



**Protection of Migrant Rights : Public Policy  
Framework on Labour Migration in Bangladesh.**

**GIFT**

**Submitted To**

University of Dhaka for the Degree of Master of Philosophy (M.Phil).

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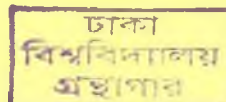
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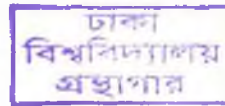
## DECLARATION

*This is to certify that I have read the thesis entitled "Protection of Migrant Rights: Public Policy Framework On Labour Migration in Bangladesh" submitted by Shabnam Zahan in partial fulfilment of the requirements for the Degree of M. Phil in political science and that this part is an original research carried out by her under my supervision and guidance.*

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## **Dedication**

**This thesis is dedicated to my Father *Mohammad Babru Miah* and my Mother *Monowara Begum*. Their love, support and encouragement helped me to achieve in writing this thesis.**

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***ABSTRACT***

We all may prefer to live in a political system where everyone has an equal voice in policy making, where many separate interest groups put forward solutions to public problems, where discussion, debate and decision are open and accessible to all, where policy choices are made democratically, where implementation is reasonable, fair and compassionate... this will be a perfect model of public policy. As Bangladesh is a democratic state and labour migration is quite an essential component for the overall development of the country, it is highly important to analyze the Bangladesh Overseas Employment Policy (BOEP) 2006 right away. This study goes to capture the policy making process itself and its implementation mechanism. The shortcomings of the policy, in the process, are also identified and it suggests the steps that the Government of Bangladesh needs to follow with a view to continuously update the policy as well as ensure its correct implementation.

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**Flow Chart 1** The policy process cycle

## *Abbreviation*

BAIRA	:	Bangladesh Association of International Recruiting Agencies
BIMT	:	Bangladesh Institute of Marine Technology
BMET	:	Bureau of Manpower, Employment and Training
BOESAL	:	Bangladesh Overseas Employment Services Limited
BOEP	:	Bangladesh Overseas Employment Policy
BOMSA	:	Bangladesh Obhibasi Mahila Sramik Association
BWMA	:	Bangladeshi Woman Migrant Association
CSO	:	Civil Society Organization
GDP	:	Gross Domestic Product
GoB	:	Government of Bangladesh
ICMW	:	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
ILO	:	International Labour Organization
IMF	:	International Monetary Fu
INSTRAW	:	United Nations International Training and Research Institute for the Advancement of Women
IOM	:	International Organization for Migration
MEWOE	:	Ministry of Expatriates Welfare and Overseas Employment
MFI	:	Micro finance Institutions

MOFA	:	Ministry of Foreign Affairs
MOLE	:	Ministry of Labour and Employment
MPI	:	Migration Policy institute
MW	:	Migrant Worker
NGO	:	Non-governmental Organization.
RMMRU	:	Refugee and Migratory Movements Research Unit
TTC	:	Technical Training Centres
UNDP	:	United Nations Development Programme
UNHCR	:	United Nations High Commissioner for Refugees
WARBE	:	Welfare Association of Repatriated Bangladeshi Employees
WEFE	:	Wage Earners Welfare Fund

**CHAPTER ONE**

## CHAPTER ONE

### INTRODUCTION

#### 1.1 INTRODUCTION

International labour migration is an age old phenomenon; but economic globalization has put a new spin on global migration.<sup>1</sup> (IOM, 2002). All 190 or so sovereign states of the world are now either in the points of origin, transit or destination for migrant workers, often all three at once. Migration for many becomes not a choice, but an economic necessity.<sup>2</sup> (Buchenaw, 2008). As a labour surplus country, Bangladesh belongs to the supply side of the global market and remittances are the highest source of its foreign exchange earnings. Expatriate Bangladeshis remitted \$10 billion in the just-ended fiscal year, posting a strong 22% rise over the same period in last fiscal. Comparable data on the relationship between migrant remittance and poverty alleviation for South Asia are not available, but the World Bank Global Economic Perspective Report, 2006, points out that remittance inflow has made it possible for Bangladesh to cut poverty by 6 percent <sup>3</sup>(Khatri, 2007). This report shows that migration plays a leading role in the context of Bangladesh.

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<sup>1</sup>. IOM,(2002) International Labour Migration Institutions Of Bangladesh, India, Srilanka in Ferment, The Philippines as Catalyst . [www.iom.int](http://www.iom.int)

<sup>2</sup> Buchanaw Jaun (2008) Migration, Remittances and Poverty Alleviation in Bangladesh: Report and Proposal, UNDP-Bangladesh Migration and Remittance. [www.undp.org](http://www.undp.org)

<sup>3</sup>Khatri k.Sridhar (2007) Labour Migration, Employment and Poverty Alleviation in South Asia. [www.iom.int](http://www.iom.int)



In spite of the tremendous role of the migrant workers in the socio-economic development of Bangladesh their rights, facilities and welfare are not sufficiently recognized and ensured.<sup>4</sup> (Siddiqui, 2004). Actually, increased mobility has not necessarily been accompanied by improved working conditions or rights and security for migrant workers in the globalize world of the 21<sup>st</sup> century.

Most Bangladeshi migrant workers especially low skilled workers do not enjoy basic human and labour rights in the receiving countries and experience widespread abuse and exploitations. Tightening immigration controls and commercialization of recruitment process have further contributed towards the erosion of migrant rights.

Since late 1990s successive government of Bangladesh have taken various measures to explore and consolidate markets, streamline labour recruitment and remittance management.<sup>5</sup> (Siddiqui, 2009). Of all those steps Bangladesh Overseas Employment Policy 2006 is the most dynamic work because Bangladesh is the first country in South Asia to announce such a labour friendly policy; which empowers both man and women. How that policy ensures the rights and protects those ‘unsung heroes of our economy’ is the significant of my study.

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4. Siddiqui. T (2004), Decent Work and International Labour Migration from Bangladesh. Paper Present at the ILO Seminar on Globalization Decent Work, Dhaka.p.4

5. Siddiqui. T (2009), International Labour Migration and Remittance Management in Bangladesh. Occasional Paper Series 19. RMMRU.p.2.

## **1.2 STATEMENT OF THE PROBLEM**

The process of Bangladeshis migrating abroad has been in operation. Evidence shows that even as early as 1942 people from Bangladesh migrated to and settled in, the port cities of London and Liverpool in United Kingdom<sup>6</sup>(Mahmood, 1984). After the Second World War and especially during the late 1950s and early 1960s, a large number of Bangladeshis migrated to the UK. Systematic recording of migration flows started only in 1976 when the Bangladesh Bureau of Manpower Employment and Training (BMET) was established with the specific task of monitoring and movements of nationals going on foreign employment.

Despite having a labour intensive economy Bangladesh, has a significant imbalance in the human resource market in the country. Necessity forced Bangladeshi laborers to migrate to other countries for employment and better earning. Between 1976 and 2008 about 54, 817.44 million USD was earned as remittance by millions of Bangladeshi migrants. The recruitment process of migrant workers in Bangladesh is complex. The whole process is characterized by a host of intermediaries, some official and legitimate, while others are clandestine and dubious. The recruitments of migrant workers are in the hands of the private recruiting agents and individuals. In this context, though migration friendly policy interventions by Bangladesh government is desirable, in reality there is an absence of such policy perspective.

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6.Mahmood .R.A(1994)'International Migration and Remittances' in Policy Issues in Bangladesh, Zafarullah Habib(ed).South Asian Publishers, New Dellah. p.269

Migrant workers, particularly in Asian countries, have to return to Bangladesh after the stipulated contract period. There is absence of policy framework for facilitating reintegration of migrants. Re-integration and rehabilitation of the returnees is the least explored area in labour migration scenario for Bangladeshis. Parameters of a policy framework for reintegration have been identified for action

Globalization alone with local factors has made the management of the labour migration a complex and difficult undertaking. The interest of migrant workers has been marginalized due to lack of rules, migration norms and expertise in migration management, both locally and globally. In Bangladesh, there is an absence of institutional and policy framework to address the issues of institutional arrangements for skill development, protection of rights of migrants as well as evolution of the measures to minimize the migration of undocumented workers.

