

Report of Dr. Ashok Sahu, Thematic Special Rapporteur (Child/Bonded/Migrant Labour), NHRC on visit to Assam (Dispur, Goalpara and Kamrup) during 09-13 October, 2017.

I. General

1.1 The State of Assam is uniquely located as the gateway to North-Eastern India, south of Eastern Himalayas along the Brahmaputra and Barak river valley, bordered by Bhutan and Arunachal Pradesh to the North, Nagaland and Manipur to the East, Meghalaya, Tripura, Mizoram and Bangladesh to the South and West Bengal to the West via the Siliguri corridor, a 22 k.m. strip of land which connects the State to the rest of India. The State has 33 Districts and is famous for tea, silk and Indian rhinoceros, Kaziranga and Manas national parks being World Heritage sites. According to 2011 census, the State had a population of 3.12 crore, S.Cs and STs accounting for 7.15 % and 12.45 % of the population respectively. The percentage of people below poverty line was 31.98 in Assam as against all India average of 21.92 in 2011-12.

1.2 The composition of the population of Assam has been a matter of concern. The decadal growth rate of population in Assam between 2001 and 2011 at 16.93% was very high. Assam recorded high growth of population in the middle decades of 20th century primarily due to influx of people from East Pakistan, now Bangladesh, especially into Southern and Western Districts, which have become minority-dominated. It has caused distrust between

indigenous Assamese and Bengali immigrants, at times causing civil strife. Presently the Revision of National Register of Citizens (NRC) is being undertaken.

1.3 Assam's economy is based primarily on agriculture and oil. Assam produces more than half of India's tea. Assam holds about a quarter of the country's oil resources and produces about 12% of its petroleum. Apart from tea, the State produces rice, rapeseed, mustard seed, jute, potato, banana, papaya, arecanut, sugarcane and turmeric. In the industrial sector, petroleum and gas-based industries, those based on available minerals, processing of plantation crops, handicrafts and handlooms, and cane, bamboo-based and food processing industries are identified as thrust areas. Tourism has great potential. But Assam is a classic case of economic backwardness amidst plenty of natural resources.

1.4 Unemployment is a perennial problem with immigrants competing with local workers for jobs at lower wages particularly in construction activities and as rickshaw-pullers, vegetable sellers and domestics. The decline of timber industry on environmental considerations has also aggravated the situation. As a result, though bonded labour is not a problem area, the issues of child and migrant labour, including trafficking, remain major concerns in the State.

Child Labour

1.5 The problem of child labour in Assam needs to be discussed in the overall context of adversities, peculiar to Assam, being faced by impoverished children. The first one is recurring disasters which have adverse social and educational effects on children. Their education is disrupted, access to drinking water, sanitation and other necessities of life becomes limited and they face large scale displacement which even force them to contribute to family income through labour. Assam faces natural disasters like floods, soil erosions (especially in three tehsils of Majuli sub-Division which is the largest river island), earthquakes etc. and man-made disasters like ethnic and religious conflicts resulting in physical harm (hurt, pain or injury), abuse (particularly social), trafficking for adoption or labour, recruitment as perpetrator of violence (child soldiers) and psychological harm. It requires an effective Policy on Disaster Risk Reduction (DRR) focusing on guaranteeing minimum basic needs of children in emergency situations. Institutions like National/State Disaster Management Authority, National/State Commission for Protection of Child Rights, concerned Ministries/Departments of Central/State Government and Private Sector/ Civil Society/NGOs and international organizations like UNICEF will have to play an important role.

1.6 The second issue relates to the problem of displacement, especially during flood and soil erosion. Families have lost their agricultural land, livestock and other means of livelihood such as pisciculture, mask making, pottery, boat making, sericulture, handloom etc., leading to penury and even distress migration with consequential adverse impact.

