



## **CARIM INDIA – DEVELOPING A KNOWLEDGE BASE FOR POLICYMAKING ON INDIA-EU MIGRATION**

Co-financed by the European Union

### ***Irregular Migration from India to the EU: Evidence from the Punjab***

**Viresh Kumar Bhawra**

CARIM-India Research Report 2013/03



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**CARIM-India**  
**Developing a knowledge base for policymaking on India-EU migration**

**Research Report**  
**Thematic Report**  
**CARIM-India RR2013/03**

**Irregular Migration from India to the EU:**  
**Evidence from the Punjab**

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## **CARIM-India – Developing a knowledge base for policymaking on India-EU migration**

This project is co-financed by the European Union and carried out by the EUI in partnership with the Indian Council of Overseas Employment, (ICOE), the Indian Institute of Management Bangalore Association, (IIMB), and Maastricht University (Faculty of Law).

The proposed action is aimed at consolidating a constructive dialogue between the EU and India on migration covering all migration-related aspects. The objectives of the proposed action are aimed at:

- Assembling high-level Indian-EU expertise in major disciplines that deal with migration (demography, economics, law, sociology and politics) with a view to building up migration studies in India. This is an inherently international exercise in which experts will use standardised concepts and instruments that allow for aggregation and comparison. These experts will belong to all major disciplines that deal with migration, ranging from demography to law and from economics to sociology and political science.
- Providing the Government of India as well as the European Union, its Member States, the academia and civil society, with:
  1. Reliable, updated and comparative information on migration
  2. In-depth analyses on India-EU highly-skilled and circular migration, but also on low-skilled and irregular migration.
- Making research serve action by connecting experts with both policy-makers and the wider public through respectively policy-oriented research, training courses, and outreach programmes.

These three objectives will be pursued with a view to developing a knowledge base addressed to policy-makers and migration stakeholders in both the EU and India.

Results of the above activities are made available for public consultation through the website of the project: <http://www.india-eu-migration.eu/>

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## **PROJECT BRIEF**

### **“Developing a Knowledge Base for Policymaking on India-EU Migration”**

Indian migration to Europe is a composite movement of skilled, regular workers as also of low-skilled and irregular workers. Its fast-growing population and huge pool of skills holds great potential for matching critical European Union (EU) labour market needs. However, there exist some knowledge gaps in understanding the characteristics and factors affecting Indian migration to the EU. The project, “Developing a Knowledge Base for Policy Making on India EU Migration”, co-financed by the European Commission (EC) aims at consolidating a constructive dialogue between India and the EU on migration-related issues.

The project seeks to:

- 1) Marshal high-level India-EU expertise in major disciplines relating to international migration (demography, economics, law, sociology and politics) to develop a strong body of research work on migration studies in India.
- 2) Provide the Government of India as well as the European Union, its Member States, academia and civil society, with
  - i. Reliable, updated and comparative information on migration
  - ii. In depth analysis of the types, patterns, characteristics and processes of migration taking place between India and the EU
- 3) Enable informed and evidence based interventions by connecting experts with both policy-makers and the wider public through policy-oriented research, capacity building, and outreach programmes.

These three objectives will be pursued with a view to developing a knowledge base addressed to policy-makers and migration stakeholders in both the EU and India.

The project is being led by the European University Institute (EUI) in partnership with the India Centre for Migration (ICM), the Indian Institute of Management Bangalore (IIMB) and Maastricht University (Faculty of Law).

## **Abstract**

The present paper titled “**Irregular Migration from India to EU: Evidence from Punjab**” is a part of India-EU project “Developing Knowledge Base for Policymaking on India- EU Migration”. Author of the paper is serving as an Indian Police Service officer in the State of Punjab, India and has utilised his first-hand experience of dealing with the problem as Nodal Officer of the State Government to analyse the perspective of law enforcement agency in a source country.

The paper is divided into six sections. The first three sections highlight the issue of irregular migration from India to EU. The first section is introductory and presents a perspective covering historical, social and economic aspects. The second section attempts a statistical analysis of available data to assess levels of irregular migration and its salient features. The third section provides case studies of irregular migration from Punjab, primarily to EU countries. Because of the constraints of time related to the completion of this paper, only seven cases have been carefully selected to highlight different dimensions of the problems and state response. First-hand account of victims was obtained during the course of study to make the analysis more comprehensive.

The last three sections of the paper deal with responses. The fourth section provides details of policy and law enforcement responses in India/ Punjab by the respective governments, with the Ministry of Overseas Indian Affairs (MOIA) playing pivotal role in steering the response. The fifth section highlights the role played by non-state actors active in this field to discourage irregular migration and promote legal and safe migration. The last section incorporates author’s recommendations to tackle the problem in a comprehensive manner.

The estimated figure of annual irregular migration from the State of Punjab to EU countries has been assessed as 1800, much below the figure of 20,000 in one UNODC study on the Punjab. The case studies provide an insight into different facets of the problem and plight of irregular migrant at different stages in different forms. Although international instruments highlight ‘consent’ of person smuggled as an important aspect of smuggling, his consent becomes more ‘notional’ than ‘real’ as amply highlighted in different cases. As the field is still emerging, the response at national and state levels is also evolving. Every case highlights a new dimension of the problem and provides opportunity to improve the response (including Government and non-state actors). There is need for assigning due priority, evolving co-ordinated response, establishing domestic legal framework, pro-active non-state actors and investigating networks involved in international human smuggling.

## 1. Introduction

This paper attempts to reflect the perspective of a law enforcement agency in a source country regarding irregular migration. The author is working as an Indian Police Service (IPS) officer in the Punjab province of India and has dealt with the problem as nodal officer of the State.<sup>1</sup> The topic of 'EU-India irregular migration' has been analysed largely based on evidence available in Punjab. As the flow of migration is largely from India to the EU, the author's perspective has a source country focus. Economic migration to the land of greener pastures is a basic human instinct and it has contributed towards growth and development of the world we live in today. National borders are increasingly becoming blurred in this age of globalisation as demand and supply have become global in nature. Indian migration in the modern times can be traced back to the 18<sup>th</sup> century when slavery was abolished and the colonial rulers required labour to work on plantations (Sandhu, 1969). Punjab<sup>2</sup> has a long tradition of international migration, especially from the central Doaba region<sup>3</sup>. Since the 1880s, there has been a regular stream of young men who left their villages to travel overseas. It has been a result of both push (unprofitable agricultural sector, under employment and unemployment, social restrictions etc.) and pull factors (better opportunities for education and employment, good lifestyle, presence of family members and relatives etc.).

A regular pattern of migration from Punjab began with the induction of Sikhs into the Indian Army after the British annexation of Punjab in 1849. Sikh soldiers were taken to distant places under the British Empire. The soldiers, who returned from overseas, brought back stories and visions about foreign lands. This, in turn, led enterprising and vigorous young men to go to the British colonies to seek their fortunes. And thus began the saga of overseas migration from Punjab (Singh, 2008).

It was the post-Second World War era which brought Sikhs from rural Punjab and other South Asians to England in significant numbers. Their migration to England in early 1950s comprised primarily of males with varied motivations for shifting residence, the financial opportunity in Britain being a major criterion for many (Rao, 1986). Apart from Great Britain, Canada initiated an economic expansion programme and the USA also opened its door to the Indians. Punjabis made use of all these developments and migrated in large numbers to these countries. Punjab continues to have a strong emigration culture even today, especially for North America and EU-27<sup>4</sup>. Important factors behind this trend may be traced to its long history of migration, strong Diaspora networks abroad, reduced profitability in agriculture and inadequate industrialisation. The lavish display of wealth by non-resident Indians (NRIs) when they visit India adds to the "craze" to go abroad. This trend may also be attributed to some other factors like proactive role of intermediaries/ agents, chain migration through family members and relatives settled abroad, low income not adequate to maintain high standard of living and reluctance to take up menial jobs back home and willingness to do the same abroad.

Even as migration has grown from the region, it has been accompanied by an unfortunate increase in irregular migration. The instances of irregular migration from the Punjab in recent years have been substantial as is evident from the figures of criminal cases registered relating to illegal migration. From the figures of nationality verifications received from countries in EU and North America, it can

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<sup>1</sup> The author would like to thank Ms. Divya Pandit, Research Scholar, Punjab University, Chandigarh for research assistance provided for the completion of this paper.

<sup>2</sup> Punjab, the land of five rivers (Punj-Ab) is a small and prosperous state in north-west of India, comprising three regions (Malwa, Doaba and Majha), 22 districts, 141 towns and 12,278 inhabited villages. The state has an area of 50,362 square km and a population of 2,77,04,36 as per 2011 census, out of which 76.68% are literate.

<sup>3</sup> Doaba region in the Punjab is the area between two rivers and comprises 4 districts – Jalandhar, Hoshiarpur, Kapurthala & SBS Nagar. This is the region with highest education and awareness level and smallest landholdings.

<sup>4</sup> The member states of European Union have come together to have coordinated response to common problems, e.g. the common currency Euro, common Schengen visa, establishment of FRONTEX, an agency to manage borders. However not all EU members are part of the Schengen, for instance, the U.K. and Ireland. Presently 26 EU member states are part of the Schengen with 4 non-EU members: Iceland, Norway, Switzerland and Liechtenstein.

be inferred that Punjab figures high in the list of Indian states to which irregular migrants to these countries belong. For example, about 70% of nationality verification cases emanating from the UK relate to people from Punjab.

The phenomenon of irregular migration involves different categories of people and different networks through which they pass before arriving and remaining illegally in destination countries. The patterns of irregularity also vary. However, there are some common features such as gullible youth obsessed with foreign countries, neither highly educated nor skilled, and network of intermediaries who allure the youth, charge heavy amount of money and attempt to send them in a clandestine manner. The potential migrants consider other successful migrants from their neighbourhood or acquaintances as their role models. However, the latter do not divulge all facets of their experience and give a rosy picture of life and prospects abroad.

In the perception of prospective migrants, ends justify means because of lack of awareness and/or lack of faith in the legal channel which is perceived to be cumbersome, non-transparent and impersonal in nature. On the other hand, the irregular migration channel through travel agents has elements of personal touch and assured success that works for prospective migrants even if it involves payment of higher amount. The fact that a family member has migrated in an irregular manner does not in any way act as a stigma against the family back home provided it was successful. The social structure in the village which was traditionally, based on caste, landholdings, family background, and educational achievements has now started distinguishing families on an additional factor as those having members abroad and those not having, with the former kept on a higher pedestal.

**Some statistics:** A vast majority of immigrants from India go to North America and Gulf states. The US and Canada alone host 80% of Indian migrants with tertiary education (Fargues, Philippe *et al.*, 2009). Indians represent a small portion of all immigrants in EU27 – 437,124 immigrants born in India live in Europe representing 1.5% of 30,798,059 immigrants and 5% of India's 9,987,129 estimated emigrants (stocks in 2009) (Fargues, Philippe *et al.*, 2009). The estimated irregular migrant population in EU states is 1.9-3.8 Million (0.38 – 0.76%) out of total population of 500 million. It is much lower than 3.67% in the US (Morehouse *et al.*, 2011).

## 2. Estimates about Irregular Migration

There is no authentic data available regarding 'stock' of irregular migrants from India/ Punjab or 'flow' thereof to EU countries. The problem is almost universal as irregular migration in the form of illegal entry either takes place in clandestine manner or involves cases of legal entrants subsequently becoming illegal. Thus given the nature of irregular migration, data is not readily available in public domain. The unsuccessful cases of irregular migration come to notice when reported to authorities or detected by enforcement/ intelligence agencies or highlighted in media. The circumstances in which such cases have come to notice in the past include - (a) cheating/ fraud that took place in source country and prospective migrant was not able to start his journey overseas despite making payment to the travel agent; (b) some mishap took place or was suspected when migrant started journey overseas but did not arrive safely in the destination country; or (c) he was apprehended in a foreign country as irregular migrant. The available assessments on irregular migration are mostly based on estimates by professionals and experts in the field. According to a study (UNODC, 2009), every year more than 20,000 persons from Punjab attempt illegal migration to EU countries. These figures are however not easy to reconcile with available data.

To clarify the levels of attempted irregular migration from the Punjab efforts were made by the author to obtain data from different sources. However, no data could be obtained except some from the Regional Passport Office (RPO), Chandigarh. The Punjab Police is dealing with some aspects of irregular migration. The relevant data available with Punjab Police and obtained from RPO Chandigarh has been collected, collated and analyzed to provide some estimates of irregular migration.

