

**Building Civil Society Capacity for Advocacy for Migrant Workers and Safe Migration  
The Diplomacy Training Program in partnership with Migrant Forum Asia  
And WARBE and RMMRU**



**Module 1, 5-7 December 2015**  
Institute of Microfinance, Dhaka, Bangladesh

**DRAFT REPORT**

**Summary**

The first module of The Diplomacy Training Program on Building Civil Society Capacity for Advocacy on Migrant Workers and Safe Migration was successfully held on 5-7 December 2015 in Dhaka, Bangladesh. The training brought together 28 participants from NGOs and CSOs across Bangladesh. It was the first of five scheduled modules that will develop the knowledge, skills and networks of advocates working to promote and protect the rights of Bangladesh's migrant workers.

By the end of the first module there was a strong feeling shared among the participants that a space has been created to enable strategic thinking on how different migration issues need to be addressed. The first module also identified the ground to be covered in the upcoming modules as well as in preparation for the Global Forum on Migration and Development (GFMD) 2016 in Bangladesh.

***The Partners:***

It was organized by the Diplomacy Training Program (DTP), Migrant Forum in Asia (MFA), Refugee and Migratory Movements Research Unit (RMMRU), and WARBE Development Foundation (WARBE DF) with the support of the Swiss Agency Development Cooperation (SDC).

***The Participants:***

Participants were selected through an open application process following wide dissemination of an application form and brochure to various civil society organizations all over Bangladesh. The selected participants come from a range of organisations working with and for migrant workers in a range of different roles. There was a commitment to ensuring gender balance between men and women participants – and organisations were limited to nominating two participants only for their organisation.

### ***Key Issues and Training Content:***

The training program focused on the key issues on migration, and the human rights of migrant workers in the context of Bangladesh - and on civil society's struggle to protect and promote the rights and welfare of migrant workers. Issues such as the lack of implementation of laws and policies, scarcity of data and statistics, lack of social and legal protection of migrant workers and their families, as well as the lack of access to information were highlighted as key issues.

Over the three days there were sessions on the International Convention on the Rights of Migrant Workers, the national legal and policy framework governing migration, the gaps in access to justice and remedy when violations and abuses occur, and how UN human rights treaties can be integrated into advocacy strategies. There was also a significant focus on the Global Forum on Migration and Development (GFMD) that the government of Bangladesh will host in December 2016.

### ***The Trainers:***

DTP and its partners are indebted to the trainers and resource people who contributed their knowledge and expertise to this module. They include the following: Shakirul Islam, Md. Nur Khan, Jasiya Khatoun, Syed Saiful Haque, Faruque Ahmed, Abdullah Al Hasan, John Bingham and William Gois.

The following report describes in further detail the background and content of the training over the three days, as well as a brief description of the methodology and process.

DTP acknowledges the support of the Swiss Agency Development Cooperation (SDC), for funding this program and for their investment in civil society and records its thanks to Institute of Microfinance, Dhaka, Bangladesh for hosting the program.

## **Background**

DTP has worked in partnership with Migrant Forum Asia (MFA) since 2004 to build the knowledge, skills and networks of those individuals and organizations committed to promoting and protecting the human rights of migrant workers. Together with MFA, it has organized regional capacity building programs in Indonesia, Bangladesh, Cambodia, Malaysia, Thailand, the Philippines, Lebanon, Qatar, Timor Leste and the UAE. In 2013/14 it held its first nationally focused, multi-module course to build the capacity of Nepalese advocates for migrant workers.

This program in Bangladesh – held in partnership with MFA and RMMRU and WARBE – follows on from similar programs in Nepal and Sri Lanka and is consistent with the DTP/MFA strategy of building capacities of advocates in countries of origin and destination.

It has been estimated that between 1976 and 2014, over 9 million Bengalis migrated to the Gulf States for work. The most popular destination for migrant workers within this period was Saudi Arabia (28.9%) and the UAE (25.5%). More recently (2015), Oman and Qatar have been the most popular destinations receiving 22.8% and 22.4% of the total migrant worker respectively.

More than half of these migrant workers are categorised as ‘less or semi-skilled’. ‘Professional’ workers account for only 2%. 82% of migrants are men – although the number of women has been rising. Women who leave the country without registration are particularly vulnerable to abuse. There is awareness of the abuses and harms that many migrant workers experience in destination countries. Like other countries in South Asia, Bangladesh has a growing dependence on the remittances of migrant workers.

Civil society advocacy is vital to narrowing the gap between internationally accepted standards and the real-life experiences of migrant workers. Effective advocacy requires knowledge, skills and planning. It requires people committed to making change working together to effectively influence law, policy and practice. The analysis informing this program is that the advocacy capacity of civil society in this key South Asian country needs to be strengthened – and more effective and collaborative networks built among advocates to influence government. This program has been developed to meet these needs.

In Bangladesh, the program will precede and coincide with the country’s chairmanship of the GFMD in December 2016. Part of the training will thus focus on preparing advocates to use this opportunity to advance their strategic advocacy agenda as part of MFA’s ongoing engagement with the GFMD process and for their participation in the Forum’s Civil Society Days. There is a particular challenge and opportunity in terms of using Bangladesh’s recent ratification of the Convention on Migrant Workers as a framework to guide reform of policy and practice. There is also a need to develop the capacity of advocates to engage their government effectively in relation to the South Asian Association for Regional Cooperation (SAARC), the Abu Dhabi Dialogue (ADD), and the Colombo Process.

The course will take place over five modules beginning December 2015 – and will include assignments for participants between modules to help in the knowledge and skills building process.

## Methodology

DTP’s participatory methodology is based on respect for the knowledge, experience and skills of participants. This is reflected in the use of scenarios, role plays and exercises. It is also reflected in delegating daily management and facilitation of the program to different groups of the participants each day. Each day this group will also provide feedback to the facilitators on program content and process and logistics.

The program was conducted in English and Bangla, with a single interpreter summarising contributions as necessary. The group work was conducted in Bangla. There was positive feedback at the end of the program about the quality of the interpretation.

## Opening Remarks

Shabari Nair, Swiss Development Cooperation  
Patrick Earle, Diplomacy Training Program  
Tatcee Macabuag

*Shabari Nair welcomed the participants and thanked the organizers and acknowledged the work that civil society is doing in the local, national, regional, international level. He emphasised the importance of international processes such as the GFMD and the Colombo*

*Process for advocacy on migrants' rights and that civil society had engaged with the GFMD process from the outset.*

Shabari noted that whenever he meets delegates from the civil society, irrespective of where they are from, their concerns are very similar. The problems experienced by migrant workers and civil society in Bangladesh are similar to India and other countries of origin. He noted that the headlines about the Sri Lankan women accused of adultery and sentenced to death by stoning in Saudi Arabia. The largest number of migrant workers from Bangladesh go to Saudi Arabia. Over 28% go to Saudi Arabia and last year, Saudi has carried out 158 executions wherein majority of them are non-Saudis. The protection of migrant workers from Gulf region continues to be of utmost importance.

On GFMD, Shabari noted constant progress in how the civil society and governments have been able to engage with each other. This had not been the case with the Colombo Process. He noted that the lead ministry for the Colombo Process from the government of Bangladesh is the Ministry of Expatriates Welfare but the chair of the GFMD is the Ministry of Foreign Affairs. Therefore, the coordination between these two ministries is very important – and something that civil society needs to encourage – as labour migration is both a domestic and foreign affairs issue – it is economic, human and diplomatic.

Finally, it's important to understand how Switzerland sees civil society – recognising its role as critic and watchdog of governments and government policies – as representatives of different groups in society and as agents of change. This was why the Swiss government was investing in this program of civil society capacity building.

Shabari was followed by Mr. Patrick Earle's opening message. He first thanked the participants for giving time for this program and welcomed them to what he hopes would be a fruitful training. He also thanked the hosts, RMMRU and WARBE with the partnership of MFA, and the support of SDC as the training is the beginning of the year-long process. Patrick Earle gave the background of DTP and its relationship between MFA as well as with WARBE DF, and how they have come to work together on the rights of migrant workers.

He also shared how DTP seeks to integrate capacity building of human rights standards and the UN system with developing skills in strategic advocacy. He emphasized the importance of DTP places on recognising and giving value to the experiences and skills that participants bring to its programs. DTP practices a philosophy of participatory training wherein it enables an interactive sharing of lessons and experiences participants and trainers.

