

Questionnaire for NGOs and other stakeholders on domestic servitude

Question 1

Please provide information on your organisation and its work with migrant domestic workers who became victims of contemporary forms of slavery, including the countries in which you work on this issue.

About the organisation

The Jharkhand Anti Trafficking Network (JATN) is a state-level joint network of 14 grassroots NGOs named “to promote safe migration to help prevent human trafficking” and raise the issue of trafficking as violence against women and girls in the public domain. Presently, JATN is working in 13 trafficking prone districts of Jharkhand namely – Giridih, Godda, Gumla, Dumka, Chatra, Deoghar, Koderma, Khunti, Hazaribagh, West Singhbhum, Simdega, Lohardagga and Ranchi covering 19 blocks, 79 Panchayats and 257 villages. JATN has a core mandate to advance a rights-based approach and feminist principles, as well as to promote female empowerment and leadership to counter trafficking and ensure safe and secure mobility in Jharkhand. JATN strives to build the capacity of community and grassroots organizations to empower marginalized and vulnerable sections of society in exercising their rights and realizing their entitlements. It provides capacity-building support, promotes information dissemination, and models development and technical support to individuals, NGOs, and civil society. JATN members also focus on strategic planning for interventions promoting safe and secure movement.

The network does not merely advocate legalising migration but also work towards making migration safer by emphasising the importance of social networks and progressive awareness-raising amongst migrant populations. As with efforts to safe labour migration, a key assumption is that empowering migrants would curtail the market for traffickers and other unscrupulous facilitators of mobility. Within this framework, both officially sanctioned modes of recruitment (licensed recruitment companies/brokers) and informal migration networks of friends and acquaintances are assumed to result in better (‘safer’) conditions for labour migrants.

Awareness raising campaigns, community-based monitoring, livelihood development, and empowerment of women and girls, legal protection and advice for prosecution, improvement of labor standards, and skills training for reintegration are some of the other ongoing engagements under the network. Because of JATN's intervention, progress has been also made in clarifying concepts (e.g., definition of human trafficking, push and pull factors, links between trafficking and migration), consolidating research and good practice databases, increasing commitment by the JATN to combat the problem of poorly implemented development policies.

Question 2

- A. Please characterise the legal and/or policy frameworks relevant to the protection of migrant domestic workers subject to contemporary forms of slavery, as well as any global trends you would like to highlight. Please include information about provisions criminalising contemporary forms of slavery, those that might establish distinct rights and/or restrictions for domestic workers, including migrant domestic workers (in regards to, for instance, salary, working hours, freedom of movement, freedom of association, limited freedom to change employers, etc.), as well as measures to identify and support migrant domestic workers who are or were victims of contemporary forms of slavery.

Modern day slavery: global trend

Though slavery and involuntary servitude recognised as fundamental human rights violation internationally¹ the human rights element of trafficking is only beginning to be effectively factored into anti-trafficking strategies (Fitzpatrick, 2002). Trafficking has customarily been understood as a crime management and migration issue, and attentiveness for the victim has varied depending upon the situations (id).

The discussion on trafficking during the 19th and 20th centuries was dominated by the morality framework, which associates the trafficking with sexual slavery and forced prostitution (Ray, 2005). When the term 'trafficking' emerged, the discourse focused on eradicating "white slavery trade", the idea that white women from Europe and North America were kidnapped and transferred to the sexual slavery abroad (Bruch, 2004). Feminists activists like Josephine Butler stressed on this phase as part of their campaign

¹ Slavery has been considered as human rights violation under existing major international treaties, including International Covenant on Civil and Political Rights (ICCPR), the European Convention for the Protection of Human Rights and Fundamental Freedom, American convention on Human Rights etc.

to modify England's morality laws and contest the efforts of the state to legalise prostitution as they regarded it as a form of exploitation (Ray, 2005). As the awareness grew, the international community reacted with different laws and conventions. Thus, the conventions like the International Agreement for the Suppression of the White Slave Traffic 1904², International Convention for the Suppression of White Slave Traffic 1910³, referred the trafficking to the "procuring of women and girls for immoral purpose aboard". The orientation of the later conventions⁴ till 1950s also was, still, anti-prostitution. The major limitation of the morality framework is that it restricts the trafficking only into forced prostitution, which ignores the other aspects of trafficking such as forced labour, child labour and slavery practices etc. This results in violating the human rights of those who are neglected and addressing a very small portion of the problem.

The next was the violence against women framework (id). This framework sees trafficking as an abuse of women's well being and the exploitation of their social and economic weakness in a patriarchal society. The issue was addressed from this framework through different conventions and movements. The convention on the elimination of all forms of discrimination against women (CEDAW) 1979⁵ and World Conference on Women, 1975⁶ prohibited trafficking. Trafficking appeared as an issue in the subsequent conventions and conferences as well⁷. The drawback of this framework was also same as the first framework, touches only a portion of the issue, deal with only one gender, and legalisation of the prostitution (id).

² International Agreement for the Suppression of the "White Slave Traffic," May 18, 1904, 1 L.N.T.S. 83.

³ International Convention for the Suppression of the "White Slave Traffic," May 4, 1910, 3 L.N.T.S. 278, 211 Consol. T.S. 45.

