ilcmig_)

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 Convention against 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.

On the basis of this definition, operational indicators of trafficking in human beings have been developed by the ILO and the European Commission in 2009 on the basis of a survey of experts. These indicators provide means to distinguish between those that successfully migrate, exploited migrants (exploitation without deception or coercion), victims of deception and exploitation (without coercion) and victims of trafficking for forced labour (deception, exploitation and coercion).

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 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 safe guard the rights of these workers have to be put in place. Understanding the existing problems of the 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 justiciable<sup>2</sup> Directives of State Policy:

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<sup>2</sup> not subject to trial in court

- 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 18 years of age to be employed as domestics.<sup>3</sup>

Domestic law in India unfortunately lacks a comprehensive definition of 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 no central law on organized crime and India has not ratified the UN Convention against Transnational Organized Crime 2000.

The Ministry of Labour 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)<sup>4</sup> subsidised by the central and state governments. Some states have created Welfare Boards for domestic workers.

While the GOI is moving ahead to bring domestic workers within the ambit of legislation and social security filling in the information gaps is important.

## 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. Whereas these are by far not the only routes, they were selected from different regions; 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. These routes were chosen because they are the most frequented migration routes although very little official data actually exists. 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 - 143 respondents in total.

The workers interviewed are distributed as follows:

- Twenty-five potential migrant workers from Kerala departing for the Arab countries and 25 workers who have returned to Kerala from these countries in the last two years;

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<sup>3</sup>Domestic work was included in the list of hazardous occupations for children (Notification No. S.O. 1742 (E) dated the 10<sup>th</sup> October, 2006 published in the Gazette of India, Extraordinary)

<sup>4</sup>Available at <http://labour.nic.in/pib/PressRelease/ExtensionofRBYtoDomesticWorkers.pdf>

- 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 25 workers who had returned to Jharkhand in the last two years from an urban centre.

Access to currently employed migrant domestic workers is not easy as 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).

## 2. THE KERALA-ARABIAN GULF MIGRATION ROUTE

According to Zachariah and Rajan (2009), Kerala is the largest sending State of workers in India. A recent survey shows that 14.6 per cent of emigrants from Kerala are women but only about half of them move as workers. However, Nair (1999), with a sample only from Trivandrum, found that one out of six returnee migrants were women and that most of them were engaged in menial tasks.

Interviews of 50 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 female emigrants, 88 per cent and 84 per cent 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 & 44 per cent among the returnees and 60 per cent 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, 56 per cent of the returned migrants interviewed had received no formal education, 32 per cent had only a primary education and 12 per cent a secondary education. Levels of education were higher among potential migrants: only 8 per cent of them had received no formal education, 60 per cent a primary education only, 24 per cent had attended secondary school and 8 per cent higher secondary 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 cheated.

Several of the returned migrants interviewed (68 per cent) had been engaged in some income generating work before migrating. Upon return, there was a shift in their occupations - 42 per cent 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, 40 per cent of them were domestic workers, 24 per cent of them were self-employed either producing goods to sell or doing tailoring, 16 per cent of them did other wage work, some as part of the National Rural Employment

Guarantee scheme (NREGA) of the government and 8 per cent worked in agriculture.

Among those respondents who had returned from the Gulf, 48 per cent 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, 60 per cent 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 80 per cent 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, 20 per cent of them were below the age of 25 when they arrived in the host country for the first time, 44 per cent were between 25 and 30 and the rest were older, one of them being above 40. Thus, the majority of them emigrated when they were under the prescribed minimum age of 30 years. Thirty-two per cent of them went abroad only once, while 12 per cent went twice, 52 per cent thrice and 4 per cent four times.

**Table 1. Successive destinations of workers**

Country	Number	Per cent
Saudi Arabia, UAE, Qatar	5	20
UAE, Oman(Muscat), Kuwait	3	12
Saudi Arabia &Oman (Muscat)	2	8
Oman, Saudi Arabia, Bahrain	2	8
Dubai, Qatar, Iran	2	8
Doha	1	4
Kuwait, Qatar, UAE	1	4
Oman (Muscat), Kuwait	1	4
NA	8	32
TOTAL	25	100

**Table 2. Reasons for choice of country**

Reason cited	Number	Per cent
Reliable person was taking them	9	36
Relative/friend was there	8	32
Heard the wages were good	4	16
Other reason (newspaper or agent)	3	12

Group was going from the area	1	4
Total	25	100

The majority of returnees interviewed (52 per cent) had found work through agents, 32 per cent through relatives and 16 per cent through friends. While a few had been influenced by information in the news papers, 68 per cent 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, 20 per cent 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 the money etc. Several of them knowingly took great risks.

**Table 3. Payments made for services rendered**

<b>Amount paid Indian rupees (INR)*</b>	<b>Number</b>	<b>Percent</b>
No payment	5	20
Below 15000	1	4
15000-20000	7	28
20000-25000	8	32
25000-30000	2	8
Above 40000	2	8
Total	25	100

*\*1 USD=45 INR (2011)*

It is significant that 20 per cent of the respondents did not pay anything to go abroad. Whereas 68 per cent of them paid the money to agents, 12 per cent paid a relative who arranged their travel. The amounts paid for travel indicate that, like agents, 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, 36 per cent of returnees had sold their jewels, 32 per cent had borrowed money and the rest had managed to save enough on their own.

Surprisingly, none of the respondents were asked to produce the mandated work contract which means that none of them had actually got the required emigration clearance.<sup>5</sup> The four who were taken across by employers had signed some papers but could not describe their contents.<sup>6</sup> None of them, except two who went through their relatives, were told what to expect at

<sup>5</sup> As explained later, the legal age for emigration for unskilled and 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.

<sup>6</sup> These could have been the mandated work contracts that are in English

the other end. The majority therefore were 'pushed'<sup>7</sup> through at emigration and were thus undocumented emigrants. The majority of them were made to hand over their passports to the agents, 40 per cent of them said they had to do forced labour during the recruitment phase and even have forced sex with the agent or the middlemen. Two women had to go to Bombay to meet agents there and were made to work in their homes, cooking for them for three weeks. Two others were taken to Mumbai and forced to sleep with other men. They were threatened when they resisted.

### 2.1.3 TRAVEL EXPERIENCES

Whereas 40 per cent of these women had to travel 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. Seventy-two per cent of them had travelled directly to their destination while the rest of them had had to stay *en route* from a week to a month. As many as 40 per cent of them were not told in advance about the route they would take and did not know what to expect.

Whereas 52 per cent of them were not accompanied by anyone on the journey, 16 per cent were accompanied by the employer, 16 per cent by relatives, and 16 per cent by other workers. Besides, 28 per cent of them did not have their travel documents with them. The fact that such a large number went illegally on their own means that the informal networks are so well organized that they manage to 'push' them across successfully.