DTP is based on recognition of people's capacity to make change. People will be effective in making change if they have knowledge, skills, good networks, and can work together effectively. The treatment of migrant workers is becoming one of the most pressing human rights problems in the world.

In 2003, the Migrant Workers' Convention came into force, yet there is a big gap between what the law says in international standards and the realities experienced by migrant workers. One way of trying to narrow that gap is to build the knowledge and skills of advocates to influence government policies.

DTP began a partnership with MFA in 2004. The first dedicated special program focused on the rights of migrant workers was held in Jakarta, Indonesia last 2004 – and the second with WARBE and RMMRU in 2005.

DTP has been working with MFA to hold regional capacity building programs in many parts of Asia, recently held it in CODs such as Kuwait, Lebanon, Qatar, and UAE. The training program has made the space open up a little bit more in terms of bringing together advocates from CODs and COOs. There is great value to that training but MFA and its partners said there needs something else, something more and go into more depth at the country level. Thus, 3 years ago DTP and MFA began a new set of programs in Nepal and Sri Lanka. A new approach that says “Let’s work with a group of people advocates over a period of 1 year in a number of modules and some work between those modules so we can really have a program that gets to grip with the challenges in a particular country and try and work out what knowledge can be added to help them in their work, what skills can we play a part in helping to build, how can we help build the capacity to work with each other over that time.”

There may be limited resources and human resources but working together can help solve problems that might come up. Lastly, the training program creates a good learning space which can make a really great program over the year, and more.

### Program Overview and Expectation Setting

Presenter: William Gois

*Mr. William Gois started the session by asking the participants one-by-one about their expectations for the first module of the training program. He also linked the program to the upcoming Global Forum on Migration and Development (GFMD), the only global forum that brings together governments and civil society to tackle on the issue of migration, which Bangladesh will be hosting in 2016.*

Participants expectations included:

- Learning more about what they could do to make labour migration safer;
- Identify the sectors where the dignity of migrant workers is being violated.
- How to contribute to the Global Forum on Migration and Development (GFMD) and the People’s Global Assembly
- How to pressure countries of destination (CODs) to ensure and advocate for the rights of migrant workers.
- To increase their skill as individuals and contribute their skills to raise awareness for migrants’ rights
- Knowledge of how to give legal support for migrant workers.
- To learn more about the existing national and international laws and policies related to migrant workers,
- To be able to raise awareness on the grassroots / community level and in schools regarding the safe migration process.
- Build their skills to to be a diplomat for their organization and contribute to advocacy and national interventions.

- To develop the knowledge and skills to engage and influence the Bangladeshi government on how to stop undocumented migration, reduce migration cost, improve social and economic reintegration system and remittances for migrant workers
- To improve civil society's relationship with the Bangladeshi government and the international community.

William responded that expectations of what can be achieved in one year needed to be realistic. As the DTP in Bangladesh has five modules, everyone should see how far they have travelled and what needs to be done at the end of each module. Also, everyone should keep in mind that expectations could change through the course of time so it is important to evaluate at the end of each module. The focus on the GFMD and civil society preparations for its hosting in Bangladesh was also significant.

Civil society has begun preparations for the GFMD. It is a shared responsibility of how every organization should be involved in terms of how they prepare their communities and the academe they are working with, and the organizations they are a part of. The GFMD is a big discussion between civil society and governments, William wanted the participants to think deeply on the questions on how the participants can be prepared, how they can prepare the migrant workers to engage them. Bangladesh, as a significant country affected by labour migration can set a new example and precedent for the GFMD – in opening up to the voices of civil society and of migrant workers and in focusing on their rights.

### **Key Issues for Migrant Workers from Bangladesh & Challenges for Advocacy**

Presenter: Faruque Ahmed (WARBE Development Foundation)  
Shakirul Islam (OKUP)

*The session started with Faruque Ahmed sharing how he is a returnee migrant worker himself. He mentioned the difficulties of the government in reforming policies, the families' need to contemplate before letting someone from their family work abroad, the difference in cultures between Bangladesh and countries of destination, and how recruitment agencies continues to traffic girls and boys. For the second part of the session, Shakirul Islam encouraged the participants to think of the challenges in the different migration stages—pre-departure, on-site or in-country (of destination), and reintegration—which they want to bring in the international platform.*

Faruque Ahmed used to be a migrant worker and, through his practical experience on migration issues, he became a grassroots worker in Bangladesh. There are no proper measures to disseminate information to the migrant workers and their families to enable them to make informed choices about whether to migrate. The government does not allocate enough budget for information dissemination for pre-departure, and other services for Bangladeshi migrant workers during and after going to countries of destination, even though migrant workers contribute so much to the economy of Bangladesh. Fraudulent recruitment practices prevail with recruiters profiting from the migrants. There is no political will from the Bangladesh government to address the issue.

Shakirul Islam organized his session as an interactive workshop, dividing participants into three (3) groups to discuss which issues they want to be addressed and need to bring in the

international platform on each migration stage: *pre-departure*, *on-site* or *in-country* (of destination), and reintegration.

*Challenges in pre-departure:*

- A lack of clear government policy;
- A lack of information on the visa process, salaries of their work and the duration, the work and home facilities in CODs,
- recruitment agencies are sending unskilled and low-skilled workers to countries of destination – and these are most vulnerable
- the police (both in COD and COO) often harass migrant workers.
- Impunity of brokers and recruitment agencies engaged in fraudulent conduct
- Inadequate penalties

*Challenges in country of destination (CODs)*

- contract substitution – sometimes leading to forced prostitution
- arbitrary salary reduction,
- lack of security and decent work environment,
- passport confiscation,
- the recruitment process is not systematic, and fraudulent practices are also prevalent in CODs.
- migrant workers do not fall under any specific labour laws in the COD, thus, services are not provided to migrant workers and
- lack of legal remedy is non-existent when migrant workers complain.
- Bangladeshi consulates/Embassies do not have enough resources and budget to give consulate services to migrant workers.

*Challenges in reintegration,*

- Lack of database/data on regarding undocumented and returning migrant workers.
- Stigmatization of migrant workers, especially women, returning unsuccessfully because of the loans they accumulate from exorbitant recruitment fees, as well as those who return with sexually transmitted diseases (STDs).
- Lack of legal support/aid
- Lack of rehabilitation centers (for traumatized and ill migrant workers)
- Lack of programs on how migrant workers should manage their finances during and after working abroad to avoid re-encountering financial problems
- Migrants tend to go back to working abroad because of the aforementioned factors

It was noted that a new national policy framework was adopted in 2013 that addresses some of these challenges but there is a lack of implementation. Overall, implementation of policies is a big concern in countries of origin such as Bangladesh.

## The Rights of Migrant Workers and the International Convention on the Rights of Migrant Workers and Their Families (CMW)

Presenter: William Gois

*The session mainly focused on getting a better grasp on how the participants know and understand the rights of a migrant worker and its application to different situations. Mr. Patrick Earle then gave his additional inputs on applying the rights mentioned in real-life situations.*

Mr. William Gois started his session asking the participants what rights migrant workers have and to explain how these rights can be exercised.

- One participant mentioned the right to movement and explained the practical restrictions on this in CODs. Domestic workers cannot go out regardless if they have their passport with them or not. They can't go to a movie or a shopping mall.
- The right to life with dignity was raised by another participant, stating that both citizens and non-citizens in any country should have rights. There was discussion about the denial of adequate or appropriate food – including whether it would be an abuse of human rights if an employer only allowed their work to eat pasta every meal. Should the worker be able to raise their voice to seek other food, or to be able to go and buy food of their choice/custom?
- There was also discussion about whether it would be legitimate for a migrant worker in Saudi Arabia to ask for time off to watch Bangladesh is playing a cricket match against Pakistan, or if a migrant worker in Kuwait should be freely able to make or accept calls from family members when, for example, the father is sick and needs to know any progress? If a migrant worker misses her/his mother right now, can she/he step out of the training room and call?

The discussion reflected the reality of what happens for migrant workers and the way in which employers can impose restrictions, or deny the conditions in which human rights can be exercised. It also illustrated how a sense of rights can be internalised or absent.

