ASSESSMENT REPORT

STRENGTHENING AND INFORMATIVE MIGRATION SYSTEM-SCOPING AND PLANNING

PREPARED FOR:

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

NOVEMBER 10, 2018

PREPARED BY: ABDULLAH AL HASAN, FREELANCE CONSULTANT, DHAKA, BANGLADESH

TABLE OF CONTENTS

Acronyms	3
Acknowledgments	4
Chapter 1 : Introduction	
1.1 Overview	5
1.2 Assessment Objectives	7
1.3 Assessment Methodology	7
1.4 Assessment Sample	8
1.5 Key Assessment Questions	9
1.6 Assessment Terms and Concepts	10
1.7 Limitation of the Assessment	11
Chapter 2: Existing Formal and Informal Legal Mechanism for Migrants Rights	
2.1 In Person Negotiation	13
2.2 Traditional Shalish and Village Court	14
2.3 Mediation by Civil Society Organization	16
2.4 Reporting to Local Police	18
2.5 Bureau of Manpower, Employment and Training (BMET) & Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) Complaints Mechanism	19
2.6 Redress in Courts	28
2.7 Protection Abroad through Bangladesh Missions' Labour Welfare Wings	30
Chapter 3: Challenges to Redress Mechanisms	
3.1 Lack of Awareness of Rights	33
3.2 Lack of Documentation to Support Claims	35
3.3 Unregulated System of Individual Brokers/agents	35
3.4 Lack of Legal Aid	36
3.5 Threats	37
3.6 Corruptions	37
3.7 Inadequate Training and Resources for Government agencies	38
3.8 Workers Cases and Concerns not Taken Seriously	39
3.9 Gender related Challenges in Getting Remedies	39
3.10 Challenged in Formal and Informal Justice System	40
3.11 Limited Funding for Migrants Legal Protection	41
Chapter 4: Good Practices of Complaint Mechanism	42
Chapter 5: Findings and Recommendations	
5.1 Findings	44
5.2 Recommendations	50
Annex-1 : Relevant International Treaties and Protocols Ratified by Bangladesh	
Annex 2 : Key Informants Interviewee List	
References	

ACRONYMS

ACKNOWLEDGMENTS

This assessment was supported by Swiss Agency for Development Cooperation (SDC), Dhaka, Bangladesh. The author is grateful to .WARBE Development Organization, BRAC and OKUP. In particular the author would like to provide special thanks to Mr. Syed Saiful Haque, Chairman, WARBE, Mr. Shariful Hasan, Head of BRAC Migration Program and Mr. Shakirul Islam, Chairman, Ovibashi Karmi Unnayan Program (OKUP) for their valuable supports in collecting information and data from central level as well as from the field and writing this report successfully. The author is also thankful to lawyers of different courts at Dhaka Comilla and Nashingdi for delivering valuable insights about the challenges of enforcement of laws and complaint mechanism. The author would like to thank all government organizations, civil society organizations, migrant organizations, service providers, and experts that supported this work, agreed to be interviewed, facilitated discussions with migrant workers, and provided invaluable thoughts and opinions. Last of all, the author would like to provide special thank to Director at Bureau of Manpower, Employment and Training (BMET) Dr. Md. Nurul Islam and Dr. Md. SujayetUllah, Joint Secretary, Ministry of Expatriates' Welfare an Overseas Employment for their valuable contributions in writing this report.

CHAPTER 1: INTRODUCTION

1.1 Overview

Bangladesh's labor migration has increased exponentially over time. Total of 12,020,336[1] migrant workers now provide essential services in domestic work, care-giving, construction, agriculture, manufacturing, service industry and other sectors. Some of these workers travel through official government channel, some travel without the requisite immigration and labor permits (i.e. irregularly), and others move between statuses as their work or visa situation changes.

Less-skilled[2] labor migration raises human rights and labor rights concerns, including treatment of noncitizens; equality and nondiscrimination based on race, ethnicity, and gender; rights to decent work and to a decent standard of living; and corporate human rights responsibilities. Less-skilled migrant workers routinely encounter harms such as unpaid wages, unsafe work conditions, inadequate rest, inhumane housing conditions, or employers' confiscation of their identity documents. Accounts of exploitation, abuse, human trafficking, debt bondage, and other severe human rights problems are not uncommon.

The vulnerabilities faced by Bangladeshi migrant workers are acute in both the country and the destination country. The conditions that give rise to the exploitation, labor rights violations, and other problems that migrant workers encounter begin at the point of recruitment and persist through their return home as they are frustrated in their attempts to secure access to justice, accountability, and a remedy for the harms they suffered. Indeed, many of these harms can be linked to the lack of transparency and accountability in the recruitment process, and the inadequacy of pre departure training and rights-based education that migrants receive. Many harm that occurs abroad also breaches the contracts that workers received from recruitment agencies at home. Therefore workers access to affordable and efficient redress mechanisms within country is therefore important. Besides, in many destination countries, particularly in the Middle East, opportunities to seek redress and to systemically improve access to justice are limited.

The treatment of Bangladeshis contracting to work, or indeed working, abroad, has become a priority concern for policymakers. In recent years, the government has taken numerous steps to strengthen the foreign employment system. In spite of the government's sincere efforts, Bangladesh's labour migration sector still suffers from many challenges ranging from legal, institutional and procedural limitations, coupled with rampant corrupt malpractices by intermediaries, causing immense sufferings to millions of job-seeks who have been defying all odds in search of a better future abroad. The legal framework of migration has not clearly spelt out some important issues like complaint mechanism, worker selection, compensation etc. Moreover, it has been difficult to enforce the existing laws in a proper manner due to the obscurity and limitation in the legal frameworks. On the other hand, there are deficiencies of capacity in relevant stakeholders to ensure oversight and control in the process of labour migration. A major cause of existing problems, corruption and irregularities in the labour migration process is the institutional limitation in the relevant agencies. Lack of capacity of the government agencies involved with the labour migration has been obvious. The budgetary

[1]Bureau of Manpower, Employment and Training (BMET): Overseas Employment and Remittances from 1976 to 2018 (up to September 2018); available at : http://www.old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=20

[2] Total of 5,520,493 less skilled labours migrated from Bangladesh to different countries during 1996 to 2017; Source : Bureau of Manpower, Employment and Training (BMET): Category wise Overseas Employment From 1976-2017; available at: http://www.old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=35

allocation for the sector is inadequate on the one hand, and the money allocated cannot be fully utilized, on the other. There is also shortage of manpower in both private and public agencies engaged in labour migration.

Beside, labour migration sector in Bangladesh is heavily dependent on brokers (dalals).Thus, a direct contact between the licensed recruiting agents and the worker willing to migrate is almost absent. The migrant workers are mostly dependent on brokers for information relating to recruitment in abroad and terms of services, migration, processing of migration etc. Similarly, the recruiting agents are also dependent on the brokers to select migrant workers from the grassroots, keep in touch with them, provide assistance in processing visa etc. For these reasons, a significant portion of the migrant workers cannot take receipt for any kind of financial transactions. Such practices make it impossible to preserve documentary evidence of spending for migration. The migration cost has not been fixed for all the countries. Due to lack of documentary evidence the amount that should be provided as compensation in case a migrant worker is cheated, cannot be fixed properly and the migrant worker concerned is deprived of proper compensation.

The regulation of recruitment for migrant workers in Bangladesh is based upon the Overseas Employment and Migrants Act, passed in 2013. The law requires that private recruitment agencies that send Bangladeshi workers abroad must have license[3] and pay deposit/security money[4] to the Bureau of Manpower, Employment and Training (BMET) as a security against illegal recruitment practices whereas the law didn't addressed the countrywide scattered unrecognized brokers or middlemen's roles as well as their fraudulent activities in the recruitment process. Between 2015 and 2018 (up to September 2018), total of 161 complaints[5] made by several victimized labour migrants to BMET against licensed recruiting agencies whereas no complaints were registered against dalal/brokers in BMET due to lack of evidences and witnesses. However, only 13.6 per cent[6] complaints against private recruiting agencies were resolved successfully by BMET in last three years. The low frequency of complaint disposal is partly the result of the most of private employment agencies that have either patronage or direct ownership links to politicians and government officials and are thus sheltered from legal or disciplinary actions. As one government official has explained, "Employment agencies usually have the connections to see that the case is settled out of court. Maybe the money is repaid and the matter is put to rest without further enforcement"[7]. Inadequate government oversight of private employment agencies has both directly and inferentially resulted in severely negative impacts on migrant workers.

Therefore, access to justice is essential not only for the individual migrants involved, but also their families, their communities and society as a whole. Access to justice or access to grievance redressal mechanism is essential for enforcement of the contractual, statutory, and treaty rights that migrant workers possess. It strengthens the rule of law by increasing transparency and ensuring accountability of private and government actors, often addressing systemic gaps in rights protections. It can encourage future good behavior by state and private actors, and increase individuals' faith and participation in public life and institutions. Financial redress can enable workers to escape the cycle of debt and poverty that makes them vulnerable to further exploitation and abuse. And, of course, it achieves the ultimate aim of providing justice to individuals who have been wronged.

[3] Overseas Employment and Migrants Act 2013, Section 9.
[4] Overseas Employment and Migrants Act, 2013, Section 9(5).
[5] Telephonic interview with Md. Masud Rana, Senior Statistical Officer, BMET, Dhaka, 16/10/2018.
[6] Telephonic interview with Md. Masud Rana, Senior Statistical Officer, BMET, Dhaka, 16/10/2018.

This assessment report seeks to examine access to justice for Bangladeshi labor migrants. It focuses specifically on redress options in Bangladesh. The assessment includes an examination of available remedies for rights violations that occur in Bangladesh and abroad, and assesses the accessibility and effectiveness of the mechanisms established to provide redress under the existing legal framework. This assessment is funded by Swiss Agency for Development and Cooperation (SDC) with aim to design a project for addressing the needs of migrants and their families at different stages of the migration cycle. It is hoped that the detailed analysis and recommendations set forth in this report will contribute to strengthening of the Bangladesh labor migration system.

1.2 Assessment Objectives

The activities of the assessment were expected to support Swiss Agency for Development and Cooperation (SDC) to design a project for addressing the needs of migrants and their families at different stages of the migration cycle (pre-employment, pre-departure, return and reintegration) and strengthening the overall service delivery mechanism. The specific objectives of this assessment are:

1) identify the potential issues faced by migrants and their families in accessing grievance redressal mechanisms at all levels in the country;
2) Explore arenas where SDC's project can best intervene to address such issues as well as identify interventions related to access to grievance mechanisms.

1.3 Assessment methodology

The assessment for the analysis was carried out between 17th October and 30th November 2018 at Dhaka, Narshingdi and Comilla districts. This assessment primarily relies on qualitative data, examining and seeking to understand perceptions of, and experiences with, various justice/ grievance redressal mechanisms for migrant workers in Bangladesh. It explores common themes emerging from the experiences of participants and does not seek to provide comprehensive and definitive quantitative data regarding the operation of each of the mechanisms. Such quantitative data is not available and is beyond the scope of this assessment. In addition, the author conducted extensive desk research into the relevant laws and policies affecting migrant workers, data on migrant work and migrant workers to the different countries, and the various justice institutions of Bangladesh. These sources include laws and policies, academic and other secondary literature, and media reports.

The assessment began through author's visit in three locations (Dhaka, Narshingdi and Comilla districts) and conducted interviews and focus groups discussions with migrant workers, prospective migrant workers, and key informants. In total, 103 people, including 60 migrant workers and 43 key informants, were interviewed (see Table 1).

In the three locations, the authors conducted in-depth interviews with 6 migrant workers. One participant described two separate experiences of her 2 brothers, creating one additional case. In the interviews, the researchers explored the experience of migrant workers while abroad, and actions taken after return. The focus groups gave greater attention to pre-departure preparation and workers' understanding of legal rights, including access to justice/access to grievance redressal mechanism. Total of 42 females and 18 males returned victimized migrants participated in 4 focus group discussions at three locations. Key informants were concentrated both in Dhaka, Narshingdi and Comilla districts, where the relevant institutions and agencies associated with migrant labor, and the justice sector. Total of 37 males and 7 females were interviewed as key informants under this assessment.

1.4 Assessment sample

The data collection during field assessment comprised of a purposefully selected sample of focus group participants, key informants and in-depth personal interviews. The assessment was carried out in Dhaka and two other districts of Bangladesh where there is a large & medium population[8] of migrant workers: Comilla and Narshingdi districts. The assessment subjects targeted for data collection included government officials, lawyers, local government representatives, police, teachers and staff of non-governmental organizations (NGOs), owner of private employment agency, current and returned migrant workers and others.

Table 1. Assessment sample

Assessment Technique	Respondents	Sample Number	Assessment Sites
FGD	Victimized returnee and potential migrants	60 (in 3 FGDs)	Dhaka, Comilla and Narshingdi
KII	Joint Secretary (Political-3), Public Security Division, Ministry of Home Affairs, GOB (1 person); Joint Secretary (Research & Policies), Ministry of Expatriates' Welfare and Overseas Employment, GOB (1 person); Deputy Solicitor (Criminal), Solicitor Wing, Law & Justice Division, Ministry of Law, Justice and Parliamentary Affairs, GOB (1 person), Director (Employment) (responsible also for complaint mechanism), Bureau of Manpower, Employment and Training(BMET), Dhaka (1 person); Director (Training) Bureau of Manpower, Employment and Training(BMET), Dhaka(1 person);Additional DIG (Organized Crime), Criminal Investigation Department, Bangladesh Police, Dhaka (1 person); Owner of M/s Sadia International (recruiting agency), Dhaka (1 person); Assistant Public Prosecutor of Women and Children Repression Prevention Tribunal, Dhaka (1 person); Chairman/Director, WARBE Development Foundation, Dhaka (1 persons); Director, Bangladeshi Ovhibashi Mohila Sramik Association (BOMSA), Dhaka (1 person);Officer in Charge, Application of Migration policy for Decent Works for Migrant Workers project, ILO Bangladesh (1 person); Chairman, OKUP, Dhaka (1 person); Head of Migration Program, BRAC, Dhaka (1 person): Manager, Legal Aid Services, BLAST, Dhaka (1 person),	20	Dhaka

[8] Total number of migrants from Comilla is : 857,844 persons ; Total number of migrants from Narshingdi is : 225,862 persons (up to September 2018) ; Source : Bureau of Manpower, Employment and Training (BMET): : District Wise Overseas Employment from 2005 to 2018 (September 2018) : Available at : http://www.old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=31 ; http://www.old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=25

	Executive Committee member, BNWLA (1 person) and 4 brokers/middlemen.		
KII	Inspector/Sub Inspector of Sadar Police Station (1 person); Director/Manager of NGO (1 person); Senior lawyer of district/women children repression prevention court (1 person); District Government Legal Aid Officer (1 person); Upazilla Nirbahi Officer (1 person); Union Parishad Chairman/member (1 person); School Teacher (1 person); District Manpower & Employment Officer (1 person)	8	Comilla
KII	Inspector/Sub Inspector of Sadar Police Station (1 person); Director/Manager of NGO (1 person);Senior lawyer of district/women children repression prevention court (1 person);District Government Legal Aid Officer (1 person);Upazilla Nirbahi Officer (1 person); Union Parishad Chairman/member (1 person);School Teacher (1 person);District Manpower & Employment Officer (1 person); Field Officer, OKUP, Narshingdi Project Office, Narshingdi (1 person); Manager, BRAC Migration Program, Narshingdi (1 person)	9	Narshingdi
IDI	Victimized returnee and potential migrants	6	Dhaka, Comilla and Narshingdi

1.5 Key Assessment Questions

1. What are the existing formal and informal mechanisms for enforcing rights of migrant workers and seek redress; how many different types of formal and informal systems exist; what are the challenges and strengths of the formal and informal system and what are the linkages if any between the formal and informal system?
2. What are the formal and informal mechanisms of legal redressal at Union, Upazila, District and national level?
3. How does government's complaint cell function in practice?
4. How are the complaint mechanisms being used by migrant workers and what are the obstacles or constraints they encounter when availing themselves of the mechanisms?
5. What impacts have the current complaint mechanisms had on the resolution of disputes, the compensation for abuses, the access to justice, the protection of workers and the disciplining of recruitment agencies?
6. What are the relevant international standards and good practices for complaint mechanisms for migrant worker recruitment recognized by different authorities on international law? How can the legal framework, operations and enforcement of the complaint mechanisms for migrant worker recruitment be improved so that they are more aligned with international labour standards and good practices?
7. What is the prevailing donor landscape on legal services for labour migrants?
8. If SDC plans an intervention for legal services for migrant workers how will it be structured?
    a. To benefit and support migrant workers;
    b. To strengthen existing systems and make them more effective.

1.6 Assessment Terms and Concepts

The principal concepts and terminology referred to within this report are based upon the Bangladesh Overseas Employment and Migrants Act 2013, ILO and United Nations General Assembly accepted definitions, as follows:

Migrant worker
"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). [Overseas Employment and Migrants Act 2013]

Recruitment
"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. [Overseas Employment and Migrants Act 2013]

Illegal recruitment of migrant workers
"Any form of canvassing, procuring, promising, contracting or transporting of workers for employment abroad by an agency/agent or directly by an employer that is not in conformity with national laws and regulations. This may include overcharging of fees; debt bondage; falsification or seizure of documents; deception with regard to the nature and conditions of employment, including contract substitution; exploitation and abuse while waiting for the job to materialize or to be sent abroad; lack of preparation for employment abroad, including lack of pre-departure training; forced/coerced recruitment, including being kidnapped or sold to illegal recruiters or traffickers; and hazardous journey to the country of destination." (ILO, 2003, pp. 17–18)

Overseas Employment
"Overseas employment" means the employment of a Bangladeshi citizen in a foreign country outside the legal authority of Bangladesh. [Overseas Employment and Migrants Act 2013]

Private employment agency
"Any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:
(a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships [that] may arise there from;
(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to … as a 'user enterprise'), which assigns their tasks and supervises the execution of these tasks;
(c) other services relating to job seeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment." (Private Employment Agencies Convention, 1997 (No. 181))

Labour broker
Although there is no official definition of the term "labour broker" within any instrument of the ILO or the United Nations General Assembly, the term is used in this report to refer to any natural or legal person not licensed by the State to provide one or more of the previously mentioned

labour market services. This includes both individual brokers and social networks that provide services with or without remuneration.

Complaint Mechanism

"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". [Overseas Employment and Migrants Act 2013].

