

**Diplomacy Training Program and Migrant Forum Asia**  
**Building Civil Society Capacity for Advocacy for**  
**Migrant Workers and Safe Migration**  
**Module 2 – Draft Report**  
**1-4 March 2016, Nascent Gardenia Hotel, Dhaka, Bangladesh**



## Executive Summary

In December 2014, the Diplomacy Training Program (DTP) and Migrant Forum Asia (MFA), in partnership with WARBE Development Foundation (WARBE DF) and Refugee and Migratory Movements Research Unit (RMMRU) began a new capacity building program to work with civil society advocates in Bangladesh. The program is aimed at building the knowledge, skills and networking/cooperation to realise the human rights of Bangladesh's migrant workers<sup>1</sup>.

The program brings together about 30 participants from key civil society (CSOs) and non-government organisations (NGOs) and is designed around 5 modules of 3-4 days. The program includes assignments for participants between modules to help in the knowledge and skills building process. The program is made possible by funding from the Swiss Agency Development Cooperation (SDC).

The 1<sup>st</sup> module of the program was held in December 2014 and the 2<sup>nd</sup> module of this 5 module capacity building program was held on 1-4 March 2016 at the Nascent Gardenia Hotel in Dhaka, Bangladesh.

The 2<sup>nd</sup> module focused on understanding how civil society organizations (CSOs) can engage with the UN's Human Rights Mechanisms - including the UN Human Rights Council (UPR), treaty bodies and special procedures and with International Labour Organization Processes. The module also explored how CSOs can strengthen engagement with inter-governmental processes specifically the Global Forum on Migration (GFMD) given that Bangladesh will be hosting the 2016 GFMD.

The 1<sup>st</sup> of the training focused on reviewing the first module and sharing about the progress of the participants work since the last training module. During the first day of the training, Professor CR Abrar from RMMRU also provided an overview of human rights in the context of Bangladesh.

The 2<sup>nd</sup> day of the training focused on understanding UN Human Rights Mechanisms, in particular how CSOs can engage with the UN Human Rights Council, treaty bodies and special procedures. Mika Kanervavuori, the Human Rights Advisor from the office of the United Nations Resident Coordinator in Bangladesh provided an introduction to the UN Human Rights System. Barrister Mr Naser Alam, led a session on engaging with treaty bodies with specific focus on the Committee of Migrant Workers – and provided practical advice and guidance on how to make specific and practical recommendations for change.

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<sup>1</sup> The objectives of the program are included in appendix 1.

The 3rd day of training focused on engaging the UN Special Procedures, and on ILO Mechanisms and Standards. Mr. Adilur Rahman Khan of Odhikar together with Mr. William Gois of Migrant Forum in Asia (MFA) shared their experiences of engaging with the UN's Human Rights Special Procedures, and in particular the UN Special Rapporteur on the Human Rights of All Migrants. Ms. Nisha of the ILO Bangladesh Office delivered a session on the ILO system and processes and on the ILO standards most useful to migrant workers – and led participants through a practical case study to build understanding of how CSOs can use ILO standards for advocacy and how to engage with the ILO system.

The 4<sup>th</sup> and final day of the training focused on engaging the process, Global Forum on Migration and Development (GFMD), how CSOs can strategically engage the GFMD and the participant's advocacy action plans for 2014 and 2015.

The program concluded with participant evaluations. DTP, MFA, RMMRU and WARBE express their thanks and appreciation for the contribution of all the trainers and participants for a successful module.

The following report describes the contents of the sessions in more detail. Where the presenters used powerpoint presentations, then these are supplied separately.

#### **DAY ONE - March 1, 2016**

##### **Opening Ceremony – Welcome Remarks (WARBE, RMMRU, DTP, MFA)**

Tatcee Macubug from MFA greeted and thanked participants and provided background on MFA's history of organizing regional training programs for migrant rights advocates with the DTP. She explained that the Bangladesh training program precedes and coincides with the country's hosting of the GFMD. The training will help migrants rights advocates advance their strategic advocacy agenda, including as part of MFA's on-going engagement the GFMD.

Greetings followed from representatives from local co-organizers, Faruque Ahmed (WARBE) and Dr. C R Abrar (RMMRU). Abrar shared that RMMRU is delighted to be a partner in this important initiative. He discussed how society benefits from labour migration and the importance for migrant worker rights to be upheld. Abrar discussed the importance of all participants as defenders of migrant rights to equip themselves with knowledge of existing instruments to uphold the rights and dignity of workers, as well as being informed of good practices in the region, in the Philippines, India, Sri Lanka, Nepal, etc., where different good government and non-governmental initiatives exist. There is great value in learning from others to understand what works, as well as ILO conventions and multilateral frameworks that pertain to workers. The need to identify key people within the government and media was also highlighted to push forward the key issues facing migrant workers and their rights.

Patrick Earle (DTP) thanked everyone and acknowledged the time participants have given up in order to participate in the program. He described DTP's partnership with MFA as its best, and how it organically grew into its current state. They both have large aspirations and have seen the impacts of different advocacy from working together as organizations and individuals, by engaging with civil society, trade unions, international organizations, governments in countries of origin and destination.

In the context of Bangladesh, there is great opportunity for civil society to lead morally and politically to ensure that the voices of migrant workers are heard - including at the top level of all meetings. Patrick concluded by explaining that this module would have a focus on learning about human rights and the international systems that exist to provide a level of accountability and provide avenues for advocacy.