## 2.1 Registration of criminal cases

One of the important indicators of unsuccessful irregular migration attempts is the number of criminal cases registered on complaint of prospective migrants or family members of prospective migrant/migrant facing problems abroad. It was found that altogether 6,000 criminal cases were registered (Table 1) in the state of Punjab during a 10-year period (2002-2011) pertaining to irregular migration. Four most affected districts (Table 1 & Figure 1) are – Kapurthala (615), Hoshiarpur (584), Jalandhar Commissionerate (540) and Jalandhar Rural (532). Five other districts moderately affected are – Ludhiana (328), Batala (315), Nawanshahr<sup>5</sup> (277), Patiala (267) and Amritsar Rural (265). Taking the small population of districts into consideration, even the comparatively low registration in Nawanshahr district puts it in the list of highly affected districts. The Doaba districts are expectedly on the top. Ludhiana and Patiala are possibly there due to better exposure of youth in these big cities of Punjab and visible publicity of travel agents in cities.

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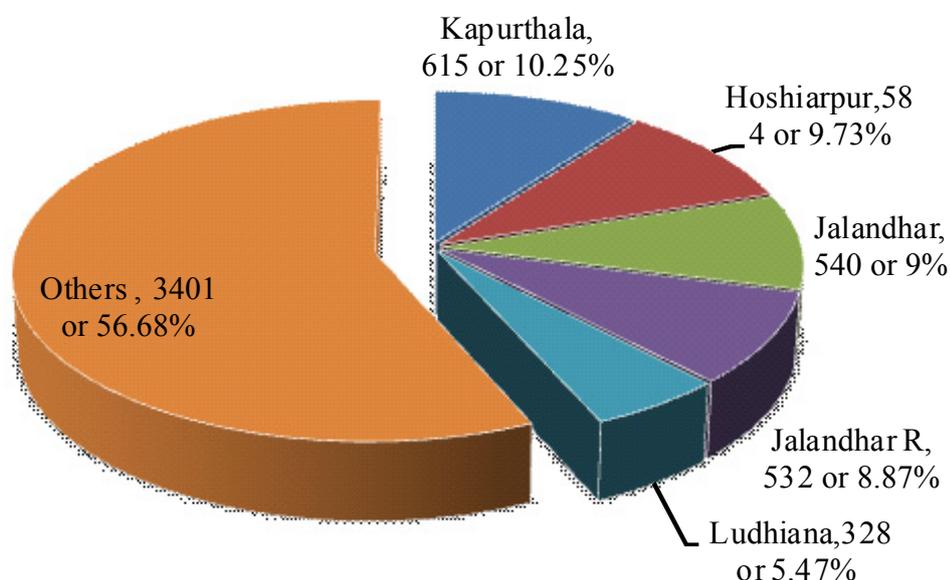
<sup>5</sup> Nawanshahr district has new name Shaheed Bhagat Singh Nagar (SBS Nagar) and both names have been used interchangeably.

**Table 1. Criminal Cases Registered**

District/Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Barnala	7	15	9	12	6	11	9	9	13	16	107
Bathinda	-	5	5	10	6	7	4	8	10	6	61
Batala	16	14	20	50	43	60	43	25	12	32	315
Amritsar	6	9	15	24	16	16	29	19	39	45	218
Jalandhar	44	87	27	74	78	48	50	32	41	59	540
Ludhiana	18	26	41	33	42	29	27	17	38	57	328
Faridkot	8	20	11	9	14	21	9	8	10	6	116
Fatehgarh Sahib	2	7	16	23	13	37	22	29	19	6	174
Fazilka	-	-	1	-	-	-	-		1	3	5
Ferozpur	4	7	5	4	10	12	11	2	12	17	84
Govt. Railway Police	-	1	2	-	-	-	-	-	-	-	3
Gurdaspur	14	14	4	11	19	37	14	12	13	40	178
Hoshiarpur	68	60	39	47	69	80	57	42	57	65	584
Jalandhar(R)	23	62	37	60	53	103	60	49	35	50	532
Kapurthala	84	91	64	41	62	82	65	30	42	54	615
Ludhiana(R)	20	6	7	2	8	13	8	6	21	30	121
Moga	17	15	16	18	33	35	16	18	25	38	231
Muktsar	-	2	2	16	11	4	4	4	7	9	59
Mansa	4	2	3	3	3	6	-	5	12	3	41
Pathankot	2	1	-	1	2	4	2	3	2	5	22
Patiala	15	24	29	23	13	15	26	52	28	42	267
Ropar	13	14	8	20	25	30	30	14	23	12	189
Mohali	4	6	3	8	3	17	16	17	19	112	205
Nawanshahr	36	17	20	32	25	31	41	48	16	11	277
Taran Taran	3	4	2	13	15	35	29	24	18	17	160
Sangrur	11	13	16	25	6	13	14	13	13	18	142
Khanna	11	7	-	3	22	26	20	19	28	25	161
Amritsar(R)	5	13	13	21	37	32	44	21	35	44	265
<b>Total</b>	<b>435</b>	<b>542</b>	<b>415</b>	<b>583</b>	<b>634</b>	<b>804</b>	<b>650</b>	<b>526</b>	<b>589</b>	<b>822</b>	<b>6000</b>

Source: Punjab Police Data

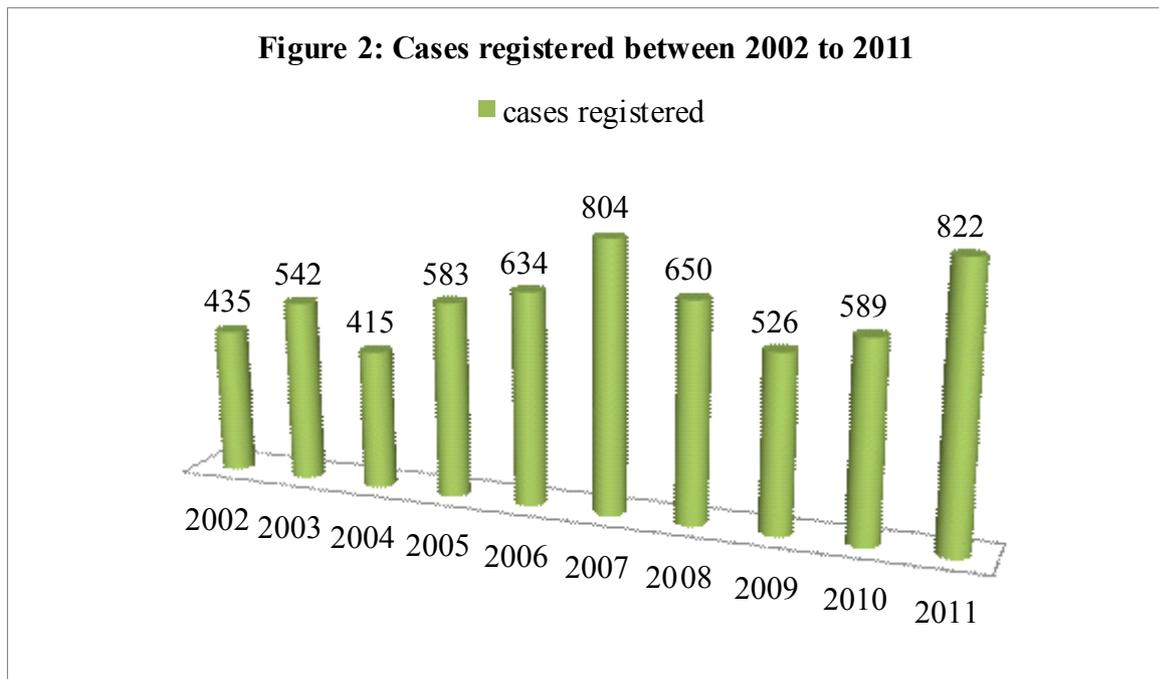
**Figure 1: Districts having highest number of cases registered (2002 to 2011)**



Source: Punjab Police Data

Thus from the above said 10 year figure of registered cases regarding complaints related to migration from Punjab indicate possibly an annual average of 600 cases of unsuccessful irregular migration ‘attempts’<sup>6</sup>. While average annual registration has been 600, the years 2011 and 2007 (Figure 2) witnessed comparatively higher registration of cases 822 and 804 cases respectively. One plausible explanation of highest registration during 2011 could be pro-active policing (after evolving the mechanism of district and state nodal officers), judicial activism and positive role of media in highlighting such instances.

<sup>6</sup> There are four stages in commission of a crime – intention, planning, preparation, attempt and commission. ‘Attempt’ involves some overt act towards commission of a crime and anything less than that can fall in the category of planning and preparation.



Source: Punjab Police Data

Going by past experience in Punjab, the prospective migrant who has made payment and has been cheated by travel agent at any stage does not sit idle and knocks every door from where he can possibly get money back ('justice' in his perception). It is understandable as the families dispose of their land or take personal loans to send their wards abroad and are not able to withstand the shock economically. Travel agents also delay returning money until pushed against the wall. In some instances, when the police conducts inquiries into complaints the travel agent returns the money, the matter is compromised and no criminal case is registered. In other incidents, criminal case gets registered. Assuming that for every registration of a criminal case, two incidents do not lead to registration of a case, total unsuccessful irregular migration attempts every year could be around 1,800.

What can be a realistic ratio of successful and unsuccessful irregular migration for the State of Punjab? One such indicative figure finds a mention in a field survey conducted by the Centre for Research in Rural and Industrial Development (CRRID) during road shows in Jalandhar district. About 55.92% respondents succeeded in reaching their destination country, whereas 44.08% failed (CRRID, 2009:178). In view of unavailability of any other data, the success rate of attempted migration efforts is presumed as 55%.

If the aforesaid success rate is taken, **total number of successful irregular migrations (on the basis of criminal cases registered) could be around 2200 and total irregular migration attempts (successful + unsuccessful) per year around 4,000.** It is clarified here that this estimate covers only the flow of irregular migration (Illegal entry only) as criminal cases are registered in source country only for attempts of illegal entry and not legal entry which subsequently become illegal.

Out of this total annual flow from Punjab, how much gets channelized to EU countries? An indicator is available in the field survey conducted during CRRID study, according to which EU countries were seen as a preferred destination by 43% of respondents from Punjab<sup>7</sup> (CRRID, MOIA, 2009: 173). Taking a still higher estimate of 45%, the **annual attempts of irregular migrants from**

<sup>7</sup> UK (33.33%), Italy (7.8%), Belgium (1.41%), Spain (0.35%), Greece (0.35%)

**Punjab to EU countries could be around 1,800.** Out of it, 55% (about 1,000) are likely to be successful in reaching destination country and remaining about 800 not successful (Table 2).

**Table 2**

<b>Destination/Attempts</b>	<b>Unsuccessful</b>	<b>Successful</b>	<b>Total</b>
EU countries	800	1000	1800
Non-EU countries	1000	1200	2200
Total	1800	2200	4000

## **2.2 Nationality verifications received by Punjab Police**

- a) Nationality verification cases are received by Punjab Police through Indian Missions abroad. When an irregular migrant is apprehended in a foreign country and he claims/ reveals that he is Indian national but is not in a position to produce any document in support of Indian nationality or provide the Indian passport number, his particulars collected by foreign Government authorities are sent through Indian mission to Punjab Police for verification of Indian nationality. A positive verification could lead to deportation of irregular migrant and a negative verification might prolong or even regularize the stay of irregular migrant.
- b) Data from the past 7 years for EU countries has been collected and compiled (Table 3). Altogether 28,319 nationality verifications were received during the years 2005 to 2011, with Italy (33.71%), Greece (24.82%) and UK (22.88%) contributing to 81.41% of the total EU requests. On an average around 4,045 requests for nationality verifications have been received annually.