There are some important International instruments in respect to migration. These are, the Migration to Employment Convention (Revised) 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendations (No. 151) of ILO. Convention No. 97 came into force in 1952 and Convention No. 143 in the year 1978. The 1990 UN International Convention on the Protection of Rights of All Migrant Workers and Their Families (ICMW) is the most comprehensive instruments concerning the migrant workers. It ensures rights to regular and irregular, male and female migrants. It is important to note that none of the labour receiving countries of Bangladesh has ratified the ILO Conventions or the UN Convention on migration. Bangladesh also did not ratify the ILO Conventions. It has signed the UN convention but did not ratify it yet. As a sending country it is in Bangladesh's interest to accede to the

Convention immediately and frame the necessary planning enabling national legislation.<sup>7</sup> (Siddiqui 2009)

Labour migration plays a vital and indispensable role to the economy of Bangladesh. It is true that some of the problems faced by the labour migrants are beyond the jurisdiction of the Bangladesh state. Nonetheless, some of the hardships are caused by agents within the state. The government can take different policy and actions in making them accountable and protect the migrant.

### **1.3 RATIONAL OF THE STUDY**

Public Policy is whatever government chooses to do and not to do. It is true that every public policy have certain limitation because problem identification and solution of any sector is not so easy. From this perspective Bangladesh is the first country in South Asia to announce Overseas Employment Policy is very much appreciated. It empowers both man and women the right to choose overseas employment from an equal stand and at the same time it talks of the dignity and security of the workers.

Most of the migration related research of our country focuses only importance of remittance or the rights of migrant workers. Analysis of BOEP under the framework of Public Policy has not been conducted yet. Moreover the growing attention and importance, give me the opportunity to undertake this field as a new area for serious study. What is the situation in the implementation stage and what should the GoB do in the coming days for the betterment of MWs, is the significance of my study.

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<sup>7</sup>Siddiqui.T(2009) ,ibid , p 35

## 1.4 RESEARCH QUESTION

**Some questions are related to policy process. These are**

- a. What are the methods of selection process to the policy option?
- b. Who is the main factor in agenda setting?
- c. What are the issue areas where policy interventions have been made?
- d. What was the involvement of civil society in formulation of the policy?
- e. What was the involvement of expertise in policy formulation?
- f. What was the mechanism designed for policy implementation?
- g. What is the mechanism for evaluation of the policy?
- h. What is the mechanism for monitoring the policy?
- I. What is the rule of inter-ministerial agency coordination in forming the policy?

**Some questions related to the analysis of the policy. These are**

- a. What will be the output of the policy?
- b. Is the gender issue well thought in the policy?
- C. Is there any contradiction with the BOEP and the 1982 immigration ordinance? If so how it should be resolved? Do we need to change the ordinance to materialize the BOEP?
- d. Is it all encompassing? Or is it only carrying some specific aspects of labor migration?
- e. Is it following the 1990 UN Convention?

## 1.5 OBJECTIVE OF THE STUDY

The major areas covered in this study are the examination of the BOEP 2006 under the framework of public policy and at the same time focus on some specific aspects. So the objectives behind this study can be classified into two i.e. a broad one and a set of specific ones.

**Broad Objective-** The study was undertaken with a view to know BOEP 2006 follows the rules of public policy.

**Specific Objectives-** The study was focused on some specific aspects. These are

1. How was the policy framed?
2. Who are related with the framing of the policy?
3. What was the role of civil society?
4. What was the goal?
5. How important the gender issue was in this policy?
6. Who implements the policy?
7. What mechanism will be followed to evaluate the policy?

## 1.6 LIMITATION OF THE STUDY

Every study or research suffers from certain limitations. Though migrant workers issues are not new but research on this area particularly analysis of the BOEP 2006 under the framework of public policy is comparatively insufficient in Bangladesh. Most of the studies are conducted taking into account the contribution and usage of remittances in national economy. Research on their rights, benefits and welfare guaranteed in national policy is really inadequate or scattered. Besides these, BOEP 2006 is a public policy, that's why government officers do not share all related information and some officers were even transferred to another department. Therefore getting information was difficult.

## **1.7 STRUCTURE OF THE STUDY**

This study titled “Protection of Migrant Rights: Public Policy Framework on Labour Migration in Bangladesh” is divided into seven chapter.

Chapter one gives general background, problem statement, rational of the study and objective of the research. It also identifies the research questions and presents the limitations of the study. Chapter two is titled ‘Conceptual framework and Research Strategy’, where theories of public policy and the research methodology are discussed. Chapter three is titled ‘The Policy-making Process: Getting inside the System’, where the whole policy making process is discussed. Chapter four titled ‘Policy Analysis and Evaluation of BOEP 2006’ where the salient features of BOEP are explained in detail and at the same time it tries to find out the shortcomings of the policy. Chapter five is titled ‘Implementation Status of the BOEP 2006’ where the present situation of the policy implementation is analysis. Chapter six is titled ‘Changing Scenario: The Policy Implication’ where the result of the implementation process is discussed. Finally the last chapter is titled ‘Conclusion and Recommendation’ where the findings of my thesis are described and recommendation is also suggested.

**CHAPTER TWO**



## CHAPTER TWO

### THEORITICAL FRAMEWORK AND RESEARCH STRATEGY

#### 2. 1. Theoretical Framework

Public policy is anything that the governments choose to do or not to do. David Easton defines public policy as “the authoritative allocation of values for the whole society” but it turns out that only the government can ‘authoritatively’ act on the “whole society, and everything the government chooses to do or not to do results in the ‘allocation of values’”.<sup>8</sup>

Political scientist Harold Lasswell and Philosopher Abraham Kaplan define policy as “a projected program of goals, values and practices”<sup>9</sup> and political scientist Carl Friedrich says, “It is essential for the policy concept that there be a goal, objective or purpose”<sup>10</sup> These definitions imply a difference between specific governmental actions and an overall program of action towards a given goal.

Political scientist Charles O Jones asks that we consider the distinction among various proposals (specific means for achieving goals); programs (authorized means for achieving goals); decisions( specific actions taken to implement programs); and effects( the measurable impacts of programs).<sup>11</sup> According to political scientist Hugo Hecl: A policy may be considered as a course of action or inaction rather than specific decisions or actions, and such a course has to be perceived and identified by the analyst in question”.<sup>12</sup>

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<sup>8</sup> Easton David, *The Political System*, New York: Knopf, 1953, p129

<sup>9</sup> Lass well D. Harold and Kaplan Abraham, *Power and Society*, New Haven: Yale University Press, 1970. p 71.

<sup>10</sup> Friedrich Carl J, *Man and His Government*, New York: McGraw-Hill, 1963. p 70

<sup>11</sup> Jones O, Charles, *An Introduction to the study of Public Policy*. Boston: Duxbury, 1977. p 4

<sup>12</sup> Hecl Hugh, *Policy Analysis*, *British Journal of Political Science*, 2. January 1972.p 85.

Taking as a whole, public policy may be defined as a purposive course of action taking by those in power in pursuit of certain goals or objectives. It should be added here that public policies are the policies adopted and implemented by government bodies and officials.

In analyzing public policy we need to be able to organize our ideas and concepts. The world is a complex place and in order to understand this complexity we need to simplify. When we simplify in order to comprehend the multiplicity of factors and forces which shape problems and social processes, we construct models, maps or think in terms of a metaphor, Persons says.<sup>13</sup> These constitute frameworks within which and through which we can think and explain. A model is a simplified representation of some aspect of the real world. Over the years, political science, like other scientific disciplines has developed a number of models to help us understand political life.