## Session 2: Participant Introductions, Recap of Module 1 and Overview of Second Module

Around 30 participants introduced themselves, their organization, and what they have been doing since December 2015 (Module 1). Patrick then introduced the broad agenda of the module and participants' expectations and led a review of the overall objectives and expectations from participants. He then proceeded to recap the discussions from module 1 which covered key issues faced by migrant workers from Bangladesh from pre-departure, arrival and return or reintegration. During the discussion participants suggested additions to the list which included the following:

- **Pre-Departure:**
  - lack of effective implementation of law and policy;
  - challenges in the informal patterns of migration (e.g., even if government regulates recruitment agencies issues of fraud are not adequately addressed);
  - the issue of middlemen/dalals should
  - the issue of compulsory HIV/AIDS testing
  
- **Country of Destination:**
  - Migrant health issues and lack of health insurance;
  - Lack of documentation on the cause of death for migrant workers (participants suggested that CSOs should call for thorough investigation / autopsy to determine cause of death );
  - Torture and abuse in the workplace;
  - missing/traceless migrants,
  - conditions in shelter homes;
  - transportation of dead bodies
  
- **Return/re-integration**
  - Cause of death and documentation;
  - negative public attitude towards migrant women and suicide due to humiliation;

The recap was followed by an overview of the second module with sessions on:

- Understanding UN Human Rights Systems (Treaty bodies, special procedures and the Universal Periodic Review),
- ILO standards and processes
- Preparations for the 2016 GFMD
- Lobbying skills

## Session 3: Updates on global and regional processes and CSO initiatives Tatcee Macabuag, (MFA)

Tatcee Macabuag facilitated the next session by MFA on global and regional processes and CSO initiatives.

- **The Colombo Process (CP)** is an informal and non-binding regional intergovernmental process bringing together 11 countries of origin of migrant workers: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam. Governments

participate – supported by IOM. Civil society is trying to engage to encourage experience sharing and best practice – and more cooperation among countries of origin – to prevent their workers from suffering from competition for labour markets. Civil society can give recommendations to their government representatives going to the meeting.

- **The Abu Dhabi Dialogue (ADD)**, brings together member states of the *Colombo Process* and countries of destination including: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates (UAE), and Yemen. The Republic of Korea, Japan and Singapore act as Observer States. The ADD was established to address issues of temporary contractual labour mobility and to optimize labour mobility's benefits for all participating countries. There is no space for civil society currently – but civil society is seeking space in this forum and trying to put rights on the agenda through lobbying member governments – including on issues of recruitment and standard contracts to be brought to the attention of countries of destination within the ADD.

The presentation was followed by a short activity where participants were divided into 4 groups to discuss the concerns of countries of origin and destination. The exercise aimed to identify issues that could be put forward in the discussion and deliberations of ADD. The following were the results of the discussion:

#### (Countries of Destination – CODs)

- Unified labour recruitment process – skill, wage, language, contract
- Protection of migrant workers – access to justice, safe work place/environment, working hours, food, medical facilitation/health insurance, unified working pattern, free movement
- Security of GCC countries (law and order situation of GCC/CODs)
- Stop undocumented migration/labour trafficking
- Right to food and shelter – most CODs don't ensure this especially for undocumented workers
- Better health facilities – this is why they also see many of the workers are injured and sometimes they die
- Ratification of CMW
- No child worker
- To ensure/implement the agreement (as most CODs to ensure the agreements they sign)
- Access to justice in receiving countries for migrant workers

#### Countries of Origin (COOs)

- Zero migration cost
- Proper implementation of job contract
- Ensure proper wages
- Ensuring insurance
- No discrimination for all migrant workers (sex, country of origin etc)
- Ensure an international labour laws and un convention

It was acknowledged that there is a power imbalance that places COOs at a disadvantage. The focus is mostly about ensuring the flow between COOs and CODs. Even when countries like Sri Lanka or Bangladesh have ratified the convention, they are not necessarily bound by them with they sit in meetings like the ADD as they discuss the economics and strategic/political issues that come into those

discussions. Content of bilateral agreements can be negotiated to include rights: e.g. standard contracts domestic workers were eventually created in the agreements between Saudi Arabia and the Philippines and Indonesia.

- **Global Forum on Migration and Development (GFMD)** to be held in Bangladesh in December 2016. The subthemes include economics, sociology, and governance of migration. MFA is in the midst of coming up with civil society recommendations on these themes. The **People's Global Action (PGA) on Migration, Development and Human Rights** and that every participant is invited to attend the PGA Bangladesh local civil society committee launch upcoming that weekend on March 5<sup>th</sup>, 2016.
- **Migrants in Countries in Crisis (MICIC)** Initiative which is led by the governments of the Philippines and the United States with IOM and other member states. The MICIC initiative aims to develop guidelines and principles addressing situations of migrants in crisis - with crisis defined as armed conflict and national disasters. Tatcee explained that the Bangladesh government is also part of this voluntary process. She gave the example of the situation of migrant worker in the West Asia region where there is on-going armed conflict, if the situation worsens, many migrant workers will be stranded and governments will need to put systems in place to address this issue. Tatcee also touched on how states limited the definition of "crisis" in the context of their discussion.
- **South Asian Association for Regional Cooperation (SAARC)**. In 2014, SAARC included migration in its agenda migration (SAARC Agenda 21) for the first time. Discussions are limited to migration outside of the South Asia region and not within South. Examples of this include migrants in the Middle East, South East Asia (Malaysia and Singapore). Under Nepal's leadership, a program of action for the implementation of SAARC Agenda 21 is currently being developed. Highlights of the program of action include the following:
  - Set up regional institutional mechanism that would facilitate collaboration and cooperation on management of key labour migration issues at the SAARC level.
  - Facilitate the development of a 'SAARC Declaration on the Protection and Promotion of the Rights and Welfare of Migrant Workers.'
  - Identify priority thematic areas for regional cooperation and facilitate information exchange and knowledge-building on labour migration issues.

Patrick wrapped up the session by highlighting that there are a lot of processes which the government of Bangladesh are engaged in (global, regional, sub-regional, issue-specific), so it is important that advocates choose which areas to engage in to impact the specific issues on the ground.