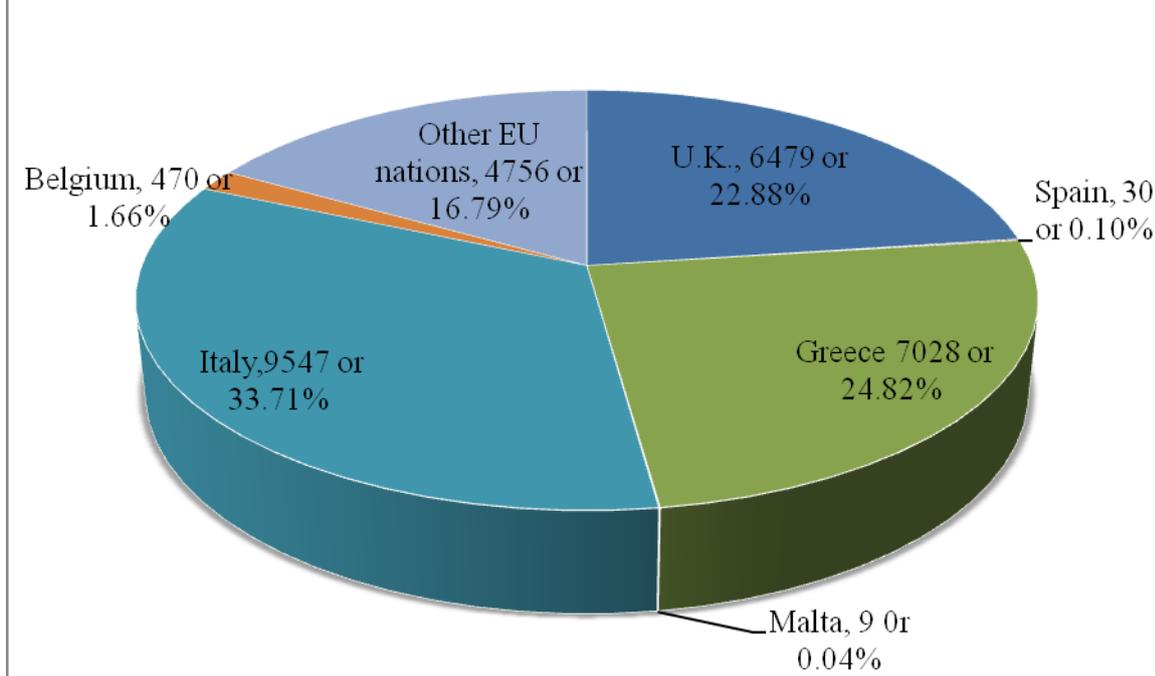
**Table 3. Nationality verification cases received by Punjab police from the E.U. in the last 7 years**

Sl	Country	YEAR															
		2005		2006		2007		2008		2009		2010		2011		Total	
		R	V	R	V	R	V	R	V	R	V	R	V	R	V	R	V
1.	<b>U.K.</b>	911	530	1050	705	824	561	929	637	701	491	960	801	1104	953	6479	4678
2.	<b>Spain</b>	0	0	2	2	22	22	0	0	0	0	0	0	6	6	30	30
3.	<b>Greece</b>	488	485	2913	2912	581	569	549	537	679	673	1087	1075	731	727	7028	6978
4.	<b>Malta</b>	0	0	0	0	0	0	0	0	9	9	0	0	0	0	9	9
5.	<b>Italy</b>	440	436	471	461	247	243	321	320	3087	3034	3052	2991	1929	1899	9547	9384
6.	<b>Belgium</b>	75	43	66	22	21	13	17	16	56	45	163	153	72	70	470	362
7.	<b>Others (EU)</b>	756	298	614	276	310	646	557	199	741	300	748	442	694	337	5299	2280
	<b>Total</b>	2670	1792	5116	4378	2341	1665	2373	1709	5273	4552	6010	5462	4536	3992	28862	23721

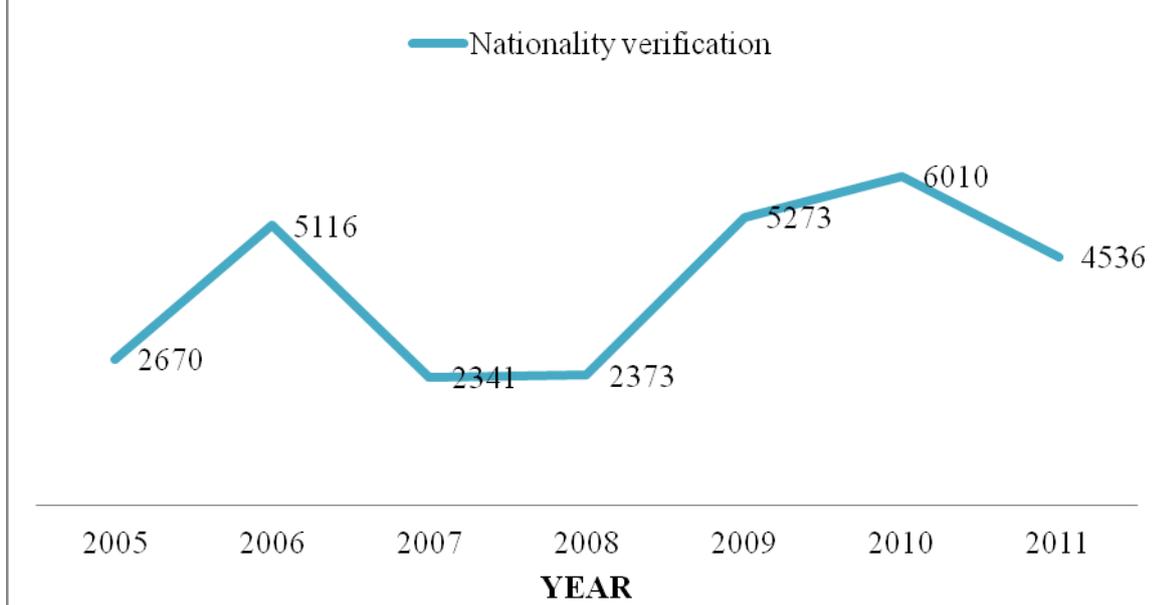
Note – R (Received), V (Verified)

Source: Punjab Police Data

**Figure 3: Nationality verifications between 2005 to 2011**



**Figure 4: Nationality verifications (Police)**



- c) From Figure 3 above, it can be seen that the year 2010 witnessed highest number of nationality verification cases received and the years 2007 and 2008 had the lowest numbers. The fluctuations can be attributed to unusually high requests from Greece during 2006 and steady increase in UK figures barring marginal decrease during 2007 and 2009. Recession could be a possible factor. These fluctuations may also have some relevance to the changes in policies/ laws of destination countries and require further research.
- d) Out of total nationality verifications received, Punjab Police was successful in 83.16% cases in establishing Indian nationality. It is indicative of professional and objective approach of

Police in verifying nationality, given the fact that the interest of irregular migrant is served by a negative report.

### 2.3. Nationality verifications received by Passport authorities

- a) When a suspected irregular migrant is apprehended in a foreign country and either his passport is recovered or passport details are available during inquiries, the verification is sent to Passport authorities to verify about passport number and details to establish veracity of the same and thereby his Indian nationality. However, this is not the only category of verifications received, and genuine loss of passports in a foreign country are also reported to Indian missions abroad and verification sent to passport authorities. It has been presumed that irregular migrants constitute 50% of verifications received by passport authorities.
- b) Records of verifications received were not readily available. The information for the years 2010 and 2011 related to 8 European Countries (including the UK, Spain, Greece, Malta, Belgium and Italy) was collected from Regional Passport Office, Chandigarh (Table 4). This office covers about 50% of the districts of the Punjab.

**Table 4. Nationality (Passport) Verifications received by RPO Chandigarh**

No.	Country	Indian Mission	Year 2010	Total	Year 2011	Total
1	U.K	Birmingham	11	135	4	211
		London	114		205	
		Edinburgh	10		2	
2	Spain	Madrid	4	4	3	3
3	Greece	Athens	71	71	19	19
4	Malta		0	0	0	0
5	Belgium	Brussels	45	45	20	20
6	Italy	Rome	145	418	102	158
		Milan	273		56	
7	France	Paris	8	8	3	3
8	Germany	Berlin	86	136	27	125
		Frankfurt	33		75	
		Hamburg	16		23	
		Munich	1			
Total				817		539

Source: Regional Passport Officer, Chandigarh Data

- c) Italy contributed to highest number of requests (576) in two years, followed by 346 contributed by the UK. Total verifications received from these 8 countries were 1,356. As the other countries do not contribute in significant manner to the numbers, it can be presumed that the two years total for EU countries could be around 1,400 @ 700 per year with the UK and Italy contributing to about 2/3<sup>rd</sup> of total numbers.

- d) Although the Regional Passport Office, Chandigarh covers about 50% of districts of Punjab including Ludhiana, but the worst affected districts of Doaba region are not covered by it. Therefore, it can be presumed that the figures of Regional Passport Office, Chandigarh cover about 1/3<sup>rd</sup> of total number of verifications received. Going by this presumption, total number of verifications received by passport authorities in 2 years comes to 4,200 @ 2,100 per year. Out of it, verifications of irregular migrants could be 2,100 @ 1,050 per year.
- e) The total volume of nationality verifications (including cases received by Punjab Police and by Passport Authorities) received from EU countries pertaining to irregular migration cases of Punjab is thus estimated to be around 5,100 per year. More than 80% of the verifications have resulted in positive report about nationality. As such, about 4,000 deportation cases to Punjab from EU countries are expected to be decided by courts every year with high probability of deportation. These figures are indicative of ‘stock’ of irregular migrants (including irregular entry as well as irregular stay of regular entry cases) and policies of the destination countries towards irregular migration.
- f) This data could not be compared with actual deportation figures from EU countries as these were not available. However, a comparison is recommended to test validity of assumptions made and methodology used.

#### 2.4 MOIA data

- a) MOIA data (Table 5) indicates that Punjab contributes to 5-6% of emigration (legal/regular) for employment. It covers only those cases where emigration check is required for Indians going abroad for employment purposes. As per the Emigration Act, 1983 and rules framed thereunder, emigration clearance is required only for 18 countries, that too for persons who do not have educational qualification of matriculation or above.

**Table 5. MOIA data: Emigration for Employment**

Year	From India	From Punjab
<b>2006</b>	676912	39311
<b>2007</b>	809453	53942
<b>2008</b>	848601	54469
<b>2009</b>	610272	27291
<b>2010</b>	641356	30974
<b>2011</b>	626565	31866

Source: MOIA Annual Report 2011-2012, p.57

- b) However, even this limited data is of little relevance for this paper as all EU countries figure in the list of 175 ECNR (Emigration Check Not Required) countries and their data is not captured by MOIA.

#### 2.5 Intermediaries

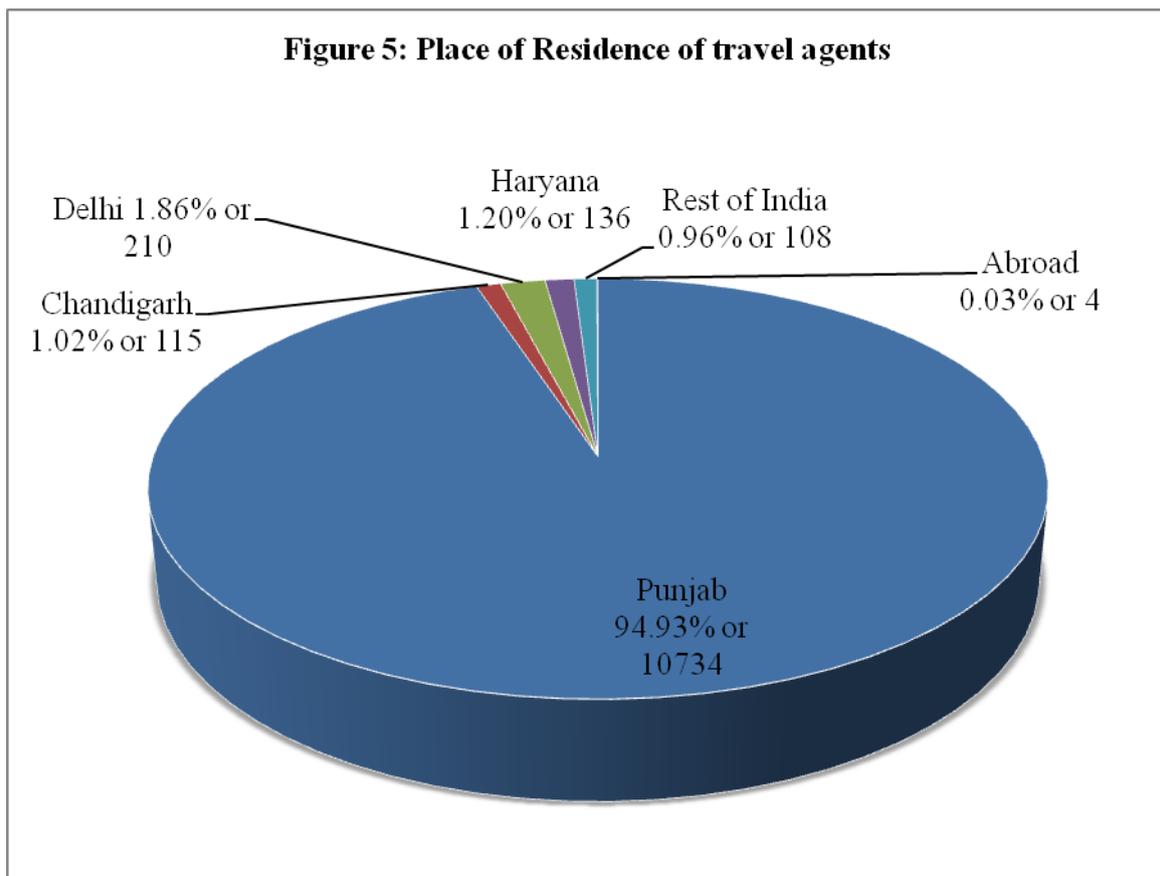
- a) As per available data (Table 6) of about 6,000 cases, altogether 11,307 travel agents/intermediaries were involved/ suspected to be involved in cases of irregular migration, out of whom about 50% have been arrested and the remaining 50% are yet to be arrested.
- b) Only handfuls, (1%) of agents involved represented some company or have their own office and remaining 99% are self-styled. It indicates that investigations have focused on lowest level sub-agents and very few high-level travel agents having links abroad have been investigated.

c) An overwhelming majority (94 %) of the intermediaries belong to Punjab, while remaining belong to Chandigarh, Haryana, Delhi, rest of India (5%) and very few are based abroad (Figure 5).