These models are as follows-

- (a) Institutional Model
- (b) Process Model
- (c) Group Model
- (d) Elite Model
- (e) Rational Model
- (f) Incremental Model

Each of these terms identifies a major conceptual model which can be found in a literature of political science. None of these models was derived especially to study public policy, yet each offers a separate way of thinking about policy and even suggests some of the general causes and consequences of public policy. Among these models I select "PROCESS MODEL" to analyze BOEP.

13. Persons Wayne (1999), Introduction to Public Policy, Prentice Hall, New Jersey. P-31.

Institutional model defines *Policy* as Institutional output; Group model defines *Policy* as group Equilibrium; Elite model viewed *Policy* as elite preference; Rationale model said *Policy* as an efficient goal achievement; Incremental model viewed *Policy* as variations on the past and Process model defines *Policy* as political activity.

After a thorough revision of all the models we come to a conclusion that the only model ideal for a perfect analysis of the BOEP 2006 is the Process Model. In doing this, we have taken two things in consideration. Firstly, Bangladesh is a democratic state, although the task of formulating an Overseas Employment Policy as the first of its kind took off only in 2004. Eventually, it came out as a Gazette in 2006. However chaotic it may be, the government has set in motion the process of its realization as well. We can clearly see, the initiative has already left a good mark in the migration sector. In view of these, I consider, the best way to analyze the BOEP 2006 is to do it by placing it in the framework of the Process Model.

### **2.1.1 Process Model:**

Political processes and behaviors have been a central focus of political science for several decades. Modern behavioral political science since World War 2 has studied the activities of voters, interest groups, legislators, presidents, bureaucrats, judges and other political actors. One of the main purposes has been to discover identifiable patterns of activities- or 'processes'. Recently some political scientists have tried to group various activities according to their relationship with public policy. The result is a set of policy process which usually follows this general outline:

Identifying Problem----- (Demand for government action).

Formulating Policy Proposals ---- (Initiation and development of public program proposals).

Legitimizing Policies---- (selecting a proposal, building political support for it and enacting it as law).

Implementing Policies----- (Organizing bureaucracies, providing payments or services, levying taxes).

Evaluating Policies--- (Studying programs, evaluating outputs and impacts, suggesting changes and adjustments).

In short, one can view the policy process as a series of political activities- problem identification, formulation, legitimating, implementation and evaluation. Public policy making involves so many aspects, so many players, and so many issues; it is difficult to grasp it as one single thing. Of course, it is not a tangible thing; it is a never-ending intangible process. This process can be illustrated by the public policymaking cycle (flow chart 1), a conceptual model that views the public policy process as moving through a succession of stages:

1. Agenda setting (or the identification of a policy issue),
2. Policy decision or no decision,
3. Implementation
4. Program evaluation or impact analysis
5. Feedback, which leads to revision or termination.

Thus the process comes full circle- which is why it is called a “cycle”. A review of this process will show that public administration is both at the heart of the process and a feature of every aspect of it.

**Agenda Setting:** Agenda setting is the process by which ideas or issues bubble up through the various political channels to wind up for consideration by a political institution such as a legislature or court. Agendas are often set by public policy entrepreneurs, political actors who take a political issue and run with it.

**Decision Making:** Public policymaking is the totality of the processes by which a government decides to deal or not to deal with a particular problem or concern. It is a never-ending process.

**Implementation:** Implementation is the process of putting a government program into effect; it is the total process of translating a legal mandate, whether an executive order or an enacted statute (statute: A law passed by legislature; legislative-made as opposed to judge-made law), into appropriate program directives and structures that provide services or create goods.

**Evaluation:** Any evaluation is an assessment. A program evaluation is the systematic examination of activities undertaken by government to make a determination about their effects, both for the short term and the long term range.

**Feedback:** The public policy cycle comes full circle when evaluative information creates new agenda items for subsequent decisions. This is called feedback because the new information feeds back into its source.

## 2.2 Research Methodology

Today many political scientists are shifting their focus to public policy – to the description and explanation of the causes and consequences of government activity. They may involve a description of the content of public policy; an analysis of the impact of social, economic and political forces on the content of public policy; an inquiry of the effect of various institutional arrangements and political processes on public policy; and an evolution of the consequences of public policies on society, in terms of both expected and unexpected consequences.

A host of research methods have been employed in the study. The major Objective of the study is to analyze BOEP under the framework of Public Policy. For the purpose of the study information have been collected both from secondary and primary sources.

Secondary sources include books, journals, and articles on labour migration policies both at home and abroad. The World Wide Web was also an important source of data gathering. Primary sources were the informants from the related line ministries and government organizations. Policy entrepreneurs and civil society organizations were another source of primary information.

Primary sources include interview of government functionaries from The Ministry of Expatriates Welfare and Overseas Employment, Ministry of Labour and Employment, Ministry of Foreign Affairs, Bureau of Manpower Employment and Training (BMET) and members of Civil Society Organization (CSOs) such as BAIRA, WARBE and RMMRU. It surveyed several conference, seminar and workshop organized by RMMRU and WARBE.

**CHAPTER THREE**

## **CHAPTER THREE**

### **THE POLICY MAKING PROCESS: GETTING INSIDE THE SYSTEM**

#### **3.1 Introduction**

The practice of exporting manpower in a mass scale to different countries from Bangladesh started off during 80s of the nineteenth century. In general, manpower export plays a very important role in creating employment opportunities and earning revenues for Bangladesh. Besides, this sector has already been proved to be critical for the overall economy of the country as well. As the data goes, a number of 8.32 lac and 8.75 lac people have been employed in different foreign countries in 2007 and 2008 respectively. It can be noted here that, besides men, women workers are also migrating to foreign countries for an earning since 1991. And 1.25 lac women workers became migrants on foreign lands by the year 2009. Out of them 22, 224 women have left the country in a single year of 2009. Despite the worldwide economic downturn, 1.42 lac workers have been employed in foreign countries in 2009 and the remittance earned within this period is USD 9.84 billion. (Pls. see the table no 1-6). By and large, people from Bangladesh are employed in over a 100 countries around the world. Besides making a significant contribution in the local economy, this huge manpower working abroad is also helping in the management of the severe employment crisis prevailing in the country.

After the independence of Bangladesh, immigration from the country was regulated and controlled under the 1922 Immigration Act that the country inherited from its Pre-Pakistan British colonial past. With the gradual increase in the flow of temporary labour migrants from Bangladesh to the Middle Eastern countries, the inadequacy of the existing 1922 Act was felt and major policy changes were envisaged. Accordingly, the Emigration Ordinance of 1982 was promulgated. Gradually in 2002 rules were framed on the basis of



the 1982 ordinance. Besides the Ordinance and rules, a policy has also been framed in 2006 entitled “Overseas Employment policy”.<sup>14</sup> (Siddiqui, 2009)

### 3.2 Legal Framework of Migration

The Emigration Ordinance, 1982 is the basic legal instrument for regulating recruitment and placement of migrant workers from Bangladesh. This ordinance was promulgated when temporary labour migration was sparked off in the second half of the 1970s. Salient features of Emigration Ordinance are describing bellow-

- (1) Define emigration with valid documents (Clause: 7/3/a)
- (2) Empowers government not to allow emigration of persons in public interest ( Clause: 8/1)
- (3) Prohibited to charge higher than the prescribed amount of fees for services.
- (4) Punishment for fraudulently inducing to emigrate (Clause 21)
- (5) Authorize government to grant and withdraw license for recruitment for overseas employment(Clause: 10,15)
- (6) Empowers government to make rules(Clause: 19)
- (7) Cancellation, Suspension, Forfeiture of security deposit, etc.(Clause 14)

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<sup>14</sup>. Siddiqui.T (2009), Ibid. p 12.