#### **Session 4: Introduction to Human Rights – C R Abrar, RMMRU**

Professor C R Abrar (RMMRU) facilitated a session introducing human rights – principles and standards. He outlined how understanding of human rights has evolved over time – and the principle elements of human rights. The relationship between citizens/people and the state has continuously undergone change and human rights define that relationship – individuals (and groups) have rights, and these rights impose duties on the state (duty bearers). Human rights are dynamic and the frontiers of rights have progressed – to recognise the rights of vulnerable groups such children, women, the victims of racism migrant workers. Advocates must make the best use of international instruments through ongoing political process and struggle.

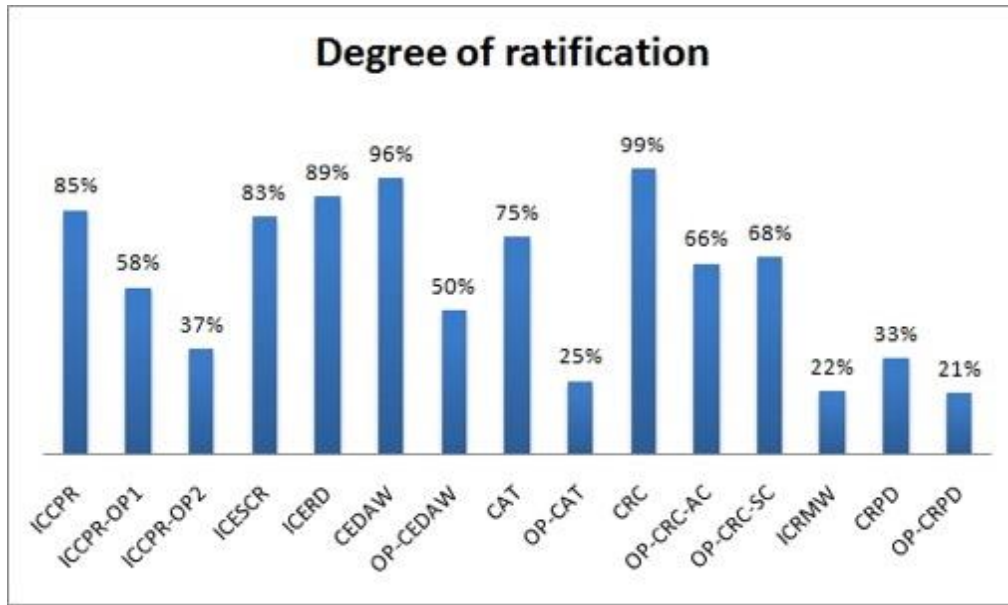
Dr Abrar explained human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. As such they travel with the person, whether in Bangladesh to live, in the UAE to work, or in the US to travel, for example. Human rights impose standards of conduct on all nations.

These rights are all interrelated, interdependent and indivisible. The cornerstone of international human rights law is the principle of universality of human rights – that they are universal and inalienable. This principle, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

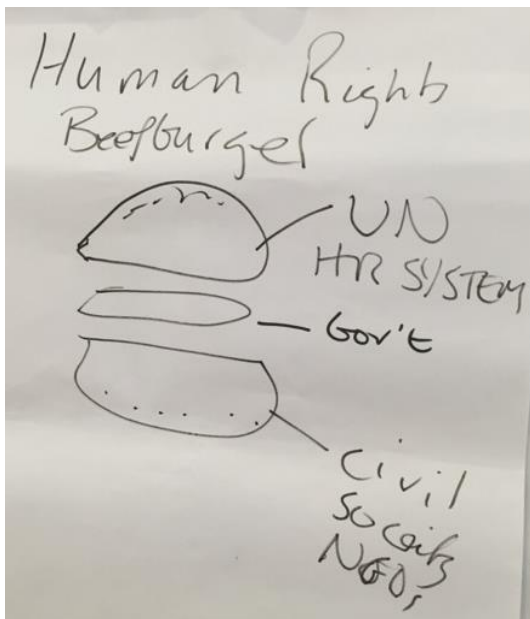
The source of human rights, and relevant laws have been defined over time by international conventions, by treaties, and by organizations, particularly the United Nations. These international laws prohibit practices such as torture, slavery, summary execution without trial, and arbitrary detention or exile.

Modern human rights law developed out of customs and theories that established the rights of individuals in relation to the state (English Bill of Rights of 1688, US Declaration of Independence 1776, and US Bill of Rights added to US Constitution in 1789, French Declaration of the Rights of Man and the Citizen). International law and the UN system is based on the doctrine of **state sovereignty**. Sovereignty is a concept wherein a nation retains sole power over its internal affairs without interference from other nations. Early international law involved only relations between nations states and was not concerned with the ways in which states treated its own citizens. The UN Charter and the Universal Declaration of Human Rights in 1948 post World War II established an international commitment to human rights, and called for international cooperation for the realization of human rights.

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to **respect** means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to **protect** requires States to protect individuals and groups against human rights abuses. The obligation to **fulfil** means that States must take positive action to facilitate the realisation of human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others. Every woman, man, youth and child has the human right to freedom of thought, conscience and religion. In the context of migrant rights, the migrant worker convention (ICRMW) is only at 22% ratification, unlike the rights of the child convention (CRC) at nearly 100%. Migrants are protected also by the other core human rights treaties.



In the discussions it was noted that the UDHR prohibits many things that the GCC countries do, but the Bangladesh government does not take this use up.



Abrar explained that the negotiating position of most sending countries, particularly the Bangladesh government, starts from a low understanding of our own bargaining position and a belief that receiving countries are doing us a favour by taking our workers. Upholding the dignity of migrant workers is not at all on the training manual in the labour attaches for example, and instead migrant workers are thought of in terms of remittances. This is a huge problem.