**Table 6. Travel agents/ Intermediaries**

10 year figures	Arrest status		Status of Travel Agents		Resident in India						
	No. of arrested agents	No. of not arrested agents	Representing firms	Self-styled	PB	CHD	Delhi	HR	Others	Abroad	Total
<b>Total</b>	5582	5725 (398 POs)	112	11195	10734	115	210	136	108	4	11307

Source: Punjab Police Data



## 2.6 Intelligence collection

- a) The information was not readily available. However, it has been collected and compiled for the year 2010 and 2011.
- b) A total of 91 and 51 reports respectively, of cheating of gullible youth by unscrupulous travel agents were collected through intelligence channels and shared with district police for verification and necessary legal action. However, the reports were largely confined to cheating by lowest level (cutting edge) sub-agents and sub-sub-agents.
- c) The numbers of criminal cases registered after verification of aforesaid reports are 4 and 2 during the year 2010 and 2011 respectively.
- d) Irregular migration is not a high priority area for intelligence work as the aspects of terrorism, public order, Naxalism, socio-religious and caste issues and agrarian issues keep the intelligence machinery pre-occupied.

## 2.7 Need for case study based approach

As adequate data about irregular migration was not available, a conscious decision has been taken to follow a case study approach along with anecdotes and personal experiences. The factual information in case studies has been taken from Punjab Police records and interview of victims or their family members and analysis is of the author.

## 3. Case Studies

### 3.1 Malta Boat Tragedy (1997)

**Brief facts:** A tragic incident occurred in the Ionian Sea (between Malta and Sicily) on December 24/25, 1996 about 50 kilometres off the coast of Sicily in which 389 persons from South Asia (India, Pakistan, Sri Lanka and Bangladesh) drowned (allegedly including 166 Indian nationals) while travelling in a ship 'Yohan' that capsized in the Mediterranean sea. The passengers had to board a ship called 'Friendship' of Symphony Shipping SA, Panama but the payload was not enough for the ship owner to risk the voyage to Italian coast. The drowned persons from Punjab, mostly youth from rural areas, were being ferried to Greece for brighter prospects. From India, youths were taken in groups to Alexandria (Egypt) and Istanbul (Turkey) by air, which indicates that they had valid passports and visa for the first leg of journey. They were thereafter taken in small ships to the high seas and were transferred to a big ship. After some days the ship started its journey towards Italy. According to the plan the immigrants were to be transferred to the smaller ships and then to be transported to some destinations. But before that the ship met a tragic end and most of passengers got drowned.

A network controlled by traffickers from Turkey and Kurdistan was suspected to be involved in this tragic incident. After initial field enquiries, a list of 88 persons from Punjab, who were on board the ship, was compiled by the State Government. Most of these victims were from Jalandhar (44) and Hoshiarpur (21) districts of Doaba region. Altogether 31 criminal cases were registered in Punjab (Hoshiarpur-12, Kapurthala-10, Nawanshehar-3, Fatehgarh Sahib-2, Ropar-2, Jalandhar-1 & Ludhiana-1). As per available records, the Jalandhar district police arrested 17 travel agents, while 3 others were declared as Proclaimed Offenders. The Central Bureau of Investigation (CBI) also registered an offence and investigated the matter against 26 travel agents, mostly based in Delhi and Punjab in 1997.

As it was a case of illegal migration, death certificates of deceased persons could not be issued for about 10 years because of legal issues such as who will confirm the identity of deceased persons. The compensation @ Rs 50,000 per family announced by the State Government could not be disbursed for a long time in view of non-issue of death certificates.

A non-Government organisation “**Malta Boat Tragedy Probe Mission**”, under the leadership of Balwant Singh Khera of Hoshiarpur, filed a Civil Writ Petition No.17739 of 2005 in the Punjab and Haryana High Court requesting the court to give directions for the issuance of death certificates and disbursement of compensation in the case of 141 deceased persons from Punjab. After examination by a high level committee constituted by the State Government, death certificates were finally issued and ex-gratia grant was released. Field verification of names provided by the NGO was carried out and finally compensation was paid to at least 127 families. The issue was settled after a decade in the year 2007.

***Profile of victims:***

Age profile - The victims were youth, mostly between the age group of 18-30 years. Out of 30 victims whose profiles could be ascertained, 20 were below 25 years, 8 between 26-35 years and 2 between 36- 44 years.

District-wise break-up - Majority of them belonged to Doaba region with Jalandhar, Nawanshahr and Hoshiarpur districts contributing significant numbers (about 70%).

Skill level - The victims did not have any specialised skills and could have worked as unskilled labour such as cook, mason or labourer. Out of 30 whose profiles were available, only 5 possessed any specialised skill.

Education – They were not much educated and were mostly school drop outs or matriculates.<sup>8</sup>

Economic status – The families of the victims belonged to low economic status and most of them worked as farmers and had a family income of Rs 7,000 to Rs 9,000 per month. The money paid by them to agents was in the range of Rs. 2, 50,000 to Rs. 3, 00,000 in cash and was of the level of the family’s earnings in about 3 years. The families had either sold their land or mortgaged the land for taking loan to make the payment.

***In first person -Victim’s families:***

***First victim***

‘A’ from district S.B.S Nagar.

Person interviewed – father of the victim.

**Brief summary:** ‘A,’ aged 26, had studied till 10<sup>th</sup> class. One local agent, Nachatar Singh came in contact with the family members and persuaded them to send ‘A’ to Italy as he would get work easily there. The family agreed and decided to send ‘A’ to Italy for work. The payment of Rs 2, 60,000 was to be paid in 2 instalments - Rs. 2, 00,000 (before departure) and rest of the amount (after reaching Italy). They were a poor family without much financial status. The amount was paid by selling the 3 acres of land that the family owned. The family paid the initial amount in cash to the agent.

In the words of the father of victim, “we paid the money to the agent by trusting him completely. He assured that my son would get a good job there. But we lost everything. I read in a local newspaper that a ship had sunk in Malta carrying people from Punjab. My son was also in the ship. I lost my son and land both. We did not even get his body.”

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<sup>8</sup> In India, a matriculate certificate is received after the completion of Standard Xth exams and results being declared.

## ***Second victim***

‘B’ from District SBS Nagar.

Person interviewed – brother of the victim.

**Brief summary:** The victim ‘B’, aged 31-32 years at the time of the incident, had done his matriculation. He was married and had 3 children. He worked as a tailor in his village. He came in contact with one local travel agent, Nachatar Singh from Banga from the same district through one of his customers. The agent promised him that he would send him to Italy and also make arrangement for his work there. The agent took Rs. 1, 50,000 from him. Then he took him to Delhi and introduced him to Gurdeep Singh, a Delhi-based agent. The Delhi-based agent also charged Rs. 1, 50,000 from him. Economic status of the family was not that good and the money was arranged partly by selling land and partly by taking personal loans.

In the word of elder brother of the victim and the complainant in this case, “I was against his decision of going abroad. But he was firm on his decision to go. He was very much influenced by the words of one of his customers/ agents who showed him a bright future abroad. But he never reached Italy and died. We did not find even his dead body. He was earning well here but his desire of going abroad at any cost put his life in danger.”

**Network of intermediaries:** Investigations conducted by Jalandhar Police could find the involvement of a group of 20 travel agents, out of whom 17 (Punjab-13, Delhi-3, Haryana-1) were arrested and 3 others were declared Proclaimed Offenders. The local agents already had some relatives living abroad or had contact with some agents there.

Apart from agents based in Punjab, Delhi and Haryana, a distinct Greece angle surfaced during investigations. One accused Joga Singh of Jalandhar district was living in Greece with his family for almost a decade. He had become acquainted with Mandhir Singh, Bholra and Jatinder Singh at Kukra r/o Hoshiarpur, who jointly owned a shipping company ‘Claire Maritime Shipping Company’. The company owned two ships which were used for human smuggling from India to foreign countries. Another accused Avtar Singh had met Joga Singh in Delhi during his visit to India during 1994. They decided that Avtar Singh would send men to Greece through Joga Singh and accordingly Avtar Singh started sending men to Greece through his agent based in Punjab and Delhi. Some groups had reached successfully before this tragedy struck.

**Modus operandi:** Local level travel agents formed the cutting-edge. It is these agents, who lured the victims or their families to go abroad rather than the families contacting them and persuaded them to go abroad with the promise of better opportunities for work are there. The local agents already had some relatives or some agents as contacts there. All the payments in the range of Rs 2, 50,000 to 3, 00,000 were made in cash. From India, youths were taken in groups to Alexandria (Egypt) and Istanbul (Turkey) by air. They were thereafter taken in small ships to the high seas and were subsequently transferred to a big ship. After some days, the ship started its journey towards Italy. According to the plan, the immigrants were to be transferred to the smaller ships and then to be transported to some destinations. But before that the boat met a tragic end and the immigrants drowned in the sea.

**Mode of payment:** A payment of Rs 1.5-3 lakhs was taken in cash from each of the victim families in lieu of their transportation to Greece.

**Follow up of leads abroad:** Most of the arrests made were from India. However, the media reports suggest some follow-up of leads outside. In 2009, an Italian court awarded a 30 year jail term to Trab Ahmed Sheikh and Jarvodakiz, both members of a gang involved in international human trafficking/smuggling, after they were found guilty in the Malta Boat tragedy. ([www.zeenews.com](http://www.zeenews.com))

**Issues emerging:** A brief study of the Malta Boat Tragedy case reveals some key challenges in the way of dealing with irregular migration. Some of these are summarised herein:

Fixing identity of illegal migrants travelling without valid documents outside India is extremely difficult. In the absence of valid documents, the authorities find it difficult to issue death certificates and humanitarian aid announced by the Government remains a paper announcement. During the course of journey, migrants are often subject to inhuman treatment but they prefer to suffer silently to realise their dream of going abroad. Judicial intervention is effective but can be expected only after someone moves the court after such a great human tragedy occurs.

Not much material is available for taking the reach of investigations outside India. Thus the entire gamut of human smugglers is seldom investigated.

When the first leg of journey is legal, the source country alone is not in a position to take effective measures.

### 3.2 Spanish Case (2004)

**Brief facts:** A total of 37 youth (mostly from Punjab) had reportedly left India towards end of the year 2004 for Spain via African countries including Mali and Morocco. They did not reach their destination and no intimation was received by their family members about their safe arrival. As it was a case of irregular migration, the family members made initial efforts to trace them through informal channels such as the local travel agents based in Punjab, who were the first point of contact for sending them abroad illegally. As the resentment amongst families was high, two of the local travel agents undertook a visit to Mali, to trace the persons through the intermediaries based there but in vain.

The matter was reported to the local police and 23 criminal cases (Nawanshahr-10, Kapurthala-6, Jalandhar Rural-3, Hoshiarpur-2, Amritsar Rural-1 & Ropar-1) were registered in different districts of Punjab. Most of the victims belonged to the Doaba region. Initially elementary investigations were conducted, some local level agents were arrested and yellow corner notices were issued through Interpol for missing persons. However, not much success could be achieved as investigations remained confined to local level travel agents who had lured the youth to go abroad. Two important aspects of ascertaining network of human smugglers beyond Punjab and tracing whereabouts of missing persons remained largely unexplored.