Government may delegate power to resolve registered complaints through mediation or shalish to one of BMET officer. The officer will issue an official letter to all the disputed parties to present in a specific date, time and place with evidences for hearing of complaint. The officer will hear statements of all of disputed parties along with third party statement (if needed) and examine all of relevant evidences and then resolve complaint. Afterwards officer will provide a written report to the bureau as well as all of the disputed parties. (Rule # 15 of Overseas Employment and Migrants Management Rules 2017). As per Rule # 16 of Overseas Employment and Migrants Management Rules 2017, if disputed parties were not stratified with decision of BMET officer, in that case they will file appeal within 30 days of shalish or mediation decision to the government and the government will resolve the appeal within next 30 days of appeal register and here the government's decision will be final.

"...machinery and procedures, involving as appropriate the most representative employers' and workers' organizations, for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies." (Private Employment Agencies Convention, 1997 (No. 181)

1.8 Limitation of the Assessment

The limitation for the analysis was the small scale of the field assessment. Approximate estimates indicate that majority of Bangladeshi[9] workers from field assessment districts (Comilla, Narshingdi and Dhaka) deployed in overseas through assistance of local brokers. It has been found also that most of returnee migrant workers faced deception at the time of their, recruitment and placement in job and didn't reported their complaints to anywhere[10]. As a result of the time constraints, the assessment did not attempt to obtain a quantitatively representative sample of migrant workers' experiences in accessing complaint mechanisms. To mitigate this limitation, the consultant focused primarily upon making a qualitative assessment of the existing legal framework, complaint mechanisms, based upon data provided by a knowledgeable and carefully selected sample of interviewees and focus group participants as well as an extensive review of secondary sources of information.

[9] Estimate revealed through focus group discussions with victimized migrants at Dhaka, Narshingdi & Comilla.
[10] Information revealed through focus group discussions with victimized migrants at Dhaka, Narshingdi & Comilla.

CHAPTER 2:

EXISTING FORMAL AND INFORMAL LEGAL MECHANISM FOR MIGRANT WORKERS

Throughout the migration process, most of Bangladeshi migrant workers interact with government agency and private parties in Bangladesh and abroad, in relation to whom they have legal rights. These private parties include recruitment agencies, overseas employers, and potentially private local brokers who make verbal promises to workers. Workers have several avenues through which they might attempt to seek redress in the event of a dispute with, or rights violation by, one of these parties. Apart from the courts and ministry level complaint mechanism, these avenues were typically viewed by the various stakeholders in this assessment as paths to problem-solving rather than mechanisms for legal rights enforcement. They include:

- In Person Negotiation;
- Traditional Shalish & Village Court;
- Mediation by NGOs;
- Reporting to Local Police;
- Bureau of Manpower, Employment and Training (BMET) & Ministry of Expatriates'' Welfare and Overseas Employment (MoEWOE) Complaints Mechanism;
- Redress in the Courts;
- Protection Abroad through Bangladesh Missions' Labour Welfare Wing.

This part of the report reviews each of these mechanisms, identifying the relevant legal framework where applicable, the various factors involved, the procedures for filing and resolving a complaint, and perceptions of the efficacy (or otherwise) of the mechanism. It draws on the experiences of migrant workers, the perceptions of lawyers and civil society "case-handlers" who assist migrants, and the views of government officials who implement and oversee the mechanisms.

By far the most popular method for a victimized migrant worker seeking redress against a private party in Bangladesh, according to assessment participants, is informal in-person negotiation, whether with the broker, the recruitment agency or the employer. And very few migrant workers take their problems any further because of lack of information, evidence and a lack of faith in the efficacy of available mechanisms. This perception was borne out by focus group participants, among whom only a handful had taken any action beyond communicating with the broker or the agency.

Migrants in focus groups mentioned that they never used the government's free legal aid services both in country and outside of the country due to their limited knowledge and access in government's free legal aid services. Though some of Bangladeshi NGOs are providing free legal aid services to the victimized migrants within the country, still free legal services for victimized migrants in destination countries is unreachable. Some of destination countries (i.e. Lebanon, Jordan, United Arab Emirates, and Malaysia) non government organizations (Caritas Lebanon, Tamkeen etc.) are delivering free legal aid to Bangladeshi migrant workers in limited scale. Private legal aid services for migrant workers are unavailable in Bangladesh. District Legal Aid Officers at Dhaka, Narshingdi and Comilla who were interviewed for this assessment said that migrant worker cases were "extremely rare" and fell generally within section 420 of Bangladesh Penal Code 1860 and sometimes under section 6 of Bangladesh Negotiable Instruments Act 1881." And while some private lawyers specialize in migrant worker cases, one lawyer interviewed suggested "this was also rare because the cases are complex, and migrant

workers can rarely pay legal fees".[11] Another lawyer interviewed said this is a vital question for returnee migrants "whether they will be included within the definition of "the poor," the target population of the law (Bangladesh Legal Aid Services Act 2000)".[12] Migrant workers may come home with some earnings, but still face structural barriers to seeking redress for valid claims. A senior lawyer of Comilla Judge Court suggested that "a broad interpretation of the Legal Aid Services Act 2000 could provide a vital service to the thousands of migrant workers seeking redress each year."[13]

Instead, when seeking redress migrant workers rely on local non-legal civil society organizations. All the migrant workers who participated in focus groups in this assessment had received initial assistance, counseling and primary advice from these CSOs; none had received professional legal assistance from these local non-legal civil society organizations. However, these organizations play a vital function in advocating for individual migrant workers in claims against government or private parties and assisting with gathering documents and evidence. Nevertheless, several experts lamented the scarcity of trained legal advisors or lawyers in migration prone districts who could advise potential and returnee victimized migrant workers on their rights under statute and contract.

2.1 In Person Negotiation[14]

Informal negotiation is the first, and often only, dispute resolution method used by migrant workers and their families, if they take any action at all. Migrant workers and recruitment agencies /their agents/ sub agents/ local brokers can negotiate their disputes before taking further action as per mechanism of Bangladesh's Alternative Dispute Resolution (ADR).

Participants in focus groups described negotiation as useful for a range of disputes with recruitment agencies/agents/sub agents, including: repayment of lost fees if the placement fails; return of personal documents; repayment of lost wages if the worker was not paid according to the placement agreement. Such negotiation is also usually the only option for workers in disputes with local brokers, who are not subject to direct regulation and receive little government oversight (unless the matter is reported to the police for criminal fraud).

Overseas Employment and Migrants Act 2013 does not establish a procedure for negotiation/informal discussion. It has been found during focus groups that that migrant worker and their families learn strategies from each other to claim their loss. Participants in focus groups explained that in most cases, the migrant worker or family member attempts to locate the other party, explains the situation, and asks for some relief. In most cases a local civil society organization assists the worker to gather necessary documents or to retrieve documents from recruitment agencies/agents/sub agents/local broker—such as a copy of the employment agreement if the worker did not receive or keep a copy. Negotiations may range from highly informal conversations to more formal meetings in which civil society organization representatives present documents and evidence of loss to the other party, and request specific redress. Civil society organization representatives noted that these discussions are sometimes heated, with each side making demands of the other.

Parties may discuss the dispute by letter or phone, but civil society representatives emphasized that in-person meetings were usually required to achieve a result. A representative of WARBE noted: "We have to be very careful in our case handling and negotiation—we do it all in person. As soon as we need to involve the sponsor/broker or even the placement agency, we go

[11] Interview with Advocate Md. Mobarok Hossain, Private Lawyer, Dhaka, 28/10/2018
[12] Interview with Advocate Harun Talukder, Senior Lawyer, Dhaka Judge Court, Dhaka, 28/10/2018
[13] Interview with Advocate Tawfiq Zaman, Senior Lawyer, Comilla Judge Court, Dhaka, 24/10/2018
[14] This is a voluntary and informal process by which the parties to a dispute reach a mutually acceptable agreement. As the name implies the parties seek out the best options for each other which culminates in an agreement.

straight to the placement agency office." Participants in interviews and focus groups described the considerable time and work involved in every negotiation, including sending letters, making calls, and driving or taking transport to numerous meetings.

In-person meetings present several challenges. Meeting with brokers can be difficult because some disappear after arranging recruitment, although others may be known to the community and can eventually be contacted.[15] Brokers who are contacted often deny any responsibility and blame the agency both in country and destination country. An in-person meeting at an agency can be highly intimidating for a worker or her family, as it involves travel to Dhaka, and agencies are often located in different parts of Dhaka. Travel to Dhaka may also be costly (though direct negotiation may still be cheaper than other pathways to redress).

One returnee migrant described attempting to negotiate with the recruitment agency, who was working in Saudi Arabia, had not been paid during her job tenure. She told the focus group:"I have been going back and forth, back and forth, to the recruitment agency for the last one year. But nothing happens. There is no one there except the outsourcing agent and he just says, "yes, yes" but gives me no answer. Really it is the broker's responsibility, but he has disappeared."[16]

Civil society organization's representative told the focus group that they describe migrant workers enlisting the help of friends, family, civil society organizations and even the recruitment agency to speak to an employer. An organization in Comilla explained their process as follows:

"In a case of a salary not being paid, we sometimes contact civil society organization in destination country who is working in that country and ask that organization to discuss with the employer. This is actually a new technique for us. It turns out that the employers can also be approached. A organization who helped us in one recent case had worked there a long time and knew the laws, language and the culture of that country there to help smooth our path [in the negotiation]. The return flight was arranged and the salary paid."[17]

In this way, negotiation may also prevent problems from escalating, or help to resolve misunderstandings before a worker needs to seek formal redress. And despite the inherent power imbalances that can make a fair negotiation difficult to achieve, negotiation appeared to be a familiar method for resolving disputes. Indeed, participants in focus groups described negotiation as an ongoing component of all dispute resolution mechanisms, even after a worker has filed an official complaint.

2.2 Traditional Shalish & Village Court

There are three distinct versions of shalish in Bangladesh: traditional shalish, government administered "village courts" and NGO modified shalish. It is the government administered shalish which falls clearly into full incorporation model[18]. Government officials apply "traditional" norms, thus fully incorporating the informal justice system and the state.

An informal justice mechanism, Shalish is: 'basically a practice of gathering village elders and concerned parties, for the resolution of local disputes. Sometimes Chairman and elite members of the Union Parishad are invited to sit through the proceedings. Shalish has no fixed dimension

[15] Interview with Mr. Babul Hossain, Field Officer, Obivashi Karmi Unnayn Program (OKUP), Narshingdi, 20/10/2018

[16] Interview with returnee victimized migrants, Narshingdi, 21/10/2018

[17] Interview with Mr. Babul Hossain, Field Officer, Obivashi Karmi Unnayn Program (OKUP), Narshingdi, 20/10/2018

[18] Definition of full incorporation model: The informal justice system is given a formal role within the formal state justice system. The formal state system may codify or incorporate as common law the informal or customary rules or norms of decision into its decision making process. The informal structure may also comprise one section of the lowest tier of courts within the entire formal structure. Specialised formal courts may be established to hear only disputes arising under customary law.

and its size and structure depend entirely on the nature and gravity of the problem at hand (Sumaiya Khair: 2001).

Two of three visited districts for this assessment, Comilla and Narshingdi districts, had shalish leaders at the village level that continued to hear local disputes. Shalish is a completely informal mechanism which has no specie procedure to follow. The adjudicators (shalishkar) of a shalish do not have any legal authority, but they get social authority from their seniority, wisdom, economic and religious status or by way of village politics. For delivering justice, shalish mechanism uses no specific law but the notion of justice emanated from religious guidance and sense of social wellbeing. Shalish may involve voluntary submission to arbitration (which, in this context, involves the parties agreeing to submit to the judgment of the shalish panel), or mediation (in which the panel helps the disputants to try to devise a settlement themselves) or a blend of the two. 'Shalish addresses almost all type of disputes- civil, criminal or family. These often involve gender and family issues. The purpose of Shalish is to dispose off different type of local disputes locally, speedily and amicably without resorting to formal expensive and lengthy court procedures.

Of the 6 migrant workers separately interviewed from Dhaka, Narshingdi and Comilla, 4 went to their respective village shalish leaders/ shalishkar to seek redress. 4 of the migrant workers approached the village shalish leaders immediately upon return from the destination country, and the others contacted the shalish leaders when the local police refused to help them. All 6 described it as their perceived last resort, being unaware of government and NGO processes available in their respective locations or centrally at Dhaka.

All 6 cases brought by the migrant workers pertained to conditions of work in the Gulf that were significantly inferior to what was promised by their brokers. Two were promised work as electricians but found themselves working as building laborers for less than half the agreed salary. Another four worked in a house as domestic worker but for significantly longer hours than promised and for a lower salary. The brokers did not deny that the conditions were different, but in nine cases blamed the migrants for their situations.

The village shalish leaders/shalishkars took different approaches to these problems. In one case, the village shalish leaders/shalishkars ordered that the broker return the fees paid by the workers. In two cases, the village shalish leaders ordered the brokers to return the fees minus an amount to cover the worker's flight, and an effective penalty because the worker came home immediately (it is unclear why this factor was judged to weigh against the workers). The amount ordered to be repaid was half the amount of the fees initially paid by the workers. In three cases, the village shalish leaders decided wholly in favor of the agent. It found that the workers were forced to return to Bangladesh because of escape from employer houses, so the brokers were not responsible. It did not consider the original deception regarding the conditions of work abroad.[19]

The migrant workers' responses to these outcomes were predictably mixed. The first migrant worker was pleased, noting: "I am more or less satisfied. At least the broker gave me the amount that I had invested. The village shalish leaders helped me a lot in this. It is with the help of the village shalish leaders that I got my money back." Second two migrants were not as satisfied. In the last three cases, the migrant worker believed that the broker had swayed the shalish leaders, indicating the potential for local political and power relationships to influence proceedings.[20]

[19] This part written based on interviews with returnee victimized migrants at Dhaka, Comilla and Narshingdi; dated 21/10/2018, 24/10/2018 and 27/10/2018.

[20] This part written based on interviews with returnee victimized migrants at Dhaka, Comilla and Narshingdi; dated 21/10/2018, 24/10/2018 and 27/10/2018

Clearly this is a very small sample and cannot be said to represent the decisions of village shalish leaders more generally. But these example cases suggest some general conclusions. Most significantly, each village shalish leaders are different, and without common standards by which to come to decisions, they may make what appear to be arbitrary decisions. The shalish leaders weighed similar pieces of evidence differently and in some cases ignored arguments and evidence brought by the complainant.

On the positive side, the workers had a sense of a having had a hearing before the community. In all six cases, the process was relatively quick, ranging from one week to a few months. In the first case at least, the broker did return the money at the behest of the village leaders (but he did not pay the amount full), although he had previously refused a similar order by the police. This suggests that the village shalish leaders have unofficial enforcement authority at the local level and at least under some circumstances, their decisions are respected.

All six of the cases in this sample were brought by men; none of the women who participated in focus groups mentioned contacting a village shalish leader. This could be simply because the number of women in the assessment sample was small and did not include women who had used this option. However, it might also be attributed to a sense that the village leadership, all of which is male majority, would not listen to women's concerns and speaking out before a community about experiences abroad may be very difficult for many women. It may also lead to shame and stigmatization, particularly for those who had traveled irregularly or returned within short days of their travel from different countries. One NGO representative told that "traditional justice mechanisms (which include the village shalish) in general, particularly in Narshingdi and Comilla districts, were found to systematically discriminate against marginalized groups—particularly for returnee women migrants, the poor." Migrant women workers' access to traditional decision-making bodies is limited (due to different societal and patriarchal factors) and this need further research.

Beside, the migrant workers can seek redress from the village court also. The village court as a state-led rural justice system which has jurisdictions to try specific nature of disputes either civil or criminal, for instance, civil clash, dispute with movable or immovable properties, theft, damaging of crops, harming cattle, breach of monetary deal, poisoning fish in pond or canal. Despite of its legal bindings it is in fact required to follow less formal procedure for adjudication of disputes. Most of the migrants workers in focus groups said that they didn't sought assistance ever from village court due to limits of village court's jurisdiction[21] to award compensation.

2.3 Mediation by NGOs

The third means identified by workers to resolve disputes and/or seek redress outside of the formal system is through mediation, usually conducted by civil society organizations. Some organizations will negotiate on a worker's behalf, or organize meetings between the migrant worker and other private parties, such as recruitment agencies or agents or brokers. Assessment participants generally referred to these strategies as "mediation."

In general, organizations assisting migrant workers to resolve claims in this way first obtain the details of the case, and then help the worker gather documentary evidence. The organization would then telephone the other party to present the claim, or arrange a meeting between the parties.

The practice of mediating disputes was controversial among those interviewed for this assessment. Some, including other civil society organizations and government representatives,

[21] According to the revised Village Court Act 2013, jurisdiction of the village courts for fining a guilty party or the value of the disputed property would be BDT 75,000 (USD 974) instead of the previous limit of BDT 25,000 (USD 325).

believed that mediation undermines accountability because it redirects claims away from the government agency (i.e. BMET) and the Court. Others in the civil society and NGO community believed that informal mediation is more practical for many migrant workers. Most significantly, it is faster than formal mechanisms, providing workers with immediate redress if successful. It can also be undertaken at the community level if the other party is local, saving migrant workers the expense and inconvenience of traveling to central level at Dhaka. Further, mediation is less confrontational than reporting a person to BMET. According to some civil society organizations, migrant workers are often reluctant to report their cases to BMET or the police because the broker is a member of their family. As BOMSA, an NGO that works mainly with migrant women, explained:

Most migrants do not want their cases to be filed at BMET. Most of them want to solve their problems through mediation. This is primarily because of the fear that [filing a case] could create problems in their social relationships as most of the brokers or members of the recruitment agencies are [part of their close social circle].[22]

BOMSA also noted that migrant workers see the recruitment agencies as politically powerful, and so were reluctant to file a case against them, believing they had no chance of winning. Another NGO- BRAC[23] explained that most migrants needed payment quickly so they could repay their loan, and were unwilling to file a case that could take several years. WARBE in Comilla also noted that many migrant workers did not have sufficient evidence to file a claim and so mediation was their only real option[24].

Organizations that mediated cases indicated they would offer to refer cases to the authorities if no solution emerged from mediation. Both BRAC and WARBE said that their staff would assist migrant workers to file a claim with the police or to go to DEMO/BMET or to District Commissioners' office's Migrants Complaint Wing, if mediation was unsuccessful. District Manpower Office (DEMO) in Comilla district, which receives 50–60 migrant worker complaints per year, said, however, it had not yet referred any cases to its central office in Dhaka. Instead they mediate the complaints by themselves and report to BMET about number of complaints received and mediated[25].