There were questions as to what extent GCC countries can be held accountable with regards to international human rights standards. Patrick explained that it is a complicated question since human rights is not a magic wand or silver bullet that can strike down anything. Human rights laws and accountability operate within the realities of international relations, politics and power relationships. The International Bill of Human Rights is

seen as customary international law – can knowledge of this help change the bargaining position of states. For example, if the Bangladeshi government is willing to use human rights standards alongside the Sri Lankan government, as another country of origin, can they begin to change the discussion with countries of destination? While it is true that none of the countries of destination have signed the UN Convention on Migrant Workers, all of these countries ratified the Convention on the Rights of the Child (CRC), and CEDAW. Human rights standards have been accepted by all governments - can they be integrated into the negotiations and diplomacy between sending and receiving states.

Some of the UN's human rights processes and machinery have been used effectively in civil and political rights (e.g., torture, "disappearances"), but they haven't been used as effectively in migrant worker advocacy. The challenges lie in understanding how they can be used for affecting our own change, while keeping in mind that invoking human rights will not provide an instant solution.

Patrick wrapped up the day one with final comments on advocacy and the "human rights beef burger" – where both civil society and the UN human rights system play a top and bottom role to ensure governments respect human rights. Human rights mechanisms on top, and civil society advocacy on the bottom can help to hold governments accountable and ensure they respect standards.

## **DAY TWO - March 2, 2016**

### **Sessions 1 & 2: The United Nations and Human Rights Mika Kanervavuori – UN Bangladesh**

Sessions on the 2<sup>nd</sup> day continued the focus on the United Nations and Human Rights and were facilitated by Mika Kanervavuori, Senior Human Rights Advisor to the United Nations in Bangladesh. He works to provide advice to the UN system - with the mandate of making human rights stronger in Bangladesh.

The 1945 Charter of the UN includes human rights. Human rights were then elaborated in the 1948 Universal Declaration on Human Rights (UDHR), which applies to all UN member states.

The UN consists of governments – and is answerable to governments. UN staff are like public/civil servants in this system. The UN human rights mechanisms or bodies developed within the UN system include: the Human Rights Council, the Universal Periodic Review, special procedures, treaty bodies and the OHCHR – these are mandated to do human rights work.

The Human Rights Council is made up of 47 member States. These are nominated by regional blocs, proportionately and elected to set terms. They are entitled to vote. Other UN member states can participate in debates but not vote. The Human Rights Council meets three times each year (for four weeks each session) in regular sessions.

The Office of the High Commissioner for Human Rights was established following the UN World Conference on Human Rights in 1993. It is the UN's specialized agency on human rights – and among its many tasks is supporting the functioning of the UN Human Rights Council. Its roles and responsibilities are: promoting universal protection of human rights; addressing and preventing violations; to coordinate promotion and protection activities within the UN system; engage in dialogue with Member States; responding to emergencies; providing technical services.

The Universal Periodic Review (UPR) was created with the Human Rights Council in 2006, as an innovative new approach to strengthen adherence to human rights at the country level. It is a review of all UN Member States that takes place in a 4.5 year cycle.

Bangladesh was reviewed by the UPR, in 2009 and in May 2013 and is due for review again in 2017/18. In 2013 the delegation from Bangladesh was headed by the Minister for Foreign Affairs with 97 countries contributing and making 196 recommendations. Bangladesh rejected five of these - on the use of the death penalty, and repeal of penal code section 377 (male homosexual sex).



Mika showed a video of the UPR session of Bangladesh in 2013 and highlighted the example of the Philippines asking about migrant workers. While NGOs are not part of this, they can listen and could strategically engage in diplomatic engagement and lobbying (for example with the Philippines delegation to have them say what you want on migrant worker issues). Each country only has 3 minutes to read their statements, questions and recommendations.

Civil society has a role in making UPR recommendations, influencing other governments to make UPR recommendations and in following up with the government of Bangladesh and others to have UPR recommendations implemented.

The government of Bangladesh is in the midst of consultations for their next report for the UPR in 2017 and should be consulting civil society. Civil society can also provide inputs to the stakeholder report collaborate and lobby with other actors, like the ILO or IOM for resources, join in their activities or advocacy messages. CSOs could also organize side events during Human Rights Council, for example one on migrant workers. While the actual dates are not set, Mika encouraged participants to use mechanisms like the UPR<sup>2</sup> as a space to engage with the UN system. None of the participants, when asked, had engaged previously in the 2013 reporting period, for example.

Mika moved on to briefly explain the role of Special Rapporteur (SR) on the human rights of migrants, as a special procedure on human rights created by the UN. The Special Procedures have been created as a more agile and flexible mechanism. They can receive complaints and requests for urgent action from NGOs - and communicate these to the relevant governments responsible e.g. in the Middle East or Malaysia. They can conduct official country visits when invited by governments – which conclude with an official report and recommendations on areas of concern. They can initiate studies and promote application of international standards. There are special procedures on a range of human rights violations and vulnerable groups – torture, arbitrary detention, violence against women, children<sup>3</sup>

Mika also described human rights treaty bodies – these bodies (Committees) monitor and facilitate the implementation of the human rights treaties government have ratified by reviewing state party reports and additional sources of information; adopting observations and recommendations; adopting general comments on human rights provisions in respective treaties, hearing individual complaints and making confidential inquiries. Bangladesh is a state party to all but one human rights treaty – the convention on enforced “disappearances”. He clarified that Committees are an accountability mechanism, encouraging implementation at the country level through dialogue, and are not judicial in nature.