The All-India Forum for National Reconciliation, an NGO, filed Civil Writ Petition number 6854 during the year 2007 in the Punjab & Haryana High Court in this matter. On the direction of the High Court, a team of two senior police officers from Punjab Police and Central Bureau of Investigation was constituted in 2010 to inquire into the matter and to make efforts to ascertain whereabouts of missing persons. The investigations were taken forward, case files were examined to ascertain leads which were not followed up, the accused/ suspects were interviewed and interactions were held with family members of missing persons. These efforts met with partial success and the involvement of a travel agent based abroad came to notice and a Red Corner Notice (International Warrant of Arrest) was issued through INTERPOL. DNA samples of one of the parents of missing persons (who volunteered) were collected for comparison purposes and DNA profiling was done.

The whereabouts of the missing persons still remain unknown. The result, if any, of international co-operation may throw further light in the matter in future if the travel agent based abroad gets apprehended due to Red Corner Notice issued or otherwise. The linkages of human smuggling network need to be investigated further. So far as the fate of missing persons is concerned, most probably some mishap took place while they were crossing sea from Morocco to Spain in a boat and all the occupants lost their lives.

### ***Profile of victims:***

Age profile - The victims were all males, mostly in the age group of 17-32 years (barring 3 who were in their 40s and 50s). Out of 15 victims whose identity could be established, 11 were below 25 and 4 between 26- 35.

District-wise break-up – Most of them belonged to Doaba region with SBS Nagar and Kapurthala districts contributing to significant numbers (about 70%).

Skill level – Most of the victims did not have any specialised skills and could have worked as unskilled labour only such as mason, cook or driver. Out of the above mentioned 15 victims, only 5 specialised in some skills.

Education – They were not much educated and were mostly school drop outs and matriculates.

Economic status - Their family income was meagre as they belonged to low economic strata, owned small landholdings and mostly worked on their agricultural land. Out of total amount of Rs 5, 50,000, part payment of Rs. 4, 00,000 was to be made in India before departure and rest of the amount was to be paid after reaching Spain. They paid the amount to the agents by either mortgaging or selling their land or by raising personal loan.

### ***First person account of victim families:***

#### ***First victim***

‘C’ from district SBS Nagar.

Person interviewed – mother of the victim.

**Brief summary:** ‘C’, aged 32 years, was married and had two sons. He had studied till 8<sup>th</sup> standard. He had some land in his village and used to work there to earn his living. In the meantime he came in contact with a local agent Jaswinder Singh resident of Chak Hajipur, P.S. Gadshankar, District Hoshiarpur. The agent promised to send him to Spain for a sum of Rs. 5, 50,000 where he would earn good amount of money. ‘C’ agreed, mortgaged his land and paid Rs 4, 00,000 to the agent.

In the words of the mother of the victim, who is the complainant in this case, “C said he wanted money to go abroad so, “I should sell my land but I refused initially”. But he was so willing to go to Spain that I had to mortgage my land and finally the amount was paid. But we did not hear from him after he left. The agent is the culprit who forced my son to go. C’s two sons work in the fields and earn their living.”

#### ***Second victim***

‘D’ from district Jalandhar

**Brief summary:** ‘D,’ aged around 50 years was a school dropout. He had earlier lived and worked in England for 18 years. One agent namely Balbir, village Mavai, Jalandhar, promised to send him to Spain for a sum of Rs. 6, 50,000. The agent called him to Delhi and introduced him to one of his relatives who was also an agent. The amount was paid. Some of the payment was made by borrowing from the relatives.

In the words of the nephew of the victim, “He had earlier spent 18 years in England. This time he wanted to go to Spain. He paid the amount to the agents in good faith; we received his phone call when he reached Mali. But no contact was made by him after that. Two agents went to Mali after the incident but could not find anyone.”

**Network of intermediaries:** An international network of travel agents was found to be involved in this case. Apart from local level client spotters and recruiters (who have mostly been arrested) two real brothers, natives of Doaba region, were the primary agents, who lured the prospective migrants and motivated them to go to Spain and assured to send them safely against payment of Rs 5,50,000 lakhs each. Both these brothers had been abroad illegally earlier and one of them was himself a deportee (from Prague, Czech Republic). They were acting at the behest of a friend ('Z' – identity not being disclosed as he is yet to be arrested) abroad in an African country. Apart from these three, the name of a third associate also figured during investigations. But he was not a resident of Punjab and his exact address was not known. 'Z' was in touch with locals (called 'Arabs' by the agents based in Punjab who visited them in Mali) in the country of his residence and was jointly running the network of international human smuggling with them.

**Modus operandi:** The gullible youth were contacted by two brothers through network of local agents (village level acquaintances). A meeting was arranged with 'Z' in Delhi during his visit to India and details were worked out. The departure was arranged by the two brothers from Delhi airport to Mali, in groups of 10-12 in one flight on valid tourist visa to first transit country. As such, the first leg of journey was legal. On landing in Mali, they were received by 'Z'. They were kept confined in an overcrowded house in inhuman conditions for few months and not allowed to move out or contact their families. After a further tie-up for next leg of journey (illegal) was successful, they were taken by road to Morocco for ultimate destination Spain after crossing the sea at some convenient time. Probably some mishap took place en-route in sea and they could not reach Spain.

**Mode of payment:** The agents asked them to pay a total amount of Rs 5, 50,000, out of which Rs. 4, 00,000 was to be paid in India before departure and rest of the amount was to be paid after reaching Spain. They paid the amount to the agents by either mortgaging or selling their land or by borrowing it from others on interest. All payments were made in cash and no documentary proof of payment existed. Some of the families had secondary evidence such as withdrawal from Bank or disposing off their land.

**Follow up of leads abroad:** This is a landmark case in which reach of investigations was taken outside India to ascertain role of intermediaries abroad. Details have been withheld as it is still an on-going investigation. Follow-up of leads abroad was possible due to judicial intervention and active follow-up with state authorities in the Federal and State Governments and professional approach and good coordination of team of officers with Ministry of External Affairs, Government of India and Indian missions abroad. It is expected that further leads about human smuggling network and confirmation about fate of missing persons will be available after red corner notice is successfully executed.

**Issues emerging:** The network of international human smuggling can operate only through a number of intermediaries spread over source, transit and destination countries. It took efforts at senior level in the State police and Central agencies to take the reach of investigations abroad. International investigations were undertaken in this case as it became a high profile case involving the lives of around 35 persons. Media attention and judicial activism played a crucial role in putting all stakeholders together and a composite team comprising state police and the CBI pursued the matter from all angles. Routine investigations do not generally make similar headway as due priority is not assigned by all agencies dealing with investigation, international cooperation and policy/administrative decisions. Follow-up of available leads abroad needs to be undertaken in all cases.

The journey from source to destination country is a nightmare which, if known to prospective migrants, could make some of them to change their decision. Loss of human lives of migrants is the worst possible scenario, which has put this case on high priority. However, other aspects such as detention in transit country under inhuman conditions, transportation in cargo like goods/commodities without any food or water and not having locus-standi to resist such treatment or report to authorities are also significant dimensions.

When the first leg of journey is legal, there are inherent limitations on the action that can be taken by source country. Often, the heat of irregular migration is felt by destination country. However, in this case, the problem was felt by source country as the whereabouts of missing persons were not known for last 7 years.

### 3.3 Healthyway Case (2010)

**Key highlights:** Since there is no regulatory body under the law to keep a watch over the working of such consultancy agencies, they are misusing this freedom using illegal means to lure the prospective clients who wish to go abroad. During this process, they cheat the clients and often run away with their hard earned money.

**Brief facts:** Healthyway Immigration Pvt. Ltd. was established in 2001 with its head office in sector 42, Chandigarh. The company had 39 franchisees in various north Indian states including Punjab. One Amit Kakkar was the Director and his mother Saroj Kakkar was the founder of the company. Making a modest beginning with just 4 employees, the company expanded fast and its strength grew to 120. The company had few sister concerns such as Career Abroad Pvt. Ltd., Career Weavers Pvt. Ltd., and Metaflex (all based in Chandigarh). The company provided visas to youngsters for study abroad mainly to the UK, Canada and European countries. The company had an aggressive marketing strategy and it was very difficult for anyone travelling in Punjab, Chandigarh or nearby areas to miss their advertisements spread all along the route.

The fraudulent practice of the company came to notice in 2010 when certain youth complained to the Chandigarh police that the company had cheated them. But before the police could file a complaint, the company entered into a compromise with the complainants. Investigations were finally launched by the Chandigarh Police in 2011 after the British High Commission based in Delhi, while scrutinising and investigating the cases of immigration fraud, noted that Healthyway Immigration had forwarded all the visa applications. The Chandigarh Police registered 11 cases against the company under different sections of Indian Penal Code. Altogether, over three dozen complaints from 228 victims were received by Chandigarh Police. Out of these, 155 complainants have entered into compromise with the company at different stages and accepted payment of money in lieu of not pursuing their complaints. Remaining 73 complainants are still pursuing their complaints.

**Profile of victims:** The victims of the fraudulent practices of the company were youth, mostly from Punjab. They belonged to Jalandhar, Hoshiarpur, Kapurthala, Patiala, Mohali, Sangrur, Pathankot, Amritsar districts of Punjab. Some of the victims belonged to Haryana, Himachal Pradesh and Rajasthan. Most of them were in the age group of 16 to 25 years. Among them majority were males. Most of them were students who wished to study abroad mainly in European countries such as the UK and Germany.

#### *First-person account of victims:*

First victim – ‘E’ r/o Mohali

**Brief summary:** ‘E’ is 24 years old and had completed his 12<sup>th</sup> class when he approached Healthyway. He came to know about the company through a newspaper advertisement and approached the company. The company assured to arrange his visa and admission in a college in England and initially took a payment of Rs.54,000/- (receipt given). However, the company kept on demanding money on one pretext or another such as getting file expedited and took instalments of Rs.12,500 /-, Rs.5,000/- and Rs. 20,000/ on different occasions. In the meantime, the company’s fraudulent practices came to light in the newspapers and the victim demanded his money back but was returned Rs. 35,000/- only.

The victim’s monthly family income is Rs. 8000/-. He arranged money for going abroad by taking loan from his sister who lives in Canada, and also from a friend in Ropar. After passing through all this, the victim is now pursuing Graduation degree in Punjab.

**Second victim- ‘F’ r/o Jalandhar**

**Brief summary:** ‘F’ had studied till 12<sup>th</sup> standard and had undergone ITI training as a welder. He was working in Dubai for the past 3 years and had come to India for 2 months on leave. He saw the

company's advertisement and contacted Healthyway. Meanwhile the company organised a seminar in Jalandhar for the visa clients.

In his words, "I applied for a study visa for U.K. They told me that I would get my visa in 45 days and for that I would have to pay Rs 1, 50,000. I paid the amount in cash. They opened my account with United Bank of India in Baddi, Himachal Pradesh. They took my passport also. But I did not get my visa in 45 days. My leave of two months also expired but they did not return my passport. Now I am not able to return to Dubai unless I arrange 3,000 Dirhams. The girls working there used to trap the clients in their net by making false promises. I too believed in their false promises. I lost my entry to Dubai as well".

**Network of intermediaries:** The racket of providing fake visas was run by the owner of the company Amit Kakkar who belongs to Mohali. He was being helped by the Chartered Accountant of the company Varun Gupta in arranging fake documents. Apart from them, about 50 agents of the Healthyway Immigration were also involved in cheating and forgery. These agents lured the clients and promised them of better opportunities abroad.

**Modus Operandi:** The company provided education consultancy to students who wished to study abroad. The company published advertisements in leading newspapers to attract the youth who wished to fulfil their dream of going abroad. For the purpose of sending them abroad, the company had been submitting fake documents of the candidates, making fake fixed deposits and then withdrawing money from the banks. The owner of the company also facilitated loan for the clients from private as well as nationalised banks for clients who did not have enough money. These loans were often found to be fake. The company targeted those clients whose applications for visas were rejected by various embassies.

**Mode of payment:** Payment for the visa was made in cash. The payment was often made in 3 to 4 instalments. The company issued receipt on its letterhead for each payment made by the client. The company promised one way free air ticket or complete embassy fee refund after getting visa. The company took fee ranging from 2 to 5 lakhs from students applying for the visas. Some of them procured loan from the bank to make payment for the fee.

**Investigation:** The Chandigarh Police started investigation after being informed by British High Commission, New Delhi about the fraud committed by the immigration company. The police registered 11 cases against the owner and constituted a Special Investigation Team (SIT) to investigate all these cases. It has taken all steps for investigation such as conducting search at the premises of the company, recovering various fake documents and arresting the owner of the company. After completing investigations, 10 cases have been sent to court for trial, which has commenced. When the police investigations were in progress, the company separately arrived at a settlement with 155 complainants for an amount of Rs. 1.95 crores.