### 3.3 Expedition behind the BOEP, 2006

The expedition of the formulation of BOEP, 2006 was essentially started from 2001.<sup>15</sup> Before that the then Advisor, Ministry of Labour and Employment, Women and Children, Social Welfare and Cultural Affairs, Ms Rokeya Afzal Rahman<sup>16</sup> contacted with Dr. Tasneem Siddiqui<sup>17</sup> Dr. C.R.Abrar<sup>18</sup> and BIAIRA and requested to develop a strategy paper. Dr. Tasneem Siddiqui prepare a strategy paper with some major policy recommendations, where she first proposed for framing a pragmatic national policy for migrant worker. She also reaffirmed that policy on the migration of women as domestic aids needs to be revalued in light of the reality and women's constitutional 'right to work'.

In 2002, after the formation of new government, a new Ministry was formed namely Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE). This started a new journey toward labour migration.

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<sup>15</sup>On 24 September 2001, a day long workshop was organized for finalizing the Streamlining Labour Recruitment Process in Bangladesh for employment abroad by the Ministry of Labour and Employment of Government of Bangladesh in collaboration with Bangladesh Association of International Recruiting Agencies and Refugee and Migratory Movement Research Unit based at Dhaka University.

<sup>16</sup>Ms. Rokeya Afzal Rahman was Advisor, Ministry of Labour and Employment, Women and Children, Social Welfare and Cultural Affairs of caretaker Government 2001.

<sup>17</sup>Dr. Tasneem Siddiqui, Professor, Department of Political Science, University of Dhaka and Chairperson RMMRU.

<sup>18</sup>Dr. C.R.Abrar, Professor, International Relations, University of Dhaka and Co-Coordinator, RMMRU.

Here also RMMRU played a vital role to advocate with the new ministry for a comprehensive national policy. A technical Committee<sup>19</sup> was formed by the ministry to prepare a policy draft in the context of Bangladesh. The committee assigned a retired government functionary to draft the policy reflecting both needs of male and female migrant worker.

A significant number of policy dialogues were held with civil society, recruiting agency, governmental organization, NGOs, Women Rights Organization, and Migrant Worker Association during this to make the policy bona fide. The ministry of Expatriates', Welfare and Overseas Employment has enforced a notification on 30<sup>th</sup> August, 2004, where another 'Technical Assistance Committee' was formed according to the decision of the inter-ministerial meeting in 9<sup>th</sup> August, 2004 on "Bangladesh Overseas Employment Policy" to examine the draft policy. The Technical Committee member's were as follows-

1. Major A.K.M. Riazul Islam, Birbirkrom, ADG, BMET, as Convener.
2. Dr. Tasneem Siddiqui, Professor, Political Science, University of Dhaka; and Chairman of RMMRU as Member.
3. Md. Shahidul Haque, regional Representative, IOM, Dhaka as Member.
4. Mr. Abdus Sobhan Shikder, Deputy Secretary, (MoEWOE) as Member.
5. General Manager, BOESEL as Member.
6. Mr. Kabir Ahmed Chowdhury, Deputy Labour Director, department of Labour as member.
7. Md. Abdul Alim, BAIRA as Member.
8. Mr. Sayed Saiful Haque, Chairman, WARBE as Member and
9. Dr. Nurul Islam, Director (CRM) BMET, as Member Secretary.

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<sup>19</sup>Technical assistance committee was formed comprising of members of different ministries of government, BOSEL, BAIRA, IOM, RMMRU, and WARBE.

Through consultation with concerned persons on behalf of the technical assistance committee, Dr. Tasneem Siddiqui of RMMRU prepares the advanced draft.

This committee consulted different policies of the major labour sending countries like Srilanka, Philippine and other International Convention related to migration. It was decided that this committee has to submit the draft on 30 September 2004. The Committee after different consultation assigned Dr. Tasneem to prepare a draft policy for submission to the ministry.

### **3.4 The Draft of BOEP, 2004 and Some Inconsistency with the BOEP 2006**

In 2004 through different consultation Dr. Tasneem drafted a policy and submitted to the ministry through the Technical Committee. This draft was prepared considering both male and female migrants' different needs and necessities. This draft was later submitted to inter-ministerial high-level committee for further review and finalization.

There is inconsistency remaining between English and Bengali document of BOEP 2006. It is found that some important clauses of draft 2004 have been curtailed from the final Bengali BOEP 2006. On the other hand, English version of gazette publication of Overseas Employment Policy 2006 contains some clauses, which was similar to the draft policy 2004, submitted by Dr. Tasneem Siddiqui. However, as per government policy, Bengali version will be prevailed over English if any confusion arises.

The draft BOEP, 2004 contains "*Ensure the prospects of regular migration both of long term and short term any citizen both men and women from all*

parts of Bangladesh in a rational cost.” But in final policy the term “Male and Female” has been deleted. Though “any citizen” means both male female, integrating “Male and Female” term makes it more strengthen. The rationale behind this, if we see citizenship policy of the government, we can see distinctive policy measures for women and men and most of the cases, men are getting more advantages in case of citizenship. So integrating ‘female’ term, at least ensure their legal provision in the policy.

Again Overseas Employment Policy 2006 has been curtailed an important clause that is “*Allocation of adequate resources and institutional Infrastructure*”. It might be an excellent clause for promotion female migration, as there is a huge gap in resource allocation and institutional infrastructure to promote female migration. The most conflicting situation is seen that Overseas Employment policy 2006 has been obliterated of Ministry of Home Affairs (MoHA), Ministry of Foreign Affairs (MoFA) and Foreign Missions, Ministry of Civil Aviation and Tourism (MoCAT), Ministry of finance (MoF) and Bangladesh Bank, Ministry of Education, Ministry of Planning, Ministry of Women and Children Affairs (MoWCA), Ministry of Health and Family Planning, Ministry of Commerce, Ministry of Housing and Public Works, Ministry of Information and Privatization Commission.

In the draft policy 2004, it has been said that MoWCA would ensure the rights of the unskilled and semi-skilled female workers and motivate BMET, private and non-governmental organization (NGOs) in verifying the need for female labour in overseas labour markets and provide training, raising awareness, ensuring social security to the left behind families accordingly. These provisions have been omitted from the final policy.

Draft policy 2004 mentioned that MoFA and Foreign Missions would cooperate with the MoEWOE in exploring external labour market, prepare

quarterly report on market related information, investigate and attest of the demand paper collect by the recruiting agents, give training of the Foreign Service Officers, provide advice to the emigrant workers and receive complaints and visit workplace of the workers. The study relieves that these specific responsibilities have been curtailed from the final policy.

### **3.5 Inter Ministerial Committee and Finalization of the Policy**

In 2006, a high Committee was formed by 6 ministers of different concerned Ministry of then Parliamentary Government to appraise and finalize the policy, which was given by the Technical Committee. Among them M. Morshed Khan, (MoFA); Luttfur Zaman Babor, (MoHA); Major Kamrul Islam, (MoEWOE); and Khondokar Mosharroof Hossain, (MoHFP); Moudud Ahmad, Ministry of Law were present. They modified the draft policy and erased many provisions of the draft and inserted some new clause. Members of the Technical Committee mentioned that the Ministerial Committee has negligence on female issues. But they did not insert any gender sensitive clause on the policy because most of them had narrow conceptual clarification on gender, gender relation and their impact on migration of male and female differently. They also deleted the paragraphs which contained detail and specific obligation of different ministries, more importantly MoFA and Foreign Missions, MoWACA which could give the best effort for promoting female migration and other ministries related to migration management of the country. However, In 5 November 2006, MoEWOE has enforced the Bengali Version of BOEP 2006 by a gazette notification

### 3.6 Conclusion

It is important to note that the actual policy enacted by the parliament is of so much reduced in scope compared to the draft prepared by the technical assistance committee. The final policy dropped the component which upheld commitment to international instruments i.e. 1990 Convention on Rights of All Migrants Workers and Members of their families, UN Declaration on Human Rights, ILO migrant related Conventions etc. due to objection of the recruiting agencies. The draft also had a section on responsibility of different ministries ensuring better governance of migration. Except the EW&OE Ministry all other ministries were apprehensive about such written accountability. Therefore, due to their opposition those sections also to be dropped. The power of the association of recruiting agencies is visible from the fact that the name of the no government ministry or line agency of government, such as that of the BMET was mentioned in the text, but BAIRA is mentioned.