Mika focused on the UN Committee on the Rights of Migrant Workers. Bangladesh’s Foreign Secretary Shahidul Haque is a member of this Committee, as an individual and not as a representative of government from Bangladesh. Bangladesh has been a state party since 2011, and its first report was submitted only in December 2015. The Committee will publicly review this report in 2017/18.. Mika mentioned that Bangladesh has two reservations - to section 76 and 77 of the convention – that Bangladesh does not allow individuals to complain to the UN committee (77), nor another state to make complaints about Bangladesh (76).

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<sup>2</sup> More info is available at [upr-info.org](http://upr-info.org)

<sup>3</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

The report to the Committee is an opportunity for civil society to highlight the situation of Bangladeshi migrant workers, in transit or abroad. Mika suggested that participants start a process amongst themselves to coordinate inputs and substantive views to the Committee as it is important to provide information to highlight concerns from the grassroots. This should be in the form of a shadow/parallel report. Mika offered his assistance as a resource in this process if the participants create such a shadow report.

### **Session 3: Group Exercise on the Initial Report of State Party (Bangladesh) to the Committee on Migrant Workers** **Patrick Earle, DTP**

Participants were then given a brief overview of Bangladesh's report to the UN Committee on the Rights of Migrant Workers submitted on 28 December 2015. It was noted that the length and language (English) of the report made it inaccessible to migrant workers themselves – and many advocates.

Patrick explained governments like to present themselves in the best light possible and mention mostly good things – even though the reports are meant to be self-critical. NGOs need to look critically for gaps and omissions as well as the accuracy of what is included e.g. the report praises good practice in bilateral agreements and memorandums of understandings that Bangladesh has signed with countries of destination, - however there are very little details. As these agreements are not public and not included with the report it is unclear how they “promote and protect the rights of migrant workers” in practice as claimed in the report.

For the group exercise to review the report, the participants were divided into 5 groups to review sections of the government report. The groups were asked: *what problems do they think exist now, what questions should the government be asked, and what recommendations for change would they make.* The groups were divided in the following manner:

- Group 1 – Article 70 – standard of living
- Group 2 – Article 68 – irregular migrants
- Group 2 – Article 67 – orderly return
- Group 3 – Article 66 – Recruitment agencies
- Group 3 – Article 37 & 65 – pre-departure information
- Group 4 – Article 65 – migrant services for questions
- Group 5 – Article 44 and 45 – unity of families

The participants were requested to present the results of their discussion in the first session of the fourth day of the program. This was done in order to give participants more time to discuss their inputs.

### **Session 4: Engaging with the UN Treaty Bodies – Practical Exercise – Drafting Recommendations for Change** **Naser Alam, Barrister-at-Law, Advocate, Supreme Court of Bangladesh**

Naser Alam began his presentation emphasising that civil society needs to understand formal state obligations under human rights conventions.

Formal state obligations for each human right

Obligation	Meaning
Respect	The state must not interfere directly with people realising their rights
Protect	The state must stop others from interfering with people's rights
Fulfill	The state must build the legislation, institutions, norms to realise the right
Non discrimination	The state must not discriminate in meeting its obligations
Adequate progress	Progress must occur at a rate that show commitment
Participation	People must be able to participate in realising their rights
Effective remedy	There must be a remedy or violations of obligations

Naser then discussed good practice in preparing shadow/parallel/alternative reports. He advised that civil society should write their shadow report in a way that follows the same structure as the initial report and understand the reporting guidelines of the state when writing. Reporting guidelines for the initial report to the Committee include:

- Describing the constitutional, legislative, judicial and administrative framework governing the implementation of the Convention, and any bilateral, regional or multilateral agreements in the field of migration entered into by the reporting State party.
- Providing quantitative and qualitative information, as disaggregated as possible, on the characteristics and nature of the migration flows (immigration, transit and emigration) in which the State party concerned is involved.
- Describing the actual situation as regards the practical implementation of the Convention in the reporting State and indicate the circumstances affecting the fulfilment of the obligations of the reporting State under the Convention.
- Including information on the measures taken by the State party for the dissemination and promotion of the Convention and on the cooperation with civil society in order to promote and respect the rights contained in the Convention.

Naser emphasized the importance of civil society, given that CSOs have direct contact with migrants and know about the issues and challenges faced by migrant workers.

He explained how the CMW values civil society - as it seeks to enhance the role of civil society in the implementation of the Convention by states parties at the national level. This is why civil society can submit an "alternative report", as well as make oral presentations. The CMW wants to get comprehensive information on the implementation of the Convention in the State party concerned., CSOs are critical in such process.

The report should highlight the main human rights issues arising under the articles of the Convention. The alternative report should be brief and precise, no more than 10 pages. Every statement should be as precise as possible, as value will increase with preciseness. Written submissions should be prepared with a view to assisting the Committee in formulating targeted conclusions and recommendations, as well as lists of issues, and in the case of lists of issues prior to reporting, in identifying the central issues to be addressed during the constructive dialogue with the State party.

With regards to drafting recommendations, he made a clear distinction between recommendations and conclusions. He clarified that conclusions are a logical extension of the information contained in the report, whereas recommendations should be a logical extension of the conclusions. Conclusions cannot be emotional nor judgmental.

He used the following example to ask participants what they think the recommendation would be based on this conclusion: *“From the evidence presented in the report, we conclude that there is widespread discrimination against migrant workers generally, and in specific to migrant female workers.”* Participants suggested that on the basis of a conclusion, they could recommend action to end discrimination.

Participants were then divided into small groups to create one-line recommendations based on this idea by pretending to be CMW experts. The following are the results of the discussion:

*Group 1: “Necessary steps should be taken by the government to minimize discrimination of migrants, especially female migrant workers”*

Naser suggests that it is not clear enough, *necessary steps* has not been precisely identified. Recommendations should be smart and specific. He suggests that participants should always check their drafts with others for improvements.