As well as being more convenient, civil society organizations that mediate cases believed that mediation often provides better outcomes than DEMO could achieve, because the recruitment agencies agents or brokers wish to avoid a claim being filed against them and will pay what is owed. BRAC (Narshingdi) cited a recent case of 8 returned migrant workers from Malaysia for whom it managed to negotiate a settlement with the recruitment agency, which it believed was better than what could have been achieved at DEMO. However, this does not apply equally to disputes with brokers, where the closeness of the relationships may be a barrier.

Migrant workers in this assessment did not mention contacting a civil society organization, nor did they seem to know about the services civil society organizations offer, suggesting that the ability to seek assistance from a civil society organization may depend on the migrant worker's location, social circle and the reach of organizations, which often does not extend to remote areas of district or small communities.

One migrant worker participant in this assessment undertook mediation through a service provided by the local government (union parishad) rather than a civil society organization.[26] The

[22] Interview with Ms. Sumaiya Islam, Director, Bangladeshi Ovhibashi Mohila Sramik Association (BOMSA), Dhaka, 27/10/2018
[23] Interview with Mr. Abdur Rahim, District Coordinator, BRAC Migration Programme, Narshingdi, 21/10/2018
[24] Interview with Mr. Jafor Ullah, Center-In-charge, WARBE Migration Information Service Center, Comilla, 24/10/2018
[25] Interview with Mr. Debobrato Ghosh, Assistant Director, District Manpower Office, Comilla, 24/10/2018

[26] This part written based on interviews with returnee victimized migrants at Dhaka, Comilla and Narshingdi; dated 21/10/2018, 24/10/2018 and 27/10/2018

worker had paid BDT 300,000 to go abroad where he was mistreated, and upon returning to Bangladesh, he approached the broker and managed to get BDT 300,000 of his fees returned to him. However, because the broker refused to pay him the remaining sum, he approached the union parishad office where his cousin was working. Eventually, not wanting to cause strain in local relations, the worker accepted a settlement of just BDT 80,000 of the remaining amount he was owed.

While only one migrant worker had used local government to seek redress, this avenue is gaining increased attention. One report submitted by a civil society organization addressing governance and safety of migrants, suggested that legal bodies should be established at local (district, upazila, union, and municipality) levels. Similarly Ovibashi Karmi Unnayan Program (OKUP) initiated a project at Narishingdi to serve migrants and their families through local mechanisms, including by providing legal advice—namely a referral service to Bangladesh legal Aid and Services Trust (BLAST)- Narshingdi, in operation.[27]

In sum, the practices of civil society organizations are non-standardized and are carried out on an ad hoc basis by each organization. Without records of these mediations, it is difficult to assess whether they are providing workers with the redress to which they are entitled, and/or whether they are in fact providing redress to workers who would otherwise not receive anything. How mediation works in practice, the experiences of migrant workers using mediation services, and whether it could and should be a recognized alternative to more formal methods, deserves further research.

2.4 Reporting to Local Police

Another strategy used by some migrant workers is reporting to local authorities in their communities. Bangladesh Police had opened up a Probashi Ovijog Desk (Migrants Complaint Desk) at District Superintendent of Police (SP) Office to handle migrants' complaints. One Inspector has been assigned for this desk at district level. Major responsibility of this inspector is to provide necessary police assistance to victimized migrants, investigate the complaints, arrest the suspected offender and file a case against offender.

The Overseas Employment and Migrants Act 2013 and its Rules (titled: Overseas Employment and Migrants Management Rules 2017) doesn't specify police's roles in migrants complaints dealing. Unfortunately none of visited districts' police Probashi Ovijog (complaint) desks had filed migrant rights violation cases under Overseas Employment and Migrants Act 2013 yet. In most of the cases, local police is doing mediation to solve the disputes between parties.[28][29]

As per Overseas Employment and Migrants Management Rules 2017, BMET and Labour Welfare Wings of Bangladesh's Foreign Missions had jurisdiction to conduct investigations into foreign employment cases. The exception to this, experts (during interviews) explained, was if the complaint included criminal matters that do not come under the Overseas Employment and Migrants Act 2013 and its Rules (2017) such as threats or violence related to a migration dispute. In practice, it appears that many migrant workers do in fact contact the police for assistance; 4 of the 60 migrant workers said for this assessment contacted the police when seeking redress in Bangladesh[30]. One of those complaints was made against individual broker for fraudulently taking their money but not sending the complainant abroad. In the remaining three cases, the migrant worker returned from abroad after finding that the work or conditions

[27] Interview with Mr. Babul Hossain, Field Officer, Obivashi Karmi Unnayn Program (OKUP), Narshingdi, 20/10/2018

[28] Interview with Office in Charge of Narshingdi Sadar Model Police Station, Narshingdi, 21/10/2018

[29] Interview with Inspector of Probashi Ovijog Desk of District SP office, Comilla, 25/10/2018

[30] This part written based on interviews with returnee victimized migrants at Dhaka, Comilla and Narshingdi; dated 21/10/2018, 24/10/2018 and 27/10/2018

were different from what was promised. Worker primarily sought police assistance to get hold of the broker and get their fees returned.

Migrant workers who contacted police had widely divergent experiences. One migrant worker described how the police arrested the accused broker after a complaint was filed. In another three cases, after some convincing, the police negotiated with the brokers to obtain some compensation for the migrant workers, but didn't filed court cases under the Overseas Employment and Migrants Act 2013. Unfortunately in these three cases, the broker later reneged on the agreement, pleading poverty, and paid the migrant workers little amount comparing to their invested amounts.

Police would not always agree to help migrant workers. In one case, the local police refused to help a migrant worker who returned home after 10 months because conditions were inferior to what was promised. Instead, the police suggested, "[she] should have returned immediately if what the broker promised was different from what [he] got from the company."[31]

The differences in police response may be due to differences and gaps in training regarding the handling of migrant worker cases, different perceptions of police authority or jurisdiction to handle migrant worker cases, lack of will on the part of the police, or a reliance by police on more traditional methods, such as mediating disputes between the parties.

2.5 Bureau of Manpower, Employment and Training (BMET) & Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) Complaints Mechanism

BMET is the nodal agency in Bangladesh charged with handling migrant worker complaints against institutions (recruitment agencies) and individuals (unregistered brokers). Responsible officers from BMET investigate all complaints received by the bureau. It also has the power to make orders and impose penalties brought against recruitment agencies. BMET has online automated Complaint Mechanism (OCM) (www.ovijogbmet.org) which allows the Bangladeshi migrants to file complaints remotely without being present at the DEMO or BMET office. Besides, BMET has also launched recently an app (Obhijog BMET) to create opportunity for victimized migrants to lodge complaints with the Bureau of Manpower, Employment and Training (BMET) through their mobile phones. The app also allows the complainant to make inquiries about the current status of their complaints.

Below paragraphs outlines the BMET procedures under the Overseas Employment and Migrants Act 2013 and its Rules 2017 (titled: Overseas Employment and Migrants Management Rules). Below paragraphs also describes the operation of BMET procedures in practice. To determine the perceived effectiveness of BMET's complaint resolution mechanism, the section also draws on statements from two migrant workers who filed complaints at BMET as well as a sample of 5 cases filed with BMET (out of 506 filed cases[32]) in 2018.

Complaints to BMET can be made "by any aggrieved person". Complaints can therefore be submitted by the victim, a family member or any other person, and may be made on behalf of a single migrant worker. The complaint provision had limited the ability to submit a complaint to workers who traveled in and maintained regular status.

For some of the key offenses (such as fraud, demand for money related to costs at unapproved rates, or a breach of contract against any person including a recruitment agent etc) listed in the Act 2013 (section 41, sub section 1), a complaint can be submitted at any time. In BMET, most of the migrant workers had made complaints for (1) taking excess money more than the amount prescribed by the government. Sometimes recruiting agents do not provide any money receipt

[31] This part written based on interviews with returnee victimized migrants at Dhaka, Comilla and Narshingdi; dated 21/10/2018, 24/10/2018 and 27/10/2018

[32] Interview with Mr. Ataur Rahman, Director, BMET, Dhaka, 29/10/2018

for receiving money from the migrant workers; (2) sometimes some brokers do not handover the requisite papers like employment agreement, visa papers, etc., to the workers, or they deliver it at the last moment before departure; (3) some brokers do not arrange migration after receiving money from the aspirant candidates; and (4) sometimes recruiting agents do not come up to assist the workers who are facing various problems related to their contracts in the destination country. However, for other offense, including those related to compensation, a victimized migrant workers have right to file a civil suit for compensation (Section 28 of Overseas Employment and Migrants Act 2013) but unfortunately that provision was not applied yet by any of aggrieved migrants.

A complaint consists of an application together with supporting documents. The Act (2013) and its Rules (2017) does not specify which supporting documents are required to lodge the complaint. An officer[33] at BMET said that the most important document is a copy of the receipt of payment made by the worker for foreign employment which must include the names of the worker and the person or company who received the payment, and be signed by a witness. He further noted that the application must indicate whether or not the complainant is presenting the complaint in person, whether the witness to the payment is present, and whether identity documents are included. It should also identify the person/institution that sent the worker abroad, and provide the address of the person against whom the complaint is registered. In many cases workers do not have original documents, only photocopies provided by brokers immediate before departure from Bangladesh. Although the Act doesn't mention whether the original documents are needed as supporting documents of complaint registration, at least one lawyer believed that they were required.[34]

BMET figures from the last three years suggest that slightly more complaints are brought against individuals than against recruitment agencies.[35] Note that not all complaints against recruitment agencies have specific victims; some may have been filed by complaint cell of Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) in respect to more administrative violations of the law.

As part of this assessment, the author obtained a random sample of 5 cases registered at BMET. Though not necessarily representative of all cases filed with BMET, these cases indicate the types of cases that reach BMET, including a profile of the accused parties and the victims, and the types of harms alleged. Within the sample:

The vast majority of complaints in the sample (3) were against recruitment agencies rather than brokers. Victims in 5 cases appear to file cases through relatives. One complaint filed for one victims rather than 2/3 victims. The most common complaint (4 of claims) was under section 41 of the Overseas Employment and Migrants Act (2013), accusing an individual agent of taking money from the prospective migrant worker, but then failing to send the individual abroad. These individuals never left Bangladesh; In 4 of cases involved only pre-departure violations. As a result, the most common remedy sought by complainants was return of the recruitment fee (in 4 cases), and compensation for other case. In 4 cases migrant workers sought return of their passport. In other case victim made claims in respect to treatment while abroad. These included work on terms different to what was in the employment contract, termination of the contract, or, in some cases, physical abuse. All of 5 cases were in respect to work in the Saudia Arabia, Malaysia and Lebanon.

[33] Telephonic interview with Md. Masud Rana, Senior Statistical Officer, BMET, Dhaka, 16/10/2018
[34] Interview with Advocate Shamima Rozi, District Coordinator & Senior Lawyer, BLAST, Comilla, 25/10/2018
[35] Interview with Mr. D.M. Ataur Rahman, Director, BMET, Dhaka, 29/10/2018

Although the offenses under the Overseas Employment and Migrants Act 2013 are criminal offenses, the Act[36] assigns jurisdiction to BMET to investigate alleged offences. Those investigations are carried out by an assigned officer of BMET[37]. The author had found that the assigned officer of BMET have not undergone professional training to conduct investigations.

The process of investigation varies depending on whether the accused is the recruitment agency, or an individual agent/broker. When the accused is the agency, the investigation officer sends a letter to the company outlining the alleged offense and requesting that a representative come to BMET for an interview. When a complaint is made against an individual, the officer in BMET in practice writes a letter to the local administration or police in the district where the individual is believed to reside, and urge the local administration or police in the district to take necessary legal steps against that individual. The author had found that BMET's assigned officer do not have the necessary human or financial resources to conduct a more in-depth investigation beyond reviewing the migrant worker's documents and interviewing the parties to the dispute. For example, even though they have the power to search the premises of recruitment agencies[38], call witnesses or confiscate documents, this is rarely if ever done.

The relatively superficial nature of the investigations may also be a result of training- the Acting Assistant Director of District Manpower Office, Narshingdi said that "the investigations of allegations were often incomplete due to lack of training on investigation techniques as well as limited manpower in district manpower office. He believed that the police should be given a greater role in investigations of foreign employment cases"[39] As a consequence of the limited investigations, additional parties are never added to the complaint, although they are frequently involved. A lawyer at the district level noted that "in almost all cases against a recruitment agency, an individual agent would also have been involved, and in many cases against an agent, a recruitment agency would have also been involved."[40] However, these other parties would simply deny their involvement; proving otherwise takes considerable time and resources that DEMO officers at district level do not have.

As well as having jurisdiction over the investigation of all foreign employment cases, BMET also has authority to adjudicate certain categories of cases in which the accused is a recruitment agency. Its powers include: to make a determination and to make orders for the payment of fines, suspension or revocation of a recruitment agency license, and in certain cases, to make a determination and order for compensation to be paid to a migrant worker by the recruitment agency.[41] In addition, the author has found that most cases resolvable at the department level of BMET are administrative in nature in that they violate a provision[42] of Overseas Employment

---

[36]The Overseas Employment and Migrants Act 2013, Section 41: Sub section (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).

[37] As per Overseas Employment and Migrants Management Rules 2017 BMET is responsible for conducting investigations of complaints against alleged recruiting agencies (Rule 6: point 14).

[38] The Overseas Employment and Migrants Act 2013, Section 42: Inspection. — For the purpose of preventing irregular migration, or to protect the interests of a prospective migrant worker, an officer authorized by the Government may inspect a place, or a means of transport departing from or heading towards Bangladesh.

[39] Interview with Mr. Shahidul Alam, Assistant Director (Acting), DEMO, Narshingdi, 22/10/2018

[40] Interview with Advocate Nasiruddin Helal, Senior Lawyers, Narshingdi Judge Court, Narshingdi, 23/10/2018

[41] Interview with Mr. Nurul Islam, Director, BMET, Dhaka, 6/11/2018

[42]The Overseas Employment and Migrants Act 2013 : Section 12 & 13 (Suspension, Cancellation and Revocation of license of private recruitment agencies): Section 12 of the law mentioned in its subsection 1 "The Government may, after adequate investigation and upon affording the licensee an opportunity to be heard, suspend or cancel the license of any recruitment agent for any of the following reasons:

(a) If the license was obtained through false information or through fraudulent means;
(b) if the conditions of license were violated or if the license 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

and Migrants Act 2013 but do not cause direct harm to an individual. BMET has jurisdiction over several key offenses against migrant workers, the most important of which are:

- **Excessive Recruitment Fees**: charging migrant workers above the government prescribed amount, whereby BMET can order that any excess fees be repaid to the worker[43].
- **Fraud:** sending a worker to work in a position or on terms that were different from those promised in the contract. In these cases, BMET can order that the recruitment agency compensate the worker for any difference between what was promised and what was received or any kind of fraud that made with migrants[44].
- **Failure to Pay Compensation as Ordered by BMET** : if a recruitment agency fails to follow a BMET order, BMET can take funds from the agency's deposit or through the provisions of the Public Demands Recovery Act, 1913 (Bengal Act No. III of 1913).[45]

It has been found by the author that the BMET doesn't have authority to hold recruitment agencies partially liable in the event that the employer in the destination country does not abide by the terms of the employment contract signed in Bangladesh. This provision is significant and relatively unusual in Bangladesh, and provides what may be the worker's only available redress for harms suffered abroad, given the challenges associated with pursuing redress within the domestic legal system of the destination country. The provision may apply even if there is no written contract between the worker and the recruitment agency, and even if the worker cannot demonstrate intention to defraud on the part of the recruitment agency. However, the amount of compensation that can be awarded is limited to the sum of costs incurred in going for foreign employment (namely, the recruitment fees), and not the full amount of the worker's actual loss.

For any offence for which BMET is not specifically authorized to make findings and orders, including all offenses committed by individual agents, BMET (often through its district level manpower offices) sought assistances from local police or local administration of aggravated person's respective district. Of the 506 cases filed in year 2018, BMET resolved 252 cases. In the remaining cases, the complaints were "withdrawn" due to out of BMET settlement. BMET indicated that cases previously withdrawn would eventually still be take action, but given the

---

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

Further, subsection 2 says "if the license 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. Subsection 3 illustrates " if a license 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 and subsection 4 elucidates " if any license 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. In addition section 13 of the law mentions "notwithstanding anything to the contrary contained in other provisions of this Act, the Government may, by notification through the official Gazette, may withdraw a license in view of a public interest. Following this section, none of agencies license has been withdrawn yet

[43] The Overseas Employment and Migrants Act 2013: Section 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]The Overseas Employment and Migrants Act 2013: Section 18 (Forfeiture of surety, and such others): Sub section 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).

[45] The Overseas Employment and Migrants Act 2013: Section 18 (Forfeiture of surety, and such others): Sub section 3 & 4 : (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). Subsection 5 of section 9(of Overseas Employment and Migrants Act 2013) deals with license fee, security money deposit and license renewal fee. In addition, any loss or damage occasioned to any person, due to any failure to comply, can be repaid from the deposit.

shortage of staff at BMET, they have not been prioritized leading to a significant backlog. Further research is needed to determine the extent to which migrant workers have been threatened or coerced to "withdraw" their complaints, or whether they have in fact received the compensation they agreed to in the out of BMET settlement.

The Overseas Employment and Migrants Act 2013 and its Rules (2017) do not establish clear guidelines for evaluating complaints or resolving Complaints at BMET. The author (of this assessment report) found (during BMET official interviews) that there were none of directives issued from BMET's higher management about the process of reviewing the evidence (documents and statements) and making a decision about whether the complaint is genuine and an offense has been committed. For those cases deemed genuine, the officer at BMET calculate how much he thinks the recruitment agency should pay to the worker, based on the punishment for the offense set out in the Overseas Employment and Migrants Act 2013. The officer then telephoned the agency to discuss the case. One officer noted, "[i]f [the recruitment agency] agrees to pay back the money, then the case is solved immediately."[46] This, he believed, was most cases. Orders for compensation must be reviewed by the director general of BMET.

If either party is unhappy with a BMET determination or orders, that party can appeal[47] to the Government of Bangladesh within 30 days of the decision but the Overseas Employment and Migrants Management Rules 2017 does not detail the form of an appeal. One lawyer noted that an appeal had to be made through a written letter to the Minister of Labor and Employment.[48]

If the agency does not pay the compensation awarded to the worker, BMET may "get the compensation returned to the worker" from the cash deposit that the agency provides as a condition of its license (Subsection 5 of section 9 of Overseas Employment and Migrants Act 2013). The law does not specify how compensation is practically recovered from the deposit. According to several NGO staffs interviewed, obtaining compensation from the deposit is a straightforward process that generally takes no more than a few weeks. A BMET officer also explained that as per the provision of Overseas Employment and Migrants Act 2013 –" If any recruitment agent fails to pay the compensation 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)." Beside, BMET is authorized to temporarily suspend or cancel the agency's license and/or fine the agency. According to a DEMO officer, in most cases the recruitment agency repays the amount in order to avoid additional sanctions.[49] It is unknown whether an agency license had been suspended or revoked for refusal to pay compensation yet. Interviewees, both lawyers and DEMO/BMET staffs, could not recall any such case.