Enactment of the OVERSEAS Employment Policy is very much appreciated because Bangladesh is the first country in South Asia to do so. It empowers both man and women the right to choose overseas employment from an equal stand. It talks of the dignity and security of the workers. It also ensures social protection of left behind families of the migrants. Most importantly it commits to consider misconduct against migrants as an act against national interest.<sup>20</sup> (Siddiqui 2009).

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<sup>20</sup> Siddiqui. T (2009). Ibid p 22

**CHAPTER FOUR**



## **CHAPTER FOUR**

### **POLOCY ANALYSIS and EVALUATION of BOEP 2006**

#### **4 Introductions**

The preamble of the policy sets the reason behind the formulation of the Overseas Employment Policy. The scope of the policy includes both male and female; short-term labour and long-term diasporas population. The policy ensures the right of the Bangladeshi workers to freely choose quality employment. (See appendices 9.3).

The Policy, based on the recognition that remittances are, in them, a major economic sector, and it highlights the government's positions of expanding overseas employment. Organized management of labor migration has a positive impact in the economic development of the country. Migration, it says, also addresses the problem of unemployment within Bangladesh. While tackling important areas such as expanding and maintaining markets, training and protecting expatriate workers, and ensuring the rights of migrant workers both at home and countries of destination, the policy also outlines the government's intention to encourage migrants and their families to send remittances through formal channels, and to support communities in the proper and productive use of remittances. The policy adopts a wider approach that links migration with poverty reduction by emphasizing the importance of promoting investment by long and short-term migrants. It also discusses the need to provide assistance for the social and economic integration of returnee migrant workers. The key issues of the policy are as follows:

## 4.1 Protecting the Rights of Migrant Workers (Original Version of the Policy)

### In abroad

- 4.1.1 Sign bilateral agreements or Memorandum of Understandings with labour receiving countries.
- 4.1.2 Collect and review human rights practices and labour laws of the receiving countries and disseminate such information among the migrant workers.
- 4.1.3 Store pertinent information of all the expatriates (like address of the worker and employer, etc) in the computer database of Bangladeshi missions abroad.
- 4.1.4 Provide legal assistances the workers in trouble and in need such assistance
- 4.1.5 Provide all sorts of assistance by the government to expatriate Bangladeshis in facing any sort of emergencies.
- 4.1.6 In league with other labour sending countries, articulate and press for rights and related issues of migrant workers in international forums.
- 4.1.7 Actively participate in seminars, meetings and symposiums organized by ILO, IOM or such international organizations.
- 4.1.8 Increase the duration and also spread to the divisional and district level, the ongoing pre-migration briefings programs given to the migrant workers for preliminary ideas on their duties, nature of jobs, salaries and benefits, the culture and laws in the host countries, and also to review and change the curriculum and to print and distribute booklets containing pertinent information for the migrant workers.

- 4.1.9 To save aspirant migrant workers from fraudulence practices and to create awareness of the risk and bad consequences of illegal migration, a concerted campaign to be launched in print and electronic media by informing the people of the process of legal migration, migration cost, job natures, salaries and other benefits, usual terms of contracts, the necessity for written agreement with employer, etc.
- 4.1.10 Fixation of pragmatic labour standards and regular evaluation.
- 4.1.11 Ensure specific mention of working hours, rate of wages, over-time, leave, health services, entertainment and freedom of mobility, etc. in the job contract between the worker and employer.
- 4.1.12 Create awareness among migrant workers about health related issues, especially of the HIV/Aids viruses.

## **4.2 Sustaining current labour market and exploring new markets**

- 4.2.1 Collect information from websites and prepare report on future development programmes of labour receiving countries and estimated projections of their future labour requirements. Of government and private organizations involved in human resource development and upload such reports in the website of Ministry of Expatriates' Welfare and Overseas Employment.
- 4.2.2 Send high-powered government delegation to existing labour importing countries as well as to the potential countries to explore and create opportunities for export of Bangladeshi workers.
- 4.2.3 Regularly publish information on labour markets in the form of a bulletin.
- 4.2.4 Disseminate information in host countries on availability of different categories of human resources in Bangladesh.

- 4.2.5 Sensitize and invigorate foreign missions to put every effort for creating employment opportunities. Regular reports on such activities to be sent to the Ministry of Foreign Affairs and the Ministry of Expatriates' Welfare and Overseas Employment.

### **4.3 Human Resource Development**

- 4.5.1 Review the existing national policies on human resource development in the context of international labour markets and trends.
- 4.5.1 Identify areas for incorporating vocational training in current curriculum.
- 4.5.1 Align human resource development activities in line with global requirements.
- 4.5.1 Introduce Standard English language education from primary level in cooperation with related ministries.
- 4.5.1 Identify and follow international standards in the areas of specialized training.
- 4.5.1 Enhance foreign employment of women through creating training opportunities for professions such as nursing, housemaids, care-givers of orderly people, childcare, etc.
- 4.5.1 Create increased number of human resources in different sector including information technology.

### **4.4 Recruitment Process**

- 4.4.1 Fixing of labour standards for migrant workers by regularly evaluating and analyzing international labour markets.
- 4.4.2 Set specific standards for issuing and renewing licenses of recruiting agencies.
- 4.4.3 Fix category-wise reasonable migration cost by comparing expenses in employing country, airfare, passport cost, medical fees, service charges for recruiting agencies, training expenses, etc. with

those of other labour sending countries of similar job categories and disseminate such migration cost widely in print and electronic media.

- 4.4.4 Determination of minimum wage of migrants in accordance to standards of the destination country for different job categories and take all initiatives to ensure receipts of such wages.
- 4.4.5 Ensure all types of financial transactions through banks by recruiting agencies in their recruitment process and take legal measures against errant recruiting agencies.
- 4.4.6 Control recruitment through registration in computer database.
- 4.4.7 Take all measures to prevent illegal migration.
- 4.4.8 All steps to be taken to ease and modernize issuance of state-of-art passports to migrant workers and also to ensure issuance of Police Clearances within 15(fifteen) days submission of application by migrant workers, as and when needed.
- 4.4.9 To take legal actions against illegal and unauthorized employment by recruiting agents and enact new laws, if needs be.
- 4.4.10 To give legal aid/support to the deceived migrant workers in home and abroad.
- 4.4.11 Collect and preserve information of all types of both short term and long term migrant workers.
- 4.4.12 Encourage private and proprietorship employment agencies to create overseas employment opportunities.

## 4.5 Welfare of the Expatriates

- 4.5.1 Manage the Wage Earners' Welfare Fund in accordance with the provisions in Wage Earners' Welfare Fund Rules-2002.
- 4.5.1 To ensure easy access of the migrants workers, One –Stop-Service center to be expanded and managed appropriately.
- 4.5.2 Provide effective pre-departure briefings to the migrant workers and educated them on 'to do' and 'not to do'-s in the destination countries.
- 4.5.3 Maintain and operate Welfare Desks at the departure and arrival points in the airports.
- 4.5.4 Assist in repatriation of dead bodies and handing them over to the relatives.
- 4.5.5 Make sure the proper collection and distribution of compensation (*from foreign employers/governments*) in case of accidents and deaths of migrant workers and provide grants in special cases.
- 4.5.6 To repatriate expatriate Bangladeshi workers who have been arrested and imprisoned in abroad.
- 4.5.7 Provide medical support to sick/disabled expatriate workers.
- 4.5.8 Issue identification cards to returnee migrant workers through registration at the Bureau of Manpower, Employment & Training (BMET).
- 4.5.9 If needs be, create positions and employ local-based welfare officers under the Labour Wing of Bangladesh missions in the destination countries where at least ten thousand or more Bangladeshi migrants are working.