⁴⁴ The 1921 convention for the suppression of traffic in women and children, International convention for the suppression of traffic in women of full age-1933, convention for the suppression of the traffic in persons and the exploitation of the prostitution of others 1949.

⁵ Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, art. 6, U.N. Doc. A/Res/34/180 (Jan. 22, 1980), available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> ("State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women.").

⁶ Report of the World Conference of the International Women's Year, at 79, ¶ III.7, U.N. Doc. E/CONF. 66/34, U.N. Sales No. E.76.IV.I (1976).

⁷ Copenhagen Conference 1980, World Conference at Nairobi, the Vienna Declaration and Programme of Action of the World Conference on Human Rights 1993 (World Conference on Human Rights, June 14-25, 1993, *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF.157/23 (July 12, 1993), and the Fourth World Conference on Women in Beijing 1995(*Beijing Declaration and Platform for Action*, ¶ 114, U.N. Doc. A/CONF.177/20 (Oct. 17, 1995) . Moreover, the United Nations Special Rapporteur on Violence against Women had taken a good interest in the issue.

The third was the law enforcement framework (id). Though this framework had a fundamental presence in the actions taken against the trafficking in the early periods⁸ human trafficking gained much relevance as an international issue in 1990s⁹. Nations states became more concerned about the sovereignty and the security related to trafficking, migration, and smuggling. The enforcement framework highlighted attacking international crime and restricting illegal migration through stringent border controls. The major pitfall of law enforcement framework is its flawed assumption that trafficking occurs as unlawful entry across national borders. It refutes the presence of internal trafficking though many countries like India suffer more from internal trafficking than external. This framework also deviates from victim protection as the major aim here is to prosecute traffickers (id).

The latest is the labor migration framework which was introduced as a response to the gaps in the previous frameworks (id). This framework encompasses sexual as well as nonsexual labour. According to this structure, trafficked individuals are considered as migrant workers who left home in search of livelihood and exploited in different sectors. It also considers that trafficked persons are victims for human rights violation, stopping and punishing trafficking requires “multi-level game of coordinated development, communication concerning activities of transnational criminal groups, mutual assistance in law enforcement, provision of social services to trafficking victims, economic development in source countries, and reform in migration policy, involving both state and non state actors at the international, national and local level” (Fitzpatrick, 2002:1145). According to Ray (2005):

“The labour framework views trafficking as the consequence of a world order which creates obstacles for movement of people. Opportunities are needed at one place but created at another, leading to a push-pull dynamic that is sought to be controlled through restrictive immigration policies. In the absence of legal channel or due to the high transaction cost of legal movement, migrants

⁸ It can be analyzed in the conventions like, the 1910 convention, 1933 convention and 1949 convention.

⁹ UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children 2000, Treaty of Amsterdam 1998, Vienna Action Plan 1998, Tampere Summit 1999, European Parliament Resolution 2000, European Union’s Council Framework Decision on Combating Trafficking in Human Beings 2001, Council of European Union Proposal for a Comprehensive plan to Combat illegal Immigration and Trafficking of Human Beings in the European Union 2002, and Brussels Declaration on Preventing and Combating Trafficking in Human Beings 2002.

seek the aid of underground networks that specialise in identifying and exploring loopholes in the laws. In the process, migrant relinquish the control over their mobility and choice, thus making them vulnerable to being trafficked” (p:114).

According to this framework, United Nations Protocol to Prevent, Suppress, and Punish Tracking in Persons, Especially Women and Children passed in November 2000 defines trafficking 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 (in particular, labour and sexual 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.

India and modern day slavery

There has been a considerable raise in the trafficking of women and children across south Asian countries (Banerjee, 2003). India, Nepal and Bangladesh have signed/ratified international and regional conventions and treaties on trafficking, migration and related policy instruments¹⁰. These documents are the some of the instruments to protect rights of migrants and trafficked persons including the rights of

¹⁰ The 1948 Universal Declaration of Human Rights; the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the 1966 International Covenants on Human rights; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979; the 1989 Convention on the Rights of the Child; the 1990 UN International Convention on the Protection of Rights of all Migrant Workers and their Families; the 1990 World Declaration on the Survival, Protection and Development of Children and its Plan of Action; the 1992 Program of Action of the UN Commission on Human Rights on the Sale of Children, Child Prostitution and Child Pornography; the 1993 Vienna Declaration and Program of Action of the World Conference on Human Rights, the 1994 Cairo Declaration and Program of Action of the World Conference on Population and Development; the 1995 Copenhagen Declaration and Platform for Action of the Fourth World Conference on Women; the (draft) Program of Action of the UN Commission on Human Rights on the Traffic in Persons and the Exploitation of Prostitution of Others; the recommendations of the Committee of the Rights of the Child and the UN Special Rapporteur on the Sale of Children; the ILO Convention on the Worst Forms of Child Labour, 1999; the Outcome Document of the Beijing Plus Five UN General Assembly Special Session, 2000; the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000; and, the U.S. Victims of Trafficking and Violence Protection Act, 2000.

women and children, but they remain in papers in the context of the country. Above all, South Asian Association for Regional Cooperation (SAARC) has its own legal provisions (Preventing and combating Trafficking in Women and Children for Prostitution 2002, Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia 2002) regarding the minimum age of employment, child rights etc. Besides all these, India has its own laws like the Juvenile Justice Act of 1986 which was recently amended and Immoral Trafficking Prevention Act (ITPA).