1.7 Tea plantation communities in Assam constitute a major chunk of Assam's population but are socially excluded and marginalized primarily due to geographical isolation and resultant differences in culture and tradition. The labour force in Assam tea gardens primarily comprised of tribal people who migrated between mid 19th and mid 20th century (but they are being treated as residents of Assam at present) from Chhotanagpur Plateau belonging to Munda, Oraon, Kharia, Ho and Santhal tribes. There was the pre-independence practice of employing the entire family in plantations in order to save on recruitment cost. Besides, children with their nimble fingers were preferred to pluck tea leaves (being a delicate job which they learnt growing up observing their mothers' performance and through gradual assistance) and also weeding, hoeing and nursery activities during off-season. Loss of parents at an early age, retirement, sickness and fragile health of parents and peer influence are factors responsible for employment of children in tea gardens. Presently, though not children, adolescents continue to be employed. The only

concession available to them under the Plantation Labour Act, 1951 is to work for a maximum period of 27 hours in a week, as against usual period of 48 hours. But both children and adolescents are vulnerable to a range of child protection concerns, including trafficking, exploitation and bondage, child marriage, physical and sexual abuse within the domestic household and in the community, alcoholism and inadequate parenting skill.

1.8 According to 61st Round of National Sample Survey, 2004-05, child workforce in Assam was estimated at 1.33 lakh (which was estimated at 2.34 lakh in NSS 66th Round, 2009-10). 2001 and 2011 census placed the number of children in the age group of 5-14 engaged in some form of main or marginal work or who are seeking/available for work at 3.81 and 3.47 lakh respectively. According to the 61st NSS Round, agriculture, commercial establishments, manufacturing and hotels accounted for 69.26, 10.96, 8.42 and 7.76 per cent employment of child labour in Assam. The problem of child domestic labour also exists in urban areas basically due to lack of awareness, violating the law regarding its prohibition. The State Government has taken following measures in order to tackle the problem of child labour:

- 4th of March every year is celebrated as 'State Child Protection Day' in Assam. Issues taken up for consideration include strengthening of adoption process, prevention of child marriage (in which Districts like

Barpeta, Dhubri and Kokrajhar report high incidence), physical and sexual violence, missing children, child trafficking, child labour and ensuring violence free learning environment.

- In Assam, 'the Chief Minister's Vision for Women and Children : 2016' mandates curbing child labour and to bring all child labourers into the educational mainstream. Earlier the 'Framework on State Convergent Plan of Action on Child Labour in Assam' was notified in 2015 having the goal of making Assam a Child Labour free State by 2021 with following specific objectives:
 - To prevent children from being engaged in any activity that impedes the growth and development of the child.
 - To track, detect and identify children in various occupation and process.
 - To remove children from various kinds of exploitative situations in order to bring them back under the social safety net.
 - To ensure quality post-rescue care and protection services to children.
 - To ensure justice to children through timely prosecution and convictions.
 - To ensure timely and appropriate social integration of child.
 - To prevent re-entry into child labour through social protection and rehabilitation mechanisms.

- To establish MIS mechanism to ensure effective implementation of the 'State Convergent Plan of Action on Child Labour'.
- The NCLP is operating in four Districts viz Nagaon, Kamrup(Metro), Lakhimpur and Bongaigaon.
- The Labour Welfare Department in coordination with the Deputy Commissioners of Districts and other stakeholders has constituted District Level Task Force Committees, launched massive awareness generation programmes, circulated a Guideline for constitution of District Level Rehabilitation Fund and prepared a draft Proposal for Assam Labour Welfare Society for rehabilitation of child labourers. The Department envisages achieving UN Sustainable Development Goal (SDG) 8.7 i.e. to eliminate worst forms of child labour by preparing a Strategy Paper in consultation with UNICEF (Assam) and other stakeholders whose main Action Plans are:
 - A Zone Based approach will be initiated to create Child Labour Free Zones in the State.
 - A mechanism for mandatory Self Declaration by all Service holders (Government/Private), Commercial Establishments, Apartments etc. not to engage child labour in any form will be devised.

- A Movement Register for children especially in the Gram Panchayats and Town Committees will be incorporated.
- State Wide Awareness Campaign against child labour using all media vehicles of publicity will be launched.
- As per the direction of the Ministry of Labour and Employment, Government of India, Deputy Commissioners have been requested to nominate a Nodal officer for each District under the Child and Adolescent Labour (P & R) Act, 1986. So far Nodal Officers have been nominated in 8 Districts (Dibrugarh, Goalpara, Jorhat, Karimganj, Majuli, Nalbari, Sivasagar and Udalguri).
- During the period 2012 to 2017, 46,459 inspections have been carried out, 870 child labour identified, 327 prosecutions launched and 659 child labour mainstreamed. As per the direction of Government of India, the third phase of Operation Muskan has been rolled throughout the State in coordination with different Government Departments. During the operation 30 child labour/missing children were rescued in various Districts of the State.