On arriving at the port of destination 96 per cent of them were met at the airport, in most cases by strangers, only one of them was not picked up. She remained at the airport for two days before reporting to the airport authorities. Two days later her Arab sponsor fetched her. She described the harrowing anxiety she experienced. 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 the employer. 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 Trivandrum went to Dubai with the help of a relative, John, who worked in Kuwait. He directed these women to a local person whom they did not know earlier. 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, in which there were several other workers. The local Arabs came there to recruit the women of their choice. The woman 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 the first three months' salary would go to John who had put them in touch with the agent in Trivandrum. This they did not know in advance. They were told that if the employer did not like them, they would be brought back to this agent.

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<sup>7</sup> 'Pushed' is the term presently used and understood to mean that palms are greased at emigration at the airport



#### 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 the work was domestic labour but no details were given about the working hours, the exact types of household duties, days off etc. They were cautioned about being dependent on the employer who had provided the visa. In the employer's home, 64 per cent of them had several tasks such as cooking, cleaning, gardening, car washing and taking care of the animals, whereas the others did more specific jobs like cooking, child care or looking after the sick only.

Those that were taken across by the employer, (16 per cent) had signed a contract when they started work but were not able to explain the contents of the contract. In fact, these were probably not work contracts but documents for obtaining a visa as they could have gone as family members and not as workers. But this could not be ascertained.

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, 12 per cent were even taken to a different country. While 48 per cent of them got the payment they were promised and were allowed to leave after two years as agreed, 52 per cent 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 relatives and others who had got them their visas. So despite a significant number saying that they paid nothing to go abroad, the deductions in their salaries were made clandestinely by relatives. As many as 92 per cent said they had no choice but to accept whatever they got since they were in a foreign country and in need of protection. Some of them could not keep their passports and the others had to keep to the agreements they had made with the agents to work for at least two years even if they were exploited and abused. There were instances where exploitative employers registered false criminal cases against the domestic worker.

##### **The Kasargod Embassy**

Jameela (50), from Mallapuram, had no idea about her rights. She went abroad through an agent and was placed for work. 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 only when she managed to find the time. When she was sick with fever and did 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 retarded and used to throw things at her. The lady employer slapped her a few times when unsatisfied with her work. She 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 'embassy'.<sup>8</sup> 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.

**Table 4. Restrictions placed on the workers**

	Number	Per cent
Not allowed to go outside the house	12	48
Not allowed to talk to other workers	7	28
No permission to make own food or go outside	2	8
No leave	2	8
No permission to make their own food	1	4
<b>Total</b>	<b>24</b>	<b>96</b>

Besides these restrictions, there were other pressures indicative of forced labour & 76 per cent of them had been forced to work overtime. They felt they could not refuse because they were at the mercy of their sponsor. Besides, they were threatened in different ways including loss of wages if they refused. Only two of them (8 per cent) had their passports in their possession as they had gone on a free visa while 92 per cent of them had handed over their passports to their employers. They had all taken for granted that this was the norm and had not asked when and how they would get their passports back. Except for one, none of them were 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 96 per cent of them were able to send money back to their families either through the bank, through friends or relatives or by money order. Moreover, in the case of 80 per cent of them, their families relied totally on their remittances.

The households the women worked in were generally large & 60 per cent of them had worked in households of 4 to 7 members, 12 per cent in those of 8 to 10 members, and 28 per cent in households of more than 10 members. The employers were professionals, government employees, police officers or business people. While 28 per cent of the returnees felt they were treated kindly, 44 per cent of them said they were treated very rudely, and the rest said that their employers were sometimes rude and sometimes kind. The majority of them (72 per cent) said that they received sufficient food while the rest did not and 76 per cent said they were paid on time while the others were not. The majority of them had heard stories of others

<sup>8</sup> The "embassy" refers to what is known as the 'Kasargod Embassy', a centre run by a network of unregistered agents that assists migrant workers in trouble to return.

being overworked, unpaid, very badly treated and even beaten, and in some cases sexually harassed.

While 48 per cent of them felt that they had no major problems and therefore did not feel the need for help, one said that she would approach the *pravasi* organization in case she needed assistance. Others felt they could rely on their relatives and friends who had advised them to go there and one even said she would seek help from the agent. There was a small group that was more vocal and said that domestic workers were treated so badly that the government should do something about it. Some felt that there was really no appellate body when something goes wrong. Instead, in some cases, well-intentioned individuals respond to the needs of workers. 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. They did not know that they were actually illegal migrants.

#### **In case of accident...**

Saleema, from Mananthawadi, emigrated for the first time in 1999 when she was 25 years old with a passport on which her age was stated as 32. 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. It was there that she came across a social service organization called Sneha Taalvara that 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 went to board her flight she was put in jail for a month and a half. Once again the organization 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. She knows that she has to be protected since she pays for her visas and does honest work. She knows many who have returned like her. She called a meeting of these women to encourage them to join the welfare scheme called Santhwana created by NORKA Roots for migrants that provides financial assistance to returnees in distress.

#### **2.1.5 RESPONSE TO HARASSMENT**

While the majority of those interviewed did not report excessive harassment, 5 of them (20 per cent) 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 the agent was able to get the employer to pay a part of the wages due to the other as well as a part of her return ticket. She was very disillusioned by the whole experience. The one who stayed with some relatives was able to earn more money through clandestine work but knew this was risky because she had overstayed. 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 is mainly the informal Keralite network that helps the workers through the fake 'Kasargod Embassy' and not the 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 grease the palms of 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. This is a contradiction as the wages they receive abroad are not that much higher than the wages they receive in Kerala. Moreover, while the majority of domestic workers in Kerala refuse to be live-in workers, as they feel they have domestic responsibilities, they have no qualms about emigrating. Whenever they get an opportunity to migrate, they hurriedly make arrangements to put their children into hostels or orphanages, get the money somehow and leave.

Hence, there are still many women who intend to migrate although the numbers are considerably reduced.

## 2.2 POTENTIAL MIGRANTS

### 2.2.1 PROFILE OF POTENTIAL MIGRANTS

Of the 25 women interviewed, the majority were working & 40 per cent of them were domestic workers, 24 per cent were self employed mainly as tailors, 16 per cent of them did other wage work - some under the NREGA and 8 per cent worked in agriculture. The remaining 12 per cent 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 16 per cent of the respondents were planning to migrate within the coming three months, the large majority (72 per cent) were planning to migrate within the next 3 to 6 months and a few within the coming year. The majority of them had been encouraged to go abroad by their friends and relatives who would provide them with information and assist with their visas. Another 28 per cent had decided to go abroad on their own and one of them was trying to join her husband. 36 per cent 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 5. Preferred country of destination (per cent).**

<b>Country</b>	<b>1<sup>st</sup> choice</b>	<b>2<sup>nd</sup> choice</b>
Saudi Arabia	28	-
UAE	20	4
Oman	20	-
Kuwait	12	4
Qatar	8	-
Bahrain	4	8
Not sure yet	8	24
No option		60

### 2.2.3 PREPAREDNESS FOR EMIGRATION

Except for one, they 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, 48 per cent of them said it would be between INR 30,000 (USD 666) and INR 50,000 (USD 1,111), 20 per cent said it would be more than INR 50,000 (USD1,111) and another 20 per cent said it would be less than INR 30,000 (USD 666). Of these, 16 per cent of them had their own money to meet this expense and 12 per cent would sell some of their jewellery to raise it, but all the others said they would borrow the money or at least a part of it. While 36 per cent said they would take a bank loan, 28 per cent said they would borrow from relatives and friends and another 24 per cent proposed to get assistance from their micro credit groups. Except for 12 per cent of them, the others also knew that they would have to pay interest ranging from 5 per cent for those who would borrow from their micro credit groups to 20 per cent for those who would borrow from banks or money lenders. While 44 per cent of them had calculated approximately how long it would take them to repay the loans, the rest of them had not.