**Issues emerging:** The networks preparing forged documents for obtaining visa could be detected by scrutiny and inquiries by pro-active British High Commission officials. These were further shared with the local police, which is investigating the matter as per law. As the visa applications are directly submitted to foreign embassies/ consular offices/ their authorised agents, the scrutiny is possible only at their end. The suspicious cases referred by them can further be acted upon by local police. A standard operating procedure (SOP) on such co-operation needs to be put in place specifying the role of foreign embassies, Government of India and State Government/ Police, channel of communication and manner in which it should be done.

The cases of illegal migration are dealt under general penal law (Indian Penal Code) which does not have adequate provisions for compensating the victim and even those are seldom used. The victim, after suffering significant financial loss generally, does not have the capacity to withstand a long legal process. This is exploited by travel agents who to deter police investigation/ inquiry, often compensate victims in cash (fully/ partly) and, at times, promise to make a second attempt to send them abroad.

### 3.4 Aman Bhalla Case

**Key highlights:** The members of the group produced any type of fake document that was required by the client for going abroad. In this case the victims were also included in the list of offenders as they approached the people making fake documents to get these prepared for themselves and paid huge amount for the same.

**Brief facts:** Aman Bhalla is a permanent resident of Jalandhar, Punjab. He is a graduate from a university in Bihar. He started a company in the name of A.B. Overseas Services, at Palam World Trade Centre, GT Road, Jalandhar, Punjab. Thereafter he opened his office in Sector 9-D, Chandigarh.

The Special Investigating Team of the Chandigarh Police, in continuation of their operation against the illegal immigration firms in Chandigarh, searched his premises in Panchkula and his residence in Zirakpur. The team recovered fake bank statements of HDFC Bank and Axis Banks of Punjab, Haryana, Chandigarh and Delhi, fake LIC Policies, fake degrees certificates, bank statements of companies, fake property documents, fake income tax returns, fake reports of chartered accountant, fake evaluation report of property, blank architect letter pads, various bank stamps, blank company letter heads, fake property ownership documents and 16 passports of the residents of Punjab, Haryana and Delhi. Besides this the SIT recovered material for making stamps, documents, etc.

The accused had a vast network in Punjab, Haryana and Delhi and had succeeded in sending 50-60 persons per year on fake documents on tourist visa. The charges for these “services” were higher (Rs 6-7 lakhs) from clients who approached him directly as against Rs 3-4 lakhs for those who approached through agents.

**Profile of victims:** Victims were mostly those people who did not have sufficient documents required for going abroad. Most of them were young males and females who wished to make good earning abroad. They belonged to Punjab, Haryana and Delhi. Such victims themselves approached him for making fake documents of every kind.

**Network of Intermediaries:** Aman Bhalla was the kingpin of this network for preparation and supply of fake/ forged documents for those aspiring to go abroad. He had a network of intermediaries who had distinct responsibilities such as supplying fake bank statements, fake university degrees and other fake documents. It is not surprising that those having distinct role in the fake document scam had some connection in a similar organization for e.g. - one intermediary supplying fake bank statements was himself an employee of a bank. Bhalla’s network was widespread in Punjab, Haryana and Delhi. He had contacts with many people who helped him forge documents. Another member provided fake degrees of various universities by charging huge amount.

**Modus Operandi:** The main modus operandi of the prime accused Aman Bhalla was that he prepared fake documents of all types for those clients who aspired to go abroad. With the active assistance of his associates in the network of intermediaries, he used to prepare all types of fake certificates and degrees of different school boards, colleges and universities. He also prepared fake bank statements for the aspirants.

Whenever someone approached him for a visa to go to the UK or any other European country, he used to first locate a person of the same name from the record of HDFC bank and Axis bank through his agents including some bank employees. When a matching name was found and his A/C had sufficient balance i.e. around 6 to 7 lakhs, he procured the bank statement of that person and further used it as an original document for the aspirant with the same name after showing the aspirant residing temporarily at the same place.

**Mode of Payment:** The payment was always made in cash by the aspirants. He used to strike a deal amounting to Rs.7 to 8 lakhs from the clients for preparing fake documents and sending them abroad. The accused asked the clients to make some payment in advance and rest of the payment was made after the documents were prepared.

**The Investigation:** The Special Investigating Team of the Chandigarh Police recovered many fake documents that Bhalla produced with the help of his agents or other intermediaries. The police arrested 11 persons involved in fake documents case.

**Issues emerging:** The groups preparing fake/ forged documents provide vital support to irregular migration attempts. Investigations have revealed that the verification of documents submitted for visa applications is not done in a fool-proof manner. As the documents are submitted to foreign embassies or their authorized agencies, it requires stricter scrutiny and verification of documents on their part.

The information about such applicants who attempt irregular migration in this manner is generally not shared by embassies with police for legal action. This case was detected due to pro-active policing.

### 3.5 Belgium Case (2008)

**Brief facts:** The Belgian Police in October 2008 cracked a gang that was about to smuggle about 200 immigrants across the English Channel. The immigrants were to be finally trafficked to Britain. The Belgian police had arrested 15 gang members for smuggling of people. Among the 15 people arrested, 2 were said to be the ringleaders of the gang and were the brain behind the trafficking operations in Belgium.<sup>9</sup>

The police conducted raids on 19 suspected safe houses in Brussels and surrounding areas and found over 200 immigrants. Police also found 50 illegal immigrants hiding in a Sikh Gurdwara (Sikh worship place) in Vilvoorde, a suburb north of Brussels.

According to the police, the gang is believed to have smuggled thousands of illegal immigrants in Britain over one and half year before the arrest.<sup>10</sup>

**Modus Operandi:** The group smuggled the illegal immigrants from India to Britain via Moscow and across the English Channel. They controlled a series of small groups, working together and also competing against each other. After reaching Belgium, the immigrants were made to stay in safe houses, which were being used as places of hiding for illegal immigrants. They were being kept in miserable conditions while waiting to be taken on the final leg of their journey. During the raids, 24 people were found crammed inside one windowless room, measuring around 12 square metres.

The gang members used to send the immigrants for their last part of journey to Britain in a trailer of lorry drivers. And for this, they charged between 1,000 to 4,000 pounds from the immigrants.

**Profile of victims:** Most illegal immigrants captured in the raids were Indian men. Most of them were from the Punjab and aged between 15 to 35 years.

**Payment:** The gang charged Asian immigrants huge amount of money for their journey from India to Britain via Moscow. Some Indians had paid up to 15,500 Euros on the promise of being taken to the U.K.

**Investigation abroad:** The international investigation into the network started after two of the human traffickers operating from India were arrested. Efforts were made to obtain details of international co-operation, information sharing with India and follow-up of leads abroad but it could not be obtained.

**Policy response:** About 28,000 illegal migrants were regularised in Belgium in July 2011, exactly 2 years after new immigration rules came into force. According to the policy, any migrant who had worked for at least two and a half years or lived for 5 or more years in Belgium, could apply for a residence permit.<sup>11</sup>

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<sup>9</sup> Available at [www.telegraph.com](http://www.telegraph.com)

<sup>10</sup> Story available at [www.ndtv.com](http://www.ndtv.com)

<sup>11</sup> Available at [www.presseurop.eu](http://www.presseurop.eu)

**First person account of returnees:** Details of persons deported (returnees) from Belgium in this case could not be ascertained. Although not directly related to this case, particulars of 2 returnees from Belgium could be procured and were interviewed to explore some aspects of India - Belgium migration.

**First case:** 'G' is a resident of district Jalandhar. He went to Belgium in 2004. He contacted an agent who demanded Rs. 8,50,000 to help him migrate to Belgium. 'G' arranged some portion of the money by selling his land and rest by borrowing from others. He got a tourist visa for 3 months which the agent said would be extended later. He returned on 11.4.2012.

When contacted, 'G' said, "I reached Belgium in 2004. There I used to work as a labourer. Sometimes I got work to do and sometimes not. I used to get payment occasionally. I returned because I did not get work regularly, and there was no use of staying there without work. There are various camps in Belgium where immigrants from many countries live and work. I do not wish to go abroad again."

**Second case:** 'H' is a resident of Patiala. He is a matriculate. He contacted the agent on his own. The agent asked for Rs 13, 00,000 for sending him to Belgium. He went to Belgium in April 2011 on a tourist visa of 1 month. He was arrested for illegal stay on 28.5.2011 and was deported back to India. He came back on 19.7.2011.

When asked for more details about his migration to Belgium, 'H' said, "I went to Belgium in April on a tourist visa. I paid a total amount of Rs 13, 00,000 for my journey. I sold my house and also discontinued the fixed deposit that was in the name of my children. One of my relatives living in Belgium persuaded me to come but did not help me there. The journey was completed in 2 phases. We were taken to Italy by air for which I paid Rs 10 lakhs. After reaching Italy another agent took Rs 3 lakhs. From Italy we were taken in closed vans or trollies without water and food for many days. The agent who sent me has run away to Singapore. Before going to Belgium, I was in the U.K. for 4 years. I was deported from there for illegal stay and was sent back."

#### **Salient features and issues emerging:**

- ✓ International gang of human smugglers including some Indians (from Punjab) are involved in organising irregular migration from Punjab (India) to the EU. A human smuggling network of intermediaries generally has some members based in India (mostly in Punjab) and few others in the transit and destination countries to make human smuggling possible.
- ✓ What efforts were made for international cooperation to investigate the entire network of intermediaries and what was the success achieved in conviction of various players in the network such as the client spotters, recruiters, transporters, guides, coordinators and service providers? This is crucial aspect and the response of national states and international community on it can help in evaluating the response, identifying gaps and taking corrective measures to fill those gaps. This information could not be procured despite best efforts.
- ✓ The fact that one of the agents involved in irregular migration has left for Singapore is not an isolated instance. It can be inferred that either the case of 'H' was not registered or the role of travel agent not investigated or he was able to compromise the matter with 'H' by returning a part of the money taken.
- ✓ As most of the victims belong to Punjab, it can be inferred that talent spotting of potential migrants takes place through social networks and informal channels.
- ✓ The use of Sikh religious shrines (Gurudwaras) is made by irregular migrants for taking shelter. It appears a cost-cutting measure on part of network of intermediaries and also to avoid detection by authorities in a transit/ destination country. It also helps the new arrivals to do social networking and search for initial employment as every Sikh family and most Punjabi Hindu families visit local Gurudwara frequently for prayers.

- ✓ Belgium is used as a transit country for onward journey to UK (UK via Belgium) although in some cases, it is also a destination country (Belgium via Italy).
- ✓ The payments involved are huge, in the range of Rs 8, 00,000 to Rs 13, 00,000 or 15,500 Euros. The migrant arranges the money after selling house, land or arranging personal loan.
- ✓ The journey and transit stay of irregular migrant is under most inhuman conditions. It is a fit case to be taken up by human rights activists. They are crammed in a room to 4-5 times its capacity without proper ventilation and other basic amenities. During road journeys as irregular migrants, they are transported like ‘goods/ commodities’ to avoid detection. They are packed in closed lorries/vans with no water and food for 2-3 days at a stretch.
- ✓ The policy of regularisation of irregular migrants at periodic intervals by EU countries suggests policy contradictions and ‘soft’ handling of the issue.

### 3.6 UK Fake Documents Case

**Brief facts:** The UK is taking a lead in streamlining its immigration system and taking pro-active measures to check irregular migration. The British High Commission, New Delhi, while scrutinising visa applications detected irregularities and illegalities such as cheating and fraud in the supporting documents of some candidates from Punjab. The matter was referred to the Punjab police. Altogether 11 criminal cases (SAS Nagar – 3, Hoshiarpur -3, Nawanshahr -5) were registered in Punjab under cases of forgery, cheating etc.

**Salient features:** This case was the outcome of pro-active approach of British High Commission, which undertook close scrutiny and verifications of documents submitted through one agent. Evidence of forgery and cheating in preparation of documents could be detected. For example, majority of the applicants had submitted forged bank statements, issued by three branches. Six of these statements were signed by the same person in capacity of Manager who was not posted as Manager. The marriage photographs submitted by two girls had identical background – same Gurudwara, same Granthi (priest), same friends/ relatives attending marriage ceremony and identical attire of bride.

**Police action:** Police registered the cases and collected evidence of forgery, cheating and fraud in preparation and submission of documents during investigations. The involvement of a number of persons including a Principal of a public school in Nawanshahr district was established.