Bonded Labour

1.9 The problem of bonded labour is not acute in the State. According to the Socio-Economic Caste Census, 2011, conducted by the Ministry of Rural

Development, the number of rehabilitated bonded labour households in Assam was 'nil'. However, according to Government of Assam, till now, 64 Bonded labourers have been rehabilitated in the State (Darrang : 28, Dhubri: 26 and Udalgiri: 10). The State Government is trying to follow instructions issued from time to time by the Ministry of Labour & Employment, Government of India under the Revised Central Sector Scheme for rehabilitation of Bonded Labour, 2016.

Migrant Labour

1.10 So far migrant labour is concerned, both in and out migration takes place in Assam. Apart from migration from Bangladesh (discussed in para 1.2) and migrant works working in tea plantations (discussed in para 1.7), it is a destination State for workers from States like Bihar, Chhattisgarh, Jharkhand and West Bengal to work in brick kilns, commercial establishments, manufacturing units etc. Besides, Assamese workers migrate to many parts of the country like Kerala, Tamil Nadu, Maharashtra etc. in search of better avenues of employment. In Assam the out-migration is being treated as benign migration and no precise data in this regard is available. Coverage under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 is rather low.

Human Trafficking

1.11 The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, known as Palermo Protocol, was adopted by the UN General Assembly and entered into force on 25 December, 2003. It is the first globally binding instrument with an agreed definition on trafficking in persons. The Protocol defines 'trafficking in person' as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion such as abduction, fraud, deception, abuse of power or position of vulnerability, and also covers giving and receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation.

1.12 North East, particularly Assam, have emerged as a big source area, transit route and destination for trafficking, especially children. Assam is a fertile ground for trafficking due to frequent natural calamities, extremist movements, poverty, illiteracy and ignorance of the masses, social exclusion and adverse geographical location. Girls, trafficked for forced labour to work as domestic helps in metropolitan cities run a high risk of being physically abused and sexually exploited, even getting sold to brothels as child prostitutes. Children from Nepal and Bangladesh are illegally transited to work in coal mine areas of Assam and Meghalaya. Children from other States like Bihar are

brought to work in brick kilns. Children are also sent to work in the garment manufacturing sector of Karnataka and Tamil Nadu. Tea gardens of Assam are regarded as an important source area for child trafficking because of languishing poverty. Besides, young girls are duped in the garb of decent employment, only to land in prostitution or sold as brides in States like Haryana, Punjab and Himachal Pradesh. Trafficking is carried out by a well-organized nexus of intra-State, inter-State and inter-country operators.

1.13 A new form of trafficking in Assam, known as 'riverine trafficking', was noticed. Young girls, especially from among poor immigrant families settling illegally in the coast of river Brahmaputra are trafficked downstream in small country boats which are both very hazardous and difficult to catch.

1.14 The State Government is trying to take ameliorative steps to combat following major challenges relating to the problem of trafficking:

- Large number of children women and children, in need of care and protection, are outside the safety net due to inadequate intervention and low coverage of existing social security schemes.
- Poor social infrastructure, including requisite facilities for proper functioning of Child Welfare Committees and Juvenile Justice Boards and adequate staffing of intervening Departments to optimise inspection, supervision and monitoring, requires to be overcome.

- Effective convergence between various developmental schemes and coordination among service providers to bridge the service gaps are necessary.
- Sustained awareness generation is required.

1.15 Against this background, field visits were made to Alok Griha, a Shelter Home for boys and M/S Eveready Industries at Goalpara and M/S Emami Limited at Amingaon (Kamrup). Discussions were held at Dispur with State level officials and at District headquarters of Goalpara and Kamrup with District level officials, whose outcomes are discussed below.