The majority of them, (80 per cent) knew that they needed a valid passport to travel and 64 per cent of them knew that they needed a visa. Interestingly, 44 per cent of them also knew that they required a contract if they went with an employer and 12 per cent said they needed a work permit. The majority of them knew that they needed a work contract in order to emigrate (78 per cent).

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 6. Contents of contracts expected by workers (per cent).**

	Yes	Don't Know
Nature of work	80	20
Housing / Accommodation	76	24
Location of the employer	68	32
Number of hours of work per day	64	36
Number of leave days	56	44
Salary	52	48
Duration of employment	52	48
Return airfare	40	60
Provision that migrant workers can retain their identity or travel documents	20	80
Medical insurance	16	84
Legal status	12	88
Other Facilities	12	88

Interestingly, 80 per cent of these workers were unsure about the right to keep their travel documents with them while 20 per cent 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 20 per cent of them did not know what they would do if they faced any problems abroad, only 8 per cent of them said that they would go to the Indian Embassy, 28 per cent of them said they would refer back to the agent while 28 per cent of them said they would seek refuge from their relatives or friends that were there. 16 per cent 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 are aware that they have to finally get the assistance of agents who help them to migrate. But 72 per cent 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 while 24 per cent of them were aware of this. This latter group comprised those who also knew other women who were taken abroad by employers directly.

It was revealing that while 96 per cent of them knew what sexual harassment implied, 80 per cent 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.

Despite the substantial financial implications for poor women who emigrate in the hope of making some money, the risks they have to take and the poor treatment meted out to them, the State does very little or nothing to protect them. The institutional anomalies are not only discriminatory but dismissive as well.

## 2.3 THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR MIGRATION

While unskilled women consider it their legitimate right to go abroad to work and are under great duress to pay for this facility, the majority of them are oblivious of the fact that they get entangled in an illegal venture. 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.

### 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 MOIA 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 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.

### 2.3.2 ANOMALIES IN THE EMIGRATION ACT AND PROCEDURES

This 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 can recruit for overseas employment after obtaining a registration certificate from the PGE. There are eight offices located in Mumbai, Kolkata, Chennai, New Delhi, Cochin, Trivandrum, Hyderabad and Chandigarh under the PGE which appoint private agents for recruitment to various foreign jobs.

The Act, now in its 29<sup>th</sup> year of existence, has attracted strong criticism from several quarters due to its ineffectiveness and weak structure. From the unexplainable delays and harassment in procedure, to the limited

security fee and penalties prescribed for recruiting agents who default, the Act has always fallen 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 ineffective and 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 does not exempt any citizen from getting emigration clearance but divides them into two categories: low-skilled migrants whose passports are marked Emigration Check Required (ECR) and others. Ostensibly, this is done in order to protect these migrants. However, it offers nothing substantial by way of protection to 'low-skilled' emigrants from the country in general and 'low-skilled' women migrants in particular. In fact, it prohibits the movement of specific categories of women - especially single, uneducated, domestic workers below the age of 30.

...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 and domestic workers come under this category. This clearance is given only if the worker is above 30 years of age and has a valid contract of work which includes the salary, the repatriation details, the employer's 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 illegally without this clearance as they are 'pushed' through Immigration at the airport.

One reason for this is the lack of 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. The MOIA does not have any comprehensive data as it is not expected to have information on people who have ECNR passports. It only has a record of people who require clearance with ECR passports. As most of the workers who require the ECR clearance are low skilled, poor women who are unable to secure the work contracts before applying for the clearance they are thereby at the mercy of unregistered agents who 'push' them through as ECNR emigrants, thereby absolving the state of its



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

### 2.3.3 DISCRIMINATION AGAINST UNSKILLED WOMEN WORKERS

The frequent changes in government policy concerning emigration and the restrictions placed on migration of unskilled women workers has encouraged many to opt for unofficial channels of migration. Policy changes have been traced by Rajan et al (2009) as follows:

In 1999 the Government of India 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 30 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 17 days, on 21 May 2007, the MOIA came out with another order directing all the PoEs that "women below the age of 30 years may not be granted emigration clearance, 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.

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 30 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 Matriculation pass), 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 and a pre-paid mobile facility to be provided by the employer to every household service worker. This order has in effect virtually banned all recruitment of ECR categories of women by recruiting agents. Every foreign employer recruiting an Indian woman emigrant must also deposit a security deposit of USD 2,500 in the form of bank guarantee, with the Indian Mission concerned. The PoE may seek a copy of the bank guarantee duly attested

by the Indian Mission before granting emigration clearance. Such stringent measures tend to prevent emigration rather than protect women workers overseas. Consequently, more and more migrants resort to informal and illegal channels of emigration.

On 12 September 2007, in the face of stiff opposition from all stakeholders, 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. The recruitment of such categories came to be looked down upon as indecent. Almost all the credible recruitment agencies had withdrawn from recruiting unskilled women for overseas jobs and agents that continue to do so do not recruit openly.

#### 2.3.4 ILLEGAL AGENT RACKET

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 victims returning from work abroad were found travelling on passports with false names (Radhakrishnan, 2010). The large-scale corruption that exists is therefore no secret.

In their study Rajan et al (2009) conclude that

Along with the 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 recruitment 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 they are more supportive than the government mechanism.

#### 2.3.5 AMBIGUOUS STATUS OF MIGRANT WOMEN WORKERS

While 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 largely 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: p. 17). Significantly, in India too there has been a lack of clarity regarding the status of domestic workers as workers and it is only in recent years that they have been recognised. But there is still no legislation in place to guarantee them their rights and social protection.

State policy and social regulation have had serious consequence for the prospects of emigrant domestic workers in the host country. Sabban (2004 pp. 89 and 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. Also the employer usually takes possession of her legal documents, depriving her of any bargaining power (Godfrey et al, 2004; 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 illegal 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 is described as ‘negative’, ‘passive’ or ‘reluctant’. Al-Najjar (2004: p. 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 on the one hand and on the other, the Indian Government’s lack of a clear policy on domestic workers and the embassy’s reluctance to confront local influential families in the Gulf who employ migrant domestic workers.