**Profile of victims:** There were 6 female applicants who were taking their dependent husbands along. Most of applicants were going to do diploma courses in travel, tourism, hospitality management, business information systems and business management. The institutes, where the applicants were planning to go as student, included A.A. Hamilton College, London and SAN Michael.

**Network of intermediaries:** One module had Rajinder Singh, a principal of public school in Nawanshahr district of Punjab, as the key person in running racket of preparation of forged documents. Apart from him, two other Professors and 2 travel agencies based in Punjab (Visa Solutions, Nawanshahr) and Chandigarh (Sri Consultancy) were part of the network. The Principal was associated with an agency ‘Nafri’ which was working in partnership with other agencies.

**Modus operandi:** The amount paid varied from Rs 2, 65,000 to Rs 7, 00,000, which suggests that the lower amount could be the first instalment. A certificate on the letter head of the Bank was prepared certifying that the applicant had a bank account in that branch and had bank balance of more than Rs 10 lakhs. The certificate was issued under signature of ‘H Singh’ as Manager of the branch. Investigations established that no such certificate was issued by the banks and the applicants did not have bank account in those branches. It was the Principal of public school, who had signed against the name of Manager.

**Mode of payment:** The amount paid varied from Rs 2, 65,000 to Rs 7, 00,000, which was paid in cash.

**Follow up of leads abroad:** It was a local module involved in preparation of forged documents for the purpose of cheating and did not have any link abroad.

**Issues emerging:** The forged documents form the backbone of an irregular migration attempt. As these documents are directly submitted by the applicant to the foreign embassy or their authorised agency, pro-active scrutiny by the embassy can contribute towards effectively curbing irregular migration attempts. Police investigations revealed that forgery was not done in a sophisticated manner, suggesting that it was not the handiwork of professional gangs.

### 3. 7 Iraq case

Though this case is not related to any EU country, the Iraq case requires specific mention in this paper due to some of its special features. Some facts related to the case are discussed below.

**Brief facts:** This case was highlighted in the media when the Spain case was being heard by Punjab and Haryana High Court and was clubbed by the court with that case. As per reports in media (Mail Today, 2010) about 200 youth from Punjab, Himachal Pradesh and other states of India were taken to Iraq by agents based in Punjab and Iraq with the promise of employment at higher wages (@ USD 800 per month) in a construction company. Instead they were enslaved and forced to clear battlefield of remnants of 2003 Iraq war – bombs, missiles, rockets, grenades etc. at wages as low as USD 300 per month). When the youth expressed the desire to return to India, the employer demanded USD 1,500 which they were unable to pay. Two Civil Miscellaneous application numbers 10960 and 11125 of 2011 were filed in an on-going Civil Writ Petition No. 6854 of 2007 in the Punjab & Haryana High Court by amicus curiae Mr. Anil Malhotra, a leading advocate and activist working to highlight the plight of Punjabi youth victims of human smuggling and irregular migration. The author, as the representative of the State of Punjab, in the on-going writ petition got an opportunity to deal with this matter on behalf of Punjab. The matter was followed up at different levels in the State of Punjab and also with the Ministry of External Affairs and Ministry of Overseas Indian Affairs, Government of India. Starting from names and passport numbers of victims received from Government of India, the details of victims were ascertained, field enquiries conducted about residents of Punjab and information about other states was shared with respective states. Indian mission in Iraq swung into action and got in touch with Government of Iraq and employers of these youth. Finally the Ministry of Overseas Affairs, Government of India and Embassy of India, Baghdad, organised their return journey to India. It is a success story, which can be attributed to initial reporting by media, ‘out of box’ approach for managing the crisis, effective judicial intervention and coordinated efforts of individuals and different organisations in the Central and state Government such as the Punjab police, Ministry of Overseas Indian Affairs, Ministry of External Affairs and the Indian Mission based in Iraq. Finally, more than 60 Indians, including 37 persons from Punjab, returned safely to their motherland. In Punjab alone, eleven criminal cases were registered, four travel agents were arrested and one case was sent to court for trial.

#### Salient features

- a) Judicial intervention and coordinated efforts of all stakeholders were important features of this case. There was prompt follow-up by Punjab Police, Ministry of Overseas Indian Affairs, Ministry of External Affairs and Indian Mission based in Iraq.
- b) Unauthorised agents making recruitments and/ or going beyond the scope of their authority, route via a third country and travel without work visa and thereafter taking up employment in Iraq were other important features.
- c) The services of returnee irregular migrants were utilised in a unique way as ‘brand ambassadors’ against irregular migration for awareness generation. They were imparted training as para-legals by Punjab Legal Services Authority, Chandigarh on October 31, 2011

and frequent interactions were held with them. These boys later went around in villages in their neighbourhood to present a realistic picture of migration and the pitfalls of irregular migration. They were successful in convincing a group of 11 youth who were about to leave for Iraq to change their plan. The group finally dropped its plans to go to Iraq.

#### **4. Policy and law enforcement response in India**

The Ministry of Overseas Indian Affairs, Government of India has articulated the policy of Government of India as ‘neutral’ to international migration. It aims to facilitate legal migration and discourage irregular migration. Policy initiatives taken jointly by Government of India and Government of Punjab are -

##### **4.1 Initiatives of Ministry of Overseas Indian Affairs, Govt. of India:**

- a) An Inter-Ministerial Core Group, under the chairmanship of Secretary, Ministry of Overseas Indian Affairs, has been constituted to deal with the issue of irregular migration in a comprehensive manner. It comprises the representatives of different stakeholders such as Ministry of Home Affairs, Ministry of External Affairs, Ministry of Women & Child Development, Bureau of Immigration and representatives of State Governments. It has provided a forum to discuss different aspects of irregular migration and to evolve a strategic response.
- b) An annual consultation meeting is held with representatives of state governments to discuss important policy matters and have a dialogue between the national and sub-national levels of Government.
- c) An annual meeting is held with Heads of Indian Missions in Gulf Countries and Malaysia governed by Emigration Act, 1983 to discuss issues including Indian diaspora, labour mobility, international co-operation and irregular migration. This meeting provides a forum for interaction between the Indian Ambassadors, Ministries in Government of India and nodal officers in the State Governments.
- d) It has evolved a scheme under which the affected states can set-up ‘Migrant Resource Center’ (MRC) which will be a database of potential migrants with their skill-sets. Disseminating information on legal opportunities for migration is also one of its important purposes.
- e) One-time financial assistance is offered to the State Governments to set up these centres and the state government has to provide land and bear the recurring expenses every year. This database will be a compilation of supply-side workforce available from India. It can be accessed by employers on demand-side and labour from India can be channelized in an organized manner outside India. Some states like Kerala, Tamil Nadu and Andhra Pradesh have fully functional MRCs.
- f) A new ‘Emigration Management Bill’ 2011 has been drafted for introduction in Parliament and repeal of existing Emigration Act, 1983. The proposed Bill will help modernise the legislative framework governing emigration; facilitate legal migration; discourage irregular migration; enhance protection and welfare of emigrants; encourage ethical recruitment practices; enable market-friendly regulation of recruiters and provide for more deterrent penalties against crimes such as human smuggling (Ministry of Overseas Indian Affairs (MOIA), Annual Report 2011-12:25). The proposed Act aims to provide a paradigm shift in role of state from a ‘regulator’ to a ‘facilitator’.
- g) The Ministry has conceptualised a comprehensive e-governance project on migration (e-Migrate). The e-Migrate project will provide a comprehensive electronic platform, linking all stakeholders with minimum human intervention and automated implementation of the migration process with real time access to relevant information and data to all concerned. (MOIA, Annual Report 2011-12:25).

## 4.2 State Nodal officers

State level nodal officers in Police & Civil administration have been appointed as single point to deal with the problem of irregular migration with a policy perspective and interact with the Government of India and other relevant stakeholders. The Inspector General of Police and Commissioner and Secretary, NRI Affairs have been designated as Police and Civil Nodal authorities respectively. The nodal officers have to work in tandem to evolve a coordinated response of state Government on twin aspects of (a) prevention and detection of irregular migration and (b) facilitating regular and safe migration.

## 4.3 District Nodal Officers

On the police side, the concept of nodal officers has been taken down to the district level. Every police district in Punjab has designated a nodal officer to supervise investigation of all cases of irregular migration and follow up prosecution thereof. Quality of investigations and effectiveness of law enforcement have shown distinct improvement in the last 2 years. The district police are adopting a pro-active approach such as scrutiny of advertisements appearing in media, completing investigation in a time-bound manner and actively participating in awareness generation drives organized by different organisations.

## 4.4 Steering Committee

As the issues involved in dealing with migration including irregular migration are complex involving different dimensions, a Steering Committee under the chairmanship of Principal Secretary, Home and comprising representatives of departments of Police, employment generation, technical education and Non-Resident Indians has been constituted in state capital Chandigarh for evolving a coordinated response.

## 4.5 Intelligence

Although human smuggling and irregular migration have led to loss of human lives, resentment in the families of persons missing/ cheated, it still remains a low priority area for collection of intelligence at grass-root level. Punjab is a border state and the intelligence machinery remains occupied with high priority areas such as terrorism, Naxalism, cross-border drug smuggling and other anti-national activities. Still some efforts were made to collect intelligence and limited success was achieved in the region. The scrutiny of advertisements issued by travel and recruitment agents by Chandigarh Police led to registration of a number of cases against agents and companies making recruitments without authorization or beyond authorization.

## 4.6 Action Plan

The state of Punjab has finalised an action plan to deal with irregular migration during the year 2011 on broad guidelines supplied by Ministry of Overseas Indian Affairs, Govt. of India. The Action Plan includes –

- ✓ Basic fact-sheet of the State including its demographic profile, nodal officers and their contact details, Skill upgradation Centres (35 Centres of excellence, 58 Block-level Skill upgradation centres).
- ✓ Information Campaigns – Area specific information campaigns organised and planned for awareness generation about pitfalls of irregular migration; periodic advertisements in all major vernacular newspapers, grass-root level publicity campaigns in most vulnerable areas in local language.

- ✓ Creation of institutional capacities – State Nodal Officers (Civil & Police) have been designated. The proposal of setting up of a Migrant Resource Centre (MRC) for the State is under consideration by the Government of Punjab.
- ✓ Police and Intelligence actions for prevention and investigation of irregular migration such as assigning it due priority; identification of thrust areas such as registration of criminal case, investigation, prosecution, arrest of absconders; creating a database to compile and analyse crime statistics and periodic review by state nodal officer with district nodal officers.
- ✓ Capacity building of Police by designing training modules and organizing training for police personnel to sensitise them about investigation of these offences.

#### 4.7 Legislation

- a) The existing law is not adequate to deal with irregular migration. There is no specific law in place to deal with irregular migration and cheating by travel agents. Police action is taken under provisions of general criminal law i.e. the Indian Penal Code 1860. Certain sections of the Emigration Act 1983 are applicable only for recruitment agents<sup>12</sup> authorised by Protector General of Emigrants making recruitments for employment purposes.
- b) One major loophole exploited by travel agents is that anybody can carry on the business of a travel agent without any authorisation.
- c) To overcome legal deficit, the Punjab State legislative Assembly came up with the ‘Punjab Prevention of Human Smuggling Bill’ on October 1, 2010. It is worth mentioning that the Bill has not been enacted yet as the legal process for its enactment is still in progress. Salient features of the proposed law are –
  - The terms ‘human smuggling’ and ‘travel agent’ were being commonly used but without any precise meaning and could have been interpreted differently by different people. These have been given precise definition in the Bill. The Bill defines ‘human smuggling’ to ‘include illegally exporting, sending or transporting persons out of India by receiving money’. The term ‘travel agent’ has been given a wide connotation.
  - No travel agent can operate without a valid license issued by licensing authority to be appointed by the State Government. This is the first legislation requiring a license to carry on the business of a travel agent and attempts to fill existing legal deficit, which has been exploited by travel agents duping innocent youth with impunity.
  - Application for work as a travel agent is required to be submitted to competent authority along-with a bank guarantee of Rupees 10 lakhs as security. This guarantee will put a check on ‘fly by night’ companies and help in providing monetary compensation to the victims of human smuggling.
  - Major dimensions of irregular migration which were prevalent have been made punishable, including providing **permanent emigration, educational consultancy, work in foreign country, arranging pleasure trip as a tourist, medical treatment, cultural/ entertainment shows, preaching religion, participation in sports**, giving false advertisements, holding illegal seminars/ delivering lectures, arranging illegal matrimonial alliances, arranging illegal travel, preparing false documents, refusing to return passport/ other documents received for providing guidance/ visa.
  - Any illegally acquired property (moveable/ immovable) is liable to be confiscated.
  - The courts may, in addition to imposing fine, award compensation to victims. The victims of human smuggling were so far not able to withstand prolonged legal process

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<sup>12</sup> Recruitment Agent under the Emigration Act, 1983 covers only those agents who send people overseas for employment purposes. Migration to only few Gulf countries and Malaysia is included in it. Most of EU countries get excluded.

without any monetary support and this very aspect was exploited by travel agents to tire out the victims and making him enter into compromise in lieu of monetary compensation. Better quality of prosecution and improved conviction can be expected.