*Group 2: “Promote and implement laws and policies in this regard to eliminate discrimination migrant workers, especially female”.*

Patrick explained that this recommendation is a little bit vague and requires additional precision.

*Group 3: ‘We need to be more careful about sending women in the destination country to ensure safer migration’*

Naser gave feedback that this is also a very wide policy, for example what does “careful” entail – is it healthcare, passport, level of protection?

*Group 4: “Countries of destination should ratify and implement the CEDAW and UN convention on migration”*

Naser commented on this to say that this would be only valid if the conclusion was that the country of destination had not yet ratified the Convention – and the Committee can only make recommendations to the government of Bangladesh in this process.

Naser encouraged participants to ask themselves key questions when drafting recommendations such as “what solutions do I offer to the problems or issues I have discussed in my report?”. Other questions to ask when drafting is, “how better do you consider state party should have observed its obligations?”, “what specific action do I require the Government of Bangladesh to take?”.

## DAY THREE - March 3, 2016

### Session 1 - The UN's Special Procedures on Human Rights – An overview

Adilur Rahman Khan, ODHIKAR; William Gois, MFA

Adilur Rahman Khan of ODHIKAR began the first session with a brief recap on the history of the United Nations and the Universal Declaration of Human Rights and a brief overview of the UN special procedures related to human rights.

Adilur re-iterated the importance of civil society pressure with regards to human rights violations. There was lively discussion – including in relation to the governments apparent lack of commitment to address abuses.

William Gois of MFA commented on how the participants are all raising valid questions and the challenges they face on the ground and this training is how to hold governments accountable, and to find solutions to the problems they are raising. William and Adilur raised the need for civil society to effectively document their cases and evidence – and to provide these to the UN mechanisms.

William encouraged civil society to consider how it could come together more effectively to raise its concerns – using the range of human rights mechanisms and procedures as one avenue.

William and Patrick then facilitated a group exercise on how participants would submit a migrant worker case the Special Rapporteur, reminding participants that it would be used as an urgent appeal process requiring the followings components:

- When did it happen
- Where did it happen?
- Who are the victims?
- What happened? –
- Who are the perpetrators?
- What action has been taken by authorities?
- Present/current status – (especially if it happened 2-3 years ago)

One example of a case that was brought forward to the larger group after small group discussions is as follows:

Female migrant worker issue

When: January 2016

Where: Lebanon

Victim: Symbolic name – Jamala

Job: domestic worker

Accused employer

What happened: sexual harassment

Action by national authorities: She return back by BOMSA with the help of BMET and MEWOE

Current status: she is now in Bangladesh with her family

Within this case, William highlighted the importance that if any action is taken on behalf of the victim, for example like sending in their case, the victim must be informed. In this case, it's possible that the victim is just happy to go back home, or rather they may be very angry and want the government to do something. William discussed how to be strategic about this issue when writing to the Special Rapporteur; it may be a systemic problem with recruitment in Lebanon, or perhaps it's about more specifically domestic workers in Lebanon, or finally that there is no justice for returnee migrant workers in Bangladesh. It is important to decide what kind of attention to draw when writing to the Special Rapporteur. William gave examples of some of the previous specific issues the Special Rapporteurs have looked into in the past, including recruitment, undocumented migrants, and women and migration.

Notably, most of the cases presented discussed female migrant domestic workers in Lebanon. William commented on this situation and how if so many cases are brought to the Special Rapporteur in Lebanon, all of them women, this could demonstrate the systemic issues at play. Patrick points out how in all of the cases presented that there at least two governments at fault, both the government of Bangladesh and the government of the country of destination. One advantage of using this type of special procedure is that it can take action in both countries.

To close, Patrick recapped the session by listing the three things that Special Rapporteur can do: (1) receive individual complaints and communicate them to the concerned government, which has a certain power and weight; (2) conduct (official and unofficial) country visits; and (3) publish thematic reports e.g. on recruitment agencies.

## **Session 2 – International Labour Standards and Migrant Workers Nisha (International Labour Organization)**

Nisha, Chief Technical Advisor on Decent Work, Migration Policy and its Application in Bangladesh at the International Labour Organization (ILO) facilitated the afternoon session on international labour standards and migrant workers. Her four part session covered labour migration from Bangladesh, issues of definition, how international standards help migrant workers, and international mechanisms of monitoring application.

Nisha began with a snapshot on Bangladeshi labour migration data and trends in relation to local economic development. She then discussed the definition a migrant worker, as only foreign/international/external migrant workers (not domestic or internal migrants). For ILO-level standards, they do not make a distinction between temporary, short-term, etc. bearing in mind that for international law there is no distinction.

She then moved to International Labour Standards, and listed the five up-to-date instruments specifically for international migrant workers:

- Migration for Employment Convention (Revised), 1949 (No. 97) (49 ratifications)
- Recommendation (Revised) 1949, (No. 86)
- Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (23 ratifications)
- Migrant Workers Recommendation, 1975 (No. 151).

Nisha explained that the ILO is the only tripartite UN agency with government, employer and worker representatives. This tripartite structure makes the ILO a unique forum in which the governments and

the social partners of the economy debate and elaborate labour standards and policies. Any decision must be made by these three parties.

Nisha then gave an overview of other relevant labour standards which express provisions for migrant workers, including but not limited to the Private Employment Agencies Convention, 1997 (No 181) and the Domestic Workers Convention, 2011 (No. 189).

It is important to be aware of these different instruments, for example in the case of Saudi Arabia which has not ratified many of the ILO conventions but if one focuses on technical and general instruments, since Saudi Arabia has ratified those ones, the key migration conventions are not as crucial.

Nisha emphasized that international organizations are not law enforcers nor the police, rather it is the people who can hold the state accountable on meeting their legal and international commitments. This is why the role of civil society is critical and its collaboration is important.