In most Overseas Employment and Migrants Act 2017 cases are criminal offenses, and the punishment is clearly mandated by the act. Individual parties are not granted authority to independently informally negotiate a settlement, and victims are not technically permitted to withdraw complaints that allege violations of the act. However, migrant workers and civil society representatives suggested that informal negotiations at DEMO/BMET with both recruitment agencies and brokers are in fact common. One DEMO officer conceded that informal negotiations have occurred, and he gave several explanations for this.[50] In some cases in the

---

[46] Interview with Mr. Shahidul Alam, Assistant Director (Acting), DEMO, Narshingdi, 22/10/2018

[47] Rule 16 (Appeal to Government) of Overseas Employment and Migrants Management Rules 2017

[48] Interview with Advocate Nasiruddin Helal, Senior Lawyers, Narshingdi Judge Court, Narshingdi, 23/10/2018

[49] Interview with Mr. Debobrato Ghosh, Assistant Director, District Manpower Office, Comilla, 24/10/2018

[50] Interview with Mr. Debobrato Ghosh, Assistant Director, District Manpower Office, Comilla, 24/10/2018

past, he acknowledged, corruption had enabled the individual agent or recruitment agency to make arrangements with some corrupt DEMO officer to convince the worker to accept a lower amount of compensation than was due. An informal negotiation ensues about how much would be paid. In other cases, some lawyers in interviews said that the appropriate amount of compensation was not clear. This occurred often in cases where a migrant worker accused the recruitment agency of sending him or her to a position or company that was different to what was written into the contract.

The remedy in these cases is that the recruitment agency must pay the difference between the terms and conditions of work promised and received. Calculating differences in salary was simple if the migrant worker had the original contract and pay slips. However, calculating the value of the loss was much more complicated if, for example, the job was different to what was promised but the salary was the same or the hours were longer or leave was denied. Calculating differences in salary was simple if the migrant worker had the original contract and pay slips. However, calculating the value of the loss was much more complicated if, for example, the job was different to what was promised but the salary was the same or the hours were longer or leave was denied. Indeed the department seemed skeptical that any harm had occurred if the worker was sent to a completely different job, but the salary was the same. In fact, it was therefore inevitable that the victim and alleged perpetrator negotiate an amount of compensation in these cases. The cases between a migrant worker and an individual agent are frequently informally negotiated, even though those informal negotiations were not sanctioned by BMET and, in fact, BMET is not authorized to adjudicate any cases against individual brokers and must refer them to the concern district administration or local police. Though informal negotiation may result in migrant workers accepting an amount less than what they consider they are owed, a number of significant practical considerations incentivize workers to accept a informally negotiated settlement. Migrant workers often want their money quickly so they can repay high-interest loans. They also often cannot afford to pay the travel and living expenses required to get to and remain in Dhaka (and the time away from work and family) while they wait for the long process of BMET investigation, review, and then a decision to receive compensation. Further, in the case of individual agents/brokers, many migrants have to locate the agent/broker by their own cost. There is no guarantee the agent/broker will attend further hearings (many brokers abscond) and so migrant workers feel some pressure to get an outcome at what may be their only opportunity.

Many of the stakeholders interviewed for this assessment viewed informal negotiation or mediation at BMET/DEMO with ambivalence. For example, a recruitment agency owner[51] described how it was often hard to determine from Bangladesh the real reason a person left their employment, but that the government would pressure them to pay, because it has “a negative attitude to manpower agencies.” Author found that there are some challenges in informal negotiation and sometimes there is risk involved. The workers who make complaints are not always of the same nature. Some civil society organizations viewed mediation more positively. For example, one non-government organization representative said, “mediation is a very good tool … we need to make sure that we do mediation lawfully”.[52]Even if the worker is willing to informally negotiate, an outcome is not certain. Only four of the sixty migrant workers in this assessment who sought to negotiate with their broker through local village leaders successfully obtained an agreement. Further, in such cases, BMET/DEMO is not responsible for ensuring the payment is made as it is outside of the formal process. Indeed, in none of the four settled cases was the agreed amount actually paid by the broker.

---

[51] Interview with Mr.Shameem Chowdhury Noman, Owner, M/s Sadia International (recruiting agency), Banani, Dhaka, 27/10/2018
[52] Interview with Mr Enamul Haque, Reintegration Service Center Manager, BRAC Migration Program, Narshingdi, 22/10/2018

The Bureau of Manpower Employment and Training (BMET) have an complaint cell to address complaints filed by migrant workers or their family members. As per section 41[53] (sub section 3) of the Overseas Employment and Migrants Act 2013, BMET is responsible to dispose of the complaint through arbitration (shalish). Rule 15 of the Overseas Employment and Migrants Management Rules 2017 mentioned that "the bureau may delegate power to any of his officer to conduct arbitration (shalish) as well as to resolve complaints (which were lodged under section 41 of the overseas Employment and Migrants Act 2013) between the two parties. Delegated officer from BMET shall issue an official notice to all related disputed parties to present in a specific date, time and place with relevant proofs/record and witnesses (in support of allegations & defense) for hearing . Delegated officer of BMET shall listen and record all the disputed parties (including third parties) and witnesses' statements and review all relevant proofs/records on the day of arbitration and then provide judgment against the complaints through Shalish. While the disputes solved, assigned officer of BMET shall send the report of Shalish to the Expatriates' Welfare and Overseas Employment ministry and the two disputed parties." Rule 16 of the Overseas Employment and Migrants Management Rules 2017 mentioned," if any parties were not satisfied about the outcomes of Shalish, in that case s/he may appeal to government within 30 days of decision made". In reality, this procedure often results in sheer delay in investigation as well as dispose of complaints. In many cases, the complainants[54] do not get the compensation also. Analysis of complaints' cases reveals how the migrant workers, who are already deceived and denied rights and dignity, become victims of the "arbitrary" legal redress mechanism. BMET's arbitration unit doesn't follow the process of arbitration in most of complaints settlement. They prefer to do in person informal negotiation rather than arbitration. Author has found that most of BMET's arbitration is mix of arbitration and mediation. BMET officials are not aware of the lawful procedure of arbitration and mediation. Beside the Overseas Employment and Migrants Management Rules 2017 didn't include the steps of arbitration and its documentation process in detail. Long period to settle disputes, political biasness in investigation and decision making, corruption, absence of lawyer or victim's representative (from NGOs) during hearing, unequal treatment with migrant workers during arbitration, lack of evidence and witnesses presentation, muscle power , lack of knowledge of victims and BMET officials about arbitration and absence of victims preparation to face arbitration had created obstacles in BMET's arbitration to ensure justice for victimized migrants. WARBE had recently opened up a Grievance Receiving Center at BMET premise with aim to assist victimized migrants to lodge their complaints properly at BMET and also to support them during arbitration and out of BMET mediation. Beside, WARBE had also formed two Grievance Mechanism Committees in Comilla with mix of local government, teachers, NGO activist and local elite people to receive and solve local migrants' disputes.

Since its creation, BMET has received an increasing number of complaints each year from migrant workers and their families, suggesting greater awareness and utilization of the mechanism over time. This is a question whether all of the lodged complaints of migrant workers or their families are true? One of BMET official[55] mentioned that they often found some false complaints of returnee migrants to pay off their personal debts in the country. She also

[53] The Overseas Employment and Migrants Act 2013; Section 41: Sub section (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 (shalish) within three months from the date of completion of the investigation.

[54]There are 20 catagories of complaints usually registered in BMET as well as Ministry. Example of the complaints are: 1) Taking excess money more than the amount prescribed by the government. Sometimes recruiting agents do not provide any money receipt for receiving money from the migrant workers; 2) Sometimes some agents do not handover the requisite papers like employment agreement, visa papers, etc., to the workers, or they deliver it at the last moment before departure; 3) Some agents do not arrange migration after receiving money from the aspirant candidates; 4) Sometimes recruiting agents do not come up to assist the workers who are facing various problems related to their contracts in the destination country.

[55] Interview with Ms. Khaleda Parvin, Deputy Director, BMET, Dhaka, 30/10/2018

mentioned that recently large numbers of returnee female migrants are coming to BMET to lodge complaints against their employers for sexual abuse, exploitation, physical torture/beating and other crimes/violence. Though the Overseas Employment and Migrants Act 2013 had created a scope for Labour Welfare Wing of Bangladesh missions to investigate and take up such complaints for legal action [section 24, sub section 3 (d)], where as no legal actions were taken yet by Labour Welfare Wing of Bangladesh missions at destination countries due to absence of appropriate manpower (i.e. lawyers), technical knowledge & expertise and victim's sudden return to country with proofs.

Factors that weigh heavily against accessibility of the BMET mechanism is unavailability of services from union to upazila level and in some district level across the country: at present BMET has one central level arbitration unit at Dhaka and complaints receiving and informal in person negotiation scopes at forty two manpower offices with limited manpower and resources at forty two selected districts. BMET didn't set up their complaints receiving unit at upazila and union level yet. This automatically limits awareness of its functions outside the capital and selected districts, and access for those who do not have the time and resources to travel to Dhaka and districts to lodge a complaint and potentially return for the complaint to be negotiated and resolved, or to remain in Dhaka and district sadar upazila for the entire duration of the complaint dispose.
Another issue is the bureau's treatment of claims from workers traveling outside the formally regulated system. Bureau officials were vague regarding whether the bureau would take claims from migrant workers who had travelled irregularly. One BMET officer said that the bureau does not handle cases of irregular migrant workers[56]. Nothing in the Overseas Employment and Migrants Act 2013 act appears to prohibit the filing of a claim by an irregular migrant worker—indeed the act says that a complaint by "any person" (section 41 of the act). In many cases, the migrant worker may be irregular because of wrongdoing by the recruitment agency, such as preparing false documents. An irregular worker may nevertheless face substantial practical barriers if he or she did not receive a contract or receipt from a licensed recruitment agency.

BMET procedures are not clearly delineated in the act or rules. While BMET has issued a directive on internal operations that provides general guidance on complaint-handling, it does not provide specificity of timing and steps, such that it is difficult to assess the fairness of procedures in place. Interviews with migrant workers and experts suggest that the procedures are kept informal and highly flexible to enable the officers to handle many cases at once and to keep proceedings short, affordable and accessible. While this clearly benefits migrant workers in some cases, it also means that they are not easily able to challenge unfair procedures or outcomes. Shortcomings in the procedures appear to be threefold. First, the number of BMET officers is far too few for the number of cases they receive. It allows only time for a handful of phone calls and meetings before a decision is made. The officers' investigation powers appear to be rarely used, for example visiting the office of the recruitment agency, seizing assets or subpoenaing documents or witnesses. Investigations are therefore superficial at best. Written decisions are not provided and not made public, and the files reviewed by the assessment team were often incomplete in respect to dates and details of outcomes.

A second and related problem is that recruitment agencies appear to be rarely involved in the proceedings or held accountable for the actions of brokers. It has been found that in a case where an broker named a recruitment agency as involved in the case, the recruitment agency denied any knowledge of the broker and the recruitment agency's word was taken. No further effort was made to examine the veracity of the broker's claim, for example by investigating the

[56] Interview with Ms. Khaleda Parvin, Deputy Director, BMET, Dhaka, 30/10/2018

recruitment agency's records, or calling other witnesses. Recruitment agencies' ability to avoid liability, and a lack of meaningful and transparent investigation into a recruitment agency's role, serves as a direct barrier to a migrant worker's ability to access justice. Individual brokers are often more difficult to locate, and can abscond more easily than the recruitment agency, and themselves may not have the money to pay the compensation to which the worker is entitled. The recruitment agencies, on the other hand, have paid deposits from which compensation can theoretically be taken. Furthermore, the failure to pursue recruitment agencies working through unregistered brokers greatly diminishes transparency and accountability within the recruitment industry, and removes any disincentives to agencies' continuing reliance on unregistered individual brokers. A third challenge is the incidence of negotiation and settlement between the parties that appears to result in cases not being prosecuted. Negotiated outcomes do provide migrant workers with more immediate relief and can have practical benefits (such as time-saving, and reducing the number of trips to districts to attend arbitration hearing), but they are also ad hoc and defeat the punishment purpose of the Act. Whether unfair pressure is brought to bear on the migrant worker, or the outcomes of these negotiations are fair, is unclear. Due to the power imbalance between migrant workers and recruitment agencies, and the high-interest debts incurred by many migrant workers in the process of seeking overseas employment, migrant workers are likely to feel pressured to accept less than what they are due.
It is difficult to determine from certain complaints whether the BMET process is leading to fair outcomes, given that so few cases are actually resolved, and the notations in the case files appear incomplete or possibly in some cases incorrect. A more extensive review specifically of cases resolved at the BMET level would be highly recommended. In addition, although in some cases recruitment agencies were fined for the violation, it was not at all clear that they were ordered to compensate migrant workers for their losses. This would suggest that the outcomes are not necessarily benefitting migrant workers as intended.

Wage Earners' Welfare Board of Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) has initiated call center (name: Probashbaandhu- Friend in Abroad) both for general migrant workers and female migrants to receive complaints as well as to provide legal and other sort of assistances. In order to provide services to the doorsteps of expatriates abroad, initiatives have been taken to establish the Expatriate Digital Center (EDC) with joint venture and funding of A2i and Wage Earners' Welfare Board for the Prime Minister's Office. The EDC will be established based on zones based abroad where more workers work. Staff will be present at the EDC Center and can take various services of Bangladesh Mission, Kine Board and Government. This will prevent the loss of harassment, time and money. Welfare Desks has been set up at departure and arrival lounge of the Dhaka, Sylhet & Chittagong Airport. These desks provide services to the migrant workers regarding their Visa, emigration clearance, etc. These desks also receive dead bodies of migrant workers and hand-over it to the relatives of the deceased. Another desk is planned to be opened at the arrival lounge to extend similar services to the incoming workers. To go abroad, the economically impaired workers have to borrow money, sell their hometown, earn interest on interest. The government has established the expatriate welfare bank to provide loans to the poor workers for short-term loans. Expatriates' welfare bank has been provided Tk 145 crore through the wage earners welfare board.

Besides, Ministry has established its complaint cell and assigned one Joint Secretary as complaints disposal officer and one additional secretary as appeal officer. Ministry had received total of 2,928 complaints during the year of 2017 to 2018 (up to September 2018) and disposed total of 2,470 complaints through successful mediations. Though Ministry is mentioning that

their complaints disposal rate is 84.66%[57], in real the victims (who had made complaints to ministry) are not getting proper remedies as well as compensation comparing their demand and loss due to political influence, corruptions and silent behavior of ministries staffs in most of the cases. Though ministry had also established a Vigilance Task Force (VTF) at central level to protect potential migrants from recruitment agencies irregularities (in different stages of their migration process), still the VTF is not vigilant & functional in protecting migrants from the traps of fraud and deceptions.

2.6 Redress in the Courts

In addition to the above, migrant workers can use Bangladesh's regular system of courts to seek redress for crimes under the Overseas Employment and Migrants Act 2013 as well as in few cases under the Prevention and Suppression of Human Trafficking Act 2012. If in any reason mediation failed between parties then there a scope created for filing of a case in the respective court of Bangladesh for disputes settlement. Government didn't establish yet the separate tribunal for handling human trafficking cases countrywide. Ministry of Law, Justice and Parliamentary Affairs is presently planning to set 7 tribunals to deal cases of human trafficking at 7 divisions of Bangladesh[58]. Still none of cases were filed under the provisions of Overseas Employment and Migrants Act 2013 at different parts of Bangladesh including labour migration prone districts (i.e. Comilla, Narshingdi, Dhaka and others). Total of 29 cheating cases[59] were filed by migrants at Dhaka, Comilla and Narshingdi's Chief Metropolitan Magistrate and Chief Judicial Magistrate Courts under the section of 420/406/506 of Bangladesh Penal Code. Among filed cheating cases, some were already been withdrawal by the cheated potential migrants (under section 248 of Penal Code) and some are still in investigation and hearing stages. As there is no database in the courts, this became quite difficult for author to reveal the exact number of cheating cases of potential migrants countrywide and even in visited Dhaka, Narshingdi and Comilla chief judicial and chief metropolitan magistrate courts.

The common opinion of the lawyers[60][61] and civil society organization[62] interviewed in this assessment was that the court system is not a viable option for the vast majority of migrant workers seeking redress. Criminal cases are hamstrung by lack of evidence of what occurred abroad, among other challenges, and civil litigation is expensive, slow, and time-consuming. Migrants appearing before the courts require sophisticated legal representation and extensive documentary evidence—generally insurmountable barriers to access. As a result, very few cases (approximate 15 to 20 cases) under section 420/406/506 of Bangladesh Penal Code involving potential migrant workers have gone to Chief Judicial Magistrate & Chief Metropolitan Magistrate courts (during the year of 2017 to 2018), and none of the migrant workers interviewed for this assessment (at Dhaka, Comilla and Narshingdi) had used the Bangladeshi court system as well as the Overseas Employment and Migrants Act 2013 to resolve their cases[63].

Lawyers interviewed in Bangladesh were highly familiar with the Prevention and Suppression of Human Trafficking Act 2012, perhaps because of a GO-NGO wide scale anti-trafficking movement that led to the law's enactment. But they are not fully aware about the Overseas

[57]Interview with Mr. Md. Sujayet Ullah, Joint Secretary (Research & Policies), Ministry of Expatriates' Welfare and Overseas Employment, Dhaka, 27/10/2018

[58] Interview with Mr. Mostak Ahmed, Deputy Solicitor (Administration), Solicitor Wing, Ministry of Law, Justice and Parliamentary Affairs, Dhaka, 5/11/2018

[59] Data revealed through author's direct visit to respective courts of Dhaka, Comilla and Narshingdi.