Being in the labour migration framework, recently, India proposed Trafficking of Persons (Prevention, Protection, and Rehabilitation) Bill 2018, which was approved by the cabinet to introduce in the parliament. Because there are deficiencies found in the existing laws on trafficking in India like the Immoral Traffic (Prevention) Act, 1956 (ITPA), the Bonded Labour Act, and the Indian Penal Code (IPC), the supreme court was mandated to study the upshots of the current laws to address the human trafficking in the country. After multiple rounds of consultations and drafts, the Ministry of Women and Child Development finalized the present bill in 2016.

The present bill contains promises on addressing, protection, prevention, safety and rehabilitation of trafficked victims by respecting the innocence of victimized trafficked persons, mandating the registration of placement agencies, building anti-trafficking committees at different levels, forming a central level special investigative agency and by considering trafficking as an organized crime.

The latest draft has made more conceptual clarity by giving detailed definitions and clearer roles and responsibilities, unlike the earlier drafts. It also recognizes rights of victims for rehabilitation, for equality, non-discrimination, and justice. The clarity of definitions is binding in the present bill because this bill is in a different approach from the existing legal provision with regards to human trafficking in India like Immoral Trafficking Act, 1986 which deals only with trafficked sex workers. By considering trafficked persons as 'victim' instead of an illicit, the bill is an unambiguous move in the right direction. Moreover, the present bill focuses on the key phases trafficking: transportation, recruitment, purchase, and sale. That being the case, the superior potency of the present draft is that it can deal with any category of

trafficking irrespective of whether it is sex trafficking, labor trafficking, and child trafficking, etc.

Other key features of the bill are rehabilitation has been recognized as a right, provision for shelter homes in district level, highlighting medical check-ups and treatment after returning home, the stipulation of a fund for welfare and rehabilitation of trafficked persons, stringent punishment for traffickers, etc. Rehabilitation under this bill is not restricted to typical rehabilitation model of rescue, safety and send back home instead it stresses the legal procedure to be followed to deliver justice to the targeted people.

There are three levels of committees, national, state and district to take care the rehabilitation and welfare activities of victims. Their composition, roles, and responsibilities are drawn in the bill. A central investigative agency will inspect the crimes of human trafficking according to the new bill. The importance of having a central government institution to deal with the trafficking has been emphasized in the bill because the migration and trafficking are cases which are often interlinked with two or more states. It was also a problem for the state investigating police authority to go ahead with the case as the cost of the interstate investigation is given as reimbursement over two-three years which is a disincentive for them. Therefore, creating a national investigative agency by integrating all other investigative agencies is a concrete step. Earlier, the central investigative agency used to interfere only in those cases which are interlinked three or more states but 90% of the trafficking cases are connected with just two states. Anti Human Trafficking Unit (AHTU) also does not have the coordination for interstate trafficking issues.

The rehabilitation policy under the proposed bill will ensure the independent legal representation of the victim as there are provisions for victims to be represented by private lawyers in addition to the Special Public Prosecutor. It also has rules for victim compensation through the Legal Service Authority of each state at various stages – from the filing of First Information Report (FIR) to the disposal of the case.

B. Please include specific references to the source of law when possible.

This section deals with different sections in the existing legal framework of India to deal with modern day slavery

Selling and transfer of the victims for any kind of exploitation

Section 370, The Indian Penal Code says that “Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Further, if the person is involved in habitual dealing of victims then the **section 371 of IPC** will be applicable. IPC 371 states that “whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine”.

Keeping victims of trafficking for any form of exploitation

According to section **340 IPC**, Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person. In such cases, as per **IPC 341**, “whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both”.

Section **342** states, “whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both”

Use of force on victims of trafficking

IPC 354 states that, assault or criminal force to woman with intent to outrage her modesty. “Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be

punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

In the case of Juvenile, the **Juvenile Justice Act 2000** also lays down punishment for cruelty to juvenile. As per **JJ Act 23** “Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both”.

Use of victims of trafficking for any form of exploitation

Apart from the sections prohibiting trafficking, IPC prohibit forced labour as well. **Section 374** states that, “Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both”.

The most essential of these is the **Bonded Labour System (Abolition) Act of 1976**. Section 4 of the Act abolishes the practice of bonded labour. However the act goes further and increases its scope to abolishment of all form of all forms of forced labour in sub clause (b) of the clause 2 of the respective section. Thus, the act takes into account the changes in the situation from bonded form of slavery and other forms of forced labour or trafficked victims and abolishes such form of forced work.

With respect to children there are more specific Acts that protect them from economic exploitation. the trafficked children under the age of 14 are protected from being made to work as per the provisions of **Child Labour (Prohibition on and Regulation) Act**. The acts lists processes and occupations in which children below the age of 14 cannot be employed. Section 7 of the Act also specifies the hours and period of work for children.

Another act that protects the children from being forced into labour and exploited is the **Juvenile Justice (Care and Protection of Children) Act, 2006**. The act seeks to prevent exploitation of children that are employed and protect them from cruelty that

may subject to by their employees. Section 23 of the act criminalises cruelty towards a juvenile or a child. Most trafficked children are subject to inhuman conditions that this act criminalises. The section protects the children from assault, abandonment, exposure or wilful neglect and their procurement for the same that leads unnecessary mental physical suffering. Section 26 of the JJ act protects the exploitation of children by their employees. The section prohibits the procurement of a juvenile or the child for the purpose of any hazardous employment keeping him in bondage and withholding his earning or using such earning for private purposes.