Many human rights are recognised as not being absolute – with some exceptions such as the right not to be tortured. There is a human right to rest and leisure and to just and fair conditions of work – but what this means in practice and vary – it is unlikely to mean that someone can just walk out of work when they wish. There is a right to take part in cultural life – and there is a right to family life that would underpin a claim by a worker to be able to communicate with their children and parents while at work. Workers and advocates may feel their rights can be denied because they are in a foreign land and they have to obey the law of the land – yet international human rights law and standards reflect an international consensus of right and wrong – of the conditions necessary for respect of human dignity. Just because they move to a foreign land, does not mean that their rights can be taken away from them.

There may be no human right to watch a cricket match – but the claim to watch a game may be underpinned by reference to a range of human rights. Similarly, it is not necessary a human rights abuse to eat pasta everyday – but to be refused access to appropriate and nutritious food may be an abuse.



There are 9 core international treaties on human rights with one Convention focused on migration—Convention on the Rights of the Migrant Workers and Members of their Families (CMW).

These international human rights standards have been agreed to by governments – sometimes after many years of advocacy by civil society. All have responded to real abuses of rights and the vulnerabilities of particular groups. Human rights have not been given – they have been fought for and claimed. Knowledge of rights is a first step in claiming them.

### The Legal Policy Framework Governing Labour Migration from Bangladesh

Presenter: Md. Nur Khan, Ain O Salish Kendra (TBC)

Abdullah Al Hasan, Lawyers Beyond Borders Bangladesh (LBB – Bangladesh)

*For this session, Md. Nur Khan discussed Bangladesh's national laws and policies on migration including its gaps and challenges. Abdullah Al Hasan continued the session by discussing the trafficking laws and international instruments related to migration that are already ratified in Bangladesh. Recommendations were given by both the facilitators and the participants.*

The Bangladesh government adopted a new law regarding migrant workers in 2013, known as the **Overseas Employment and Migrants Act 2013**<sup>1</sup>, which implements international human rights standards that Bangladesh has ratified – notably the UN Convention on the Rights of Migrant Workers and their Families.

The term “migrant worker” is defined in the 2013 Act. The act includes the migrant workers’ right to access to information – information including the workers’ salary, job description, decent work environment and home facilities. It is also stated that migrant workers have the right to get compensation as well as access to justice when they are deceived by frauds. Unfortunately, the implementation has been very weak and the attempt to narrow the gaps in the law was not adequately enforced in the past two years. In reality, however, perhaps migrant workers are not aware of the right information and/or the government is not properly implementing the rules and regulations. Nowadays, legal assistance is provided by many Bangladeshi organizations and sometimes provided for free.

The new law also has flaws - the terms and punishments are very vague which still makes it difficult to look for illegitimate recruitment agencies. There is no compensation stated for the migrant workers and members of their families for abuses and the law does not have much content on the reintegration programs for migrant workers once they return. Informing the public on the risks and dangerous possibilities in migrating without proper documentation. There is currently a 2015-2017 work plan focused on raising awareness and protecting victims and to prohibit human trafficking.

Abdullah al Hasan focused his discussion on the trafficking laws and international instruments related to migration that are already ratified by Bangladesh. The country has many laws and policies on migration including a law on passport confiscation, a law to control the recruitment agencies, policy on female migration, as well as the ratification of human rights treaties and International Labour Organization (ILO) Conventions. He

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<sup>1</sup> see Annex 1

emphasized that it does not stop with ratifying treaties and drafting national laws because the policies should be trickled down from the national level to the grassroots level. Unfortunately, with the weak implementation in Bangladesh, it seems that the goal is far from being achieved.

Civil society has been making efforts to make the Overseas Employment and Migrants' Act 2013 known to the public but it became difficult because some of the points in the law happen to be very vague. In particular, the "relevant person" who can claim reimbursement is quite ambiguous as it does not specify if the "relevant person" refers to the migrant worker or the recruitment agent; the complaint procedure is not specifically described in the law; there is no proper database on the migrant workers, and; the government continues to remain silent on human trafficking and undocumented migrants. Abdullah Al Hasan also stressed his point that sometimes government officials are involved in human trafficking and there are no penalties in the 2013 Act for government officials who do such acts. He would want to recommend that recruitment should only be done by a government-to-government process for illegal recruitment agencies to have less access.

A few of the participants intervened saying it is too soon to amend the 2013 law as it has only been two years since the law was passed, but does not suffice for the government to be so lackluster in implementing the law especially since Bangladeshi migrant workers continue to increase annually.

### **Access to Justice and Remedy – Identifying the Gaps in Bangladesh**

Presenter: Sumaiya Islam, BOMSA  
Jasiya Khatoon, WARBE Development Foundation

*Ms. Sumaiya Islam discussed the disparity between the Bangladeshi government's perspective on the current realities for migrant workers and the migrant workers' realities. Ms. Jasiya Khatoon then continued the session by sharing the civil society's effort to provide access to justice for migrant workers including the process of how the Overseas Employment and Migrants Act 2013 was passed.*

As a member of a migrants rights organization, Sumaiya Islam, continues to stand up against illegal recruitment agencies despite having difficulty in tracing and actually meeting them. It is ironic for her that the Bangladeshi government is promoting the fact that the country's Gross Domestic Product (GDP) is high mainly due to the remittances of the migrant workers, however, the government is not returning the favor through offering services or protection to migrant workers. Rather, they are merely treated as money-making machines who do not have adequate access to social protection and are often subject to negative scrutiny.

She gave real-life situations wherein every single day, almost 10-15 corpses are sent hom eto Bangladesh from the countries they had gone to work in - and about 3-5 are female workers. Employers and/or sponsors would claim that the migrant worker died due to heart failure or stroke but once the body is examined, even without autopsy, it is likely that the migrant worker has been abused. What's more alarming is that the corpses are sent without any documents thus, making it much more difficult to identify and contact family members.

Also, domestic workers without proper documentation are often subject to sexual exploitation and overwork once they have reached the country of destination and, if impregnated, are

shunned by society – there and back home in Bangladesh. There are times when domestic workers were fooled to get a tourist visas. Once their visas have expired and have become undocumented migrants, the employers would use the opportunity to exploit and abuse them.

During the times that organizations attempt to intervene and protect the migrant worker, they are often challenged by people with enough power and wealth to give financial compensation to the migrant worker. Safe migration cannot be ensured just by merely sending project proposals, participating in rallies, and campaigns. An effective relationship among the migrant workers, civil society, and the government needs to be set. The grassroots workers have to unify and organize themselves so they can take the initiative to make effective change. She pondered on the fact that so many are fighting for the rights of migrant workers but it may not be effective because there is a lack of a systematic manner. Instead of just pointing fingers at each other, people need to be united.

Jasiya Khatoon, the second presenter, supported Sumaiya and the previous speakers' claims on the realities being experienced by migrant workers. There have been efforts to protect and promote the rights and welfare of migrant workers but it has not been thoroughly reflected down to the grassroots level. There are existing policies however there are little to non-existent implementing rules and regulations on this. Jasiya added that the 2013 Migration Act was due to the pressure of the civil society. Unfortunately, the government failed to include the three (3) chapters that were vital to the protection and promotion of the rights of migrant workers and members of their families.

She continued saying that the government did not include access to justice in their laws properly. Because of this, migrant workers would need to spend a lump sum of money for legal assistance which makes the migrant worker reluctant to actually push through because of the costs. The Lawyers Beyond Borders (LBB) and other networks have been striving to provide legal assistance to the migrant workers. With regard to the recruitment agencies, there is only one organization monitoring the agencies therefore making it really difficult to catch the culprits who are exploiting migrant workers. Still, Jasiya Khatoon believes in the voices of the people, the power of working together as civil society to repay the migrant workers for what they have been doing for the betterment of Bangladesh. This is very important and this is why they have organized this training program, as a step towards a more cooperative and unified society.