#### **4.6 Remittance Flow and investment**

- 4.6.1 Strengthen implementation of different measures adopted by Ministry of Finance and Bangladesh Bank for streamlining remittances through formal channel.
- 4.6.2 Inspire and encourage expatriates to send money through formal channel and caution and educate them of the punishable offences in remitting through informal /illegal channels.
- 4.6.3 Launch campaign to educate the expatriates and their families of the benefits of investment in foreign currencies, in governments' bond instruments, etc. introduced by Bangladesh Bank.
- 4.6.4 Arrange dissemination of information among migrants and their families of different remittance-based financial programs introduced by different banking and financial institutions/organization.
- 4.6.5 Assist the migrants and their families to invest their remittances in potential productive sectors.

#### **4.7 Economic and social reintegration of returned migrants**

- 4.7.1 Make arrangement for registration of returned migrants.
- 4.7.2 Provide information to returned migrants of the employment opportunities.
- 4.7.3 Assist returned migrants in using their acquired skill in national development.
- 4.7.4 Assist to develop their linkages with private sector.
- 4.7.5 Assist returned migrants in adopt sustainable projects and avail credit facilities.

#### **4.8 Discipline and behavioral pattern of migrants**

- 4.8.1 Take steps to ensure that the migrant workers abide by the rules and regulations and observe and honor the customs and culture of the host country.
- 4.8.2 Any migrant worker found guilty as per laws of the host country, he has to return home at own expense.

#### **4.9 Evaluation of BOEP 2009**

Reviewing the BOEP 2006 we can understandably find that, the policy has in fact helped Bangladesh achieve a noteworthy success in the pertinent field as a leading labour exporting country of South Asia. Some of the actions taken in this regard are honestly worthwhile. Nonetheless, the key policy yet could not get rid of certain follies, like

##### **4.9.1 BOEP should include the 1990 UN Convention**

A Technical Committee formed to formulate the BOEP once suggested that the preamble section of the 1990 UN Convention (see appendices 9.5) be endorsed in the BOEP 2006. But the key policy of the government does not comply with that. This shows clearly that the BOEP does not reflect the UN approach vis-à-vis the human rights of the workers, which was underlined in the 1990 UN Convention. None denies, the 1990 UN Convention is an internationally accepted bill. Human Rights of the worker have been given the highest priority in here. On the contrary the current BOEP, somehow, manages to leave aside this principle. In it, the remittance sent by them rather has been prioritized, leaving behind the human rights concerns related to it. Given below are some highlights of the UN Convention:



- (a) **Migrants Human Rights:** The international Convention for “The Protection of All Migrants Workers and Member of their Families” is the most extended and comprehensive instrument to protect the rights of migrants and members of their families. The convention seeks to play a role in preventing and eliminating all forms of exploitation, discrimination, abuse and harassment of migrant workers in countries of origin, transit and destination. The major objective of the Convention is to foster respect for migrants’ human rights, because Migrants are not only workers, they are also human beings. In a regular or irregular situation, all migrant are entitled to a minimum degree of protection.
- (b) **Definition & Scope of Protection:** The Convention defines that the term “Migrant Workers” refers to “a person, who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national”. Convention protected Migrants’ in the whole emigration phases (1. Pre-Migration Decision, 2. Organizing Migration Process, 3. Active pre-departure Process, 4. Transit and Employment at Destination Country, 5. Return and Reintegration phase) (Art.2-1, art.65). The origin of state ensure the Pre-departure information & consultation, adequate consular services, Regulation of recruitment process and formulation & implementation of national migration policy (Art.37, 65, 66, 67).
- (c) **Resettlement of migrants:** Migrants and members of their families, including irregular migrants, must be assisted to make orderly return to their home countries and the states of origin must take appropriate measures to promote adequate economic condition for resettlement, and social and cultural reintegration (Art.67).

(d) **Exercise of Political Rights at Home:** State of origin must facilitate the exercise of the right of migrants and members of their families to participate in public affairs, to vote and to be elected in any election in their home countries (Art.41).

Remittances transfer, taxation and exemptions of Customs duties: The States concerned must permit and facilitate the transfer of migrants' earnings and savings to their States of origin (Art. 47). States should also consider the possibility of avoiding double taxation for migrants' (Art.48). The State concerned must consider the granting exemptions to migrants' and members of their families from customs duties and taxes on their personal and household effects & equipments (Art.46). (Pls see appendix 9.5)

#### **4.9.2 BOEP 2006 and Inclusion of Gender:**

The BOEP has acknowledged women as legal migrant workers in its scope and principal (pls see appendices 9.3). In scope it has pointed out that all types of voluntary migrants fall under the scope of this overseas employment policy. Male and female workers who were employed or currently employed or will be employed in future in overseas job for a particular period on contract basis and Bangladeshis Diaspora Population, who has taken or interested to take citizenship of another country but are involved in the socio-economic development of Bangladesh in different ways.

In its principal it has explained that the government of Bangladesh will provide assistance to both male and female workers to freely choose quality employment. The government will be committed towards ensuring universal human rights and rights at workplace permitted under the labour laws of the receiving countries and social protection of all workers, who are processing

overseas employment or are already working abroad. It will assist the workers to establish their right to forum or become members of associations, both in Bangladesh and in the countries of employment. Though the BOEP does not contain any separate clause for female migrant that mean it is not gender responsive. Based on the rationality of the scope and the principal that includes men and women, in this way, BOEP 2006 can claim and maintain its technicality of gender understanding. Even this policy maintains its international standard committing to integrate international human rights instruments and international labour law. Now question is that whether Government of Bangladesh has implemented this commitment or not.

The other specific issues for women migrants workers have been include in the policy are 1) Successful recruiting agencies will be rewarded, for their achievements(on the basis of discovering new markets, sending skilled workers, sending female workers, collection of demand notes with good wage at lower cost etc.)(Clause-4.10); 2) Enhancing foreign employment of women through creation training opportunities for professions such as nursing, housemaids, care of elder people, children etc.

The sum and substance, the policy has recognized women as legal migrants and mandated them in abroad and also withdraw the entire ban on women migrant workers. However, women's role in the migration process and nation building by sending remittance to the home country and the empowerment of women have not been addressed in the BOEP 2006. The BOEP 2006 contains a separate paragraph for implementation (Paragraph 5.00) but it does not mention any priority of the resource allocation for women, or priority for monitoring cell for female migration for employment.

### 4.9.3 Significant side of BOEP 2006:

Besides this BOEP 2006 also has the following significance:

#### **(A) Remittance flow through regular, formal channels and investment**

Taking account of the utilization patterns of remittance income, the cost born by migrant workers and the multiplier effects of remittances on the national economy, the Government of Bangladesh continues to emphasize the importance receiving remittances through formal channels. Remittances coming through informal routes usually have a very low multiplier effect owing to the fact that the money stays outside the formal economy. To encourage productive consumption-such as spending on education and health care, and to increase savings and investments- the government has taken a number of measures to enhance remittance flow through formal channels. Consumption by migrants and their families as well as their investment in the community can have strong positive impacts on poverty if the remittance flows in through formal channels. Specific measures by the government include:

Motivate migrant workers both within the country and in destination countries to remit money through formal banking channels and increase awareness of the punishable offence of sending remittances through informal channels.