#### 4.8 Ratifying International legal instruments

- a) India has ratified the 2000 UN Convention against Transnational Organised Crime. It is a convention adopted to promote co-operation to prevent and combat transnational organised crime more effectively. The provisions for confiscation of proceeds of transnational organised crime, extradition of offenders, mutual legal assistance, joint investigation, protection of victims and co-operation between law enforcement authorities make it a powerful instrument.
- b) The Protocol against Smuggling of Migrants by Land, Air or Sea, supplement the United Nations Convention against Transnational Organised Crime, has been adopted by India and has come into force in 2004. It addresses different dimensions of smuggling of migrants and illegal trafficking in transporting of migrants, including by sea.

#### 5. Role of non-state actors

Governments of various affected countries have played important role in tackling irregular migration in a comprehensive manner. Although there is scope for improvement and more pro-active and coordinated role of Governments is needed, the efforts of State alone are not sufficient. The non-state actors such as Non-government Organisations (NGOs), voluntary organisations, media, intellectuals working on the issue, genuine associations of travel agents and returnees are some of the stakeholders which can play a significant role in tackling the problem. The non-state actors play a significant role in 'advocacy' and 'awareness generation'. Some non-state actors active in Punjab are:

**Lok Bhalai Party:** Punjab-based Lok Bhalai Party (LBP) and its president, former Union minister Balwant Singh Ramoowalia, have been relentlessly highlighting cases of immigration frauds and 'nowhere brides' in NRI marriages during recent years.

The LBP has been highlighting incidents of fake travel and immigration agents defrauding the youth of millions of rupees, women being cheated in marriage by fake grooms who come to Punjab for 'holiday marriages' and then run away, and several other immigration frauds. It also brought out that over 15,000 Punjabi youth were languishing in prisons in other countries after they were abandoned there by unscrupulous travel agents and arrested for staying illegally. He claims to have managed to get Rs 115 crores returned to people who were duped by travel agents.

**Malta Boat Tragedy Sufferers Association:** It was formed after the Malta Boat Tragedy in 1996. It is headed by Balwant Singh Khera. This association was formed with the main objective of providing justice to the aggrieved family members of the victims. The association decided to probe the incidents by collecting various facts related to the incident. They started a mission to probe the matter known as '**Malta Boat Tragedy Probe Mission**'. The association prepared a report and presented it to the Government. The association also filed a writ petition in the Punjab and Haryana High Court for issuing death certificates and compensation to the affected families. The role of this association has been confined to this case alone.

**Association of Professional Immigration and Educational Consultants (APIEC):** Association of Professional Immigration and Educational Consultants (APIEC) of India is a non-profit making association formed by leading immigration consultants of India on 14<sup>th</sup> August 2002 with the aim of safeguarding the interest of immigration consultants and the Indian public by interacting with various immigration authorities. It is an association of 40-50 immigration consultants who claim to follow the code of ethics and standards of professionalism of the association. So far, its members have not come

under adverse report except one – action by Chandigarh Police against World Wide Immigration Consultancy Services was reported in media. This association has had little impact so far as the agents indulging in irregular migration are mostly not its members.

**Media:** Print and electronic media play an important role in shaping public opinion against irregular migration by highlighting the plight of potential migrants duped by travel agents. The case of irregular migrants in Iraq was highlighted by media first, which ultimately led to return of at least 60 irregular migrants. Media's role during the Malta Boat Tragedy (1996) was commendable. It was because of media reports that parents and family members of the victims came to know about the tragedy. Similarly, media highlighted the issue of missing of 37 youth on their way to Spain.

**CRRID:** The Centre for Research in Rural and Industrial Development is an autonomous research institute to promote research, publication, development and training activities in the region. International migration, including irregular migration, is one of the thrust areas in which it has worked in recent years. It has organised awareness programmes in districts of Doaba region in collaboration with the Belgian Embassy and the Ministry of Overseas Indian Affairs. Ambassador (Rtd.) Paramjit Singh Sahai, Senior Advisor and Dr. Krishan Chand, Associate Professor, are active in this field.

**Returnees:** The returnees from Iraq have played a unique pro-active role as 'brand ambassadors' against irregular migration. After initial training as para-legals, they have done a good job in spreading the message against irregular migration and were successful in dissuading a group of youth from going to Iraq.

## 6. Recommendations

A number of issues have emerged from the case studies mentioned above. The response of nation states, international organisations and non-state actors has addressed some of these issues to a considerable extent. However, there is still a long way to go as the existing response has not been adequate. Following recommendations are made to handle the problem of irregular migration in a coordinated, more effective and more professional manner:

- a) **Assigning priority:** The source, transit and destination countries are key stakeholders in the problem of irregular migration. Governments are generally occupied with a number of issues/ problems. Prioritisation is required to channelise limited resources, time and energy to high priority areas. Irregular migration has not yet figured in high priority areas at national and sub-national levels despite the MOIA playing a pro-active role and some individuals and organisations making best efforts. Irregular migration needs to be explicitly included in high-priority areas for policy and law-making of all countries, including source, destination and transit countries.
- b) **Coordinated response:** Irregular migration needs to be viewed in a holistic manner and a coordinated response of source, transit and destination countries is required. Some issues affect the destination countries but require action in source countries (e.g. prompt nationality verification of suspected irregular migrants and stringent border control measures) and vice versa (ascertaining whereabouts of missing persons, human rights violations of irregular migrants). It is suggested that task force of the affected countries comprising the officers dealing with the problem at national and sub-national level should be constituted to evolve coordinated response to the problem. Generally the task forces comprise of officers at national level who do not have enough exposure of problem at ground level.
- c) **Nodal officers:** The approach of having nodal officers on Police/ law enforcement side at state level has been taken up-to district level, which is the primary functional unit in India. This system has worked well and the nodal officers have supervised quality of investigations. It is recommended for all affected states in India.

- d) Although MOIA is coordinating migration matters at national level, there is no nodal officer at national level to deal with irregular migration. Government of India needs to have a professionally trained police officer who can be designated as national level nodal officer. The nodal officer should preferably be posted in MOIA so that he can be integral part of coordinated response at national level.
- e) The national level nodal officer can act as a bridge between state nodal officers, different Ministries and agencies of Government of India, Indian Embassies abroad and non-state actors. He can evolve a coordinated response of all states in neutralising human smuggling networks, sharing the best practices and follow-up of leads outside India.
- f) **Law to regulate travel agents:** There is no law in India which regulates travel agents – who can work as travel agent and arrange passport, visa etc. for travel abroad without submitting to any regulatory conditions. This legal deficit has been exploited by individuals and loose networks, who work as de-facto travel agents, make tall claims, collect money, cheat gullible youth and then disappear. The figure of almost 50% intermediaries not getting apprehended is partially due to this fact that their complete addresses are not available. A central legislation along the pattern of ‘The Punjab Prevention of Human Smuggling Bill’ is recommended so that agents operating from any part of India can also be made legally liable. The central law should be in accordance with obligation under Article 6 of Protocol against Smuggling of Migrants by Land, Air and Sea” of criminalizing certain acts relating to smuggling of migrants.
- g) **Improving investigation and intelligence work in the states:** Anti-Human Trafficking Units (AHTUs) are being set-up in the state in important districts on the instruction of Ministry of Home Affairs, Govt. of India. It is recommended that charter of duties of these district level units should be expanded to include Human Smuggling/ Irregular migration. Furthermore one police station in each district should be earmarked as Nodal Police Station to register such cases and investigate or get investigated by AHTUs. Separate intelligence network needs to be created for this work.
- h) **Mechanism for implementation of international instruments:** The International instruments such as ‘UN Convention against Transnational Organised Crime’ and ‘Protocol Against Smuggling of Migrants by Land, Air or Sea’ have been signed by India. There is need to evolve a mechanism for implementation of such instruments with participation of states. The states need to be sensitized about these instruments and standard operating procedures (SOPs) for making these operational on ground should be prepared with participation of states. Particularly, the procedures to be adopted for extradition, mutual legal assistance, co-operation and information exchange between law enforcement authorities need to be elaborated.
- i) **Investigating international human smuggling networks:** The case studies have demonstrated that the international linkages in the network are seldom explored in the investigation of networks in India. More emphasis needs to be given to this dimension.
- j) About 50% of intermediaries involved in last 10 years are yet to be apprehended and only a handful of them are expected to be abroad. There is a need to list out their details, share it with different states in India and make extra efforts to apprehend them in a coordinated manner.
- k) For effectively countering such networks, there is need for greater inter-country co-operation in terms of sharing information/ leads about persons abroad and their activities. Normally the Letter Rogatory<sup>13</sup> is issued after collection of adequate material. However, that stage in investigation is often not reached in most of the cases as requisite information is available partially (which is insufficient) with two countries but not fully with either of them. Preliminary visit of team of investigators from one country to another for sensitization and information sharing (before issue of Letter Rogatory) is recommended. It will be helpful in

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<sup>13</sup> It is a formal request made by one country to another for co-operation in an on-going investigation/ inquiry.

appreciating the information and evaluating the evidence. Some European countries are already following it.

- l) **Creation of database:** There is need to create a database which can be helpful in making assessments about irregular migration, network of intermediaries, modus operandi, profile of victims and such other aspects. Standard formats need to be prepared and followed throughout India to compile information in standard format and to integrate it to provide holistic picture.
- m) Integration of existing databases of Bureau of Immigration, Police, MOIA, Passport Authorities and Indian Embassies abroad can provide vital information and help in cross-checking the information from two or more channels. An effort to create shared database at international level on voluntary basis has been made by UNODC Bangkok recently (October 2012). India should consider joining this initiative to identify and neutralise cross-border linkages.
- n) **Training and sensitisation programmes:** The police, immigration, MOIA and other stakeholders involved in the process of combating irregular migration at the cutting edge level need to be sensitized and given specialised training to have better understanding of the problem and dimensions that need to be explored. For example, police need to work beyond the local level travel agents and attempt to detect network of intermediaries, mode of payment, modus operandi etc..
- o) **Promoting legal and safe migration:** Promoting legal and safe migration is a key step to combat irregular migration. Two pronged strategy of 'awareness generation' and 'skill development' needs to be pursued in an organised manner on a continuous basis with active participation of non-state actors. The Government of Punjab needs to undertake projects for skill upgradation to match skill as per demands of market overseas. It is being done for few countries but needs to be institutionalised. It is suggested that a Migrant Resource Center should be set up (on pattern of Kerala/ Andhra Pradesh) for creating a database of skill sets available (supply-side), the skill sets required (demand-side), matching of the two and filling the gap by training. This effort needs to be supplemented by facilitating more investment in industrial and service sectors in Punjab so that more of youth could get gainful employment locally and the tendency to migrate shows a downward trend.
- p) **Scrutiny of visa applications:** Visa applications submitted to foreign embassies or their authorised agents need to be scrutinised along the pattern followed by the British High Commission so as to detect any forgery and cheating. The suspicious cases can be sent to local police for suitable legal action. A Standard Operating Procedure needs to be developed identifying role of foreign embassies, Government of India and State Governments.
- q) **Scrutiny of advertisements :** The advertisements issued by agents for recruitment in a foreign firm for employment purposes need to be scrutinised to check whether the agent has any valid authorisation to issue the same, for the company, country, trades/ skills and it has not expired. Such scrutiny should be undertaken by Protector of Emigrants offices and the Police separately. Chandigarh Police undertook such exercise during the year 2011 and was able to detect a number of cases of violations.
- r) **Protection of Human Rights of irregular migrants overseas:** The rampant violation of human rights of irregular migrants in transit and destination countries is a cause of concern and requires action on part of transit and destination countries. It is all the more important because the EU countries put heavy emphasis on the observance human rights standards.
- s) **More active role of non-state actors:** The non-state actors have been highlighting the problem in media and courts and adding to the rhetoric against irregular migration and inadequacy of the state response. While it needs to be taken in right spirit, there is ample scope for non-state actors doing genuine work to spread awareness, to motivate the potential migrants to follow the legal route, to expose the travel agents trying to win over the people already cheated and to motivate the complainants not to succumb to pressure from the travel agents to compromise the matter.

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