In the case of marriage, if the person marrying a child then it is punishable under the **Child Marriage Restraint Act 1929**. Similarly according to the **IPC 496** “whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine”. As per IPC 498 “Enticing or taking away or detaining with criminal intent a married woman.—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

Question 3

Please describe the main challenges and barriers identified in the country or countries in which your organisation works to ensuring the human rights of migrant domestic workers victims of contemporary forms of slavery. Please also specify any global trends that you are aware of.

Law enforcement challenges

- Lack of awareness among the police and other stakeholders

There is a very low level of awareness about the crime of trafficking amongst police personnel. Furthermore, trafficking is a low-priority crime for police, as crimes such as murder, rape, arson as well as general law and order matters take precedence. In

order to address low-levels of awareness and law enforcement gaps, the Ministry of Home Affairs, India mandated the creation of Anti-Human Trafficking Units in states across India.

However, AHTU scheme has not been implemented ideally as it appears that the human resources and infrastructure available in each unit are either incomplete or not sufficient enough to combat issues like human trafficking. This scheme is to be primarily implemented by the State Governments who provide funds for the establishment of AHTU infrastructure that is to be released through the Police Modernization Division.

- The police were not very prompt and in some cases. They discouraged, dissuaded people from filing police complaints saying that it might take more than 10 years for the cases to be resolved, therefore people were reluctant to file cases to escape from misery and melancholy.
- NGOs have played important roles in strengthening the programs run by the Government. The role of NGOs has been pertinent in combating trafficking through various means. It supports AHTU in rescue operations by being a member of the special team. As most of the NGO work at grass root level it has a major stake in creating awareness at the mass level, even PRI members are sensitized by them. The survivors have benefitted by NGO in rehabilitation and pre-counselling. However, NGOs are abused and get threats from antisocial elements sometimes. At times they do not get immediate support from the state officials.

Community challenges

- Many parents think it is good for children to have a job so that they can learn how to be responsible and transition to the working world of adulthood, or they believe that children can learn more important skills outside of school.
- There were generally two types of agents, relatives and unknown person who took the migrants through different channels. Primary traffickers were mostly relatives like uncles, brothers etc. and the villagers went out with their relatives in full faith and trust unknowingly that their blissful ignorance could at times turn fatal.
- Victims reluctant to file police complaint especially in the cases of sexual exploitation. In such cases the victims generally do not express the things due to fear of stigmatization.

- In some cases the trafficked girls were to file a FIR after the counseling by the caseworkers but at the police station they backed off.
- Though parents wish to find their missing children but many a times they were afraid to file police complaint because of their proximity with the closely associated traffickers. Often when the contractor came to know about the police complaint filed by the victim, they threatened the survivor to dissolve the case otherwise they would file a counter case and other repercussions. In some cases the agent even agrees to marry the victim so that no police complaint was filed against him. Police apathy in dealing with survivor cases were another reason for reluctance in filing complaint cases against trafficking and traffickers. It was seen that the police often did not register the cases and kept it pending and took action only after the intervention of the case worker.

Question 4

A. Please elaborate on any specific violence, threats of violence, abuse or harassment faced by migrant women and girls who are in situation of domestic servitude.

Forced labour

The overall trend of placement whether it is the case of missing victims or returnee victims, or for that matter the case of successful migrants, forced labour seems present in all the cases. In majority cases JATN dealt with, either the migrants were forced to work or were not given the worth reward. The most common abuses found among the victims are deception in terms of wage and working and living conditions

The International Labour Organization (ILO) Forced labor Convention N0. 29 (1930) defines forced labor as “all works or service that is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (Article 2). The idea of forced labor is based on the liberal concept of freely chosen work, notwithstanding some exceptions as mentioned in the convention. Even if a someone entered to a labor agreement voluntarily, his or her consent becomes not relevant if coercion or deception was used (ILO 2005). So, according to this definition all trafficked victims are victims of forced labor. The term victims do not imply that labor who suffered coercion and deception are completely

helpless in the hands of exploiters. In some cases, they may not see them as victims either.

Other form of labor is bonded labor. It is opposite of decent work as the worker obliged to work for zero wages in this case. In different to the older form of bondages, which were embedded into a wide set of rights and obligations and often were intergenerational, neo bondage is present in a wide variety of seasonal works such as brick kilns, stone quarries, construction sites etc. (Guérin, I., Michiels, S., Ponnarasu, S., & Venkatasubramanian, G. (2012). All other categories including domestic labor, construction, company and agriculture the neo bondage system prevails. The next section is about the successful migrants. The section try to read together all the elements analyzed above with the situation of the successful migrants. Forced labour

B. Please elaborate on any other human rights violation faced by migrant women and girls who are in situation of domestic servitude (including, for example, their right to health, water, housing, freedom of movement, freedom of association, etc.).