II. Meeting at Dispur

2.1 The meeting at Dispur was attended by Additional Chief Secretary (ACS) in charge of Labour Welfare Department, State Labour Commissioner and other officials of Labour Department. At the outset I explained the purpose of my visit. With regard to bonded labour I stated that even though the State Government furnishes a 'nil' report to NHRC and it is broadly corroborated by the Socio-Economic Caste Census, 2011 Report which mentioned that there is no case of bonded labour household having been rehabilitated in the State, we have to recognise advent of new forms of bondage gradually emerging in our economy, being termed as 'neo-bondage'. In view of this, the State Government may consider conducting a comprehensive Survey on Bonded

Labour, inter alia, capturing existence of neo-bondage, if any, by availing funding being provided by Ministry of Labour and Employment, Government of India, under the new Scheme. In respect of child labour, the Child Labour (Prohibition and Regulation) Act, 1986 has been amended with a new name 'the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986' to prohibit the engagement of children (age up to 14 years) in all occupations and to prohibit the engagement of adolescents (age between 14 to 18 years) in hazardous occupations and processes. Hereafter no child shall be employed or permitted to work in any occupation or process except where the child helps his family or family enterprise, or works as an artist in an audio-visual entertainment industry after his school hours or during vacation. With this amendment, the way one looks at the problem of child labour and the way labour inspection has to be carried out will have to undergo a change. This also needs to be captured by an appropriate Survey, for which there is provision for funding by the Central Government. However, the focus of the meeting had to be on migrant labour as the State faces both in and out migration. The points made by me in this regard pertained to differentiating between benign and distress migration and efforts required to reduce the adverse effects of the latter. In this context, I narrated my experiences regarding my interaction with female Assamese workers employed in a sea-food exporting unit in

Maharashtra and male Assamese workers engaged in construction industry in Kerala. Even though such workers generally appeared contented, it needs to be examined if benefits of various welfare schemes designed for workers and their families and being provided by both States of origin and destination can accrue to migrant workers. The utilisation of cess collected under the Building and Other Construction Workers Cess Act for the benefit of building and construction migrant workers through an appropriate framework can be a pointer in this regard. The difficulty encountered in this connection pertains to non-registration of migrants either while departing from or arriving in a State due to movement increasingly being made on their own (and not through contractors), initial reluctance and lack of knowledge, which has resulted in non-availability of any authentic data base and has prevented undertaking of any fruitful beneficial measures. The registration, being mostly voluntary, is possible only if the migrant workers are adequately incentivised (like portability of benefits for the family) and through awareness generation. Since migration is likely to continue in future, formal vocational training for the upcoming generation like in ITIs would be highly rewarding in availing skilled jobs.

2.2 During interaction it was stated that Assam traditionally does not have a system of bonded labour. Similarly, the incidence of child labour has come

down substantially due to sustained awareness generation efforts and proactive measures taken like effective functioning of various Committees, inspections made etc. There was intensive discussion on migration. Migration of labour to plantations had a historical perspective; the original migrant labour there being treated as local inhabitants. But more recently inflow of cheap labour from erstwhile East Pakistan (now Bangladesh) undercut wages and made native Assamese unemployed which caused their exodus to far off places like Gujarat, Maharashtra, Kerala, Tamil Nadu, Karnataka and Andhra Pradesh(undivided). Once started, there has been no looking back, rather it had a cascading effect, friends and relatives following the initial migrants. However, there is no precise estimation of migrant labour available as there has been no registration. On this issue it was pointed out that from amongst States of origin some States like Chhattisgarh, Jharkhand, Bihar and Odisha have started introducing the system of registration of migrant labour at Panchayat level, which Assam may like to study and emulate. On the question whether registration can be undertaken by destination State, it was pointed out that State like Kerala tried to introduce the system of voluntary registration in 2010 but it has not succeeded because of in-migrants' reluctance, hesitation to be close to State agencies and apprehension that it would compromise with their flexibility in terms of shifting from one employer to another (i.e. job

hopping) to avail better working conditions. In order to overcome this problem, that State Government intends to introduce another Scheme, namely, 'Aawaz', which will incentivise in-migrants to register to obtain a free smart card which will entitle them to get health as well as death insurance benefits. This will also help the State government to prepare an authentic data base. In this connection ACS felt that there is need for close interaction between States of origin and destination for migrant labour. Besides, in its move towards becoming increasingly a labour welfare-centric society, the Government of Assam is actively considering to restructure the Labour Department, which is a welcome move.