### Engaging with the UN Treaty Reporting Process

Presenter: Patrick Earle, The Diplomacy Training Program

*For this session, Mr. Patrick Earle emphasised the inclusion of human rights in the establishment and mandate (purpose) of the United Nations and the development of international human rights treaties - focusing on Convention on the Rights of the Migrant Workers and Members of their Families (CMW). He also discussed the linkages between the government, civil society, and the United Nations, and in the context of Bangladesh, the ratification of CMW. With this, he asked the participants to divide into groups and conduct a mock session / dialogue with the UN Committee expressing their concerns and recommendations in a concise manner to pressure the government.*

Patrick Earle emphasised that while there is an understanding that people have always had human rights, and there are expressions of these rights in all religious traditions and cultural

systems going back many centuries, the international legal recognition of human rights – and government responsibilities to these rights emerged after World War I and World War II. The basics of the international human rights framework began after World War II. There was a desire to prevent war in the future – and that injustice unaddressed was a cause of conflict. The Holocaust in Europe made the world realize there should be some kind of affirmation that human beings have human dignity – and a need to restrain what governments can and cannot do. The establishment of the UN committed the world to cooperate together for the realization of human rights, among other things.

The UN Charter is the statement of purpose of the UN. Each member of the UN agrees to and is bound by the UN charter. Promotion of human rights is included in the UN charter.

The UN system has developed its human rights promotion, monitoring and accountability system along two paths. One derives its authority from the inclusion of human rights in the UN Charter and applies to all UN members – these include the UN's human rights special procedures, the UN Human Rights Council, the Office of the High Commissioner for Human Rights and the Universal Periodic Review.

The other path derives its authority from specific international human rights treaties. These treaties are international legal agreements that governments have developed and freely agreed to ratify. The obligations in these treaties apply only to the governments that have ratified them. Over 193 countries have ratified the UN Convention on the Rights of the Child – but only 48 countries have ratified the Convention on the Rights of the Migrant Workers and Members of their Families (CMW). Today there are nine core human rights treaties.

It's important to realize that migrant workers have all human rights and all international human rights treaties apply to them as well, not just CMW. International human rights treaties set out the responsibility of governments. When they ratify a treaty a government agrees to review their existing laws, and to change/amend laws and policies to ensure that they are in conformity with the human rights treaty.

The CMW was ratified by Bangladesh following a long campaign by civil society. The new 2013 migration law followed its introduction and implements many of its provisions.

When a member state ratifies a human rights treaty it agrees to be accountable to an independent body of experts – called the human rights treaty body. For CMW this is the Committee on Migrant Workers. The accountability is in the agreement to submit reports and to be examined on its record of implementing the treaty.

This process provides opportunities for non-governmental organizations (NGOs) to intervene, to engage with the Committee and to submit their own parallel/shadow reports. NGOs can be critical, challenge government accounts and identify the problems that still need to be addressed. NGOs can talk to some of the Committee members giving information and suggesting recommendations that could be made to the government. The outcome of the reporting process is a report from the Committee that includes recommendations to the government – to change laws or policies etc, or to allocate more resources. If NGOs can influence these recommendations then this may be helpful in persuading the government.

UN human rights treaty bodies also adopt General Comments/Recommendations – that elaborate on the content and meaning of a particular right, or address a particular pattern of abuses or the vulnerability of particular groups.

For the remainder of the session, Patrick Earle has divided the participants into groups to conduct a mock session / dialogue with the UN Committee expressing their concerns and recommendations in a concise manner to influence the government.

The first group presented the issues they identified:

- the lack of implementation and monitoring of policies on migration,
- excessive recruitment fees, and abuses in the recruitment process
- the lack of a database for returnee migrant workers.

They asked the Committee to recommend that the government create a database of all migrant workers to make sure there is a basis to address their issues.

The second group raised concerns on:

- the lack of cooperation and open-dialogue from the government's side
- the inadequate social and legal protection for the migrant workers returning to Bangladesh which prompts the migrant workers to go back and work abroad again.

They asked the Committee to recommend that the government:

- Reiterate that access to legal aid is a right and not a charity
- examine the best practices of safe migration around the world and adopt those that are applicable to Bangladesh.

The third group presented their concerns:

- lack of social security and protection in bilateral agreements;
- the lack of legal support from the government;
- lack of information dissemination and implementation of laws and policies;
- the non-existence of reintegration programs and services,
- the mandatory HIV/AIDS testing of migrant workers without their consent;
- the lack of interaction between the government departments/agencies;
- the lack of data and statistics on the migration flow of Bangladeshis;
- the need to make accessible to NGOs and the public and the available data;
- the need for clear plans for implementation of existing policy and and law;
- the loose restrictions of fraud, middlemen, and illegal recruiters;
- the limited allocation of resources to assist migrant workers in countries of destination;
- the lack of effective government accountability;
- the failure of the govern to engage and work with NGOs/civil society on promoting and protecting the rights of migrant workers.

They asked the Committee to recommend to the government:

- increased allocation of resources to support migrant workers in CODs

- ending of mandatory HIV/AIDs testing without individual consent
- to work with civil soceity to address the human rights abuses of migrant workers
- effective regulation of recruitment agences and agents

After the exercise, the facilitators expressed their general comments saying the participants' presentations together distilled many key issues – and linked these to recommendations for change and action by the government. When there is more time to collaborate with each other and to prepare then they may wish to agree to focus on a small number of particular concerns and recommendations. Overall, the exercise stimulated new ideas and possible solutions.

### Promoting and Protecting the Rights of Migrant Workers - Identifying Priorities for Change

Presenter: William Gois, Migrant Forum in Asia

*Mr. William Gois referred to the participants' inputs on the conerns and challenges per migration stage, and identified realistic concerns which can be addressed with the cooperation of the civil society within and outside Bangladesh.*

William Gois wanted the participants to go back and look at the three (3) big issues in the migration stages—pre-departure, on-site, return—that they want to start working on in a very practical manner.

*For the pre-departure stage, their 3 issues are*

- access to information,
- the recruitment process, and
- the migrants' skill development in both technical skills and the language.

*For the on-site,*

- document and / or passport confiscation,
- contract substitution,
- the Kafala / sponsorship system are the main issues.

*With regard to the return or reintegration,*

- the lack of database of returnee migrant workers,
- lack of health, economic, and legal rehabilitations,
- the need to have a forum or a union of returnee migrants.

William emphasised caution in focussing on the Kafala or sponsorship system overall – as the Kafala system operates in different places in different ways – and the causes and solutions to abuse need to be very specific. Blaming the system as a whole may both make change more difficult, and not address the specific abuses.

## The GFMD – Reflections on the Outcomes of Istanbul

Presenter: Saiful Haque, WARBE Development Foundation

*Mr. Saiful Haque shared his experience in engaging with governments in the national, regional, and global level. He also shared the similarities and differences of previous GFMDs, and his hopes on the upcoming GFMD in Bangladesh wherein the SDGs play a vital role in the rights of migrant workers and their families. In addition, Sumaiya Islam encouraged the participants on how the civil society can be involved in having a very momentous forum. The session continued with an open forum with the speakers on the GFMD.*

Saiful had recently returned from the most recent GFMD in Istanbul – and has engaged in a number of GFMDs. He emphasised the value of preparing for this participation – and the opportunities it provides to engage with governments and international agencies. The GFMD is the only global framework and forum to address migrants' issues.

The participation and engagement of CSOs in the GFMD of 2016 is the fruit and the result of the constant struggle of advocates. Participation was originally denied – and rights were not on the agenda. The GFMD is designed in such a way that the previous, current, and upcoming countries hosting and chairing the forum will jointly organize each year's GFMD. When the GFMD was held in Manila in 2008, Filipino civil society lobbied with the government to include civil society.

The government was very cooperative and supportive with the civil society - and both have played vital roles in bridging the connection to address migration issues. There is still progress that has to be made to ensure that participation by civil society is substantive and meaningful – and the GFMD address the human rights of migrants.

Saiful Haque expressed the hope that through the DTP modules, Bangladeshi civil society and the Bangladeshi government would be able to work with each other and cooperate to have a fruitful forum in protecting and promoting the rights and welfare of migrant workers and members of their families, since Bangladesh will be the host for the 2016 GFMD.

Saiful emphasised that there were a number of relevant international processes and developments. The Sustainable Development Goals (SDGs), now include reference to labour migration and the rights of migrant workers. One challenge is how these commitments can be brought into the GFMD process.