The migrant girls and women who are already under the situation of domestic servitude faces violation particularly in the terms of wages and compensation in return of their work. At the first place the placement agency, who recruits the migrants with the employers take away their money. The employer contacts with the placement agency and pays the placement agency in return of the domestic service. The migrant labour is not paid for her work. The employer has total control over the migrant for one year or may be more as per the contract with placement agency. To retain the worker for that period the employer uses every kind of coercion, force and physical abuse. The migrant is never at its own discretion to leave the work. They are often mentally and physically abused by the employers by invoking their insecurity of being new to the city and the fear of getting lost.

They do not have the permission to go outside and also talk with someone else. Cases have reported that they were never allowed to contact their families over phone and even touching the phone might led to severe punishment like beatings.

They are forced to work overtime from early morning to late at night. They are the first to get up in the morning and get to bed at last.

Secondly the agent who have brought her to the destination and have handed them over to the placement agency despises them. The agents are their only means of communication back home. The migrants trust them and often uses them as channels for communication and sending back money to their families. The agents also exploit them by handing over less or no money at all to the families. As the migrants are new to the destinations and are not familiar with the routes and transport back to their homes, they become dependent on the agents to go back. But in this case also the agents deny them to take them back home and forces them to work for a year and more.

Question 5

Please elaborate on the challenges faced by migrant women and girls who are at the risk of or who are already under conditions of domestic servitude to obtain protection against their human rights violations.

The push and pull factors of migration and trafficking in Jharkhand are same. Therefore the biggest challenge for the probable migrant women and girls is to rightfully judge the motives of the agents. It becomes really difficult for the women and girls to judge the actual intention and motive of the agents. The vulnerability gets aggravated by the immediate push factors. The challenge becomes more challenging because the agents are often close relatives/ peers/ neighbours or acquaintances.

The second challenge that the migrant women and girls face is that they migrate to a whole new milieu. The migrant women and girls who belong from the remote villages of Jharkhand and are mainly forest dwellers land up in the posh cities with largest urbanisation. The difference between the source and destination is not only in measures of distance but also in the life style and thought process of the people. It poses a big challenge for the migrants who get engaged in the domestic work to satisfy the expectation of the employers and simultaneously adjusting themselves in the new environment.

Belonging from a very simple background they are not even aware how to negotiate for the work they do. The compensation and wage they agree to work on, are often less. They are not aware about their labour rights and minimum wages rights, which make them vulnerable. It is challenge for them to get educated about these rights and implement it in their work life.

The returnee migrants or the survivors of unsafe migration and trafficking faces a lot of discrimination from the community. The community refuses to accept the returnees and survivors as a part of the community. This compels the returnee migrant/ survivor to return back to migration.

The returnee and survivors faces the challenges of getting back their wages from their employers and placement agencies, because of the complexities of the legal system and lack of empathetic approach.

Question 6

Please elaborate on the specific situation of migrant women and girls in domestic servitude, taking into consideration factors that might contribute to their increased vulnerability to contemporary forms of slavery, including poverty, identification to minority groups, indigenous people, age, and caste.

The reasons for out-migration can be categorized roughly into a couple of themes, i.e. poverty, unemployment, lack of regular work, education, business, job, less Income, climate and some minor aspects like farming and Marriage etc. The educational level of the migrants tends to be lower. Therefore it was expected that they were more likely to be engaged as the unskilled worker. Migrants attribute poverty, and some of them cite unemployment as the foremost reason behind migration.

Trafficking also occurs because of the increasing human rights violation and the safety concerns back in the source. These include domestic violence, custodial violence, violence in the public place, violation women's right to decision making, land asset issues etc. By such cases families and guardians push women and girls to trafficking circumstances. Marriage related issues like early marriage, lack of choices regarding marriage are also contributing to the trafficking.

The migration occurs both individually and in group. As far as individual migration was concerned, the migration of adolescent girls was more and they were engaged in domestic work, brick lien, etc. and were even sold in some cases. The seasonal migration was for Brick-kiln and domestic works to Delhi Mumbai. Respondent said that education of children was hampered due to seasonal migration of the parents resulting in a vicious cycle because eventually even the children became victim of trafficking. People migrated majorly during the month of November and March months and they come back during rainy season.

Another reason for unsafe Migration was that the adolescent were attracted by the glitter, glamour, glimpse and lifestyle of big-city. Some lovelorn teenagers migrate with their paramour and many a times become victim of trafficking. They don't think twice before accompanying strangers. Some of them migrate to fulfill their needs and desires like Smart mobile phones, and to see a new city.

Question 7

- A. Please detail any examples of good practice in relation to protecting, identifying and rescuing migrant women and girls in situation of domestic servitude. This might include actions and initiatives taken by governments, civil society organizations, international organizations, media outlets, employers, individuals, survivors, etc.

Red card and green card

This initiative is from the labour department of the state. Migrating workers who were registered with an agency or agent would be issued green colour card and those who move out of the state in search of a jobs alone would be issued red colour card

Question 8

Please describe any challenges identified in ensuring that migrant women and girls who are survivors of domestic servitude have access to justice?

Question 9

Please describe any projects delivered by your organisation or other civil society organisations to ensure protection of the human rights of migrant domestic workers victims of contemporary forms of slavery.