III. Visit to Goalpara

3.1 A meeting with District level officials was held at Goalpara which was attended by District Development Commissioner, Superintendent of Police, Additional Deputy Commissioner, Chairman (CWC), Chairman (Indian Redcross Society), Member (JJB), Sub-Divisional Officer, Circle Officers, Joint Director of Health Services, District Child Protection Officer, Labour Officer, officials representing Agriculture, Statistics, Social Welfare and Education Departments, SSA, Child Development Project, NGOs and Press.

3.2 At the outset I explained the purpose of my visit and meeting after which the District Administration made a presentation. It was stated that in the

past 37 child labour were rescued during 2015-2017 in which the Deputy Commissioner, District Task Force, Police, District Child Protection Unit, Railway Childline (Nagpur), Public and Media played a major role. The rescued children were restored to the family, Children Home, and Residential Special Training Centre under SSA. Various awareness programmes are being conducted to eliminate child labour, child marriage and trafficking. Besides, orientation programmes are being undertaken for various stakeholders like NGOs, Transport/Shop Owner/Motor Vehicle Associations and Government functionaries belonging to Police, ICDS, PRIs, SSA etc. However, prevalence of child labour is noticed as those working as domestic helps and in grocery shops, factories and with scrap dealers. Absence of any base line Survey, lack of adequate manpower, absence of Children's Home for boys above 10 years who are orphans, homeless and rescued as child labour, District Project Society under NCLP which is yet to function were cited as constraints. However, it was pointed out that District Level Task Force has been constituted with the objectives: (i) to examine the existence of child labour in all prohibited units, (ii) to identify children engaged as bonded labour, and (iii) to ensure that all such children attend school. Besides, a District Level Vigilance Committee has been constituted for identification/detection of bonded labour in the District and also for proper implementation of the Act. One bonded labour was

rescued in the year 2013 and was paid Rs.20,000/- by Deputy Commissioner towards rehabilitation assistance. Two establishments, namely, M/S Eveready Industries India and M/S Gena Singh Construction have obtained licence under the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 for engagement of 100 and 50 migrant workers respectively, but no actual employment of such labour has taken place so far.

3.3 During interaction, by way of initial remarks, I pointed out that the District Administration should try to capture 'neo-bondage' or new forms of bondage emerging and whether studies of a child are affected if he/she is allowed to work for the family as and when the State government decides to conduct new Surveys on Bonded and Child Labour. Besides the participants were requested to throw light on steps being taken in the district to counter child-specific problems. In respect of migrant labour, the participants were asked to give their comments on both in and out migration. In response it was stated that Goalpara is basically a fertile agricultural belt located in South Brahmaputra basin which is at least double-cropped. Only a few industrial units are located here. Hence the possibility of emergence of neo-bondage is remote. The district has undertaken pro-active measures to prevent child labour but its occurrence can not be ruled out as poor families having large

number of children have a propensity to put them to work and earn. A Sample Survey has already been conducted and a decision on undertaking full-fledged Survey is awaited. All organisations connected with child-related issues perform their respective roles and coordinate when joint operations are held. NCLP is not functioning in the District. The overall impression was that a child helping in family work, especially in agriculture is not adversely affecting his studies. There are only two tea plantations (tea gardens) and no child is employed there. But there were instances of human trafficking, including child trafficking. As it is the most important emerging problem in the country, the District Administration and Police Authorities were requested to undertake stern measures so that the evil is nipped in the bud. So far as in-migration is concerned, it appears that most immigrants from East Pakistan had migrated prior to 1971 and have been accepted as Indian citizens. Nevertheless, the updating of NRC is in progress and seasonal migration of Bangladeshi labour is almost non-existent. Out-migration of labour from this area takes place, but it is considered as benign, as it has benefitted their families. The participations were urged to probe deeper to see whether their dislocation has any adverse effect, especially on education, health, family relationship etc. and whether any benefit from labour welfare schemes can accrue to them. The labour official informed that registration of building and other construction workers,



so as to provide them with cess-related benefits, has started in the District in which the migrant workers can be covered, as and when the State Government so decides.