Several studies (Sabban, 2004; Pattadath, 2008) highlight the gender and labour discrimination that domestic workers face. Rajan et al (2009) suggest there is need to probe the implication 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 to under-enumerate them because of the use of illegal channels. Further, a survey of domestic workers in Kuwait in 2001 showed that 14 out of 43 Indian women workers had education of up to high school or above (Godfrey et al., 2004) indicating that they may migrate in the ECNR category as well. 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 also silent on the role played by the State Governments. Emigrations being a subject on the Union list of legislative powers, the State governments do not have the power to legislate in this area. Consequently, the State police do not act in a timely and efficient manner in cases of reported illegal migration due to this. 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 bodies. It is operational at Indian Missions in about 17 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 overseas 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 face the new situation or defend themselves against possible accusations and law suits against them.

India, despite being the recipient of large remittances from its diaspora has not been proactive in protecting the citizens who generate them. 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 should be drawn up so as to be universally applicable to all employers seeking to recruit workers from India. 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 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 Trivandrum, Kochi and Kozhikode and two outside it, in New Delhi and Mumbai.

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 by the GOI. It has an online platform for employers to hire quality talent<sup>9</sup> 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 they cannot obtain legal redress in the destination country.

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.

There is also a programme called *Ujjwala* of the GOI, for rehabilitation of women workers. Nevertheless, very few women workers are aware of this programme and of procedures to access it.

There is a special Non Resident Indian cell at the Police headquarters in Trivandrum to deal with issues of the NRIs. It mainly takes up cases of cheating by recruiting agents. They say that in the last 9 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 30 years, women below thirty have migrated illegally and hence their cases cannot be registered. They did not seem concerned with the problems faced by female migrants.

### 2.4.2 IN SAUDI ARABIA

More recently, the Saudi government has taken some steps to improve the situation of migrant domestic workers. For example, the Ministry of Social

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<sup>9</sup> [www.jobsnorka.gov.in](http://www.jobsnorka.gov.in)

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 Labor has begun penalizing employers who have mistreated their workers by barring them from hiring foreign workers in the future for five years, and sometimes for life.

These reforms point in the right direction but are not sufficient to prevent abuse from occurring in the first place. The current system of sponsorship means that an employer has immense power over a 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 Labor 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 Labor 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 Labor has also drafted, but not yet adopted, an annex to the Labor 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.

#### 2.4.3 RESPONSES FROM NGOS

Non-governmental organizations 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'. Their 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 and or implement it to protect the rights of domestic workers, with a clear definition of domestic workers' duties

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 - in close consultation with the domestic worker - to investigate cases and find means to solve them via mediation or bringing them to court. According to the evidence collected, necessary changes in legislation could be made or new legislation put in place

The Migrant Workers' Forum 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.

## 2.5 CONCLUSION

Over 90 per cent of unskilled women workers who seek work as domestics abroad are cheated. As per the operational indicators of Human Trafficking developed by the ILO and the European Commission, they are victims of deception and exploitation. Forty per cent of them are also victims of forced labour.

Now that the ILO Convention on Domestic Work, 2011 (No. 189) has come into force, it will be up to the GOI to not only put the effective protective legislation in place thereby securing the rights of the women to emigrate but simultaneously to pressure the Arab countries to adopt local legislative measures so that the workers have a forum for grievance redress and security of employment abroad.

### 3. MIGRANT WORKERS ON THE JHARKHAND – DELHI ROUTE

As the demand for domestic workers is great in India's capital city of Delhi, the supply of them is also a lucrative business. All norms of 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. It is at present under the siege of Naxalite insurgents. Although the 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 the brick kilns. They are paid a pittance in cash and some of the payment is still 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 working outside. 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 not the case. The little money the migrants earn outside the State just helps their families to survive.

When talking to the families of the migrants, one realises how little they know about the whereabouts of their daughters and the work they are engaged in outside. Most of them say they are in families in Delhi or Mumbai. None of them seem to know what the girls actually experience there. Discussions with returned migrants revealed that they too do not feel the need to share their difficulties, accepting it as their fate. Some 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 30 years ago, nuns organised their placement. They worked in rather safe conditions being paid only INR 200 (USD 4.44) a month which they could take back when they went home at the end of the year. When they returned to work, they would bring with them a few of their neighbours who would be placed in some families they knew. 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. 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 lovers and did not return. This caused alarm in their villages and news quickly spread about the '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 a worker. Seeing the need as a profitable business opportunity, 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 seems to have impacted on the local people was the disappearance of 13 girls in 2010 that had been taken as a group and did not return. This seems to have scared the younger girls who also intend to go to find work outside. As a result, most of them are now hesitant to leave Jharkhand but prefer to go to cities like Ranchi or Dhanbad within the State rather than to distant Delhi or Mumbai.

### 3.1 RETURNEES

Interviews were conducted of 25 young women who had returned to Jharkhand in the last two years after working in Delhi.

#### 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 7. Age at the time of the interview**

	Number	Percent
Below18	2	8
19-24	6	24
25-30	11	44
30-35	5	20
Above35	1	4
<b>Total</b>	<b>25</b>	<b>100</b>

When they first migrated, 52 per cent of the respondents were below the age of 16 and another 28 per cent were below the age of 18 while the oldest was 30 years old.

At the time of the interview, 64 per cent of them were married and the rest still unmarried. Twelve per cent of the married women still had no children. Fifty-six per cent of them came from large households of five to seven members and 16 per cent from those of eight to ten members. In only 28 per cent cases were there just three other members in the household.

Only 28 per cent of them had received no formal education, 16 per cent 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. The majority of these respondents (76 per cent) had family members who were still working outside.

### 3.1.2 MIGRATION DETAILS

Before leaving their areas, 80 percent had been involved in some independent productive activity or in wage labour.

**Table 9. Occupations before and after migration (per cent)**

Occupation	Before migrating	On return
Agricultural wage work	28	36
Student	28	8 Doing skill development
Housework	20	32
Construction & other wage work	12	
Own agriculture	8	
DW in another city	4	
Working in a computer centre		4
Collecting wood for sale		4
Waiting to get married		4
In service with a doctor		8
Catering and self employed		4
<b>Total</b>	<b>100</b>	<b>100</b>

As the workers generally return home on leave after one or two years, 20 per cent of them had left their place only once while 28 per cent of them had been twice, 24 per cent had been thrice and 28 per cent had been more than three times to work outside. 80 per cent of them had been to Delhi while one had been to Bangalore, one to Mumbai and one to Kolkata.

They had all left their homes for various reasons the priorities of which are given below.

**Table 8. Reasons for leaving the home (per cent)**

	Priority 1	Priority 2	Priority 3
To earn more money	44	24	12
Desire to experience life outside	28	20	4
Forced by the family to go	12	8	28
To find better work opportunities	12	28	24
Had no other skills for work and so went in for domestic work	4	8	8
To widen one's knowledge		12	8

Interestingly, 44 per cent of them had chosen on their own to migrate for work while 36 per cent were sent by parents and the rest were encouraged by a relative or friend who had already been there. They had not specifically chosen to go to Delhi but went there either because most others were going there or because their relatives or friends took them there.