[60] Interview with Advocate Mohammad Shwanaj Shahin, Assistant Public Prosecutor, Women and Children Repression Prevention Tribunal no. 5, Dhaka, 11/10/2018

[61] Interview with Advocate.Jakir Hossain Khan, Senior Lawyer, Dhaka Judge Court, Dhaka, 14/10/2018

[62] Interview with Mr. Syed Saiful Haque, Chairman, WARBE Development Foundation, Dhaka, 4/11/2018

[63] Interview with Advocate Abus Samad, Assistant Public Prosecutor, Dhaka Judge Court, Dhaka, 11/10/2018

Employment and Migrants Act 2013, its recent Rules 2017 and Expatriates Welfare and Overseas Employment Policy 2016. In general, the legal expert[64] interviewed for this assessment was more critical of the criminal procedure and its implementation than they were about underlying laws and criminal offenses. Criminal prosecution has the benefit of highlighting egregious cases of abuse, and bringing some justice to victims and their families. It may also hold recruitment agencies and individuals accountable for abuses suffered by workers. In some cases, a guilty verdict in a criminal case may also support a civil claim for redress, or may support a claim for restitution from the defendant as part of sentencing. However numerous procedural barriers obstruct migrant workers' access to the criminal justice system.

Migrant workers during the focus group discussion had mentioned that they frequently go to the police to file complaints, for example if the broker defrauded them of fees or documents, but they knew none of cases resulting in prosecution before the court. Prosecutorial review was described as difficult in filing cases, because migrant workers usually have little documentary evidence of the crime. A representative[65] of Lawyers Beyond Borders Bangladesh, an international lawyers network organization in Bangladesh, said that he faced difficulties in filing migrants rights violation cases due to lack of strong documentary evidence of the crime. Several lawyers and civil society staff noted the difficulty in having cases taken seriously by the police. As the coordinator of POPI (a NGO) in Narshingdi explained, "We have reported cases to the police a number of times but the police always say they can't find anything to charge the defendant with." A lawyer experienced in migrant worker cases noted that police seem to be "less than vigilant" in cases involving migrant workers. It has been found that during the prosecution of cheating cases (which were filed at Judicial and Metropolitan Magistrate Courts under Penal Code's different sections), the victims (potential migrants) often deny not to testify in the court due to threats/pressure from the opposite parties.

In addition to pursuing criminal cases prosecuted by the state, Bangladeshi worker may bring civil claims in the courts of general jurisdiction. Civil claims are matters between private individuals or companies. There are several potential claims a migrant worker could bring under the Civil Code. The Civil Code provides for breach of contract claims, or enforcement of a contract if a recruiter has failed to carry out a necessary step in the placement process. A worker could, for example, bring a claim against a recruitment agency if she was not sent to the location agreed under the placement agreement, was not paid the amount agreed, or was made to do a different kind of work or work under very different conditions than those stipulated in the agreement. The potential benefits of a civil claim are significant. Both parties to a civil claim are required to attend all hearings. Potential compensation available to the migrant workers could cover direct financial losses as well as pain and suffering if the recruitment agency is found liable. Furthermore, in seeking to address the more systemic issues underlying contract fraud and related abuses, the pursuit of civil claims would contribute to an analysis of the law and of migrant worker contracts that could bring much needed clarity to this complex area of law, while clearly identifying liability for recruitment agents and their brokers. For further claims that could be tested through strategic test case litigation. As pointed out by different interviewed lawyers, pro bono involvement of law firms, donor support for civil society organizations, and law school clinics and academics may be needed to develop and bring any viable claims.

Pursuing a claim through the civil courts faces many barriers. Most significantly, the pursuit of civil claims is generally cost-prohibitive for migrant workers and their family members. In order

[64] Interview with Advocate Sharifuddin, Judge, Women and Children Repression Prevention Tribunal-9, Dhaka, 15/10/2018

[65] Interview with Advocate Sujon Howlader, Senior Lawyer, Dhaka Judge Court, Dhaka, 16/10/2018

to bring a civil case, the worker must be represented by a lawyer who is paid on case basis (unless acting pro bono), and must pay an administrative/registration fee and other fees for each document submitted in evidence. Further, because the claim is generally filed in the locality of the defendant, the migrant worker must usually travel back and forth to district to attend the hearings. If jurisdiction over the defendant can be established, the next impediment is the length of the civil litigation process. After a claim is filed, the court will require the parties to mediate the case with a professional court mediator, through a confidential mediation process. If the mediation fails, the case will progress to court, proceed through stages of filing of documents and claims, and then go to trial. The entire process could take a number of years and may require a substantial investment of time and effort that may be prohibitive for individual migrant workers needing to support their family. According to those interviewed, none of civil claims filed in the court by a migrant worker still. Legal aid officer of Dhaka Legal Aid explained, "most workers [with serious problems] have lost their documents or they never had a contract at all, but if they enter the formal system, they need this as evidence." Migrant workers may be able to obtain certain documents such as employment, placement, or contracts from the other party through the required discovery process, but this requires further examination.

2.7 Protection Abroad through Bangladesh Missions' Labour Welfare Wing

Many migrant workers who experience harms while abroad attempt to resolve their cases in the destination country, and many of those seek assistance from the labour welfare wing of Bangladesh embassies. Of the 60 migrant workers participated in focus groups for this assessment, 12 reported some interactions with embassy officials at some point in their journey. The duties of labour welfare wing of Bangladesh embassies described in section 24[66] of the Overseas Employment and Migrants Act 2013 and the Rule # 8 & 9 of Overseas Employment and Migrants Management Rules 2017. In response the steady increase in the number of migrant workers and the composition and trend of such increase, the Government has increased the number of welfare wings and has placed labour attaches in the new destination countries. Currently, there are 30 labour welfare wings already established in 30 destination countries. Total of 189 officers are posted in 30 labour welfare wings.[67] The labor attachés' responsibilities include research and advice to Bangladesh's government regarding the labor market in the destination country, and support to migrant workers. The latter includes dispute resolution, repatriation of workers who have been made "helpless," repatriation of the remains of a deceased worker, and "providing necessary advice" to workers including to "discourage them to do any work other than set forth in the agreement. Interviewees with migrants confirmed that the labour welfare wing of Gulf countries and Malaysia are not delivering adequate protection services to migrants. Labour Welfare wings have specific fund for migrants' legal assistance at

[66] The Overseas Employment and Migrants Act 2013, Section: 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.

[67] Annual Report of Ministry of Expatriates Welfare and Overseas Employment 2017-2018; available at: https://probashi.portal.gov.bd/sites/default/files/files/probashi.portal.gov.bd/annual_reports/9be6aabf_f798_4533_9a0f_1137df41477a/Annual%20report%202017-2018%20new.pdf

22 destination countries[68]. Besides, labour welfare wings of Saudi Arabia, Malaysia, Oman and Lebanon had established and functional safe homes for victimized women migrants' immediate shelter, food and medical treatment. Total of 25,385 Bangladeshi migrants workers in Jeddah, Saudi Arabia,7 workers in Athens, Greece, 2,000 workers in Doha, Qatar , 420 workers in Dubai, United Arab Emirates, 666 workers in Kuwait, 1000 workers in Iraq, 480 workers in Oman and 26 workers in Libya had received legal assistance from respective countries labour welfare wings during the year of 2017 to 2018 (up to September 2018)[69].

But in reality, 47 returnee migrant workers out of total 60 said during focus groups that most Bangladesh embassies do not provide ad hoc legal assistance in destination countries. All most all of Bangladesh missions does not have a Bangladeshi lawyer on staff, but instead has an arrangement with some Indian lawyers who assists the embassies of a number of countries. If the migrant worker wishes to take legal action, the lawyer can represent the workers in return for a contingency fee of 30 percent of any compensation awarded. While clearly expensive, one lawyers from Lawyers Beyond Borders[70] Bangladesh reported this was a lower rate than if the migrant worker had contacted a private lawyer independently, where a contingency fee of 40–50 percent was common. It is labour attaché's duties to assist migrant workers to register cases with the labor court and provide advice and a translator. However, that the process was challenging for migrant workers because they are generally not provided with food and accommodation by their employer during the proceedings and the embassy does not have a long-term shelter in many countries. Accordingly, most workers gave up on their cases and accepted only a return ticket home from their employers. For domestic workers, the challenges were greater because they are not recognized under respective destination countries labor law and so must go to the civil courts, a much longer and more expensive process than the labor courts. It has been found also that some workers contacted the embassy while they were in what they referred to as "prison" (most likely immigration detention centers) in the destination country. Indeed a number of workers tried to get them arrested, so that the destination country government would deport them. After their arrest, the embassy would assist with processing documents.

Almost all of 60 migrants in focus groups are not aware of Bangladesh mission's labour welfare wing's responsibilities and services for migrants. Migrant workers were not provided with thorough information about Bangladesh embassies prior to departure. Even workers who know to contact the embassy for assistance encounter barriers to access. Two migrant workers who returned from Saudi Arabia, for example, cited their distance from the embassy as a barrier to accessing its services, though this is less of an issue for workers in smaller countries like Qatar. Other barriers include the lack of adequate resources to service the needs of migrant workers. All experts interviewed with knowledge of embassy services agreed that Bangladeshi embassies were severely under-staffed and under-resourced to meet the diverse needs of migrant workers who sought assistance with their cases. Worker satisfaction with embassy services appears dissatisfactory during focus group discussions. Those who did receive assistance mentioned that it was after significant delay, and that they contacted the embassy several times before receiving a response. In other cases, the embassy was hamstrung in the assistance it could provide to workers, having no legal powers in the destination country. And in

[68]Annual Report of Wage Earner Welfare Board 2016-2017; available at : http://wewb.portal.gov.bd/sites/default/files/files/wewb.portal.gov.bd/annual_reports/6763bf63_f391_4753_9dd4_1a2206071fea/Annual%20Report%202016-17%20Final.pdf

[69]Annual Report of Ministry of Expatriates Welfare and Overseas Employment 2017-2018; available at: https://probashi.portal.gov.bd/sites/default/files/files/probashi.portal.gov.bd/annual_reports/9be6aabf_f798_4533_9a0f_1137df41477a/Annual%20report%202017-2018%20new.pdf

[70] Interview with Advocate Sujon Howlader, Senior Lawyer, Dhaka Judge Court, Dhaka, 16/10/2018

at least one case, the embassy staff advised workers to get themselves arrested so their case would be processed more quickly.

Broadly speaking, Bangladesh has taken important steps to improve services for migrant workers abroad, including creating embassies in many major destination states, and placing labor attachés in some of those. However, based on the experience of migrant workers in this assessment, embassies are not adequately advising migrant workers about their legal rights or supporting them to seek redress in the destination country. When workers encounter problems in employment, embassy assistance appears heavily weighted toward arranging replacement travel documents and returning the workers back to Bangladesh, rather than assisting them to obtain redress for the harms suffered.

Bangladesh's Overseas Employment and Migrants Act 2013 provide workers with rights against individual brokers and recruitment agencies. There remains, however, significant room for improvement in the structure and operation of the institutions created to assist migrant workers to access justice and hold responsible actors to account. Ministry of Expatriate Welfare and Overseas Employment and BMET had taken several measures (i.e. online complaints mechanism) for enabling migrant workers to access justice. In many respects, this system is more accessible than the regular court system, which is costly to access and plagued by case backlogs, among other problems. However, unfortunately BMET's capacity is inadequate to effectively investigate and resolve its complaints—in terms of both staffing levels and training and expertise. This is aggravated by inefficiencies and non detailing of procedures, for example regarding appeals. Compensation that is awarded may be incomplete, and is often received after significant delay, if at all. These factors may explain the relatively small number of migrant workers using these mechanisms. Civil society activism on migrant worker issues is still relatively new, and while organizations have made significant contributions in other areas, their ability to assist migrant workers to access justice remains limited overall. This is worsened by disagreement among civil society organizations on the nature of support that they should or should not be providing to migrant workers especially regarding use of the existing government mechanism as compared to private negotiated settlements.

CHAPTER 3:

CHALLENGES TO REDRESS MECHANISMS

Bangladesh has made considerable efforts to introduce laws, policies, and institutional mechanisms to secure the rights and welfare of its citizens engaging in overseas employment. This part of the assessment report will discuss some of the major challenges common to all of the redress mechanisms that prevent workers from accessing justice and obtaining a remedy for harms they experience in the course of migration.

(3.1) Lack of awareness of rights

One of the most common challenges raised by migrant workers was that they did not know about either their rights under Bangladesh laws, or the mechanisms established and services available to enforce their rights and provide redress when those rights were violated. While most workers knew about their right to be paid what was promised, in other cases migrant workers were not aware that what they had experienced—such as overcharging of fees or confiscation of personal documents by employers—was a violation of the law. Further, few migrant worker in focus groups said that they had obtained the information they needed to seek redress before departure. More than a 40 migrants during focus groups said they were not informed by any source before departure or while abroad about where to go if they encountered a problem. As a result, a number of migrants said they did not contact the embassy abroad or DEMO/BMET in Bangladesh because they were unaware that those institutions existed or that they could help migrant workers in their situation. Participants of four focus groups explained that in the destination countries migrants knew only to contact their local broker in Bangladesh if there was a problem, and that if one had a good broker, the worker would be able to leave a bad job and return to Bangladesh more quickly (although they also agreed that this rarely happens). None of the 60 migrant workers said in focus groups that they knew about options for redress in Bangladesh after they returned. This was given as the main reason that they took no action in Bangladesh to hold their brokers or recruitment agencies accountable.

Pre-Departure Orientation

There are mandatory 30 days of orientation training courses for outgoing female workers who are migrating to Middle Eastern countries for house-keeping works. Along with the training, a 3 day orientation program is mandatory for the migrant workers going abroad. Some female migrants attends three months long training to work in Hong Kong as housekeepers. BMET undertaken Public Private Partnerships (PPPs) model to implement some of its training programs. Some major training programs of BMET under PPP model include PPP between recruiting agency of Saudi Arabia and Bangladeshi recruiting agency for housekeeping training between recruiting agency of Hong Kong and recruiting agency of Bangladesh for house-keeping and Cantonese language training and PPP between BMET and Bangladesh Garments Manufactures and Exporters Association (BGMEA) for joint training on garments trade. Through its 70 Technical Training Centers (TTCs) and 6 Institute of Marine Technology (IMT) BMET is providing various kinds of training to aspirant Bangladeshi migrants which include house-keeping training for the female migrants, pre-departure training for the outbound migrant workers, industry based apprenticeship training, drivers training, pedagogy training and training on curriculum development and curriculum upgrading at NTVQF level.[71] Processes are ongoing to expand the training programs through new training centers at the upazila level[72].

[71] Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018

[72] Construction of 41 TTCs at 24 Upazilas had already started (Source : Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018)

In 62 training centers, BMET has provision for 2 types of pre-departure training: (i) 3-day mandatory pre-departure training and (ii) 7-day pre-departure training specifically for migrating to South Korea. The content of the training covers the following issues of the destination country: a) natural and socio-cultural environment, b) Working conditions and nature of job; c) terms and condition of job contract; d) language; laws and regulation; e) food habits and f) do's and don'ts. BMET provides the country specific booklet so that migrants can have the better guideline to work and behave in their respective countries of destination. BMET conducts trainer's training for upgrading their skill level and teaching-learning method. The trainer upgrading and refreshers training program through its Technical Teachers Training Institute at BK TTC in Dhaka. Both pedagogical and hands-on training are provided to the teachers so that they can better transfer the knowledge to the prospective migrants[73]. BMET provides language training through 17 of its TTCs. Currently, there are 6 language trainings available- Japanese, Korean, Chinese, Arabic Cantonese and English. Language skills add up to the acceptability and employability of the Bangladeshi overseas job seekers. Therefore, apart from providing technical skills training, BMET is providing prospective migrants with language training suitable for their destination country of migration. Despite of BMET's above mentioned efforts, still the lack of knowledge about rights and options e partly attributable to failures in pre-departure orientation and information services for migrant workers and in particular the pre-departure orientation program.

The main problem with the orientation program is that evidence suggests few migrant workers actually attend. Of the 60 migrant worker focus group participants in this assessment, only nine reported participating in the orientation training. Most were not even aware of the training requirement, having not been told about it by their individual brokers or recruitment agencies. Other workers do not attend the orientation because the cost and inconvenience is prohibitive. All 62 licensed training centers are based at district level presently, so migrant workers must pay not only the cost of the orientation (BDT 700) but also transportation and accommodation in district. Other workers provided additional explanations for not attending—for example, one mentioned that she needed to visit relatives at the time the orientation was scheduled. Even those who do attend the orientation may not understand the content. 16 of the 60 migrant workers, who attended, for example, was from Comilla District and spoke author so was not able to follow the material.

As safe migration initiatives are gathering increased attention in Bangladesh, a number of other sources of information have been established for migrant workers. For example, the BMET, established a migrant resource center for female migrants at it's headquarter and also planning to set two migration resource center primarily at Dhaka and Comilla, in association with the International Centre for Migration Policy Development (ICMPD). Female migrants regularly inspired to visit BMET migrant resource center frequently. Outside Dhaka, several Bangladeshi organizations (i.e. BRAC, YPSA & others) have created information centers for intending or returned migrant workers with international support. Some also have training to refer migrants to services in Dhaka. These services are a valuable and important development, but it is too early to assess their impact on migrant workers' understanding of migration, or the steps to reduce vulnerability to harm. It is also unclear the extent to which these services will provide advice to workers about their legal rights and redress options, including the BMET and tribunal claims processes, beyond what is provided in the orientation. Evaluations of these programs would be valuable in future.

[73] Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018

(3.2) Lack of Documentation to Support Claims

The lack of required documentation was one of the most commonly cited reasons for not filing a claim, or for failing to achieve the desired claim outcome. This was true of compensation claims, administrative dispute resolution, and use of the civil courts. It was also considered the principal reason that lawyers often decline to file criminal cases .It has been found during focus groups that in most of the cases migrant workers received key documents such as visa copy, employment contract, air ticket etc at the gate of international airport at Dhaka. Brokers don't provide chances to migrant workers to check their employment related documents prior to departure from the country.

It has been found also from focus groups that a migrant worker who has fled her employer in the Middle East is generally unable to retrieve her documents from the employer, who frequently confiscates or retains the worker's documents upon arrival. As a result, the worker does not have her passport, SMART card, contract, when she seeks help from an embassy or seeks to return to Bangladesh of her own accord. If the worker is still abroad, some NGOs in Bangladesh tried to meet with the migrant worker's family in Bangladesh to try to obtain the needed documentation, but families often do not have copies of all documents. In such cases the organization tries to obtain the documents from brokers or the recruitment agency. In some cases, the broker or the recruitment agency itself holds the personal documents, and showed reluctance to give them up, or demand (improperly) a fee for their return. If a worker's contract is terminated early, the broker/agency commonly refuses to give her any of her documents unless she pays that broker/agency's desired amount of money. Further, receipts for recruitment fees, if given to workers at all, frequently understated the actual amounts paid so that the worker could not support a case for overcharging. Recruitment agencies' failure to provide workers with these documents violates the Overseas Employment and Migrants Act 2013. In addition to undermining workers' ability to provide evidence to support a claim, the failure to provide accurate contracts contributes to workers' lack of awareness of their rights and the responsibilities of employers and recruitment agencies, which rise to a legal claim if they are breached.