On the topic of migrant workers in undocumented or irregular situations, Nisha discussed how basic human rights of all migrant workers are to be protected, how equal treatment in respect of rights arising out of past employment if status cannot be regularized, for example, remuneration and social security, and when states consider possibility of regularization.

Next, Nisha went through the different ILO mechanisms of monitoring application of international labour standards. They include the regular supervisory system at the international level, to which periodic reports are submitted (mostly done by a committee of experts); the conference committee on application of standards which is a tripartite body; complaints mechanisms, and technical support to constituents. A question was raised on the role of the ILO in the government to government bilateral/MOU processes on labour migration. The ILO can only play the role of referee if one party or both requests it. The EPS system in Korea is an example of an instance when the ILO was requested to play that role.

Nisha followed this overview with a discussion on using the ILO standards and engaging with the ILO system with regards to the rights of migrant workers. William Gois added the example of discussions on the situation of migrant workers in Qatar and how many cases were brought to the governing party through NGO casework. This is something to consider when compiling evidence and cases of migrant worker abuses for civil society advocacy. If NGOs can better work with trade unions to make a complaint (as in the ILO system, any trade union can file a complaint).

Nisha followed this discussion with an interactive activity on a discussion of a migrant rights abuse case in Hong Kong where participants identified violations, the various social costs and challenges the migrant worker faced, and what types of laws are applicable in building a case to use in the ILO complaints procedure.

#### **DAY FOUR - March 4, 2016**

#### **Session 1 – Putting Rights on the Agenda – Reviewing Group Work on CMW William Gois and Patrick Earle**

William began the session by asking participants to share what they have discussed during the second module, as he iterates the importance of learning at least one or two important things on how to

change the way they are working to do things differently. More specifically, he asked for one important thing they learned that is going to change the way you work in their own organization. Some of the responses included, how to use legal procedures to submit to UN, a greater consciousness of how to cover issues of migration (from a participant who works in media), a greater understanding of regional consultative processes, how to make precise recommendations, and finally how to work along with trade unions as civil society rather than working alone.

William explained that the world won't change with NGOs, but only changes if we can build a good solid movement. What matters in movement building is how much commitment one brings, more than knowledge. He discussed the importance of the Bangladesh report to CMW. Bangladesh is saying to the rest of the world with this report that this is what they have done for the protection of their migrants. Civil society is the only group who have truly check it, and validate if there is change in the lives of migrant workers. William suggested that someone should have it translated to Bangla, or at least make a summary and have that translated.

The group was then given time to continue to work exercise to review the government of Bangladesh's First Report to the UN Committee on the Human Rights of Migrant Workers and Their Families

#### GROUP ONE – STANDARD OF LIVING

##### *Article 70 - Measures taken to ensure standard living conditions of migrant workers*

- General and specific comments

This group emphasized that although the Government of Bangladesh has many laws related to migration, the level of implementation is the problem. The example was provided of domestic workers being sent to different countries on the basis of bilateral agreements but there is no oversight when inconsistencies arise in their contracts. They explained that the decisions made in relation to bilateral agreements are not beneficial to the migrant workers, and they do not consider issues of standard of living or the conditions of work. Rather, the government gives preference the quantity over quality of migrants – rather than sending few nurses, they send 20,000 domestic workers. The labour diplomacy of the Government of Bangladesh has failed, and that is exemplified in the very visible violations in job contracts for migrant workers. They have received complaints on the ground that Bangladeshi migrant workers do not receive the same healthcare as other migrant workers and the Government of Bangladesh is not concerned with these kinds of issues. There is no clear idea on the implementation of the treaty provisions.

- Paragraph 168

Without any substantial research or evidence, the government claims there are no migrant workers in Bangladesh

No implementation of Labour Act 2006 and NOHS policy 2013

- Paragraph 169

Few/no implementation of OEM Act 2013.

- Problems and Questions

- “No migrants/foreign workers in Bangladesh” – what is the evidence or the source for this assertion?



- BLAs don't ensure standard of living? The public does not know what is in them, and whether they include the rights found in the migrant worker convention
  - Profit-motive vs. standard of living
  - Quality vs. quantity of migrant workers
  - Failure of government in labour diplomacy
  - No monitoring of breaching of job contract (OEM Act 2013, Section 31)
  - Access to quality health care for migrant workers
- Recommendations
    - Research on migrant/foreign workers in Bangladesh
    - Preparation of strategies and plans to implement act/policies to ensure standard of living condition
    - Pursue COD to ratify the convention and be strict about sending migrants in any non-compliant country (Bangladesh should be strict like the Philippines)
    - Increase the number and capacity of labour wing (proportionate to migrants)
    - Authorized officers to increase the inspections to different companies where Bangladeshi workers work in COD
    - Bangladeshi missions need to be more active and pro-people/service oriented
    - Not to count return workers (vacation ones) as new migrants and make a strong and clear database

## GROUP TWO – IRREGULAR MIGRATION AND ORDERLY RETURN

*Article 67 - Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration*

*Article 69 - Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures*

- Recommendations
  - Documentation of the undocumented workers (167)
  - Ratification of orderly return of the workers by CODs (156)
  - Libya Case (2012) to be for all (156)
  - Group wanted to draw attention to this case when many Bengalis were stuck there and the Government of Bangladesh air lifted many workers back home
  - Should be used as a model for any crisis in the future
  - "Stop Expulsion" treaty with all CODs (157)
  - CODs should not expel individually or in groups, governments should coordinate with regard to this
  - Permit changing employers/sponsors (157)
  - Draw on the example of Qatar where contract is not flexible; the government should have bargaining capacity
  - Economic cooperation for reintegration of migrant workers by both COO and CODs (158)
  - Insufficient/Inactive Expatriate Welfare Bank of Bangladesh reintegration system
  - This bank is not a good example of helping returnees