Whereas the majority had returned to get married and therefore were presently not earning a living, a substantial number still went in for agricultural wage work. In general, there seemed to be a change in their options after being in an urban centre. This could also have to do with the fact that they had learned to speak Hindi, were more mature and had more work exposure which helped them to interact with people.

### 3.1.3 EXPERIENCES EN ROUTE TO THEIR DESTINATION

As highlighted earlier, more than 50 per cent of these women were below the age of 16 when they first left their areas. All of them had travelled by bus to Ranchi (six to eight hours) and from there by train to Delhi. Except for one of them, who had to make some unexpected stops, all the others had gone directly to Delhi. They were accompanied either by other workers, relatives or friends or the agents themselves. Only one of them was met in Delhi by somebody she did not know, 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.

Only 16 per cent had found work through a female agent/broker whom they had not known personally and who was not from their local area. The rest had found work through the relatives or friends that had taken them with them. But none of them had paid any money to either their friends, relatives or the agent. Except for one who borrowed some money, the rest had all managed to put together the money for their travel and other expenses which was between INR 1,500 to 3000 (USD 33.33 to 66.66). In the 1980s, when this wave of migration commenced, things were different to what they are now. Agents gradually made it a business to only take girls to Delhi and charged money to the employers for doing so.

#### **From domestic worker to agent**

Adriyani went to Delhi in 1980 when she was 14 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, he knew that girls were cheated. Despite this, when her friends told Adriyani that there were some nuns in Delhi that trained girls for work there, she joined a group bound for Delhi.

On reaching Delhi, she stayed with the nuns where she was given a basic idea about working in a family, how to clean and do basic cooking and child care. After 15 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 was allowed to learn 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.

The next time she returned from leave, she found her own employer and began to earn more money. She learned that the nuns also took money from the employer for her placement but was not aware of this earlier.

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 requested workers. She had worked with a variety of employers including a convent in Saharanpur where she learned needlework and supervised other women doing it. She explained that placement was now being done by 'agents' who made it a business to only 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. 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 but two of them were forced to work in the house of the agent while awaiting departure and one was also being forced into sex which she resisted.

#### 3.1.4 WORK EXPERIENCE IN DELHI

Only eight per cent of these migrants had signed a contract when they started work. These contracts did not define the conditions of work but only served to ensure that the worker was bound to work for that employer for 11 months and that her salary would be paid to the agent. This was what the girls were told when the agent took them to Delhi. Among those that did not sign any contract, 44 per cent of them were told orally what they had to do and only one was informed of her salary. The others did not ask. The majority of them were involved in cleaning and cooking (68 per cent), in child care (24 per cent), and a few in just cleaning.

**Table 10. Comparison between promises made and actual conditions of work (per cent)**

	No earlier information	Similar	Better	Worse	No answer
No. of hours of work	88	4		4	4
Annual leave	72	24			4
Living conditions	64	28	12	8	4
Amount of earnings & regularity of payment	60	28	4	4	4
Days off	60	24		12	4
Location	12.0	80			4
Nature of job	8.0	84	-	-	4

The majority of them had been told where they were going and what they were going to be doing. But besides that, they had information on their working conditions or even their wages. While half of them said that they had the freedom not to accept the job, the other half had no choice mainly because they had agreed to work for one year.

While there were no expectations on the part of the workers, 56 per cent of them said the employer put no restrictions on them but only eight per cent of them got two days off a month. Among the remaining 44 per cent, some were not allowed to go out and talk to other workers, some could not phone home at all except in the ear shot of the employer, they could not watch TV, a few of them complained that they did not get enough food, one felt that she was not trusted as she was permanently watched and one of them was constantly nagged and scolded.

Seventy-two per cent of them said that they were not forced to work over time, but when probed, a large number of these workers had taken it for granted that they had to work 16 to 18 hours a day when they were live-in workers. Twenty-four per cent of them said that they were forced to work long hours and eight per cent of them said they were forced to do work that was beyond their strength – moving heavy furniture and the like. They were harshly scolded and even beaten if they refused. Being young and away from home it was imperative that they stay in touch with their families. But 16 per cent of them were not allowed to contact their families at all, while some of them could use the telephone on a restricted basis, twice a month. There were only 36 per cent of them who were free to do so when they wanted. One of them had to go to a pay phone outside when she wanted to contact her family.

All these workers were sent out with the hope of getting more cash incomes. Seventy-six per cent of them were able to send money back to the family either through friends or by money order. The rest of them could not as they would be paid only after 11 months of work. In some cases the agent told them that he had sent the money to the parents but there was no actual account of this.

**Disoriented and miserably home-sick**

Navya, who was 15 when she first went to Delhi, could not communicate with others in the house as she did not know Hindi. She longed for her home food and was so home sick that she just used to cry in the evenings. 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 surroundings, she could sometimes speak to them when she went downstairs but that was not very often.

Madam woke her up before dawn to help her 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 from the relative which were her wages. 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.

In the case of 16 per cent of these respondents their families relied totally on their earnings, while 12 per cent said this was not the case. Forty-eight per cent 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 as they had committed to work for 11 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. For the others, one of them was almost permanently locked inside while another was always watched by the family and two of them were told that they would not get any payment at all if they just left. This made them very insecure and since they did not know where else to go, they felt obliged to accept the drudgery.

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. The majority of the households were small with a maximum of four members (72 per cent), but there were also a few large ones of up to eight members and one with ten members. Eighty per cent of them said the employers were kind to them, gave them sufficient food and paid them on time while the remaining 20 per cent had bad experiences of being treated rudely and with suspicion, did not get sufficient food and were not paid on time.

### 3.1.5 EXIT ROUTES FOR THOSE WHO FELT HARASSED

As the majority of these respondents did not face any major problems they did not feel the need of support organizations. But several acknowledged that they had managed to survive because they had got to know of organizations like Nirmala Niketan and a couple of other NGOs that assisted migrant domestic workers. For the others they felt confident that nothing untoward would happen because it was the relatives, friends, nuns or agents that had taken them there to work. There were just two who said that they would not know to whom to go in times of trouble. 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.

Nevertheless, they all knew of other workers who had undergone problems of different kinds like being beaten, forced into hard labour and even sexually harassed. One wonders whether they had all undergone such problems themselves but were not willing to say so up front as they felt ashamed to. Since none of them informed the families about the actual situation in Delhi and were interviewed in their homes with others around, they could have felt restrained.

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.

Whereas 72 per cent 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 11 months. 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. She finally got the agent off her back because others threatened her. Two of them got another job, the other got money to go back home. One of them got the assistance of 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 16, 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 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.

With such experiences, 48 per cent of these women said that they would not recommend that their relatives go to the city to work. The others who remained optimistic said 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.