WARBE and others are working to ensure that civil society in Bangladesh can engage with and influence the GFMD in 2016. But time is short. Different government ministries are involved in preparing the agenda and format of the GFMD – but there is no finalised government organising team. The DTP participants need to know how to engage with government officials because not much can be achieved if it is done alone, everyone needs to be involved.

Sumaiya Islam added that the forum is for all migrant workers not just in Bangladesh, but for everywhere. They need to think how migrant workers from all sectors can be involved in the GFMD.

The floor was then open for questions and one of the participants asked about the progress on the recommendations from the previous GFMDs since this is still non-binding. Saiful Haque and Sumaiya stated that there have been efforts to follow the recommendations in Bangladesh. In particular, there has been a new 2015-2017 work plan by the government and there have been intensive research to find out what can be incorporated in Bangladesh. The civil society in Bangladesh has been making efforts, as well, to make small contributions.

Another concern was raised by a participant regarding how there have been GFMDs but several governments from countries of destination in the gulf countries are not attending. Saiful agreed with this and perhaps through the training, they can actually think of ways to ensure more governments of countries of destination would attend.

### Civil Society Organizations' Engagement with GFMD

Presenter: John Bingham, ICMC

*Mr. John Bingham gave an overview on the usual process for GFMD, giving attention to how the civil society can engage more with the governments in the 2016 GFMD. He continued the session by splitting groups to discuss and give thoughts on GFMD in terms of communications, unity, and politics.*

John Bingham explained how, in the GFMD, there are 2 days for the global civil society to come together and have the capacity and ability to organize sessions. Another 2 days will be devoted to the governments spearheading the sessions, and there will be a day wherein both the civil society and the government could have a dialogue to discuss the issues on migration. It is very difficult for civil society to be involved in the 2 government days.

That is why, for the GFMD 2016 in Bangladesh, civil society needs to come up with a way to involve the civil society in those days and to ensure that the government will not be taking control of the conversation. With this, the participants were split into groups to discuss and give thoughts on 1) communications – for the best ways to keep strategic communication within Bangladesh and globally with other civil society, 2) unity –for the best ways to unite Bangladesh civil society with the rest of the global civil society in the GFMD, and 3) politics – for the best ways to speak with governments *in* GFMD.

Communication	Unity	Politics
<ul style="list-style-type: none"> <li>- Prioritizing civil society – possibility of further extension to Bangladeshi migrant workers since, invite more members, look into countries where Bangladeshi migrant workers dense</li> <li>- Should have diversity in local and international selection of civil society members among</li> </ul>	<ul style="list-style-type: none"> <li>- National civil society from Bangladesh should come up with prioritized issues which we can hold on civil society days (CSD). Working on project-based issues - job contracts, recruitment, inequalities women's rights</li> <li>- Conduct research with some other CSO in other countries who have the</li> </ul>	<ul style="list-style-type: none"> <li>- Governments should give the opportunity to access the CSOs</li> <li>- Meeting day, breakfast and common space, afternoon session (Wed) - should have a panel discussion between governments of COOs and CODs. Lack of security and other issues. CSO can organize and relay</li> <li>- Focus on migrants' rights</li> </ul>



experiences from previous GFMDs	<p>same priorities and also have same problems in the recruitment process, BLAs, women, and migration process.</p> <ul style="list-style-type: none"> <li>- Be the strong voice and pressure the government focus on those issues, raise own priority issues.</li> <li>- CSD should have an issue-based special group – researching for issues common in all countries; will have a pressure group</li> </ul>	and country-specific focus on migrants' rights; submit to government the position paper on government's day
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### Focus on themes for the Upcoming Modules

Presenter: William Gois, Migrant Forum in Asia

*Mr. William Gois asked for the participants' perspective on what should and can be discussed in the upcoming four DTP modules for Bangladesh. He divided the participants into groups to discuss and see which issues, concerns, ideas, methods, and strategies are common.*

William Gois wanted the participants to discuss in groups on ideas, issues, methods, and strategies they would want to focus / look at for the upcoming modules. Participants need to think of which issues are relevant to Bangladesh as well as other countries for example the Kafala system as this is experienced by all migrant workers in the gulf countries.

Issues	Group 1	Group 2	Group 3
Standard job contracts and other policies on migration of CODs	X	X	
Bilateral agreements	X		
Ratification of CMW	X		
Making HIV/AIDS check-up optional	X		
Remittances	X		
Kafala system	X		
Migration and governance	X		
Detailed discussion on Colombo Process, Abu Dhabi Dialogue, and ILO conventions	X		X
Having handouts and other information translated	X	X	
Insurance of migrant workers in CODs		X	
Access to justice		X	

Discussion on case studies		X	
Mock sessions on GFMD		X	
Role of other stakeholders in promoting migrants' rights		X	
Lobbying for migrant workers to participate in the GFMD			X
Creating pressure groups involving civil society members			X
Recruitment process	X		X
Migrant economics – knowing where migrant workers contribute the most			X
Learning the best practices of other countries			X

The facilitators, then, linked the participants' issues to the 8-point 5-year plan which is a proposal created by the civil society for an outcome and follow-up on the UN High Level Dialogue on International Migration and Development last 2013. There is support from the UN and it is in the civil society's hands to pressure the government in achieving the 8-point 5-year plan.

The participants, together with the facilitators have decided to have the 2<sup>nd</sup> module from 1 March 2016 to 4 March 2016.

### Participant Evaluations

The final session of the module was an evaluation session with participants. This included the completion of anonymous evaluation forms – and finally a share open reflection in which most participants contributed.

The evaluations were very positive overall – in relation to both content and process. A positive dynamic had been created by the participants – and between the participants and the trainers that had made the sharing of knowledge and experience enjoyable and easy.

There was feedback about the need to provide more materials in Bangla, not just English. There was generally positive feedback about the accommodation and catering – and appreciation of our hosts. A number of the participants expressed the hope that future modules could be held outside Dhaka.

**ANNEX 1**  
**Overseas Employment and Migrants Act 2013**

The following Act of the Parliament of the Peoples' Republic of Bangladesh received the assent of the President on the 27th of October 2013/the 12<sup>th</sup> of Kartik 1420, and is hereby published as the official translation into English and for information to general public:—

**Overseas Employment and Migrants Act 2013**  
(Act No. VLVIII of 2013)

An Act to promote opportunities for overseas employment and to establish a safe and fair system of migration, to ensure rights and welfare of migrant workers and members of their families, to enact a new law by repealing the Emigration Ordinance, 1982 (Ordinance No. XXIX of 1982), and for making provisions in conformity with the International Convention on the Rights of Migrant Workers and the Members of Their Families 1990 and other international labour and human rights conventions and treaties ratified by the People's Republic of Bangladesh

WHEREAS it is expedient and necessary to promote opportunities for overseas employment and establish a safe and fair system of labour migration, to ensure rights and welfare of migrant workers and members of their families, to enact a new law by repealing the Emigration Ordinance, 1982 (Ordinance No. XXIX of 1982), and for making provisions in conformity with the International Convention on the Rights of Migrant Workers and the Members of Their Families 1990 and other international labour and human rights conventions and treaties ratified by the People's Republic of Bangladesh; it is, THEREFORE, enacted as follows:

CHAPTER I  
Preliminary

1. Short title and commencement.— (1) This Act will be called the Overseas Employment and Migrants' Act, 2013.

(2) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires,—

(1) "migration" means the departure of a citizen from Bangladesh for the purpose of employment in a trade or profession in any foreign country;

(2) "migrant" means any citizen of Bangladesh who has migrated to a foreign country for the purpose of overseas employment in any work or profession and is staying in that country;

(3) "migrant worker" or "worker" means any citizen of Bangladesh who, for wages,—

(a) is in the planning process to migrate for work or is departing to any foreign country for work;