(3.3) Unregulated System of Individual Brokers/ Agents

The use of individual brokers/agents is an entrenched practice in Bangladesh. Although individual brokers/agents facilitated migrant workers finding work and benefit recruitment agencies by vetting and controlling migrant workers, they are the cause of many harms to migrant workers. In addition, brokers/agents, and particularly unregistered brokers/ agents, create numerous obstacles to migrant workers obtaining justice for harms in Bangladesh or abroad.

The first set of obstacles relate to accessing redress for harms perpetrated by individual brokers/agents, including common incidences of taking money for the promise of work and disappearing, fraud, and misrepresentation of positions abroad. As individual brokers/agents have fewer resources than recruitment agencies and so usually find it difficult to repay migrant workers their recruitment fees in the event the brokers/agents admit wrongdoing or are pressured by the police to compensate a worker. As unregistered individual brokers/ agents, they do not pay a deposit to the government, so there is no other source of funds available from which to compensate workers. In several cases described by migrant workers, the worker felt reluctant to demand compensation from brokers/agents they knew did not have many resources, or community members spoke up in the brokers/agent's defense. Some migrant workers did not want to strain community relationships by making demands on brokers/agents who were members of their communities.

Individual brokers/agents disappear in most of the time, and numerous migrant workers spoke of extensive efforts to find their individual broker/agent after their return, often to no avail. For example, the six migrant workers interviewed for this assessment who took their cases to DEMO/BMET, all reported that the police (or they themselves if they had not yet reported their cases) had difficulty locating the individual broker/agent which prevented the case from moving forward. In several cases, it was believed that the concerned broker/agent had fled to destination or neighboring country.

Recruitment agencies most of the time be shielded from responsibility by using individual broker/agent to handle all interactions with migrant workers. Some workers may never know which recruitment agency is sending them abroad, and may be unable to name the agency in a compensation claim. Even if they are aware of the recruitment agency, agencies commonly blame broker/agent for any excessive charges or false promises made to the worker. In some instances workers may feel that the individual broker/agent is more directly responsible because they were in a position of trust and therefore decide not to pursue the broker/agency for redress.

The BMET complaint files reviewed as part of this assessment revealed that indeed most complaints were brought against recruitment agencies, not individual broker/agent. The author also reviewed two complaint files in detail in which the recruitment agencies blamed the individual brokers/agents involved in sending the worker abroad and the recruitment agencies denied the relationship with the brokers/agents. In those cases, BMET could not, or chose not, to investigate further but instead settled only through informal negotiation. A lawyer[74] interviewed for this assessment stated that this was standard practice by recruitment agencies, and also worked the other way—namely where recruitment agencies were named as defendants, an unregistered individual broker/agent would invariably be involved but would deny such involvement.

(3.4) Lack of Legal Aid

Legal experts emphasized the importance of legal representation for migrant workers at all negotiations and mediations, and even when going to the police to file a complaint. District legal Aid Officer of Comilla explained that it is difficult for lawyers without legal orientation to, "truly understand the laws on migrant workers [in order to] argue against these recruitment agency lawyers. [Migrant worker lawyers] need to memorize the law and know all of the gaps and loop-holes that the other lawyer will use." [75] This includes Overseas Employment and Migrants Act 2013, its rules, as well as the criminal code and Prevention and Suppression of Human Trafficking Act 2012, its rules and supplementary acts as they relate to migrant workers.

Very limited private lawyers have training in these areas, and interviewees noted that it is difficult for migrant workers to engage private lawyers because they can very rarely pay legal fees, and their claims are for relatively small amounts. Within government's national legal aid service organization (NLASO) such as Dhaka, Comilla & Narshingdi Legal Aid, lawyers are specialized in labor law or criminal law, but experts said that none focused on specifically on migrant worker law ,file cases under Overseas Employment and Migrants Act 2013 and deliver government's free legal aid assistances to the victims. Several interviewees were hopeful that utilization of law on legal aid (Legal Aid Services Act 2000), which recognizes a right to access justice and provides a framework for funding and overseeing legal aid, will assist migrant workers in coming days to get justice.

Legal expertise is also a challenge abroad. Labour welfare wings staff reportedly does not have the capacity to seriously handle all of the cases that are brought to them—in terms of both the

[74] Interview with Advocate Jahanara Begum, Senior Lawyer, Dhaka Judge Court, Dhaka, 28/10/2018
[75] Interview with Advocate Ms. Farhana Lokman, Senior Assistant Judge and District Legal Aid Officer, Comilla, 24/10/2018

time and skills required. For example, if migrant workers wish to take their cases beyond informal mediation to domestic legal processes, an understanding of the language, laws, and legal culture of the destination country is required. According to the civil society representative[76], "the real problem is that the Bangladesh embassies don't have a lawyer there who understands the labor law of Saudi Arabia." Returnee migrant workers in focus groups mentioned that it was often difficult to obtain necessary information and assistance because embassy officials were also often unfamiliar with Bangladesh's labor migration laws. In some cases, embassy security officers also improperly exclude workers without documents, despite the fact that the worker's lack of documents was the result of mistreatment so that it is often these workers who are in greatest need of legal assistance. Finally, lawyers[77] interviewed in this assessment lamented the lack of information and training available to them on relevant law in major destination countries. They believed this gap prevented them from providing advice and assistance to migrant workers' families when their relatives encountered problems abroad.

(3.5) Threats

A handful of migrant workers interviewed for this assessment stated that they experienced threats or were afraid of retaliation from recruitment agencies or individual brokers/ agents if they want to file a case or push for more compensation than what was offered during village shalish. One migrant worker who had been defrauded of his recruitment fees by an broker recounted that the broker called him and his wife a number of times threatening to kill them if they took the case to the DEMO or BMET office or police, but each time from a different number. In that case, the migrant worker succeeded in having the broker arrested but he was not prosecuted for making threats due to his political affiliation in one of largest political party of Bangladesh.[78]

The assistant public prosecutor of women and children repression prevention tribunal believed that threats were a serious obstacle to migrant workers taking their cases to the tribunal. He noted that as soon as the case will be registered, there will be a high possibility that migrant worker will be threatened (he did not specify whether from the broker or the recruitment agency), and will be approached by the other party outside of the courtroom and pressured to accept a settlement. As a result, that worker will change their stories and lie on the witness stand.[79]

(3.6) Corruptions

Weak governance and accountability are a serious challenge across public and private actors in Bangladesh, and overseas employment is no different. Corruption has been found in the overseas employment private sector (such as through human trafficking, fraud, and falsification of certificates and other documents), in addition to public-private collusion to speed up the migration/recruitment process (including forged work permits and bribery of officials), and purely public-sector-driven activities (such as nepotism and favoritism in the application of overseas employment rules).

A report titled "Good Governance in Labour Migration Process: Problem and Way Out" (released on March 9, 2017) of Transparency International Bangladesh (TIB), said around 90 percent of five lakh Bangladeshi male workers had to pay two to three times the usual migration

[76] Interview with Mr. Syed Saiful Haque, Chairman, WARBE Development Foundation, Dhaka, 4/11/2018
[77] Interview with Advocate Mohammad Shwanaj Shahin, Assistant Public Prosecutor, Women and Children Repression Prevention Tribunal no. 5, Dhaka, 11/10/2018
[77] Interview with Advocate.Jakir Hossain Khan, Senior Lawyer, Dhaka Judge Court, Dhaka, 14/10/2018
[78] This part written based on interviews with returnee victimized migrants at Dhaka, 27/10/2018
[79] Interview with Advocate Mohammad Mobarok Hossain Momen, Assistant Public Prosecutor, Women and Children Repression Prevention Tribunal no. 1, Narshinghdi, 22/10/2018

cost in 2016 to obtain work visas for seven countries, including five in the Middle East. The migrants also paid bribes at different stages at the ministry and the Bureau of Manpower, Employment and Training (BMET) for visa approval to go to the destination countries, it said. Besides, at least Tk 5,234 crore was laundered from Bangladesh in 2016 for getting visas for these countries, the report found.[80]

Almost all participants in focus groups and civil society organization[81] during interview expressed deep mistrust of the labor migration system, as well as a certainty that individual workers would never win if they challenged a large recruitment agency and powerful broker. Many viewed the migrant labor system as burdened by collusion between recruitment agencies, and government officials who undermined regulatory or bureaucratic procedures intended to protect workers—a view reinforced by the lack of transparency common to all redress mechanisms examined in this assessment. Recruitment agency[82] said, the more government rules introduced, the more bribes they were required to pay. In addition, focus groups participants thought police, prosecutors, and courts favored the wealthy and powerful, and were unlikely to hold a recruitment agency accountable for criminal wrongdoing. As a result, participants in focus groups believed that pursuing justice through the criminal justice system would only expose the worker to more stress, expense, and disappointment. Whether these allegations are true or not, the widely held skepticism toward the governmental and judicial bodies that facilitate access to redress creates a strong disincentive against seeking justice.

(3.7) Inadequate resources and training for government agency (including ministry) assisting migrant workers

A common theme throughout interviews with BMET and Expatriates' Welfare and Overseas Employment Ministry officials[83] in Bangladesh was that the principal institutions charged with assisting migrant workers were deeply under-resourced. In addition, specialized training was rare, and personnel changed on a regular basis so it was difficult for officials with responsibility for overseas employment to develop expertise and build institutional memory.

BMET, DEMO & Ministry's complaint cells and enforcement unit clearly has insufficient staffs to carry out its duties in a timely and effective manner. This includes investigating claims, determining those within its jurisdiction, and inspecting the activities of private recruitment agencies etc. In its Complaints Cell, BMET's central office has capacity for two officers tasked with handling the more than hundreds of cases reported by migrant workers each year.DEMO offices in districts has no specified officer except assistant director to receive and resolve complaints. Ministry's complaint and enforcement units also has two officers responsible for complaints handling, disposal and enforcement of government migration related rules and procedures.

A BMET staff member described the department's situation as a "resource crunch" that gave officers little time to focus on each complaint[84]. Author had found that investigations are generally superficial, that anomalies arise in the determination of claims, and that none of cases are still filed at the tribunal under overseas employment and migrants act 2013.

---

[80] See TIB full report titled "titled "Good Governance in Labour Migration Process: Problem and Way Out" (released on March 9, 2017) at https://www.ti-bangladesh.org/beta3/index.php/en/highlights/5183-governance-in-the-migration-process-challenges-and-the-way-forward-full-report-bangla

[81] Interview with Mr. Shakirul Islam, Chairman, Ovibashi Karmi Unnayan Program (OKUP), Dhaka, 6/11/2018

[82] Interview with Mr. Mofijul Al Hasib, Owner of Al Hasib Overseas, Purana Paltan, Dhaka, 7/11/2018

[83] Interview with Mr. Md. Sujayet Ullah, Joint Secretary (Research & Policies), Ministry of Expatriates' Welfare and Overseas Employment, Dhaka, 27/10/2018; Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018; Interview with Ms. Khaleda Parvin, Deputy Director, BMET, Dhaka, 30/10/2018; Interview with D.M. Ataur Rahman, Director, BMET, 26/10/2018

[84] Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018

A lack of resources also reportedly limits the extent to which BMET and ministry's Vigilance Task Force (VTF) can effectively monitor and supervise recruitment agencies as well as carry out its other functions. BMET had, at the time of writing, only 40 % staffs out of total government sanction positions to handle the almost one million migrant workers departing each year, as well as to supervise more than 1173 recruitment agencies. This is despite an increase in the BMET budget from over a period. Total of 16 court cases are still under trial against BMET by its ex staffs on different issues (i.e. promotion, re appointment etc), which slowed down heavily the recruitment of rest of 60% sanctioned staffs at BMET.[85] Experts[86] described similar constraints in embassies seeking to support migrant workers abroad. The number of staff in the embassies is very small compared to the volume of work. Hence, it is not possible to conduct detailed study and verification of the employers. Moreover, the embassy is located most of the time in the capital city of destination country whereas workers are spread throughout the destination country. In addition, the Embassy did not have any lawyers on staff, Most of the time Bangladesh embassies hires local law firms and Indian lawyers to work as embassy 'lawyer.'" Experts also said that the labour attaché and others at Bangladesh Embassy are not well trained often about destination countries laws, regulations and to handle migrants' labor issues,

(3.8) Workers cases and concerns not taken seriously

Migrant workers and civil society organizations repeatedly described the lack of seriousness with which various actors addressed concerns and claims. Interviewees raised this challenge in relation to private recruitment agencies and government officials, within all of the redress mechanisms. For example, in negotiations—or even government-facilitated arbitration /mediations—with recruitment agencies, representatives from the agency often fail to appear, and workers have little leverage to compel their response or attendance. Similarly, workers and civil society group representatives described a dismissive attitude from certain government officials within offices ranging from the DEMO to the BMET central office to the Ministry of Expatriates' Welfare and Overseas Employment as well as local district administration offices and police. They described being "ping-ponged" between governments's organs with each government's organ blaming the other for a lack of results. Civil society groups expressed particularly deep frustration when recounting their dealings with the Ministry of Foreign Affairs and embassies in destination countries. They reported having to follow up many times, often receiving no information about the status of inquiries and cases. One civil society representative explained[87], "When it comes to communicating with an embassy, you have to call, send letters, to them there—we really have to be active. It seems like there is not enough attention or care about these cases. We do usually get a response but often after sending the letter twice or more."[88] Workers who had been housed in embassies shelters after leaving their employer also described being addressed rudely or ignored by embassy staffs.

(3.9) Gender related challenges in getting redress

Female migrants often face unique challenges in accessing the justice system in general in Bangladesh, which likely applies equally to the migration context. First, women confront stigmatization and the possibility of being ostracized when they try to lodge complaints, especially if the case involves issues like sexual abuse and rape. Second, the justice system in

[85] Interview with Dr. Md. Nurul Islam, Director, BMET, Dhaka; 6/11/2018

[86] Interview with Mr. Shakirul Islam, Chairman, Ovibashi Karmi Unnayan Program (OKUP), Dhaka, 6/11/2018; Interview with Ms, Rahnuma Salam Khan, Officer In Charge, Application of Migration Policy for Decent Work for Migrant Workers, ILO Bangladesh, 7/11/2018

[87] Interview with Mr. Shakirul Islam, Chairman, Ovibashi Karmi Unnayan Program (OKUP), Dhaka, 6/11/2018

[88] Interview with Mr. Syed Saiful Haque, Chairman, WARBE Development Foundation, Dhaka, 4/11/2018

the country is overwhelmingly male–dominated, creating the potential for influence of patriarchal norms and an environment that may not be hospitable to female crime victims. Availability of experienced women lawyers, judges and officers in judicial administration are not sufficient comparing to the demands of justice sector in Bangladesh. Female workers who migrate via irregular channels confront a host of obstacles to filing a claim before DEMO/BMET, because they rarely have sufficient evidence to support a claim through the regular process These obstacles are amplified for many by the centralization of the overseas employment redress mechanisms in Dhaka and few of districts in Bangladesh, For the poor and socially marginalized, seeking justice is a luxury they are unable to afford.

(3.10) Challenges in formal and informal justice system

Procedural complexities in formal justice sector are difficult to master even for those who are familiar with the language of the law. Poor migrant workers are least likely to possess the self confidence or knowledge required to navigate an inherently intimidating legal system. For many people the entire process, from beginning to end, becomes an exercise in alienation. Politicization of the legal sector is another important obstacle through the pathway for access to justice. Presence of political and power pressure on the victim, complainant and the witness outside of the court is the most common matter that obstacles the pathway to justice. Delayed procedure and backlog of cases have made our legal system an ineffective wing. Absence of proper case management is another major barrier on the pathway for accessing justice. Case management implies planning, accurate and complete data maintenance, bringing periodical management information to the notice of the judges and monitor compliance with the management goals, knowing about the concerns and impressions of the learned lawyers about case processing of different courts, reviewing periodically the workload of the judges, evaluating the improvements made and providing necessary remedial advices etc. Being unfamiliar with computer and internet is another obstacle with this regard for Judges, judicial administrative officers and court staffs creates the problem and also remaining the same.

Bias is a major barrier of being deprived of getting fair justice through informal justice delivery mechanism i.e., shalish. Shalish does not work well in many cases because of the biasness of the shalishkars. Rather it inflames faction among the villagers. Various factors pushed to create factions among the elites and villagers. Normally there might have no problem if the accused is poor. The moderator (elite) of the shalish at any cost attempts to save his kin even he is a perpetrator. Political interference is another reason that brings injustice towards the justice seekers. Leaders of political parties are often selected as presiding the traditional shalish or arbitration which leads them to bias if one of the justice seeking parties is of same or contradictory political view than such leader. Political interference in informal justice system leads the justice be biased. Besides, decision made through shalish having less binding force creates its importance and acceptance less popular. Local modes of conflict resolution also tend to encourage a high degree of direct community participation. The adjudicator or judge is selected from the community itself and known to both parties in any dispute. Rulings are non-binding, and enforcement depends on the ability of the community to exert social pressure on the individuals concerned.

At the focus group in Dhaka (October 2018), returnee migrants were asked in their introductions to identify a success story about access to overseas employment redress mechanism. Only one was able to do so; most appeared discouraged, frustrated with the system, and generally skeptical about access to overseas employment redress mechanism for Bangladeshi migrant workers, whether through formal, informal, or quasi-formal mechanisms. In the view of many experts, the limited bargaining power of migrant workers, along with lower levels of education, capital, and confidence to take cases, meant that recruitment agencies and brokers are

frequently permitted to unjustly profit from and avoid liability for the harms to which they contributed or from which they failed to adequately protect workers. Migrant workers also supported this view.

The inherently transnational nature of migrant labor, in which many of the violations occur abroad in jurisdictions in which lawyers in Bangladesh have no access and little understanding, understandably poses a significant challenge to achieving redress. But that alone does not account for the multitude of barriers to justice identified above. Contrary to the perspectives of some experts who viewed workers as relatively passive and bearing the onus for all aspects of achieving justice, our assessment revealed an engaged and even angry population seeking change. A number of the workers interviewed for this assessment expressed their frustration after trying in a number of ways to assert their rights and being thwarted throughout. When asked for their recommendations for improvements to the system, almost all focused on the need for Bangladesh's embassies to be more responsive to the migrant workers and their family members, and to be more proactive in protecting the rights of migrant workers. They also critiqued the government's relationships with destination countries, and identified these relationships as a barrier to ensuring government assistance in protecting their rights and working to achieve full redress when those rights are violated. Workers also demanded greater accountability in the system, a demand that requires greater transparency of each of the redress mechanisms as they respond to and resolve workers' claims.