#### **3.1.6 SUGGESTIONS TO AMELIORATE THEIR CONDITIONS.**

Only very few of these women had suggestions about how conditions could improve for them in order to make migration for work more decent. And 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 the exploitative agents, 12 per cent of them suggested that there was need of 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 organizations like Nirmala Niketan and Chetnanilaya.in Delhi that would support them in times of need.



### 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 300 placement agencies, some very well known and 'professional' and others being just a person with a mobile phone.

One of the better known ones is run by Mr. Talwar. He was earlier a bank employee and had given up his job to run a domestic worker and security guard supply agency. He had an office at the ITO and got girls through regular agents. These agents 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. As soon as he gets a girl, he takes them to a family as he has a long waiting list of people who are in need. He places the girls directly in the family without any training. He just talks to them verbally about what they are expected to do and confirms that they will work for 11 months after which they will get their salary and a month's vacation to go home. He assures them that they will be safe and that if they have any problem they can contact him. He tells them the sum of money they will receive as wages, payable when they go home which presently is anywhere between INR 1,000 to INR 3,000 (USD 22 to 66) a month. They are also allowed to take some advances from him if they require for which he keeps an account.

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 11 months. The waiting time to get a worker is just three to four days.

Other agents are not as outspoken as this one. For example, another 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. It was very acceptable for the families in those areas to send people to earn cash in the urban areas. He said he went to the area himself, as he too was from Bihar, and brought women who were all above 18, 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 him 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 19 minor girls being rescued and a majority 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. Formalities like keeping the home addresses of workers or records of agents who bring workers were not maintained. It is a kind of anonymous trade deal.

This person seemed to be well informed about several 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 also knew about the ILO Convention 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 in need at both ends – 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.

But the agents who ‘supply’ the workers also complain that they do not always get the entire sum of money they are promised as they too do not do this on a regular basis. 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.

### 3.1.8 PROBLEMS FACED BY EMPLOYERS

Discussions with employers also revealed the trap they are in. One employer had a worker as a nursing assistant who said she was from Assam. She had not been trained. 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 10 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. Finally, she threatened to leave. As she did not come to work one day, the employer contacted another agent and got another assistant. After a few days, the old one returned and created a ruckus and did not allow the other woman to work in the house. Finally the second agent intervened, threatened her and she finally left. The employer did not understand what had gone on.

Another employer got a maid through a placement agency called Secure Placement Agency in Kakrola, Dwarka in 2009 by paying a commission of INR 12,000 (USD 267). For the first two months the salary of INR 3,000 (USD 67) had to be paid to the agent and not the worker. Subsequently, the agent was not contactable as the number had been changed. From then onwards, the employer related directly to the worker. The worker was from Bengal, and when she arrived she was around 17 years old. She had no

training and could not speak Hindi so there were problems. Initially she just cleaned the vessels and the house. But gradually she learned to cook. She was sent home by the employer every year for three weeks to one month and her money was sent to her parents whenever she wanted. She did not get a weekly 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. The employer has employed another maid for dishwashing. This employer considered herself fortunate.

### 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 25 migrant workers that were interviewed, 68 per cent of them were live-in domestic workers, 28 per cent of them worked in 2 homes and 4 per cent did not live-in but worked a full day in one home. Twelve per cent of them were still below the age of 18 and the majority of them (60 per cent) were between 19 and 24 while 20 per cent were between 25 and 30 years and a small percentage (8 per cent) were above 30. They were largely uneducated & 68 per cent had received no formal education, while 28 per cent of them had received a primary education and 4 per cent a secondary education. The majority of them (56 per cent) were unmarried, 20 per cent were married, 16 per cent were separated and two were widowed. Ninety-six per cent of them were from the rural areas. While just two of them came from small households of four members, the majority (80 per cent) came from larger households of four to seven members and a few even more. Only 28 per cent 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.

The profiles of the respondents indicate 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. The majority 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.

For 28 per cent of the workers, Delhi was not the first place they had migrated to. 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. Twenty per cent of them had worked in two different locations earlier and two had even been to three different ones before.

**Table 11. Reasons for migration (per cent)**

	Priority1	Priority2	Priority3
Urged by the family to earn money	40	8	20
No work opportunities locally	36	28	36
To make more money	16	48	28
Desire to discover other parts of the country	-	12	8
No other skills for work	4	4	4
To broaden one's knowledge	4		4

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.

The majority (48 per cent) of them had gone to Delhi because they had a relative there and 24 per cent of them had heard that the wages were better there. Another 24 per cent of them did not choose their destination but went along because a group was going to Delhi.

They were quite young when they first migrated & 20 per cent of them were below 16 and another 64 per cent were between 17 and 20 years. The rest were above 21 years of age. Significantly, two of them did not know how long they had been in Delhi, 16 per cent of them had been there for five to six years, 72 per cent 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. 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. They had received very little information prior to departure and did not know what to expect. Sixty per cent knew they were going for domestic work and a slightly larger number knew they were being taken to Delhi.

**Table 12. Comparison between promises made and working conditions**

		Similar	Worse	No earlier information	Better	Different
Means of payment		80	4	16	-	-
Location		68	16	8	-	8
Nature of job		60	24	16	-	-
Annual Leave		56	16	28	-	-
Regularity of payment		52	28	16	4	-
Social Benefits		48	8	32	8	4
Amount of earnings		20	36	16	28	-
Days off		20	44	28	8	-
No of hours of work		8	68	24	-	-
Living Conditions		4	40	28	16	-
Other		-	4	-	-	-

### 3.2.4 THE JOURNEY TO DELHI

As these respondents had come from different locations, they had travelled by different means to Delhi. Forty per cent of them had gone by train, 48 per cent by bus and eight per cent in a private vehicle. Sixty per cent of them had gone directly while 24 per cent of them had stopped a few times on the way for periods ranging from a few days to a week. Of those who stopped, four of them knew in advance that they would not be going directly but five of them were not told anything. All except one had travelled in a group, but it was not with people that they knew. Only one of them travelled alone with the female agent. Eighty-eight per cent of them had no problems on the journey while eight per cent of them said that they were asked to do cooking and cleaning at the places where they had stopped. Some 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 nothing else. Three of them (12 per cent) who had stopped in another city like 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 (32 per cent) went directly to the employer's house while the rest stayed with relatives or agents for up to a week until they were placed, during which time they were cared for. Only one of them stayed at the broker's residence for a whole month and had to work for the family while she waited to be placed. She was fed but not paid and seemed to consider this normal.

Although the journey had been uneventful for most of them since they travelled in a group, there were some that suffered abuse. These were the ones who had not been informed about how they would travel, had waited to be placed and in the meanwhile had been used as labour *en route*.

### 3.2.6 EXPERIENCE AT WORK

Most of the respondents had started with domestic work, although a few of them (20 per cent) had first 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.

Interestingly, 64 per cent of them reported that they had signed a contract when they commenced work. 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. What they did know was that they were bound to work for the same employer for 11 months.

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 without knowing exactly what to expect.