- (b) is employed in a trade or profession in any foreign country; or
- (c) has returned to Bangladesh at the end of the tenure of employment or without having completed the tenure of employment in a trade or profession from a foreign country;
- (4) "demand" means any job-offer or request for Bangladeshi workers for employment in a project or organization/entity by an overseas or a Bangladeshi employer, or a person overseas, which is approved or conforms with the instructions for visa or is approved vide any other lawful means by the appropriate authorities of the country of employment;
- (5) "citizen" means any citizen of Bangladesh according to the provisions of the Citizenship Act, 1951 (Act No. II of 1951) and the Bangladesh Citizenship (Temporary Provisions) Order, 1972 (P.O. No. 149 of 1972);
- (6) "prescribed" means set down as a course of action to be followed by Rules;
- (7) "dependent" means a spouse/husband or wife, mother, father, children, brother or sister, or any other household member who is financially dependent on the migrant worker;
- (8) "employer", for the purpose of overseas employment, means an overseas or Bangladeshi person or organization/entity who has hired the worker;
- (9) "fraud" means to cheat, deceive, induce or mislead others wilfully or negligently by any word or conduct or by contract or document about any facts or law, which shall include the meaning for which the word "fraud" is used in section 17 of the Contract Act, 1872 (Act No. 9 of 1872);
- (10) "departure" means the emigration of a Bangladeshi citizen to a foreign country;
- (11) "Rules" means Rules made under this Act;
- (12) "Bureau" means the Bureau of Manpower, Employment and Training established under Memorandum No. VIII/E-4/76/296, dated 3-4-1976 of the then Ministry of Health, Population Control and Labour;
- (13) "overseas employment" means the employment of a Bangladeshi citizen in a foreign country outside the legal authority of Bangladesh;
- (14) "person" means any natural person, company, association of persons, partnership firm, or statutory or any other kind of bodies including their agents;
- (15) "recruitment" means the hiring of workers for overseas employment by any overseas or Bangladeshi employer directly or through concerned authorities or a recruitment agent by means of a contract entered into orally or in writing, or enlistment of workers subsequent to publishing or circulating an advertisement for recruitment of workers, or exchanging letters or in any other way;
- (16) "recruitment agent" means any person/entity licensed under the Section 9; and

(17) "licence" means a licence issued to a recruitment agent under the Section 9.

## CHAPTER II

### Sending Workers Overseas, Migration, and such others

3. Authority to send workers for overseas employment.— (1) The control of all activities relating to the recruitment and emigration of workers from Bangladesh for the purpose of overseas employment shall be vested in the Government or its delegated authorities.

(2) Under this Act, the Bureau, any other organisation or entity established by the Government, and a recruitment agent may conduct recruitment related activities.

4. Migration.—(1) No citizen shall migrate or cause others to migrate for overseas employment except in accordance with the provisions of this Act.

(2) For migration of a citizen, in addition to the clearance issued under the Section 20, following documents shall be required:—

(a) evidence of recruitment for overseas employment by a person, organization or an entity authorised by the Government under an Agreement concluded with any country, or by a recruitment agent with appropriate visa; or

(b) letter of appointment in for an overseas job or a work permit, or a no objection certificate issued by any authorities of the country of employment and an appropriate visa.

5. Non-application of this Act in case of departure of certain persons.— This Act shall not be applicable for the departure of following category of persons:—

(a) a person employed in the service of the People's Republic of Bangladesh or of a local authority, who, with permission from the competent authorities, is going overseas for performing an official duty or for the purposes of education or training, or for employment with an international or multilateral organisation;

(b) a student, a trainee, or a tourist;

(c) a person emigrating at self-initiative for employment in a foreign government or international or multilateral organisation;

(d) a person emigrating to a foreign country for the purpose of medical treatment and care, or for religious, business or investment purposes;

(e) a dependent of any Bangladeshi citizen employed overseas or lawfully staying overseas; or

(f) a person who initially emigrated for education and later accepted employment in a foreign country; and

(g) a person emigrating for a purpose which is not in conflict with the purposes of this Act.

6. Application of the principle of equality.— The principle of equality is to be applied at all times for overseas employment and return of migrant workers and while providing services or performing any other action under this Act, and no one shall be discriminated on one or more grounds, including, gender, language, birth, colour, age, ethnicity or national origin, political views, religion, ideology, familial, marital or social identity, or regional affiliation, or any other reasons.

7. Place of departure.— The departure for overseas employment will be from the port or place as may be specified by the Government by notification in the official Gazette.

8. Restrictions relating to migration.— (1) If the Government is satisfied that the migration of Bangladeshi citizens to a particular country shall be against the public or state interest or that their health and safety may be jeopardized in that country, the state may, by order, restrict the migration to that country.

(2) The Government may, in the public interest or for preservation of human resources, temporarily restrict migration of a citizen or a category of citizens.

### CHAPTER III Recruitment Agents, Licence, and such others

9. Licence.— (1) No person shall operate any activity relating to recruitment unless issued a licence under this Act.

(2) A person willing to recruitment services shall have to apply to the Government for a licence in the manner and form prescribed and upon payment of fees, and by submitting the following documents:—

(a) certified copy of the trade licence;

(b) certified copy of the certificate of payment of taxes, along with a copy of the Tax Identification Number (TIN);

(c) bank statement indicating financial solvency;

(d) police certificate;

(e) In case of a company, its memorandum of association, articles of association and the certificate of incorporation;

(f) an affidavit declaring that while sending migrant workers overseas, fees and other amounts in excess of the ceiling fixed by the Government shall not be charged; and

(h) an undertaking to the effect that while sending workers overseas, false promises shall not be made to any person and that fraudulent actions shall not be practiced.

(3) Upon receipt of an application under subsection (2), the Government may, if satisfied upon examination of the information aforementioned and necessary investigation, grant

the said person a licence to act as a recruitment agent after the receipt of security money and subject to conditions, or may reject the application.

(4) If any application is rejected under sub-section (3), the applicant may apply to the Government for review of the decision within the specified time and in the manner prescribed.

(5) The licence fee, the amount of security money, and the renewal fee payable under the Section 11 shall be determined by the Rules.

10. Eligibility for licence.— (1) No person shall be considered competent to obtain a licence, if the person:—

(a) is not a citizen of Bangladesh;

(b) has not attained adulthood as per the law;

(c) is not a person of sound mind;

(d) is declared by a competent court to be an insolvent and discharge from insolvency has not been established;

(e) has been convicted of human trafficking, money laundering, international terrorism or any other serious crime; and

(f) has been convicted of a criminal offence involving moral turpitude and a period of two years has not elapsed since the completion of the punishment.

(2) A licence may be granted in favour of a company, organisation, partnership firm, or any other legal entity, if:—

(a) in case of a company or organisation, not less than sixty percent shares of that company or organisation; and

(b) in case of partnership firm or any other legal entity, sixty percent capital or ownership in that partnership firm or legal entity is owned or controlled by Bangladeshi citizens.

11. Duration and renewal of licence.— The licence of a recruitment agent issued under the Section 9 shall remain valid for three years from the date of its issue, and it shall be renewable at a three years' interval in the manner prescribed and upon payment of the fees as may be prescribed.

12. Suspension and cancellation of licence.— (1) The Government may, after adequate investigation and upon affording the licensee an opportunity to be heard, suspend or cancel the licence of any recruitment agent for any of the following reasons:—

(a) If the licence was obtained through false information or through fraudulent means;

(b) if the conditions of licence were violated or if the licence was not renewed within due time;

(c) if any provisions of this Act or the Rules or of the Code of Conduct prescribed for the recruitment agents stand violated;

(d) if the person to whom the license has been issued has been convicted a criminal offence;

(e) if the recruitment agent recruits or employs a migrant worker for a purpose not in the interest of Bangladesh; or

(f) in case of a company, organisation, a partnership firm or any other legal entity, if the licensee is duly wound up or dissolved.

(2) If the licence of any recruitment agent is suspended under above-mentioned Subsection (1), the said recruitment agent shall no longer have the legal capacity to carry out any action related to recruitment.

(3) If a licence is suspended or cancelled, the recruitment agent may, within 30 days of such suspension or cancellation, appeal to the Government for a review and the Government shall review the case within 60 days of the appeal, and the decision of the Government in this regard shall be final.

(4) If any licence of a recruitment agent is suspended or cancelled under this Section, the Government shall take appropriate measures to protect the rights and interests of those persons who may have enlisted for recruitment related services with that recruitment agent.

13. Revocation of licence.— Notwithstanding anything to the contrary contained in other provisions of this Act, the Government may, by notification through the official Gazette, may withdraw a licence in view of a public interest.