- Migrant forum

To promote their belief that the Migration was a fundamental right of an individual the JATN partners created community based models to prevent and abate trafficking. The network mobilized the community members in forming Migrant Forum to effectively address the trafficking and migration issue. It was termed as one of the important strategy in promoting the concept of Safe Migration. Migrant Forum was created to establish a proper effective channel for ensuring Safe Migration of the migrants. This structure provided the members a platform to share the experiences related to migration and learn about the issues that affect their lives, and further help them to access range of relevant services. These institutions at different level worked as task force / pressure group to create mechanism for checking unsafe Migration and trafficking.

The Migrant Forum formation was a new concept to infuse the community participation in the safe migration program. It was a collective of migrant population or people directly indirectly affected by migration. The forum comprised of migrants, survivors, returnee migrants and migrant's families of the villages. Migration Forums were formed to provide a platform to the returning migrants and migrant families along with the community people to make them able to understand to stay safe. Intensive Training was held on Forum Structure, Role, Activities, Rights and Entitlements as Workers/ labors and laws/ policies related to trafficking. The Migrant

Forum guided the returnee migrants and potential migrants with information and disseminates information before their departure on safe and regular migration. They provided legal aid information to destitute migrants and protect them against exploitation and helped in registering with the agent and put job demand in Manrega. They provided information and supported when anyone migrated or in case of any problem and discussed about the monetary aspect, opening bank account before migration and transfer of money.

Question 10

Please provide any research, data or other information that your organisation has produced or is aware of relating to the protection of domestic workers victims of contemporary forms of slavery.

Research Studies by JATN

Research Study 1

Title: Trends and significance of Migration in Jharkhand, India

The migration study looked at the migration as a barometer of changing socio-economic and political conditions. By conducting a detailed study covering 13 districts of Jharkhand, our study mapped various aspects of vulnerabilities and concerns of migrant workers. This assessment also provide valuable information on the migration process –the cause and casualties identify information gaps and strategize in terms of educational needs.

Jharkhand is one of those states which are huge sources of migrant labourers in India (Sarkar 2011). The contemporary migration in the country is not just the result of modernisation rather long have been a central feature of the life within the Indian subcontinent (Gardner and Osella, 2003). Migration from Jharkhand is no exception. De Haan (2002) has argued that circular out-migration from Bihar, the state from which Jharkhand separated is at least a hundred years old. The destinations of those times were coal mines; tea plants etc. run under the colonial regime in different part of the world. However, economic reasons also play a crucial role in their motive to find new destinations. From an economic perspective, in the absence of a formal institution guaranteeing everyone's economic and labour rights or its dysfunction, dependency on an employer or a recruiter might be seen as a protection, as thin as it

might be in practice (Picherit 2009). It also understood as part of a broader system of exploitation, characteristic of capitalist production (Breman, 1985; Mukherji, 1985; Standing, 1985). It can also happened because of the oppressive social norms present back in the birthplace which force migrants to find a form of emancipation from them (Guérin, I., Michiels, S., Ponnarasu, S., & Venkatasubramanian, G, 2012). On the same line Shah (2006) argued that, based on his study conducted in Jharkhand itself, far beyond financial motivation and notwithstanding harsh working conditions, migration is experienced as a liberation from social oppression.

Human trafficking implies their unlawful movement or acquisition by improper means, such as 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, with an intention to exploit them (Sarkar, 2014). It is emerged as one of the growing organised crime in the world right now (Shelley, 2010). Human trafficking, particularly in women children, has captured a serious attention in India as well (Banerjee, 2003; Gupta, 2003; Sen and Nair, 2004; Sarkar, 2011). Despite the different measures taken by the state, the crime have become more organised, well set and expanded to different other forms as well (Sarkar, 2014). Trafficking has widely spread in such a way that today almost every part of the country is affected by this crime (id). Even though human trafficking for sexual slavery has been a matter of serious concern to the country, of late, there has been an increasing tendency of trafficking children and women for forced labour and bondage (United Nations Office on Drugs and Crime, UNODC, 2013).

Sex labour and bonded labour comprise the vast majority of trafficking in India though begging industry and organ harvesting have also noted (Huda, 2006; DuPont, 2009). It is the denial of socio-economic and human rights that end up in loss of control over life and, for that reason, trafficking and exploitation. “Trafficking in human beings is not an episodic phenomenon affecting a few individuals, but is of structural nature, with extensive implications on the social, economic, and organisational fabric of our societies¹¹”. A variety of reasons such as, deepening

¹¹ *Communication from the Commission to the Council and the European Parliament, Combating Trafficking in Human Beings and Combating the Sexual Exploitation of Children and Child Pornography*, at 2, COM (2000) 854 final (Jan. 22, 2001).

poverty, deteriorating living conditions, constant unemployment, human deprivation and hopelessness promote the human trafficking (Salah, 2004). Households living in poverty have nothing to protect them other than selling away their only asset that is the labour of the family. If the geographical neighbourhood does not offer the opportunity to contribute this labour, he or she is sent far-off as migrants. At this particular stage, since their low bargaining threat their security, they become vulnerable to trafficking. The research shows that there has been an increasing trend of children being trafficked from the states of Jharkhand, Chhattisgarh, Odisha, Assam, West Bengal and Madhya Pradesh for the purpose of domestic labour (Sen and Nair, 2004; Sarkar, 2011). The focus of the present study is restricted to Jharkhand.