Most of the live-in workers (68 per cent of respondents) were informed of their working conditions by the employers. Only half of them had time to rest in the afternoon, only two of them had a separate room to keep their belongings and to sleep. Others slept on the balcony, the kitchen floor or in the store room, or in the room of the old parent or 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.

There were several things that the employers did not permit them to do like sitting on the furniture (36 per cent), going outside the house (28 per cent), one was not allowed to talk to the neighbours, and two were not allowed to take any weekly or monthly holidays. Just 20 per cent of them had no restrictions. 80 per cent of them said that they felt they worked excessively and that the employers had no qualms about asking them to work overtime. A few said they were forced to do heavy work beyond their capacity like moving heavy furniture. Twenty per cent of them, particularly the younger ones, also said that they were often beaten, scolded, abused and talked to very rudely.

#### **A matter of luck**

Sixteen year-old Nimi had been in Delhi for just eight months and was still very scared 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 there was no company.

She was initially scared of 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 so 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 own 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.

But unlike Nimi, Divya<sup>10</sup> at age 20 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 with the wooden paddle used to wash clothes, on her back and legs 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 there also they refused to take her. 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 went to support her and publicised the case through the media. She was finally admitted in H- block ward No- 17. The Doctors confirmed that she had a broken cervical bone affecting the movement of her arms and legs which may cause paralysis. Because

<sup>10</sup> Case study provided by Chetnanilaya

of the injury, movement in her limbs had weakened. She is now in the neurosurgical ward getting treatment. Only later that evening, under great pressure, the police filed a First Information Report.

Unlike Divya, 68 per cent of the workers felt they were not forced to do anything untoward although they had long working hours in general. 88 per cent of them were permitted to contact their parents. Some of them had their own phones but were not allowed to use them without permission, 16 per cent were allowed to use the employer's phone once a month, and another 16 per cent had to use a public phone booth. Sixteen per cent of them could not send money back to the family as they would be paid only after the 11 months of work. For 40 per cent of them, their families depended totally on their income and for the rest it was only partially. Seventy-two per cent of the workers felt 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 11 months.

The non live-in workers lived with their husbands in rented rooms and one lived alone in a small rented room. She had already worked several years in Delhi and earned more money as she worked in several houses. These are colonies of buildings where migrants from specific locations congregate, sharing facilities and supporting each other.

Eight per cent of the respondents seemed to be unaware or inhibited to answer questions about the household in which they worked. They did not know what their employers did and were silent about the kind of treatment meted out to them. Those who responded said the employers were professionals (36 per cent), in private business (48 per cent) or in government service (8 per cent). The majority (64 per cent) were kind to the workers, a small number were very rude and some were both. Twenty per cent of the workers complained that they did not get sufficient food and were given only the leftovers. 16 per cent of them also said that they were not paid on time.

A few of the workers (12 per cent) had not changed their employers since their arrival in Delhi but the majority had moved from one employer to another even seven to eight times. They had changed mainly because they were in search of better working conditions. This indicates that workers are also free to find their own employers after the first placement, 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 because it was through him/her that they found work and could earn money.

### 3.2.7 OPPORTUNITIES TO AMELIORATE THEIR SITUATION

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. Eighty-four per cent 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.

All these workers had been obliged to register in the police station. The Delhi police have made it mandatory for all domestic workers to be registered at the police station to prevent infiltration from neighbouring



countries. This is discriminatory as all workers have a right to cross state borders in India without proof of identity. The registration of migrant labour, if made mandatory, should be under the purview of the Labour Department and not the police.

Twenty-four per cent 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, the independent non live-in worker even said she could go to the police. Twelve per cent of them said their employers would help them.

Some 24 per cent of the respondents think that domestic work is a meaningful and dignified employment when they are paid well and are respected by the employer. The others were not proud of being domestic workers mainly because it was work in which they were not treated with dignity and where they also felt no self respect. They felt that they were treated with disdain by the rest of the society.

Eighty per cent of them said that domestic workers should have rights like all other workers especially a weekly off, minimum wages, medical allowance and even a savings scheme. Several of them felt life would be easier if they had a better awareness and understanding of their rights as workers and had access to legal assistance. But most of all they felt they needed emotional support being away from home.

When asked whether they had ever been harassed and if so how they reacted, 40 per cent (10) of them said they had not been harassed. The others said they were not being treated fairly as they were overworked, confined and restrained from interacting with their friends, not given proper food, etc. Two had even run away and two others had gone to the police through Chetnanilaya when they did not get full payment. It was quite an achievement to get their unpaid wages as the owner kept making excuses and 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. One of the most important needs expressed was to have a safe place to stay while moving from one employer to another.

While the majority of the workers seemed confident that they could now take things in their hands and assert themselves, there were still 36 per cent who felt very insecure. Whereas 28 per cent of them said they would not recommend that other family members come to Delhi, 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. But the real beneficiaries 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 employers have no qualms about overworking them as they remain docile and have no alternatives. Some of them have

been able to get in touch with support organizations and have acquired the confidence to demand minimal rights. Employers too are becoming aware that these workers have to be treated with respect but very few feel that they are workers and should be treated like other workers, with a weekly off and regulated working hours.

### 3.3 POTENTIAL MIGRANTS

Interviews were conducted with 25 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, 48 per cent were still below the age of 18, 48 per cent between 19 and 24 years and just one above 25. Twenty-four per cent of them had a secondary education and 72 per cent had completed the 12<sup>th</sup> class. One of them had even done some computer training. So the majority of these women were literate with a decent level of education. 92 per cent of them were unmarried, the rest were married and one of them also had a child.

Sixty per cent of them had been earning in the last year & 20 per cent in agriculture, 32 per cent in other wage work such as construction or brick making, and 8 per cent in domestic work in Ranchi. Of the remaining, a few were attending a skill training course and a few were engaged in their own households, tending goats.

#### 3.3.2 MIGRATION PLANS

Forty-eight per cent of them were planning to migrate within the coming six months, another 32 per cent after completing the training they were undergoing in the coming year and the remaining eight per cent had not fixed a time and would migrate when the family needed them to. The main reasons that drive them to leave the village is the lack of local job opportunities, to make money and sometimes to acquire more knowledge.

**Table 13. Reasons for migrating (per cent)**

	Priority1	Priority2	Priority3
No work opportunities locally	40	4	-
To make more money	24	52	12
To broaden knowledge/skill level	20	24	-
To experience other parts of the world	4	-	4
No other skills for work	8	4	8
To find better working conditions		8	24
Urged by family to earn money	4	4	48
Other	-	4	4

They had all got to know about opportunities outside from their relatives and friends. But interestingly, 60 per cent of them said that their first choice would be to migrate to Ranchi, the capital city of Jharkhand, while another said Dhanbad which is a smaller city in Jharkhand and only 36 per cent of them said they would choose to go to a large metropolis like Delhi or Mumbai. This is a marked change as Ranchi now also offers opportunities for work and women prefer to remain in their own region where they speak the language and can return home when they want. All of them said that they would go with their relatives and friends and none of them mentioned any agents. Twenty per cent of them had already made arrangements to move while the others were only considering migrating. Of those who had made arrangements, they were sure that they would not need any money except the train fare and of those, one of them said she had arranged to sell some land in order to get this. The others had not begun to think that far ahead and they did not think that much money would be required.