14. Branch offices.— (1) A recruitment agent, with prior approval of the Government, may run one or more branch offices.

15. Duties of the recruitment agent.— The duties of a recruitment agent shall be as follows:—

(a) to protect the interest of migrant workers;

(b) to produce, when applicable, the migrant worker for registration under section 19 and to collect migration clearance;

(c) to employ the migrant worker in the job offered and provide wages and other benefits and to ensure a good workplace conditions in accordance with the terms and conditions of the employment contract, and to maintain communication with the employer for these purposes; and

(d) to discharge other duties as may be specified, from time to time, by the Government.

16. Classification of recruitment agents.— (1) The Government may classify the recruitment agents in a prescriptive graded manner.



(2) The classification into various grades shall be done based on an evaluation of the conditions that must be met by the recruitment agents.

(3) The factors to be considered while classifying the recruitment agents into various grades under this Section shall be prescribed by the Rules.

17. Transfer of licence, the change of address, and such others.— (1) A recruitment agent is not allowed to transfer the licence.

(2) Upon the death of a recruitment agent, the concerned licence shall not devolve upon the heirs, but if an heir were to apply for a new licence, the Government shall, subject to the provisions of this Act, consider the application with preference, and in such a case, the licence shall be issued with the number of the previous licence.

(3) If the recruitment agent is a company, organization, partnership firm, or any other legal entity, any partner or any member thereof, as the case may be, are not permitted to transfer individual part or share without the approval of the Government.

(4) A recruitment agent shall not change the address of the office or the branch office without obtaining prior approval of the Government to do so.

(5) If a recruitment agent changes the address of the office premises or the address of the approved branch office under the Subsection (4), new address must be published in newspapers by that recruitment agent and a copy thereof submitted to the Bureau and the Government.

18. Forfeiture of surety, and such others.— (1) If a licence is cancelled under the Section 12, the Government may confiscate the whole or part of the surety money paid by the concerned recruitment agent.

(2) Compensation to any affected migrant worker or the cost of return/repatriation of a worker who was sent overseas by the concerned recruitment agent may be paid from the surety money confiscated under the Subsection (1).

(3) If the confiscated surety money is inadequate to pay compensation to the affected migrant worker or to ensure return/repatriation from overseas, the Government may direct the concerned recruitment agent to pay an appropriate amount of compensation.

(4) If any recruitment agent fails to pay the money directed to be paid under the Subsection (3), the Government may recover it from that recruitment agent in accordance with the provisions of the Public Demands Recovery Act, 1913 (Bengal Act No. III of 1913).

(5) If a recruitment agent surrenders the licence following the expiry of its validity period, or if the recruitment agent dies, the Government shall return the surety money to the recruitment agent or the legal heir of the recruitment agent.

#### CHAPTER IV

#### Registration of Migrant Workers, Migration Clearance, and such others

19. Registration of migrant workers and protection of their interests.— (1) A person

planning to migrate under the provisions of this Act or all migrant workers shall be registered with the Bureau and concerned trade and profession recorded, and the Bureau shall preserve full information of the workers registered in the manner prescribed and, if necessary, shall enter those information into a register.

(2) If a migrant is not registered under sub-section (1), the worker shall be allowed to register and have concerned trade and profession recorded at any time in Bangladesh or with the Bangladesh Mission in the country where the worker is employed.

(3) The Bureau, any other organisation or company established by the government, and the recruitment agents shall recruit workers openly and by means of computerised database on a random basis from amongst workers registered according to their trade or profession under subsection (1):

Provided that qualified workers are not available in the database, workers may be recruited through open advertisements in the newspapers with prior approval of the Government or of the authorities with delegated authority, and in such a case, the advertisement shall include a declaration to the effect that a fee or money in any form shall not be charged before and unless the worker has been recruited.

(4) The Bureau shall discharge the responsibility of protecting the interests of workers employed overseas, and the duties and functions relating thereto, and the means of monitoring thereof shall be prescribed by the Rules.

20. Migration Clearance.— Subject to the fulfilment of all official requirements related to migration, the Bureau shall stamp the passport of every person registered under the Section 19 with a seal bearing the registration number, and shall issue a migration clearance electronic card bearing the thumb impression and necessary information concerning migration including biometric details of the concerned migrant worker.

21. Cost of Migration.— The Government may, by an Order, prescribe the ceiling of the cost of migration to be charged for the purpose of recruitment and overseas employment.

## CHAPTER V Employment Contract

22. Employment contract.—(1) The recruitment agent shall cause to be concluded an employment contract between the recruited worker and the employer, in which stipulations concerning the worker's wages, accommodation facilities, duration of employment, compensation amount in the event of death or injury, cost of emigration to and return from the foreign country, and so on shall be stated.

(2) For the purpose of the contract mentioned in the Subsection (1), the recruitment agent shall be deemed to be a representative of the overseas employer, and as regards liabilities arising from the contract, the said recruitment agent and the employer shall be liable jointly and severally.

(3) The recruitment agent shall submit a copy of the contract concluded under the Subsection (1) to the Bureau and to the Bangladesh Mission in the concerned foreign country.

(4) In case workers being sent overseas by the Bureau or any organisation, entity or company established by the Government, the Bureau or the organisation, entity or the company established by the Government shall arrange for the conclusion of a employment contract between the employer and the worker and shall submit a copy thereof to the Bangladesh Mission the concerned foreign country.

## CHAPTER VI

### Labour Welfare Wing and Agreements on Migration

23. Labour Welfare Wing.— If it is deemed necessary to establish a Labour Welfare Wing in any country for the purpose of expanding reach into the labour market thereto or for protecting the rights of migrant workers, the Government may establish a Labour Welfare Wing in the Bangladesh Mission in the concerned foreign country, and the Wing shall perform duties as have been specified in this Act and the Rules thereof.

24. Duties of Labour Welfare Wing.— (1) The authorized officer of the Labour Welfare Wing shall inspect the place of work where Bangladeshi migrant workers are to be employed in the concerned country and shall meet with the employers, when necessary.

(2) Following the regular inspection under the Sub-section (1), the authorized officer of the Labour Welfare Wing shall, in December of every year, send to the Government an annual report along with necessary recommendations relating to the condition of Bangladeshi migrant workers working in the concerned country.

(3) The report prepared under subsection (3) shall contain the following information:—

(a) a list of Bangladeshi migrant workers with names of trades and professions they are employed in, their working conditions, benefits and problems;

(b) a list of cases brought against Bangladeshi migrant workers, if any, along with details thereof, and information about workers detained or convicted for offence;

(c) a list of names of the migrant workers who have died, causes of their deaths, and whether they were compensated by the employer or not, or indication of possibility of getting compensation;

(d) services, counseling, and legal assistance offered by the Bangladesh Mission or the steps taken to resolve the problems of migrant workers;

(e) an estimation of the job opportunities of for the Bangladeshi workers in the concerned country and the current status of the implementation of any existing bilateral agreement regarding the rights of Bangladeshi migrant workers in such country;

(f) facilities related to passports, visas, and consular services; and

(g) any other matter as may be specified by the Government from time to time.

25. Bilateral agreement on migration.— (1) The Government may conclude memorandum of understanding or an agreement with another country with a view to

increase opportunities of migration by the Bangladeshi citizens for overseas employment, improving management of labour migration, repatriation and reintegration

of the migrant workers in the home country, and to ensure welfare and the rights of migrant workers including the members of their families.

(2) Any memorandum of understanding or agreement under the Subsection (1) shall be concluded on the basis of, among others, the following principles:—

(a) protection of the rights, safety and human dignity of all migrant workers within the country or while overseas;

(b) protection of labour and other human rights of Bangladeshi migrant workers in the concerned country, and assuring conditions at work are compatible with the international standards; and

(c) assurance of the migrant workers' right to information and the right to redress if their rights are violated in the concerned country.

#### CHAPTER VII Rights of Migrant Workers

26. Right to information.— Migrant workers shall have the right to be informed about the migration process, employment contract or the terms and conditions of the work overseas, and the right to know about their rights as per the law before his departure.

27. Legal aid—Migrant workers and the persons who have become victims of fraud in the name of migration shall have the right to reasonable legal aid.

28. Right to file civil suit.— Without prejudice to the right to seek a criminal prosecution for any offence under this Act, a migrant worker, if affected by violation of any provision of this Act or of the employment contract, may file a civil suit for compensation.