Organize awareness programs to inform migrant workers and members of their families about foreign currency investment facilities, bond instruments etc. developed by the Bangladesh Bank.

Organize awareness programs to inform migrant workers and members of their families about remittance investment instruments of banks and financial organization/ institutions.

Assist migrant workers and their families to invest remittances productively.

The Anti-Money Laundering Act of April 2002 strengthens vigilance of informal channeling of money into the country.

**(B) Economic and Social Reintegration of Returnee**

Efforts by the Government of Bangladesh to help returnees reintegrate include

- Registering returnee migrant workers
- Providing information on employment opportunities to returnees
- Assisting returnees in utilizing acquired skills for national development
- Assisting in establishing linkages with the private sector
- Undertaking sustainable projects for returnee and provide credit facilities.

**(C) Relaxing Foreign Currency Regulations**

The policies relating to foreign currency regulations have been substantially liberalized. The Taka is convertible for current external transactions. All transactions can be made through authorized dealers without permission from the Bangladesh Bank. Remittances of post-tax dividends or profits on non-resident direct or portfolio investment do not require prior approval. This liberalization has succeeded in making the securities market more investment friendly for the expatriate community.

**(D) Providing Access to Banking Facilities**

New exchange houses and branches of Bangladeshi banks abroad have been established. The Bangladesh Bank continues to encourage commercial banks to link up with foreign banks and exchange houses and establish Taka drawing arrangements (known as 'correspondent arrangements'). These Correspondence Banks, and exchange branches, are in cities where major wage earners are located. The limited availability of branches of those banks

in rural areas in Bangladesh remains a problem to be addressed. The recent introduction of remittance services by the BRAC Bank, along with interest shown by the Grameen Bank in remittance channeling, offer potential solutions. The two largest NGOs in Bangladesh, BRAC and Grameen Bank, have an extensive network of over 1,200 micro-finance offices in rural areas. BRAC Bank has been using these branches to disseminate remittances to local recipients.

### **(E) Tax Benefits**

The Government of Bangladesh offers tax benefits to expatriate Bangladeshis. Several new tax facilities for expatriate Bangladeshis were announced in June 2002:

- Non-resident Bangladeshi do not require a Tax Identification Number(TIN) certificate to buy immovable property in Bangladesh
- Investment by expatriate Bangladeshis in business, commerce and industry between 1 July 2002 and 30 June 2005 were accepted without consideration of the total investment amount.
- Income earned from agro-based industries set up by expatriate Bangladeshis between 1 July 2002 and 30 June 2005 were tax exempt.
- Interests accrued from Non Resident Foreign Currency Deposit (NFCD) Accounts were made tax free.
- Wage Earners Development Bonds purchased by expatriate Bangladeshis were made tax free.
- Expatriate Bangladeshis are not required to produce income tax clearance certificates at the time of leaving Bangladesh.

## **(F) Instruments to Enhance the Development Impact of Remittances**

The oldest of the investment schemes is the Wage Earner Development Bond, launched in 1986. This bond has been custom made for migrant workers and is a foreign currency denominated government bond. The interest rate on these bonds is significantly higher than the rates paid on domestic bank deposits of comparable durations. The bonds can be purchased by migrants abroad in their own name or in the name of any other person. The bonds mature on or after five years from the date of purchase and offer 12 percent interest per annum. The interest earned on the bonds is tax exempted.

- Various securities tailored for non-resident Bangladeshis are being introduced to encourage investment. Several securities have been launched recently: the most prominent being the US Dollar Premium Bond and the US Dollar Investment Bond. The rates for these investments are similar, ranging from 6.5 percent to 7.5 percent over three years. They are sold by commercial banks and the interest and deposit money will be paid in local currency or in dollars.
- The non- resident Foreign Currency Deposit (NFCDD) Account is an interest bearing time deposit account whose deposits mature after one month, three months and one year. The interest on the security is tax free, making them more attractive to foreign residents, as they are often faced with double taxation. There is also no regulation regarding the repatriation of these securities.

Further facilities provided to non-residents to encourage investment in the securities market also exist. For initial public offerings, a 10 percent quota is fixed for expatriate Bangladeshis. The investor can apply directly by enclosing a foreign demand draft or pay through a foreign currency deposit

account. Participation in secondary markets is also encouraged and there are no rules barring the non-resident Bangladeshi investors from participating in share markets. Securities can be bought against freely convertible foreign currency remitted from abroad through formal banking channels.

The Privatization Commission offers reduced rates to expatriate Bangladeshis for the purchase of, and investment in denationalized industries. Other ministers offer preferential bases for the purchase of land and flats.

All information relating to remittance is available on the Bangladesh Bank's website ([www.bangladesg-bank.org](http://www.bangladesg-bank.org)). Information materials have been developed and are distributed through banking facilities, embassies and Bangladesh Manpower Employment and Training (BMET).

#### **(G) Regional and International Cooperation**

The Government of Bangladesh actively participates in bilateral, regional and international consultative processes to address emerging migration management issues, and has pursued bilateral labor agreement with a number of countries to expand the overseas employment opportunities. The process on Overseas Employment and Contractual Labor for countries of Origin in Asia, known as the Colombo Process, has provided a forum for discussion on important issues and has three main themes; Protection of and Provision of Services to Migrant Workers, Optimizing the Benefits of Organized Labor Migration, and Capacity Building, Data Collection and Inter-State Cooperation. The second ministerial consultations in Bali resulted in recommendations on remittances focusing on three areas:

- Enhancing accessibility, expanding infrastructural capabilities and widening outreach of formal financial institutions
- Enhancing the developmental impact of remittances



- Baseline and policy oriented research on remittances and sharing of good practices.

The Bangladesh Bank is working with the Department for International Development (DFID) on its Remittance Payment and Partnership Project. Its overall goal is to “promote pro-poor economic growth in order to increase the incomes and employment for the poor”. The project comprises three interrelated and mutually reinforcing components. Firstly, the financial sector laws and regulations will be improved. Technical assistance will be provided to establish an Automated Clearing House (ACH). Next, financial support to encourage the private sector organization to formulate remittance products will be offered through a Challenge Fund. And finally, information to help potential migrant in channeling and using remittances will be disseminated. This last component will also include a household survey, which is being planned by the IOM to collect information on migration and remittances at the household level.

To maximize its poverty reduction impacts, there is also a strong need for dissemination campaigns to make prospective migrant workers fully aware of the costs and benefits of overseas employment. Prospective workers should also receive full information on their rights and obligations under the labor contract and the remedies available to them against abuse. The NGO community can take a lead in developing awareness programmers for migrant workers. They may also collaborate with recruitment agents to take a multi-stakeholders approach.

#### **4.10 Conclusion**

Declaration of an overseas employment policy for the first time in the country, undeniably, begets commend. Then again, in my judgment, the biggest folly of the government lies in its failure to emphasize the role of the 1990 UN Convention in a wider context. And then, there is the question of discrimination in terms of gender policy. Needless to say, the women worker migration would have been much easier and far more accessible if they were given a unique and particular consideration in the BOEP as nearly half the migrants globally are women at present.

In addition, overseas employment sector is one place which is highly aggressive these days. Reasonably, rights of our overseas workers can not be exercised if the government of the country fails to maintain its hard line negotiating the host country e.g. the Middle East or the Developed countries in Europe and the USA, safeguarding the interest of our workers living there. It is only right to mention here that the 1982 Ordinance, in effect, acts as an impediment in ensuring the rights and welfare of our workers. What more, the policy is missing the essential guidelines required to bring about a change in the ordinance, if ever needs be felt. All these limitations verily exist and henceforth, hinder the BOEP to be a truly successful policy in the existing context.