### 3.3.3 PREPAREDNESS TO MIGRATE

Among this group of respondents, 76 per cent of them knew others that were working in Delhi or in a big city. But not many of them knew about their working conditions, 68 per cent of them did not know whether they were happy there or not and how often they were allowed to come home and 92 per cent of them did not know whether they sent money home or not. Consequently, very few of them knew what to expect for themselves when they migrated for work.

Only 32 per cent of them knew that they would do domestic work in the city and 48 per cent of them knew that they would get accommodation. But for the rest, the level of awareness was extremely low & 92 per cent of them did not know what salary they could expect, and only 16 per cent of them knew that they could come home only after one year at the earliest. They

were not very knowledgeable about what they could expect and neither had they taken interest in trying to find out.

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. Very few had heard that they were beaten by their employers, (12 per cent), or were sexually harassed (16 per cent).

A few of them (20 per cent) 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, four per cent said they could approach the church. 28 per cent of them said they could go to the police.

Only a small proportion of them were aware of their rights as workers. Fifty-two per cent of them knew that they were entitled to one day off for every six days of work, but only 40 per cent of them knew that there was such a thing as a minimum wage or maximum working time and even fewer who knew about the right to annual leave (32 per cent) and a still smaller number that live-in workers had a right to sufficient food and safe accommodation.

Eighty-four per cent of them did not agree that it was only recruiting agents registered under the Shops and Establishment Act of the State or with the Labour Department that could recruit workers to travel outside the state. The remainder said they did not know. This is quite natural since they have all been going to distant places with the help of relatives and friends and they are unable to distinguish between an agent and a relative as many of the agents are from their home State.

Only 20 per cent of these women understood what sexual harassment was and another 25 per cent of them understood what forced labour was. 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 different. There don't seem to be any norms about how people should be treated when they engage in wage labour.

In the generation that intends to migrate, all have received some formal education with a large majority having completed higher secondary school. Yet, there are a good number who still intend to migrate below the permissible age of 18 years. They believe that they only have to produce the money for their travel and that the rest will be taken care of. Only a few of them are aware of what they will earn and under what conditions they will work. Despite the fact that some of them do know about the support networks, they are all still quite vague and ignorant about their rights. One gets the impression that the push factors are so strong that they take it for granted that they are expected to go out for work. Nevertheless, there are a substantial number who do not intend to go outside the State.

### 3.4 NEED FOR LEGISLATION ON DOMESTIC WORK

Despite the fact that the GOI did vote for the ILO Convention on Domestic Work, 2011 (No. 189) no legislation has yet been put in place to protect these workers. The Ministry of Labour and Employment of the GOI had instituted a Task Force that developed a National Policy for Domestic Workers. Although this is a very comprehensive policy, it has not yet been

notified. 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 scheduled and minimum wages announced if and when the trade unions press for them. 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 needs to be developed.

### 3.5 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 per cent of all working children were domestic workers and 81.16 per cent of these domestic workers were girls. As much as 19 per cent were in the age group of 10 to 12 years. Another study by two NGOs in Delhi, namely, Save the Children and Butterflies (Rani and Roy (eds), 2005) stated that 90 per cent of child domestic workers were living with their employers, of which 22 per cent 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 per cent said they were overburdened with work, scolded, beaten and locked up, 35 per cent were verbally abused and 5.14 per cent 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 13 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 per cent 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 14. 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 18. 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 18. 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 its orders 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. However strong the case may be, agencies and employers are often able to influence the police and move things in their favour. Hence, the implementation of the law has to be made more stringent to overcome the existing impunity of employers and agents who violate child rights.

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 11 police districts as well as for the railways and airports. 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 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.<sup>11</sup>

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

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<sup>11</sup> <http://wcd.nic.in/welcome.html> Agenda No.4 Status of Implementation of ICPS,2010

minimum age for employment is 14 years, but since domestic work has been declared hazardous for children they can only be employed as domestic workers after the age of 18. Moreover, the JJA bans labour for children up to the age of 18. These inconsistencies should be resolved through a comprehensive legislation to define and protect the young worker.

### 3.6 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 1978.<sup>12</sup> The objective of the Act is to regulate the employment of interstate migrant workers, to safe guard their interest and to provide for their conditions of service and for matters connected there with. 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. 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 totally dysfunctional today and the Labour Departments themselves say that it needs to be substantially amended to effectively apply to the issues of migration 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.

### 3.7 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 tried to

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<sup>12</sup> 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

institute a number of schemes for the emancipation of the area and its people but 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 locally. 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 highlight 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 updated<sup>13</sup> 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.

Mr Anurag Gupta, 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 States. 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 then 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

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<sup>13</sup> Dr. Nair has developed a training manual in 2006



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 organisations of domestic workers like the National Forum of Domestic Workers and unions like SEWA 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

Several interstate migrant women workers who move from Jharkhand to Delhi for domestic work, especially those that are below 18 years of age, are victims of exploitation and forced labour. Those who are in the clutches of the agents are deceived about their conditions of work and bound to the employer for the period of 11 months. Some are victims of trafficking.

Hopefully the Campaign against Child Trafficking and the recently formed National Platform to advocate for Comprehensive Legislation for Domestic Workers will succeed in securing the rights of these workers and conditions for safe and decent migration.

## 4. CONCLUSIONS 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 children 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 minimum wages, the large number are not so fortunate, some facing sexual exploitation and the majority being overexploited 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 cheating the workers into believing 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. 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:

- Emigration laws discriminate against women by fixing a minimum age of 30 for emigration for domestic work. These women are required to get an emigration clearance unlike other 'skilled' workers;
- Whereas the emigration clearance is handled by the MOIA, the actual emigration department at the airport is under the Ministry of Home Affairs. There is no coordination between these two ministries;
- 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 make their money with the supply of 'free visas' made use of by these agents to keep the network operating
- The Arab countries do not recognize domestic workers under their labour laws and hence they can get no reprieve in case of abuse.
- The agent network takes on the garb of a support structure in the host country successfully helping the illegal emigrants to get out of trouble. This invisible network is what has begun to be called the 'Kasargod Embassy'.

Thus, while the legal framework is flawed, there is gender discrimination and corruption at several levels.

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 and 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 Overseas Workers' Resource Centre (OWRC) 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 contingencies, should increase its outreach 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 model framework could be modelled on the one provided in ILO Recommendation 122 accompanying Convention 189 but flexible enough so as 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 18, 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 children 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 cheated as they do not even realise that they are illegal. 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 domestic work.

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.

This study we hope will be a means to highlight the problems of migrant domestic workers leading to interventions that will eventually dispel the existing anomalies in legislative procedures thereby safeguarding the rights of migrant domestic workers to work with dignity, social security and protection.

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