3.4 A field visit was made to Alok Griha, a Shelter Home for boys upto 10 years and girls upto 18 years, being managed by a NGO called Integrated Development Association under the auspices of Social Welfare Department with part funding from State Bank of India under their CSR Scheme. It seems to be running well with 21 inmates at present (5 boys and 16 girls).

3.5 A visit was also made to M/S Eveready Industries located at the Industrial Growth Centre (under Assam State Industrial Development Corporation), Mornoi, Matia which is about 25 k.m. from Goalpara. As discussed with the management, the industry has in-house training facilities for at least 10th pass recruits. The migrant workers will be similarly trained as and when they are recruited. Presently the recruits are all locals. It was ascertained that in respect of vocational training an ITI is functioning in Goalpara and a Polytechnic has just started.

IV. Visit to Kamrup

4.1 The District of Kamrup, also known as 'Kamrup Rural', is situated adjacent to Kamrup Metropolitan District where both Guwahati and Dispur are

located, which enhances its importance both geographically and economically. The meeting with District-level officials of Kamrup was held at its headquarters, Amingaon. It was attended by Additional Deputy Commissioner, S.D.O., Additional Superintendent of Police, District Labour Officer and other officials of Labour Department, District Child Protection Officer (DCPO) and representatives of Social Welfare Department, DICC and Childline.

4.2 At the outset I explained the purpose of the meeting after which two presentations were made. In her presentation, DCPO, Kamrup pointed out that the railway junction at Rangia is a hub for child trafficking to other parts of the country for harnessing cheap labour. The Integrated Child protection Scheme (ICPS), which aims at building a protective environment for all children, with focus on those who are the most vulnerable, such as unaccompanied children, child labourers, children affected/infected by HIV/AIDS, victims of child marriage, sexual abuse etc., is in operation in the District. Even though Labour Department is the nodal Department to look after child labour, the District Child Protection Unit with active participation of Childline, CWC etc. deals with the issue of child labour as one of the concerns of child protection. In the past, 47 child labour (working in hotels, households, shops, garages and as rag picker) were produced before the CWC, who were restored to their parents or given institutional/foster care. Massive awareness

generation programmes have been undertaken especially in those pockets where children are employed in the loom industry. Childline toll free number (1098) is operating and counselling is being provided. In its presentation, Childline, Kamrup elaborated on its organisation, rescue operations and awareness generation campaigns covering issues relating to child sexual abuse, early marriage, child labour, illegal adoption etc.

4.3 During the interaction the seriousness of the problems associated with human trafficking, especially child trafficking through railheads and rivers with the situation aggravating after floods, false marriages, rapes and consequential pregnancies, illegal adoptions, drug abuse, child labour as domestics etc. and specific steps taken to resolve them like proactive involvement of Anti Trafficking Unit, constitution of Village Defence Party, preparation of Standard Operating Procedure (SOP), establishment of Rehabilitation Fund, massive awareness generation programmes etc. were discussed.

4.4 A visit was made to M/S Emami Limited, a modern industrial unit, manufacturing cosmetic products. The management, however, stated that the employees are mostly locals as there is no need of employing migrant labour. There is in-house training facility and the employees generally get a chance of moving up in the promotional ladder. Minimum wages are being paid and social security benefits are being provided.

V. Conclusion

5.1 The visit to Assam was an exposure to a different social, geographic and economic landscape and how different countervailing measures are required and being taken to overcome the location-specific problems. It was, therefore, highly educative. The recommendations are annexed. NHRC may like to take up relevant issues with concerned Ministries and State Government.

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Annexure

Recommendations

- (i) The State government may consider conducting Surveys both on bonded and child labour by availing funding being provided by the Central Government.
- (ii) The State Government's efforts to make Assam a child labour free State by 2021 (ref. para 1.8) needs to be supported.
- (ii) The restructuring of State Labour Department as indicated by ACS (ref. para 2.2) may be expedited.
- (iv) In order to protect the interest of migrant Assamese labour, an effective data base has to be maintained, coordination has to be established with destination States and welfare benefits will have to be made portable.

(v) The young and next generation of Assamese migrants is required to be given vocational training so as to enable them to earn better rewards in destination States.