Many trafficked women come from tribal communities and are taken to the cities of Delhi or Mumbai for domestic or other labour-based work. Young girls may also be trafficked to the states of Uttar Pradesh and Haryana as brides, later used as sex slaves. Poverty, illiteracy, shrinking landownership, climate change (which has made traditional agricultural practices unsustainable) and Naxalite extremist activity, all contribute to the increased prevalence of trafficking. Jharkhand has become a safe ground for traffickers to lure victims that lack any safety net once they are sent to faraway locations. Social problems, dowry, child marriage, the gender-based role of women as the primary household and child caretaker, and administration and police insensitivity from lack of education on trafficking issues serve to compound the problem. Jharkhand's geography also makes it an attractive source area as it is easily connected with the major metropolitan areas of Delhi, Mumbai, and Kolkata.

A particular understanding has emerged from JATN's intervention that there is a large gap between the insights from macro data and those from field studies. In some regions of Jharkhand, three out of four households include a migrant. The effects of migration on individuals, households and regions add up to a significant impact on the economy and society. People do migrate for different reasons and the pattern of migration in terms of volume, rate, composition, etc. may change over time. In the above context, it was important to study the migration scenario.

Thus, the objectives of the current study were, 1) To study the views and approaches of the migrants, their family, service providers and community. 2) To identify

vulnerabilities that makes migrants susceptible to unsafe migration or trafficking and resulting human rights violations. 3) To identify key destinations for work, work sectors and the nature of work undertaken by the migrants; understand the socio-economic profile of migrants and families; gender and age wise migration. In-depth Interviews were carried out with the Returnee Migrants, their family members, Service Providers, Agents, Contractors, and through Household Surveys. FGD was done in the sampled group in the 13 Districts. The analysis was carried out, and the Findings of qualitative assessments of the FGD report and Family feedback were supported by the quantitative assessment carried out on the Excel Sheets and documented.

The poor economic condition and the pursuit of a better living compelled people to migrate. The rise in the population and the poor means of earning made the matter worse. Not much development has taken place and nor any augmentation in the Livelihood sources. On the one hand, there was the scarcity of money and lack of employment opportunities while on the other hand there were top needs to meet and repay the loans. Migration was a compulsion to fulfil the family needs and day to day expenses like better education for their children, health, marriage, etc. Most of these migrating communities were illiterate and landless farmers or had minimal agricultural land making it impossible to take agriculture as a full-time job. There was widespread poverty, lack of Job, Livelihood or business opportunities, poor income and lack of seed capital. There was extensive unemployment and even if employment was available the salary was very low and not regular. Besides poverty, migration became a trend among the new generations as there were motivation and much infatuation by the culture and lifestyle of big cities. Also, there was freedom from the societal restraints once they went out. Moreover, aspirations have become high, e.g. people used to buy cycle, radio, watch etc., with the money earned and now they tend to buy better clothes, gadgets, mobiles, motorcycles, T.V, etc. With the initiation of security schemes like NRLM, more and more women were migrating to earn. The development of technology and better means of transportation and communication made migration easier.

People did not get employment round the year at the local level. Though MGNREGA and other labour conducive works were there, but they were not available on a regular basis throughout the year. The villagers were engaged in agriculture for only a few

months August, September and October after the monsoons. Rest of the time they were engaged in various labour work, or collecting and selling forest products like Datwan, Pattal, and wood etc.

The common livelihood or source of income in the village were agriculture, labor, MGNREGA- (when work is there), animal rearing, agriculture based activities or collecting and selling forest or mine products like Datwan, Pattal, firewood, Coal, MICA etc., petty business, stone crusher, running agencies like Gas etc., and migration for 6 months. Some of them were employed in services provided at the village like work at the School, health center, Government offices and other seasonal occupations.

The study looked at the perception of migrants, their family and the community regarding different the elements of migration. Some of the key areas of investigation were: season of migration; milieu of migration; season of migration; the process of migration; gender wise migration; caste wise migration; reason for migration; education of migrants; destinations of migration; duration of migration etc. There is some specific information from migrant as well such as: what do they do before migration; influencing factors of migration; nature of migration; route and means of travel etc. The study also looked at what happened after migration: waiting period before the said job; knowing the recruiter and opportunity; type of work done; duration of work; mode of remittance etc. One part of the study looks at the different dimensions of the migration: changes in the trend of migration when compared from the past; challenges to migration; whether they want to migrate again etc. To explore the impact of migration, the study looked at the economic situation of the family and what all changed after they started migration. The perception of the of the contractors/agents also have taken into consideration. The last section of the study looked at the perception of the community regarding the migrants especially the migrant returnees. This aspect is crucial as many often returnees are stigmatised by the community. The complete report has been attached.

Study No 2

Title: Status of Anti Human Trafficking Unit (AHTU) in Jharkhand

According to the National Human Rights Commission (NHRC)'s Action Research Study Report on 'Trafficking in Women and Children in India' there is a very low level of awareness about the crime of trafficking amongst police personnel.

Furthermore, trafficking is a low-priority crime for police, as crimes such as murder, rape, arson as well as general law and order matters take precedence. In order to address low-levels of awareness and law enforcement gaps and, thus, to curb trafficking, the Ministry of Home Affairs mandated the creation of Anti-Human Trafficking Units in states across India.