29. Right to return home.— (1) A migrant worker, especially a worker detained or stranded, or otherwise is in situation of distress overseas, shall have the right to return to Bangladesh and to receive necessary assistance from the Bangladesh Mission in the concerned foreign country.

(2) If any sum of money is spent for repatriating a migrant worker, the money so spent may be recovered from that person.

(3) If a migrant worker in a situation of distress due to the negligence or illegal activity of a recruitment agent, the Government may direct the concerned recruitment agent to bear the costs of repatriation of that migrant worker.

(4) If a recruitment agent fails to pay the money ordered to be paid under the Subsection (3), the Government may recover the sum of money from the concerned recruitment agent in accordance with the provisions of the Public Demands Recovery Act, 1913 (Bengal Act No. III of 1913).

30. Financial and other welfare programmes.— For the purpose of welfare and development of migrant workers and the members of their families, the Government may, if necessary, undertake measures to launch, and make more accessible, bank loans, tax-exemptions, saving schemes, investment opportunities and other facilities.

#### CHAPTER VIII Offences, Penalties, and Trial

31. Penalties for sending migrant workers overseas in unlawful manner, and for charging unlawful amounts of fees, and such others.— (1) It shall be considered an offence if a person or a recruitment agent:—

(a) sends or assists to send a person overseas for the purpose of employment or enters into contract on behalf of another person, in violation of provisions of this Act or of the Rules;

(b) receives or attempts to receive any sum of money or a payment in any other form by giving a person a false undertaking to provide overseas employment;

(c) detains, without any valid reason, the passport, visa, and migration-related documents of a migrant worker; and

(d) makes a person fraudulently emigrate or induces a person to enter into a contract for migration by giving a false promise of high wages, benefits and facilities, or engages in fraudulent activities in any way with regard to a migrant worker;

and, for that offence, the concerned person or the recruitment agent shall be punishable with imprisonment of a term which may be up to five years, and with a penalty, which shall not be less than Bangladeshi Taka One Lakh.

32. Penalty for publishing unauthorised advertisements.— If a person or a recruitment agent publishes, without prior approval of the Government or the Bureau, an advertisement for the purpose of recruitment for overseas employment or migration, the act shall be deemed to be an offence, and, for that offence, the person or the recruitment agent shall be punishable with imprisonment for a term which may be up to one year, and with penalty, which shall not be less than Bangladeshi Taka Fifty Thousand.

33. Penalty for using unlawful means for collecting demand note, visa or work-permit for overseas employment, or for trading in such documents.— If a person or a recruitment agent adopts any unlawful means for collecting demand notes or visa or work permit for overseas employment from the employer or a foreign country, or trades in the said visa or work-permit within Bangladesh, the act shall be deemed to be a

criminal offence for which the offender be punishable with rigorous imprisonment for a term which may be up to seven years, and with a penalty, which shall not be less than Bangladeshi Taka Three Lakh.

34. Penalty for arranging for departure through places other than the specified place

of departure.— If a person or a recruitment agent arranges for, or assists in departure of a worker from Bangladesh through a place other than the specified place of departure, such an action shall be deemed as an offence, and the offender shall be punished with rigorous imprisonment for a term which may be up to ten years, and with a penalty, which shall not be less than Bangladeshi Taka Five Lakh taka.

35. Penalty for other offences.— If a person acts in breach of any provision of this Act for which no specific penalty is provided for in this Act, than that person shall be punished with an imprisonment for a term which may be up to six months, or with a penalty, which may be up to Bangladeshi Taka Fifty Thousand or both together.

36. Penalty for abetting or instigating an offence, and such others.— (1) If a person or a recruitment agent directly or indirectly abets or instigates an offence under this Act, and if the act of offence is committed as consequence of that abetment or instigation, the concerned abettor or instigator shall be liable to receive the same punishment as the perpetrator of the crime or the offender.

37. Offences committed by a company.— When an offence under this Act is committed by a company, and if its director, executive, manager, secretary or any personnel or employee has a direct involvement with the offence, that person shall be deemed to have committed the offence, unless the person establishes that the offence was committed without their knowledge and that he exercised due diligence to prevent it.

38. Trial.— (1) Notwithstanding anything contained in the the Code of Criminal Procedure 1898 (Act No. V of 1898), offences under this Act shall be triable by the Judicial Magistrate of First Class, or, as the case may be, the Metropolitan Magistrate.

(2) The trial under this Act shall be concluded within four months from the date of framing of charge in the concerned case:

Provided that where the trial does not conclude within the said time, the concerned Magistrate may, upon stating the reasons for such delay, extend the said time-frame by not more than another two months, and in that case he shall send a progress report to the Chief Judicial Magistrate's Court or to the Chief Metropolitan Magistrate's court, as the case may be.

39. Cognizability, compoundability, and so on of offences.— Offences under sections 33 and 34 shall be cognizable, non-bailable and non-compoundable, and offences under sections 31, 32, and 35 shall be non-cognizable, bailable and compoundable.

40. Act deemed to be included in the schedule of the Mobile Courts Act, 2009.— This Act shall be deemed to be included in the Schedule of the Mobile Courts Act 2009 (Act No. 59 of 2009).

41. Complaints to the Government.— (1) Any person aggrieved may, without forsaking the right to file a criminal case, may file a complaint, including, a complaint for fraud, demand for money related to costs at unapproved rates, or a breach of contract against any person including a recruitment agent, with a relevant government authority.

(2) The Government, or the authorities or a person authorized by the Government shall complete the investigation within not more than thirty (30) working days after the

receipt of a complaint under subsection (1).

(3) If the investigation conducted under sub-section (2) finds the complaint true, the Government or the authorities or the person authorized by it may, by an order, dispose of the complaint directly or through arbitration (salish) within three months from the date of completion of the investigation.

(4) The procedures for resolving complaints through arbitration under subsection (3) shall be prescribed by Rules.

#### CHAPTER IX Miscellaneous

42. Inspection.— For the purpose of preventing irregular migration, or to protect the interests of a prospective migrant worker, an officer authorised by the Government may inspect a place, or a means of transport departing from or heading towards Bangladesh.

43. Recovery of money appropriated through illegal charges.— (1) If a sum of money has been appropriated in violation of provisions of this Act, the Government, following an investigation, as may be necessary, and by order in writing, may recover the said money from the concerned person, or may file a suit for compensation for the purpose of recovery.

(2) The money recovered or collected under subsection (1) may be given to the aggrieved person.

44. Delegation of power and appointment of agents.— For the purpose of the protection of the rights of the migrant workers, the Government may, by notification or by executing a contract, delegate some powers or functions conferred by this Act, to an officer or authorities, and if necessary, may appoint an authorised agent or delegated authority in another country.

45. Power of the Government to remove any difficulty.— If a difficulty arises in the implementation of any provision of this Act, the Government may, by an order in the official Gazette, adopt necessary measures to remove that difficulty.

46. Complementary Act.— The provisions of this Act are intended to complement existing laws relating to passports, immigration, foreign relationship, exchange of foreign currency, control of foreign nationals, money-laundering, human trafficking, and the right to information, and shall not be used in derogation of them.

47. Power to make Rules.— For the purposes of this Act, the Government may, by notification in the official Gazette, make Rules:

Provided that until such Rules are made, and if it is necessary so to do, the Government may, by a general or special order, issue directives related to the adoption or execution of activities, which are compatible with this Act.

48. Authentic English Text.— (1) Upon this Act coming into force, the Government shall publish an authentic English translation of the original Bangla text of this Act by notification in the official Gazette.

(2) In the event of any conflict between the Bangla and the English text, the Bangla text shall prevail.

49. Repeal and Savings.— (1) The Emigration Ordinance, 1982 (Act No. XXIX of 1982), hereafter the 'said Ordinance', is hereby repealed.

(2) Notwithstanding such repeal, any function undertaken or action implemented, any Rule enacted, any order issued, or any notification or circular issued under the said Ordinance shall, subject to not being inconsistent with this Act and until they are repealed or amended, continue to be in force, and shall be deemed to have been undertaken, implemented, enacted or issued under this Act.

(3) A case or a proceeding that remained pending in a court of law under the said Ordinance immediately before the commencement of this Act shall be heard and disposed of by the said court in the manner as if the said Ordinance has not been repealed.