- Social and cultural re-integration of the migrant workers with their family/society and state as a whole
- Since COD is different geographically and culturally, when they return, they must be reintegrated with society of Bangladesh/state infrastructure

### GROUP THREE – PRE-DEPARTURE INFORMATION AND RECRUITMENT AGENCIES

#### *Pre-departure information (Articles 37 and 65)*

*Article 37 - Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity*

*Article 65 - Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families.*

- Comments

Rightly pointed out the issue but it is not in practice

There are limitations of the government to solve problems, and the government keeps us in the dark

- Problems and Questions

There is no good relation between government and recruiting agencies; recruitment agency and government are not good enough because they are economically oriented

- Recommendation

Government should ensure the OEM Act 2013 and improve government and recruitment agencies relationship while keeping the governments limitations in mind

#### **Recruitment Agencies (Article 66)**

*Article 66 - Authorized operations and bodies for the recruitment of workers for employment in another State*

- Comments

Report presented nicely but not implemented accordingly

- Problems and Questions
  - There is no regular monitoring and supervision of the recruitment agencies
  - Recruitment cost is very high (though there was suggestion from this group that while the cost was high it could be seen as a “wise investment” – the money invested is returned and justified with migration)
  - There is no good coordination between government and private sector

- Recommendations

Government needs to give more focus on monitoring of recruitment agencies available

#### GROUP FOUR – MIGRANT SERVICES FOR QUESTIONS

*Article 65 - Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families.*

- General comments

Bangladesh laws are based on the 1990 Migrant Worker Convention, good things are included but the main problem is implementation

#### Comment/Problem/Recommendation Breakdown by Paragraph

Paragraph	Comment	Existing Problem	Recommendation
148	There are laws and policies but very low implementation	No rules under the Act – 2013 No monitoring Lack of information dissemination	Promote and ensure implementation of laws and policies
150	Skill development training are not up to the match and coordinated	50% less skill no-coordination among the ministry information gap	Skill development training should be mandatory for implementation of laws and policies
151	There are many fraudulence, cheating in medical training	No preservation of data Lack of monitoring Only GAMCA monopoly (health service monopolized by a handful of doctors)	Ensure and establish fare, standardized migration friendly medical testing
153 and 154	Still there is a negative attitude of embassy officials and lack of resource	Lack of human resource No lawyer No psycho social councilor Corruption Lack of proper monitoring and reporting system	Embassy (LWW) must be well equipped, functional and responsible for providing migration friendly services through transparency and accountability

#### GROUP FIVE – UNITY OF FAMILIES

*Article 44 - Protection of the unity of the families of migrant workers and reunification of migrant workers; consequences of death or dissolution of marriage*

- Comments

Report covered the basic concerns but the report did not cover the role of the government in COO and COD

- Problems and Questions

What's missing: Working contract, role of the government at COO and COO; social, psychological, capability at COO and COD

- Recommendations
  - The government needs to work with ILO, CSO at COO and COD, trade union, ADD, SAARC platform, UN to have unified job contract
  - Have food, leisure, trade union, social security
  - The welfare desk at COD needs to be strengthened with HR and budget and they should be made more efficient and accountable

*Articles 45 - Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's family.*

- Comments

Didn't cover the COO and COD context of families of BD migrant workers

- Problems and Questions

What's missing: CSO initiative; role of government at COO and COD; social, psychological, capability, etc. at COO and COD; the rights of conceiving and unexpected child at COO and COD

- Recommendations
  - Involve CSO in Government of Bangladesh's work and collaboration with ILO, trade union, ADD, SAARC, UN
  - Social security for migrant workers and families initiatives need to be taken at COO and COD in collaboration with UN, trade unions, CSO, ILO
  - Clear database is required
  - Safety and security of the migrant workers family needs to be ensured with collaboration with local administration
  - Government needs to work with CSO who are working in this area

In wrapping up this discussion, William asked participants if they wanted one report presented to the migrant worker committee, and participants responded positively (unanimously). William suggested that the documentation of this particular discussion could be used as a basis of making a more solid report, one in Bangla. William encouraged participants read the committee report before the next module and recommended that one of the activities from this module could be to drafting a parallel report. The groups formed earlier in the module which discussed different sections of the committee report were re-assembled to discuss their comments and present. William and Patrick facilitated the group-wide presentations and discussions and the comments below were made by each group.

## **Session 2 GFMD and the PGA – Plans in Bangladesh**

### **William Gois, MFA and Patrick Earle, DTP**

In this session, William began by asking participants what they know about the GFMD, which will be hosted by the Bangladesh Government in December 2016. He then presented the official Government website of the GFMD and the Peoples Global Action on Migration and Development (PGA) website. He explained that while the government is preparing for the GFMD, CSO is also in the process of mobilizing with a Local Organizing Committee started in Bangladesh to prepare for the PGA.

William explained the three thematic areas that the Bangladesh government chose for the GFMD: economics of migration, sociology of migration and governance of migration, and preparatory meetings on each theme will take place during 2015. William encouraged civil society to ask how the government plans to organize dialogues with civil society in preparation for these meetings. He emphasized the importance of finding out what they are planning and being engaged at the national and international level. The GFMD website is one way of knowing what is happening and then it is the responsibility of the participants to inform each other – and MFA can play a role in this.

William discussed the need for more case documentation, and the target to come to the GFMD with at least 5,000 cases from the entire region. The evidence becomes very important in bringing human rights on the agenda of a meeting like the GFMD.

There was then discussion over the content and focus of the next module – the report to CMW, documentation skills and action in countries of destination.

The day ended with participant feedback – positive in nature. Most participants expressed how they enjoyed how the module did not rely on one topic only, and felt the material would be very helpful for their work.