(3.11) Limited funding for migrants' legal protection

Though number of international organizations and donor agencies (i.e. British Council/UKAid, European Union, Winrock International/USAID, IOM, Danida, AWO International, ILO, SDC, UN Women, International Centre for Migration Policy Development, Manusher Jonno Foundation, Caritas Luxembourg, CARAM Asia, Solidarity Center International) are working in Bangladesh on various labour migration issues[89], however the funding flows to legal protection of migrants are quite low. Most of the donors are still not focusing and prioritizing the issue of migrants' legal protection both in country and destination countries. The author had found some activities in relates to local level grievance mechanism initiation and strengthening government's existing complaint mechanism for migrants in the projects of British Council/UKAid, AWO International, European Union, Caritas Luxemberg, Solidarity Center International, ILO and SDC. Winrock International/USAID and IOM are delivering funds to different NGOs for providing free legal aid to both of trafficked victims, irregular and undocumented migrants. Along with IOM, Danida is also working on returnee migrants' rehabilitation, integration and different kind of assistance. Caritas Luxembourg, CARAM Asia, Solidarity Center International, UN Women and Manusher Jonno Foundation are providing funds to NGOs for awareness and sensitization building of potential migrants, capacity building of key stakeholders and referrals. International Centre for Migration Policy Development started to set up two migrants' resource centers at Dhaka and Comilla with collaboration of BMET.

[89] This information revealed during interviews of different stakeholders.

CHAPTER 4:

GOOD PRACTICES OF COMPLAINT MECHANISM

The establishment of effective complaint mechanisms for migrant workers has been recognized by experts as key to the protection of migrant workers' rights. Complaint mechanisms now exist in varied form in most countries of origin and destination, as do support services to assist migrant workers in accessing these complaints mechanisms. Telephone hotlines, labour attaches and consular officials, migrant worker resource centers, non-government organizations, and government offices currently provide avenues for the submission of complaints. Yet, in many cases, their coverage is limited and their effectiveness not properly assessed, leaving workers without access to legal and administrative remedies for cases of exploitation and abuse during recruitment or employment. However some countries have able to address the development and promotion of effective complaint mechanisms through regulation, licensing and monitoring of recruitment agencies and other means. Some are also focused on more substantive components of complaints mechanisms, calling for increased transparency, accessibility, advocacy and simplification of such mechanisms,. Examples are :

For Filipino workers, the 34 Philippines Overseas Labour Offices (POLO) located abroad staffed with labour attaches and welfare officers assist workers with filing complaints while on-worksite. Workers are also entitled to file a complaint with the National Labour Relations Commission (NLRC) to seek redress upon returning to the Philippines. The complaints are issued against both the employer and the private licensed employment agency; the agency is held equally responsible for the violation of employment contracts by foreign employers under the joint and solidarity liability principle.

In Singapore, the Ministry of Manpower (MoM) and NGO HOME run 24 hour helplines for distressed foreign domestic workers and other men and women migrant workers who are in distress. Workers can submit complaints through the toll-free helplines, or follow-up with feedback forms and pre-paid envelopes provided by MoM service centres.

In Viet Nam, migrant worker resource centres have been established in Battambang, Prey Veng, Kampong Cham and Pnomh Penh. Migrant workers and their family members can lodge complaints and receive legal assistance in these centers. Complaints are submitted and recorded via standardized forms and managed in accordance with an established complaints process flow-chart.

In Malaysia, trade unions and NGOs such as Tenaganita and Talien Nur provide assistance to migrant workers in filing complaints such as non-payment of wages, late or partial payment, excessive working hours, refusal to provide paid leave, lack of medical benefits, failure to provide support and compensation in cases of occupational accidents.

In Myanmar, three migrant resource centres are being established in Kyaing Tung, Shan State, Mandalay, Mandalay Division and Dawei, Tanintharyi Division. Migrants and their family members will also be able to request legal assistance and referrals in resolving disputes related to their employment and migration.
In Cambodia, a migrant workers complaints mechanism has formalized via ministerial regulation: Prakas 249 on Complaint Receiving Mechanism for Migrant Workers.

In Indonesia, the Ministry of Manpower and Transmigration has established a call centre facility, "hello TKI" where Indonesian migrant workers and their families can complain or seek assistance, both in Indonesia and from overseas, through a toll-free number, a hotline number, or an SMS facility.

Good practices of above countries for handling migrant complaints

Awareness-raising: Awareness-raising campaigns targeting migrants are regularly carried out on how to file complaints and clearly communicate the message that irregular migrants have the right to register complaints as well.

Interpretation and translation: Interpreters are competent, available, and have clear and appropriate job descriptions (including outreach in migrant communities and staffing of hotlines). Outreach materials and official forms for registering grievances and claiming benefits are provided in migrant languages.

Administrative channels for resolving complaints: Mediation, conciliation, or arbitration procedures for settling grievances have been established to expedite the process and avoid the necessity of adjudication in courts for less severe and compoundable offences.

Networking and referral: Regular meetings are held with labour authorities, employer and worker representatives, and CSOs to coordinate activities and monitor progress. A referral mechanism from Ministry of Labour Office (MOL) offices to other service providers has been established (e.g. hospitals and health centres, One-Stop Service Crisis Centres, Social Development and Human Security Offices, police, labour attaches, CSO service providers, etc.)

Target setting and collection of data: Goals related to registration for Funds, complaints, claims and outreach activities are set and progress is monitored through network meetings and reporting. Disaggregated data on migrant registration for Funds, complaints, claims and outreach is collected, (e.g. sectors, locations, legal status, nationality, outcomes, durations, repeat offenders, etc.) analysed, and used to inform targeting of labour inspections, severity of sanctions, locations for information campaigns, and other responses.

Training of officers: Labour officers receive training on the rights of migrant workers to file complaints and claim benefits under laws (including access for irregular migrants), jurisdiction and standard operating procedures for common violations and forms of non-compliance by employers, and international obligations to provide equality of treatment for workmen's compensation benefits.

Protection from retaliation: Measures are in place to protect complainants and claimants against reprisals for their actions to encourage more migrants to denounce abuses and assert their rights (ensuring confidentiality whenever possible, prohibiting retaliatory dismissal, providing greater flexibility in transfer of work permits, sheltering irregular migrants from deportation, etc.).

Facilitating access for women: Awareness-raising campaigns specifically targeting women migrants are carried out (particularly for domestic workers and others not working in formal sector workplaces). Procedures for handling complaints of discrimination or abuse of workers based upon gender have been developed and implemented.

CHAPTER 5:

FINDINGS AND RECOMMENDATIONS

Migrant workers play a vital role in the Bangladesh's economy and development. The expatriate Bangladeshi workers have sent home around $ 3.86 billion in the first three months (July-September) of the current fiscal year, which is 13.73 % higher than the remittance send in previous year (source : Bangladesh Bank report October 2018). Despite migrant workers' economic and social contributions, pre-departure harms are routinely perpetrated against them by recruitment agencies, individual agents/brokers, and others. These include fraud and misrepresentation. Bangladesh government has enacted Overseas Employment and Migrants Act in 2013, its Rules in 2017, Overseas Employment Policy in 2016 and most recently the Wage Earners Welfare Board Act in 2018 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. Afterwards, the government is still not successful to prevent common harms, or to ensure adequate redress and accountability when they occur. Access to justice remains intangible for the overwhelming majority of migrant workers in Bangladesh. In some areas, the rights of migrant workers under Bangladesh laws and private contracts are under enforced, and in other areas better regulation is needed. Throughout the Bangladesh's labor migration system, greater transparency is critical.

This assessment identifies a set of critical gaps in the design and operation of the labor migration framework that contribute to the current lack of meaningful access to grievance mechanism for Bangladeshi migrant workers. Although the legislation need reform in several key areas to: clarify the relationship between mechanisms and potentially modify their jurisdiction and procedures; and, to strengthen oversight of recruitment and improve accountability of recruitment agencies and individual brokers/agents. Beyond legislative change, significant human and financial resources are needed to achieve the effective operation, and necessary expansion of the key redress mechanisms. Greater political will is needed to implement and enforce existing or revised legislation and to support workers throughout all stages of the migration process. The government must develop more systematic and transparent procedures in order to better fulfill its mandate to oversee and hold accountable all stakeholders in the private recruitment industry. And workers must be given the information and support needed to enforce their rights and access remedies for harms. All of this begins with the recognition, by the government and all other stakeholders in the system of overseas employment, of prospective, current, and former migrant workers as rights-holders whose protection is crucially needed for Bangladesh's development.

5.1 Findings

(a) Operation and effectiveness of redress mechanism

1) Bangladesh has formal and non formal mechanisms for resolving complaints of migrant workers against recruitment agencies and individual brokers/agents, and providing compensation in certain cases. These consist of Complaints Receiving Sections (for both of manual and online complaints) at BMET/DEMOs, District Commissioner office, Wage Earners Welfare Board office under Ministry of Expatriates' Welfare and Overseas Employment and Labour Welfare wings of Bangladesh missions at destination countries. In addition, workers in some circumstances can use existing formal justice mechanisms such as the police and courts in Bangladesh and abroad. A number of migrant workers also reported that they use local traditional dispute resolution mechanism i.e. informal in person negotiations or arbitration through village shalish leaders (i.e. union parishad chairman and members) in village court or mediation through support from civil society

organizations , though these are not recognized under Overseas Employment and Migrants Act 2013 and its rules 2017. The law and its rules had recognized only the BMET's arbitration to dispose disputes among aggravated parties. How these above mechanisms work together remains unclear in law and practice. For example NGOs appear to commonly receive complaints at the local level, but the law doesn't recognize their roles and there are no provisions in law for NGOs officially to receive and refer complaints to DEMO/BMET, though they receive and refer complaints unofficially. Similarly, coordination of case-handling between government's different agencies (i.e. police, district, upazila and union level administration wing, government's legal aid service, government committees on human trafficking suppression and prevention, recruiting agencies owners association, local government etc), individual embassies and the Ministry of Foreign Affairs in Dhaka, and between labor attachés and BMET and the Ministry of Expatriates' Welfare and Overseas Employment appears to be minimal.

2) The Middle East, and specifically Saudi Arabia, is a significant destination for Bangladeshi migrant workers. Government, civil society, and lawyers interviewed for this assessment agreed that the Middle East as a destination region poses particular challenges for both migrant workers who travel there, and for those seeking to improve access to justice for those workers. These challenges were viewed in contrast to the Asia Pacific region, the other main destination area, and specifically to Hong Kong, Malaysia and Singapore. It was found by the author that the migrant workers who travel to the Middle East come from particular rural areas. They are overwhelmingly women, with low levels of education and little if any formal work experience before departure. These factors make them more vulnerable to fraud and other abuses.

The recruitment process is inherently disempowering for migrant workers to the Middle East. All recruitment agencies for the Middle East are located in Dhaka—far from most migrant workers' homes. As a result, the vast majority of workers use local-level brokers to connect them with the agencies—a process that remains beyond government oversight and direct regulation. Migrant workers must sometimes travel several days to the capital, depending on the worker's home province, which separates the worker from her or his family and local authorities. As a result of geographical distance, workers also face greater difficulties obtaining documents and seeking assistance or redress from the recruitment agencies if problems arise. Migrant workers in the Middle East experience more problems, and problems of a more severe nature, than other migrant workers. The most common problem unique to Middle East workers is "loss of contact," in which a family loses all contact with the worker, sometimes for a number of years, when the worker is cut off from phone and internet access. Participants believed that cases of unpaid wages were also more common in the Middle East, as were serious physical and sexual abuse cases. Author noted that advocacy on behalf of migrant workers is particularly difficult for those already in the Middle East or who have returned home, because the region is geographically far; the language and culture are very different to Bangladesh; domestic redress mechanisms, laws, and institutions are unknown to most of the migrant workers in Saudi Arabia; connections with local advocacy organizations and lawyers are limited; and the Bangladesh embassies and consulates are overburdened and fail to provide timely responses to requests for information, and generally lack expertise in local legal systems.

3) Awareness of legal rights and redress mechanisms among migrant workers is very low, particularly among women. This is partly because few workers attend the mandatory pre-departure orientation. For those who do attend, the training contains limited information regarding legal rights and options for obtaining redress and compensation

for harms. Other services to provide migrant workers with information are just commencing in certain parts of the country and their impact on access to justice has not been assessed.

4) The government has provided insufficient human and financial resources to responsible departments (Ministry, BMET, DEMO, District Administration and Police) for them to effectively carry out their mandate under the Overseas Employment and Migrants Act 2013. Government had recently formed "Wage Earners Welfare Board" through enactment of Wage Earners Welfare Board Act 2018 and hold sufficient amount of money in "Wage Earners Welfare Fund" for implementing the variety of pre-departure and reintegration programs. Furthermore, with remittances, Bangladesh is profiting significantly from the contributions of its citizens engaging in overseas employment. At present, the under-staffing of the BMET Complaints Receiving Section and many foreign embassies make adequate handling of all cases practically impossible.

5) Migrant workers frequently do not have the necessary evidentiary documents to bring claims through formal redress mechanisms due to failures on the part of brokers or recruitment agencies to provide workers with required documents, and oversight failures by government. Many migrant workers also have their documents confiscated by employers abroad, and are not able to recover them if they leave in distress. Although recruitment agencies may in some cases provide workers with replacement documents they are not required to do so.

6) Workers often fear pursuing claims against recruitment agencies or their agents because of threats ranging from cancelling of the job offer to physical violence. Overseas Employment and Migrants Act 2013 and its Rules 2017 do not contain anti-retaliation provisions, and do not offer protection to workers who pursue claims before DEMO/BMET or the police or court. The Prevention and Suppression of Human Trafficking Act 2012 includes a victim's right to confidentiality and provision for the victims and witnesses protections, but no similar protections exist for victims and witnesses under Overseas Employment and Migrants Act 2013.

7) Corruption persists within Bangladesh's civil service, including reportedly within Ministry, DEMO/BMET, BOSEL, TTCs, Police, Court, District Administration and government's National Legal Aid Services etc. Alleged corruption in overseas employment includes collusion with recruitment agencies to avoid oversight and enforcement of the law and the payment of bribes by recruitment agencies to achieve certain outcomes. Whether corruption is real or perceived, it dissuades migrant workers' from testifying against recruitment agencies at the tribunal, and may impact outcomes of migrant worker cases.

8) BMET has a broad mandate to provide migrant workers with remedies and hold recruitment agencies accountable for common worker harms. It has investigative powers, as well as powers to award compensation to workers and to sanction recruitment agencies for offenses under the law. Due to implementation failures, the promise of BMET's mandate has remained unfulfilled. In addition to the common challenges, such as resources, noted above, this assessment found that:

i) Investigations of migrant worker complaints are superficial, rarely if ever going beyond the documents supplied by the parties, or joining additional potential defendants.

ii) Investigation, case-handling, and decision-making functions are nontransparent. Although BMET has an internal directive, it lacks detail and does not clearly articulate the department's claims-handling role or the rights and responsibilities of victim and defendant, or create a standard procedure. Gaps are evident across several areas:

1) Investigation and decision-making powers are exercised in an adhoc manner. Officers appear to shift between the roles of a mediator and that of a decision-maker able to impose its finding on the parties.
2) Standardized record-keeping and case management systems are lacking.

3) The rights and responsibilities of the parties before BMET are inconsistently applied. For example, parties' rights to documents submitted by the opposing party, and to legal aid are not regularly implemented.
4) Compensation criteria are vague under the law, particularly for losses other than non-payment of wages. Furthermore, poor record-keeping limits the ability to identify trends and improve consistency.
5) BMET decisions are not recorded or published in any systematic fashion, and reasons for decisions are not provided to the parties.
6) Procedures or criteria for filing or determining an appeal from a BMET decision "with the government of Bangladesh" are not detailed in the Rules 2017,

iii) BMET does not have jurisdiction to make decisions in cases against individual brokers/ agents. BMET has to take assistance of district administration in moving the case against individual brokers. This creates an impediment to efficient adjudication of claims. Specifically: 1. Very few cases were actually registered by BMET 2. Cases are often settled with individual agents before they are registered at the court. BMET's role in the settlement of those cases remains unclear. It is also not in detail if workers are aware of the opportunities to prosecute the broker/ agent and agencies, and what that process entails. 3. Allegations of a high proportion of fraudulent claims against individual brokers/agents in the NGOs suggest that BMET's investigation process is not acting as an effective filter for unmeritorious and fraudulent claims.

7) No separate tribunal has found for prosecuting migrant workers cases in Dhaka and other two visited districts (i.e. Narshingdi and Comilla) as well as the whole country. As per section 38 of Overseas Employment and Migrants Act 2013, offenses under this act shall be triable by the Judicial Magistrate of First Class, or, as the case may be, the Metropolitan Magistrate. This Act shall be deemed to be included in the Schedule of the Mobile Courts Act 2009 (Act No. 59 of 2009) (section 40 of the Overseas Employment and Migrants Act 2013). None of cases had filed under this act at anywhere of the country. The author has confirmed this during the interviews of lawyers, government officials and NGOs. Total of 15-17 migrant cheating cases have been filed under Bangladesh Penal Code's section 420/406/506. Among filed cheating cases, some were already been withdrawal by the cheated potential migrants (under section 248 of Penal Code) and some are still in investigation and hearing stages.
8) Bangladesh has taken steps to strengthen embassy assistance to its migrant workers, including appointing labor attachés in more destination states. Embassies are often the only support mechanism of which workers are aware and are providing essential assistance to migrant workers in distress. Nevertheless, they not adequately support migrant workers to access justice in destination countries due to inadequate resources, training, and influence to genuinely assist workers when their rights are violated.
9) Wage Earners Welfare Board Bangladesh provide compensation to workers and their family members in cases of death and mutilation, are perceived to be working relatively effectively, providing compensation quickly and with minimal documentation. However, awareness of the fund was extremely low among migrant workers, and thus it is likely that many valid claims are not being filed. As most of the claims received at Dhaka, presenting a further barrier to access. Irregular workers, who did not pay into the fund, are explicitly denied access to benefits under it. The exclusion of irregular workers has a disproportionate impact on female migrant workers.