AHTU is a comprehensive scheme to take up a crusade against all Criminal Aspects of the crime of human trafficking particularly in women and children as a National Mission mode by creating an institutional mechanism and working across all the stakeholders i.e. Police, prosecution, NGOs etc. Thus, a total of 335 AHTUs were launched in the country from 2011-12 for which ₹53.97 crore rupees was released. On 14th July 2011 the Jharkhand State Government under this scheme established four AHTU at the district level in Khunti, Gumla, Simdega and Dumka and later in the year 2013 four more AHTU was established in West Singhbhum, Ranchi, Lohardaga and Palamu districts.

The AHTU scheme was implemented in eight different districts of Jharkhand seven years ago. Even though 147 cases of trafficking have been reported in the year 2014 by these AHTUs no database of traffickers has been developed. Each AHTU was supposed to have 12 Police Officers of Inspector rank, at present, sub-inspectors are heading the units. However, AHTUs have not been able to establish themselves as independent units because the associated work is allocated to police officers already tasked with their usual duties. As a result, AHTU work is commonly viewed as less important or substitute work. Furthermore, in terms of infrastructure constraints, the state has not dispensed most of the necessary funds to set up the units. For example, only four units have been provided with a car and camera. The overall situation of AHTUs in Jharkhand is dismal as they are severely understaffed and infrastructure starved.

Despite these constraints, the Anti-Human Trafficking Network in Jharkhand has held several refresher courses on human trafficking for the police and other stakeholders. The state AHTU has also organised a prosecutor regional consultation, and the state

level prosecutors have also been trained. The AHTU Jharkhand has initiated partnerships with various organizations in Delhi and Kolkata for getting support for conducting raids for recovery of victims of human trafficking. The advisories sent by the Ministry of Home Affairs on human trafficking and Missing Children has been widely distributed to all district police chiefs. The AHTU has also established linkage with the State Commission of Women to provide support to trafficked victims. Although there have been scattered reports, no comprehensive study has been conducted to date on the current functioning and effectiveness of Jharkhand AHTUs.

The Jharkhand Anti-Trafficking Network did the present pilot study to investigate the functioning and effectiveness of the eight Jharkhand AHTUs in Khunti, Gumla, Dumka, Simdega, Ranchi, West Singhbhum, Lohardaga and Palamu districts. The study focussed on the infrastructure, human resource and implementation gaps as well as factors and community attitudes that may prevent or deter common people from accessing AHTUs.

AHTUs are an integrated task force to prevent and combat trafficking in persons. Each AHTU is to attend to all the three aspects of trafficking viz, prevention, protection and prosecution. They should constitute a group of trained, sensitive officials of the Police and the Women and Child Welfare and department of the State, and also reputed local NGOs. They are supposed to function as coherent field-level units that provide a multidisciplinary approach and a joint response by all stakeholders. AHTUs should bring about inter-departmental collaboration among the police and all other government agencies and departments, such as women and child, labour, health, etc. AHTUs should promote a victim-centric approach which prioritizes the 'best interest of the victim/ survivor' and prevents 'secondary victimization/ re-victimization' of the victim. They are also supposed to conduct rescue operations with the assistance of NGOs whenever they receive information about trafficking activities either from police sources, or NGOs or civil society. They should develop databases on traffickers, network with all concerned agencies as and when required, and report registered cases or investigations to the nodal agency. Each AHTU is to be charge of the registration and investigation of all cases relating to the crime of trafficking.

The AHTU scheme is to be primarily implemented by the State Governments who provide funds for the establishment of AHTU infrastructure that are to be released through the Police Modernization Division.

This report specifically looked at the effectiveness and functioning of Anti Human Trafficking Unit (AHTU) in delivering services/support to the survivors of trafficking in Jharkhand. No doubt, this special unit of police plays a necessary role in not only law-enforcement but also in facilitating the redressal of grievances of the victims of human trafficking. As the perceived guardians of the law, it is the police whom the victims of crime approach for justice. Moreover, by the very role they play in enforcing the law, police officials come into contact with traffickers and other violators of the law.

The analysis of the data collected from AHTU and various other stakeholders presents a positive development. There are trends of overall improvement in the law-enforcement scenario with regards to trafficking in many places of the state, especially through the generation of more sensitivity and accountability by the new-found partnership of police with NGOs, PRI, CWC, Child Line, and other stakeholders in preventing and combating trafficking.

NGOs have played important roles in strengthening the programs run by the Government. The role of NGOs has been pertinent in combating trafficking through various means. It supports AHTU in rescue operations by being a member of the special team. As most of the NGO work at grass root level it has a major stake in creating awareness at the mass level, even PRI members are sensitized by them. The survivors have benefitted by NGO in rehabilitation and pre-counselling.

AHTU took the support of Child Line in rescue operations and do follow up and home visits of the survivors. They also support in registering cases through pre-preparation in lodging FIR. On the other hand CWC also not only help in registering cases but also taking care of survivors through providing enabling environment.

However, there are some gaps to be filled as well. Our analysis shows that the AHTU scheme has not been implemented ideally as it appears that the human resources and infrastructure available in each unit are either incomplete or not sufficient enough to combat issues like human trafficking. This scheme is to be primarily implemented by

the State Governments who provide funds for the establishment of AHTU infrastructure that is to be released through the Police Modernization Division.

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Thank you for your cooperation. Please feel free to include any additional pertinent information on access to justice and remedy that you think would help the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.