10) Despite the existence of formal redress mechanisms through BMET and few district level manpower offices, most migrant workers outside Dhaka rely on local services, where available, to resolve disputes, particularly with individual brokers/agents. These include traditional structures like local shalish, as well as civil society organizations or local government which can mediate disputes. Local police also sometimes play a mediating role between workers and individual brokers/agents. The use of informal justice mechanisms is controversial, particularly within civil society. Violations of the Overseas Employment and Migrants Act 2013 are criminal offenses, and some civil society representatives felt they must be addressed through BMET or DEMO to ensure accountability. Others felt mediation to be a more practical alternative. Mediation appeared to provide more timely redress for some migrant workers, but was also subject to influence due to personal relationships between workers and individual brokers/agents, or between brokers/agents and local power structures. No data is available on the number or outcomes of mediations on which to assess their use and effectiveness.

11) Bangladesh's chief judicial and metropolitan magistrate courts and mobile courts are available to migrant workers for prosecution of their cases; women and children repression tribunals are accessible for labour trafficking cases and district courts for cases under the civil code. Although courts are located in each district, they are notoriously backlogged & overburden. Legal experts suggested government to set up separate overseas employment tribunals to reduce the burden of courts and speed up the future case disposal.

b) Governance and oversight of labour migration

1) Labor migration is facilitated almost exclusively by private actors whom the government is tasked with overseeing. These private actors, including recruitment agencies, individual brokers/ agents, manpower agencies in destination countries, and employers, are responsible for most harms that workers experience in the course of migrating for work. Certain pre-departure harms increase the likelihood that migrant workers will experience other harms before departure and while abroad, and impede migrant workers' access to grievance mechanism upon return. These include: the charging of excessive recruitment fees which put migrant workers in significant debt, misrepresenting the terms and conditions of migration and of employment leading to the employer not abiding by promised conditions, delaying or even cancelling departure, fraud, and failure to provide workers with correct pre-departure documents, including a receipt for actual fees paid and contracts of employment and recruitment. Bangladeshi migrant workers experience a range of rights violations at the hands of private actors from the moment of recruitment through to their return home. Many violations are inter-related and interdependent in a manner that the current legal framework fails to adequately address.

2) The Overseas Employment and Migrants Act 2013, the primary statute governing labor migration, places numerous obligations on private actors in the overseas employment industry, and provides for fines and, in some cases, imprisonment when those obligations are not fulfilled. It also establishes mechanisms for oversight and compensation. However, the act and rules are devoid of rights language and many obligations set forth in the act do not have a corresponding right. Further, procedures for obtaining redress when obligations are left unfulfilled are unclear. For example, although recruitment agencies are obligated to provide a contract, the law does not articulate any means by which workers may enforce their right to a contract, or obtain a remedy when it is not provided. Similarly, the law does not set out a procedure to compel the government to fulfill its obligations under the act.

Further, the legislation does not establish a general right to redress in the event that a worker's statutory or contractual rights are violated. The act also does not reference Bangladesh's obligations to migrant workers under the human rights treaties to which Bangladesh is a party (see Annex 1 for a list of these treaties). Of particular concern, the law does not take affirmative measures to protect and fulfill the rights of vulnerable groups such as women migrating into domestic work as is required under Convention on Elimination of Discrimination Against Women (CEDAW).

3) The Overseas Employment and Migrants Act 2013 impose significant obligations on recruitment agencies, along with fines, suspensions and cancellation of license and criminal punishment for non-compliance. However, penalties for the most common violations committed by recruitment agencies are relatively low and the act allows more common offenses to be resolved administratively by BMET. In addition, recruitment agencies are often able to shield themselves from liability in both law and practice, by using unregistered individual brokers/agents. The act doesn't penalize recruitment agencies for using unregistered agents. As a result, efforts to register agents with recruitment agencies have largely failed, and recruitment agencies are rarely held accountable for the actions of agents on whom they rely. Finally, oversight provisions in the Overseas Employment and Migrants Act 2013 are vague, allowing recruitment agencies to operate without great scrutiny. Pre-departure checks are few and not comprehensive. For example, neither the act nor the rules require government oversight of contracts being given to or signed by workers, or of workers' participation in the mandated pre-departure training. As a result, these steps appear to be frequently bypassed.
4) Written contract(s) are essential for migrant workers to access justice. They define the terms and conditions of foreign employment; identify the parties to the agreement and the responsibilities of each party; and form the basis on which the worker can pursue redress if the agreement is violated. Although Overseas Employment and Migrants Act 2013 addresses contractual requirements, the provisions are ambiguous, compliance by recruitment agencies is poor, and government oversight is weak. BMET pre-approval and pre-departure checks of documents are routinely failing to identify common non-compliance. Indeed, contracts between recruitment agencies and migrant workers appear never to be provided—migrant workers were unaware of their right to such a contract, and recruitment agencies said they were not required. The Overseas Employment and Migrants Act 2013 does not penalize recruitment agencies for not providing contracts, or providing inadequate contracts, and does not establish any rights or remedies for migrant workers who do not receive a contract as required. Migrant workers who complain to DEMO/BMET and demand a contract are likely to see the promised job evaporate or risk being blacklisted for future employment by the recruitment agency involved.
5) The Overseas Employment and Migrants Act 2013 allow workers to claim compensation under section 18 (sub section 2 & 3), but didn't specify the detail of compensation calculation and its criteria also. Most of the workers in focus groups said that they didn't claim for compensation yet due to lack of information about compensation procedures and mediators biasness toward brokers/agencies.
6) The Overseas Employment and Migrants Act 2013 is silent on the rights of workers who have engaged in overseas employment outside of formal channels and are in an irregular status. In theory, migrant workers who depart Bangladesh irregularly should have equal access to all redress mechanisms. In practice, such workers usually find themselves unable to access justice because they lack documentary

evidence such as receipts and contracts to support their claims. The law does not provide any remedy for workers who unwittingly depart Bangladesh in an irregular status because of the actions of their recruitment agency and/or individual brokers/ agents. Women make up a small percentage of the total number of Bangladesh's regular migrant workers, although it is believed many women travel irregularly in defiance of restrictions on women under age of 25 travelling to the Gulf as domestic workers. As a result, women have been largely invisible in public discussions on overseas employment, even though women appear to suffer more frequent and severe harms abroad than their male counterparts.

Bangladesh has taken some steps to protect women migrant workers such as reimbursing the cost of pre-departure orientations for women. At the same time, the act allows employer institutions to make gender-specific demands in the recruitment and selection of workers. Furthermore, Bangladesh's age restriction of certain female migration clearly discriminates based on gender, and ultimately pushes young women into more risky forms of migration, such as traveling through third countries, or traveling on false documents. This compounds their vulnerability and limits their ability to access justice when their rights are violated. Neither the act nor the Rules 2017 contain provisions that address the unique situation of women seeking and engaging in overseas employment. Nor do they address the particular needs of returning women migrant workers, such as maternal and child health services or counseling for women migrant workers who have been abused, or practical differential needs of women seeking to make compensation claims and access justice. CEDAW guidelines in General Recommendation on women migrant workers are not clearly reflected in the Act.

7) BMET's mechanisms were strikingly informal in implementation. Except for the police & courts, the procedures for filing complaints and claims, and for resolving disputes, are governed only by informal internal rules, if governed by rules at all. Dispute resolution appears to be carried out in a relatively informal and ad hoc manner. In BMET "arbitration," for example, neither the worker nor the BMET can force the other party to the table (recruitment agencies frequently fail to attend), and workers often accept whatever is offered, regardless of whether it is fair. Migrant worker often lost their faith on the arbitration system and never applied for appeal for further decision. As a result workers almost never receive their full entitlement, and private actors have no incentive or realistic threat of sanction to compel them to provide fair redress.

5.2 Recommendations

Considering the above mentioned challenges and findings, author of this report felt the need to initiate a five years pilot project at five top most labour sending districts (Comilla, Chittagong, Bramanbaria, Tangail and Dhaka) of Bangladesh to protect rights of vulnerable and victimised labour migrants. In next few paragraphs author has described the proposed project's layout for consideration.

Project title: Protecting Labour Migrants' Rights in Bangladesh

Goal of the proposed project: Sustained and equitable access to legal services and institutions reduced frequencies of migrants' workers abuses & exploitations in project target areas by 2024.

The outcome of the proposed project will be- "Legal empowerment of vulnerable and victimized labour migrants including: a) Enabled access to justice for labour migrants in project target

areas; b) Promoted better enforcement of key legislation (Overseas Employment and Migrants Act 2013, Prevention and Suppression of Human Trafficking Act 2012) , its rules and policies that protect labour migrants at project target areas; and c) Improved complaint response system for labour migrants in project target areas."

Expected outputs of the proposed project are : 1) Increased access to legal protective services for the vulnerable and victimized labour migrants; 2) Increased advocacy to amend law and promote enforcement of law and rules to protect target migrant workers from abuses and exploitations; 3) Increased adoption of good practices/models of complaint response system, to legally address labour migrants' rights violations and 4) Increased knowledge and capabilities of relevant key stakeholders to deliver legal protection services as well as to functional complaints response system from union to district level.

Major activities of the proposed project will be:

(1)Strengthen & operationalize government's existing national legal aid service delivery program to improve migrant workers' access to justice from union to district level;

(2)Establish, functional and expand non-government organizations' free legal aid service for labour migrants from union to district level, in coordination with each other and with existing non-government legal service provider organizations technical assistances or direct supports;

(3) Facilitate access to formal and informal redress mechanisms by providing comprehensive information to migrant workers about rights and redress options;

(4) Assist government to improve their oversight of pre-departure processes, orientations, and redress services for migrant workers by providing research and monitoring, drawing on the direct experiences of migrant worker;

(5) Litigate strategic cases to enforce rights and government obligations under domestic laws, policies, the constitution and international conventions/ treaties/protocols and to ensure adequate remedies for workers.

(6) Introduce & functional paralegal advisory services (at unions and upazila level) for delivering door step legal services as well as to identify and ensure justice for unreported cases.

(7)Strengthen BMET's oversight of contracts provided to migrant workers through enforcement of provisions of Overseas Employment and Migrants Act 2013 [including i) verifying that required contracts are signed by workers and ii) ensuring a copy of contract submitted to Bureau and foreign mission as required under the act.]

(8) Advocate to amend Overseas Employment & Migrants Act 2013 to include the provision of one tripartite contract between the employer institution, recruitment agency, and worker, incorporating a clause for joint and several liability between the employer institution and recruitment agency and if there any breach of clauses both of the parties (employer and agency) will be liable.

(9) Advocate to amend Overseas Employment & Migrants Act 2013 to create an offense, sanctions, and a remedy for not providing required contracts, with a parallel right of action for migrant workers to demand provision of contracts from the recruitment agency.

(10) Assist BMET to formulate and use standard forms of contracts, guideline on contracts issuance and signing as well as to develop a documentation system in which copies of all contracts and other documents stored centrally as well as outreach and that is readily accessible to a migrant worker (and his or her representative) of all over Bangladesh;

(11) Advocate to amend Overseas Employment & Migrants Act 2013 to a) establish enforceable rights that correspond with the statutory obligations of government and recruitment agencies; b) recognize a right to redress if a worker's rights are violated; and c) incorporate other key human rights provisions in the treaties (ICCPR, CEDAW, CRC and ILO Core Conventions) to which Bangladesh is a party as they relate to labor migration.

(12) Advocate to formulate a policy for BMET, Wage Earners Welfare Board, District Administration, Police and Judiciary to treat migrant workers' as rights-holders in their handling of migrant worker complaints and cases;
(13) Advocate to amend the Overseas Employment & Migrants Act 2013 to include sanctions against
recruitment agencies that rely on unregistered brokers/agents to supply workers, and hold recruitment agencies accountable for representations made to workers by those brokers/agents regardless of whether there is an official relationship between the brokers/agents and recruitment agency.
(14) Advocate to introduce "checkpoints" to identify relationships between brokers / agents and recruiting agencies—e.g., while an agency apply for overseas employment approval, she has to specify whether she will use local brokers/agents to collect manpower or not. If the answer is yes, then she had to provide identity of those local brokers/agents with application for approval and all applications will be checked twice both at Ministry/BMET and international airport's migrants welfare desk and immigration police authority.

(15) Assist government to establish a more robust inquiry process regarding systemic wrongdoing in the recruitment industry, and transparent (and potentially mandatory) exercise of BMET's inquiry discretion.

(16) Conduct regular audits of all recruitment agencies, make the findings of those audits public, and develop a rating and classification system for all recruitment agencies.

(17) Assist government to design BMET's complaints handling & compensation measurement (including physical, mental and social, not just by calculating salary differences) guidelines to ensure both accountability and needed compensation to the individual harmed.

(18) Develop a referral protocol from BMET/DEMO side a) with the police to refer migrants rights violation and trafficking cases for prosecution and b) with the NGOs to provide health, counseling, entrepreneurship development, shelter and other services.

(19) Advocate to amend the Overseas Employment and Migrants Act 2013 to recognize the right of Irregular workers to seek redress at BMET/DEMO, Courts, Police, District Administration, local government and local legal aid committees.

(20) Create scope to use Wage Earners Welfare Fund In cases where workers were sent irregularly without their knowledge and suffered mutilation abroad.

(21) Conduct monitoring of implementation of law that address migrants rights protection at project locations.
(22) Establish more migrant resource centers through BMET to provide information to prospective migrant workers especially women including their rights as workers, and contact numbers for assistance abroad and in Bangladesh.
(23) Provide confidential, free, and voluntary health assessments for returning women migrant workers through private and NGO partnership.
(24) Functional women's desk at BMET to handle sensitive claims submitted by women, and to link women with other relevant services.
(25) Advocate with BMET to open and operate upazilla offices that can carry out the full functions of DEMO/BMET, including receiving and investigating complaints.
(26) Advocate with local government ministry to expand the roles and responsibilities of local government to receive complaints from migrant workers at union level as well as to take necessary steps to resolve complaints using shalish/arbitration in lawful ways.
(27) Advocate with BAIRA & BMET to direct recruitment agencies to open their branch offices at the district level, ensuring that all agencies or branches currently in operation have the authority to recruit migrant workers and to respond to complaints.

(28) Advocate with BMET to arrange at least 7 days pre-departure orientations for all migrants at the local level. Consider partnerships with civil society organizations already providing information in particular districts.
(29) Facilitate systemic inter-agency and civil society coordination, and collaborative data collection on effectiveness of redress mechanisms.
(30) Initiate a streamlined case management system at BMET and the court for tracking types of claims, time to resolution, compensation sought and awarded, and worker satisfaction with the process.
(31) Create a model of separate standard digitalized integrated complaints receiving and resolve center (connecting with government and non-government organization's services) following good practices of different countries (mentioned above in this report) and replicate further countrywide and even in destination countries based on success of the model.
(32) Advocate with government to create separate Overseas Employment Tribunal in each of the districts of Bangladesh to quick disposal of migrants' rights violation cases.
(33) Advocate with government to increase manpower, financial and logistic resources of BMET's existing central level complaint section as well as district manpower offices.
(34) Advocate with government to enhance capacity of local police to investigate cases at the local level, and/or seconding to BMET police with specialized expertise in financial crimes, overseas migration or human trafficking. An inter-agency MOU between police and BMET for investigating cases can be signed and functional.
(35) Develop a guidance about BMET's role in resolving claims brought by workers against recruitment agencies (i.e. facilitator, mediator or adjudicator), and establish decision making criteria and processes that recognize the worker as a rights-holder. These should include explicit and publically available guidelines for determining compensation amounts for non-wage related harms, and potentially for reasonable expenses related to bringing claims.
(36)Establish a clear, transparent and accessible appeals process at BMET that allow for the worker's participation and inputs.
(37)Advocate with government to ensure the realization of a worker's right to legal representation during the filing and adjudication of claims before BMET and the court through assistance of NGOs.
(38) Functional the process for filing and adjudicating cases against individual brokers/agents before BMET through police or district administration assistance.
(39) Orient NGOs to solve serious cases (for example a large amount of money taken, sexual harassment, torture, contract defer, confined) only through filing cases under the act, not through negotiation, conciliation, mediation or arbitration.
(40) Advocate with government to increase the number of labor attachés assigned to embassies within the Middle East, including posting female labor attachés in every country where female migrant workers are present.
(41) Advocate to increase resources for foreign embassies to assist migrant workers in distress, and provide comprehensive training to all diplomatic staff regarding the rights and redress options for migrant workers before posting. Ensure that specific gender-sensitive training is provided on the rights of female migrant workers and the barriers they face to accessing justice at home and abroad.
(42) Increase coordination between embassies, the Ministry of Foreign Affairs and the BMET regarding the handling of transnational cases.
(43) Advocate with government to open up a legal affairs wing within the embassies and place at least two Bangladeshi lawyers in each embassy to deal with Bangladeshi migrant workers cases with support of destination countries lawyers and NGOs.
(44) Advocate with government to increase support services for victimized migrants in high Bangladeshi labour receiving countries as well as expand Bangladeshi NGOs interventions to protect migrants at destination countries.

(45) Develop guidelines for embassies regarding the scope of assistance to be provided to migrant workers with cases in destination countries, in coordination with BMET and the Ministry of Foreign Affairs and encourage each embassy to develop specific procedures relevant to the jurisdiction in cooperation with civil society organizations operating in the destination country.
(46) Increase outreach to workers and their families about rights to compensation through the provisions act and welfare fund. For example, make information available at embassies abroad, at DEMO/BMET offices through brochures or information boards, and at the airport upon return.
(47) Create mechanisms for filing claims with the welfare fund at the district level, for example through migrant resource centers or district manpower offices.
(48) Review and revise the manual for pre-departure orientation to include more detailed information about remedies for harms, and redress mechanisms.
(49) Encourage participation at pre-departure orientations by offering programs at the district level or immediately prior to departure when workers are already in Dhaka.
(50) Organize massive campaign both in labour migration prone districts and also in major destination countries about workers rights, grievance redressal mechanism, government and non-government organization's legal aid services & the ways to access these.
(51) Organize series of training for lawyers, police and judiciary on application of Overseas Employment and Migrants Act 2013, its rules 2017,policies and also about destination countries laws and policies and its application in protecting migrants rights at destination countries.
(52) Build capacities of district manpower offices staffs and BMET's central level staffs about conducing investigation, sensitive case handling and the lawful process of mediation and arbitration.
(53) Enhance capacities of labour welfare wings' staffs (at different Bangladesh missions) on application of international laws, destination countries laws and procedure to get legal remedies.
(54) Arrange series of training for non-legal service provider NGOs on monitoring of enforcement of laws and also on para legal service delivery to victimized labour migrants.

Annex-1 : Relevant International Treaties and Protocols Ratified by Bangladesh

Annex 2 : Key Informants Interviewee List

References