**CHAPTER FIVE**

## **CHAPTER FIVE**

### **IMPLEMENTATION STATUS OF BOEP 2006**

#### **5.1 Introduction**

It has been observed that policy implementation is one of the major problems confronting development nations like Bangladesh. Edwards (1980) defines policy implementation as a stage of policy making between the establishment of a policy (such as the passage of a legislative act, the issuing of an executive order, or the promulgation of a regulatory rule) and the consequences of the policy for the people whom it affects. It also involves a wide variety of actions such as issuing and enforcing directives, disbursing funds, making loans, assigning and hiring personnel etc.

Implementation problem occurs when the desired result on the target beneficiaries is not achieved. Such problem is not restricted to only the developing nations. Wherever and whenever the basic critical factors that are very crucial to implementing public policy are missing, whether in developing or developed nations, there is bound to be an implementation problem. These critical factors are communication, resource dispositions or attitudes, and bureaucratic structure.

Various measures taken by the government since the declaration of the BOEP 2006 have been discussed in this chapter. Precisely said, our discussion here includes only those actions of the government that were taken with a view to improve the overall standard of the prevailing migration process in the country. In truth, none of these actions was initiated as a follow up of the BOEP 2006 and neither did it employ any such effective body to monitor its due progress.

### **5.1.1 Agencies to implement**

The Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) is responsible for the labour migration process. The power of Implementing the Immigration Ordinance 1982 and accordingly, promoting monitoring and regulating the migration sector is vested here. The Bureau of Employment and Training (BMET) is the executive agency of the MoEWOE in respect to labour migration and is responsible for the development and implementation of training programs in the light of special labour needs, both in international and national labour markets. It is also responsible for the collection and analysis of the labour market information; ensure the welfare of migrant workers both within and outside Bangladesh; control and regulate recruiting agents. BOESL is a public-private recruiting agency started in 1986 to encourage private sector to process foreign employment. However the capacity of BOESL is limited and it process small number of skill migration on behalf of government. BAIRA is an apex body of all recruiting agencies to assists the recruiting agencies to manage foreign employment. Presents 762 recruiting agencies are the member of BAIRA. It also assists government agency to implement BOEP and makes liaison with Bangladesh Missions to monitor and create foreign employment.

### **5.1.2 Roadmap on the Implementation of the Strategic Papers to Expand the Overseas Employment Opportunities**

After declaring BOEP 2006, the government of Bangladesh prepared a strategic paper for an effective implementation. The deadline for doing this was fixed at 2008. This strategic paper includes, among others, the long-term strategy, short-term strategy, implementation strategy, implementers as well as the completion date of the project.

### **5.1.2 Nine Point Strategies**

Government has adopted 9-point strategies to ensure sustainable safe migration as intensifying the BOEP 2006, which are as follows

- Exploration of new markets for overseas employment
- Expansion of existing labour markets
- Skill development training to promote export of more skilled workers.
- Special efforts to emphasize export of down-trodden people
- Strengthening welfare for the migrant workers
- Ensuring more transparency in the recruiting process
- Efforts to increase the flow of remittance through proper channel
- Special focus on sending of female workers
- Strengthening of capacity and capabilities of Bangladesh Missions abroad.

### **4.1.4 MoUs Signed with Receiving Countries**

Bangladesh has signed MoU with 5 countries: Qatar (1988 & 2000), Kuwait (2000), Malaysia (2003), UAE (2007), Korea (2007), Oman (2008), Libya (2008). There are 2 MoUs are remain under process, which are Jordan and Bahrain. The objectives of the signing the MoU between countries of origin and destination are to ensure protection and benefits for migrant workers.

### 5.1.5 Data Base Management by BMET

Establishment of an online database with photo IDs and with access to BMET offices, airport and embassy is one of the significant efforts by government. A computer network database has been established at district level officers (DEMO). BMET headquarters with connection at the Ministry, airport and BAIRA office. Upgrading plan Database Network of BMET are-

- Random Selection of workers from the database.
- Insertion of Bio-metric Impression (finger print) in registration.
- Introduction of smart card (Computer Chips).
- Auto generation Embarkation Card at Air Port.
- Eyeball scanning for deported workers.

There are some benefits of data base network are as follows-

- All activities relating to registration, recruiting permission and Emigration Clearance have been modernized.
- System has been easier, faster and transparent.
- Registration of unemployed and referral to the vacancy positions for overseas market.
- High officials can monitor entire process from their own computer terminals.
- Overseas employers can use for recruiting workers directly from database.

### **5.1.6 Training of Women Workers**

Government has concentrated on skilled female migration. Not only government all the stakeholders believed that skilled female migration can increase the remittance and at the same time, can reduce the harassment of female migrant's worker. So that government has established 26 Technical Training centers in 26 districts. There is a special training center for female migrant workers in Mirpur, Dhaka. According the MoEWOE, BMET officials; women migrant workers are aware about this training center today. According to the BMET database 2008, 12,000 female migrants worker has already taken this skill training and left the country towards country of destination.

### **5.1.7 Resource Center for Women Workers**

There is a resource centre in the ground floor of BMET. This resource centre is responsible to give quick information about female migration process. This resource centre has provided a diagram \*(see annex) for secure recruitment procedure for overseas employment workers so that they could reduce the influence of middlemen during recruitment process.

This resource centre also provides for pre- departure briefing for female migrant workers about their possible destination countries, about their working environment, about job seekers registration card \*, provide sample emigration clearance card \*, process about checking at departure terminal at airport \*. This is an excellent initiative taken by BMET, which made the pre-departure process of female migrant workers safe and sound. (\* see appendix)



### **5.1.8 Separate Briefing for male and female workers**

BMET provides pre-departure briefing sessions at BMET to make out going female migrants aware about terms and condition of employment, contract, remittances system and culture & local language of the host country, etc. BMET also provides short term English Language course for them. BMET has been organizing separate briefings for female migrant household workers which include how to operate of various electrical appliances like washing machine, microwave-oven, carpet cleaner, ironing the cloths, bathroom cleaning etc. Separate briefing has become very useful because BMET informed that the number of returnee migrants has become almost zero due to not knowing the housework.

### **5.1.9 Commencement of the Re-integration Program**

Re-integration program, for the first time, has been initiated in Bangladesh. Last year, in the non-public sector, RMMRU, a private concern, organized a day long program titled 'Remittance, Utshob and Sonar Manus Award' in the country. Some key figures and renowned personalities who had been striving relentlessly for the past few years benevolently challenging the employment crisis home and abroad were awarded with the 'Sonar Manus' and the 'Sheba Award' on that solemn occasion.

## **5.2 Conclusion**

No doubt, the government is quite sincere on the subject of handling the migration sector in a better way and this has created some truly significant changes in the scenario. However, if we could cast a second look at these and ask the question, are these initiatives sufficient enough to exploit the limitless potentials prevailing in this sector? The answer, doubtless, is in the negative. Every year, days before the budget declaration in the parliament, we can hear a thousand voices from every nook and corner of different sectors. But none of them actually reflects the aspiration of our migrant workers. No wonder, they do not have an allocation for them in the Budget. The government appears disinclined to take the minimal measures even there are ways to minimize the migratory expenses, at a considerable extent. In here, I would like to mention what ILO says in this regard. One of the proclamations of the ILO says, countries which facilitate from their overseas workers be generous enough to spend a fifth of their earnings for the sole benefit of those very workers and their families. I believe the dismal scenario could have been totally different if this were implemented in the first place.

**CHAPTER SIX**

## **Chapter SIX**

### **Changing Scenario: The Policy Implication**

#### **6.1 Introduction**

Discussion made in this chapter are about the changes introduced in the existing migratory process of Bangladesh, changes in the total migratory process caused by the governmental steps taken since the declaration of the BOEP, and the extent of benefit the female genres are enjoying through this policy. Ensuring of the security concern of the female migrants has been taken into this consideration, as well. In plain words, it discusses the range of success accomplished in the implementation procedure as well as points out the areas it failed to achieve.

In addition, brief suggestions have also been made about the policy where changes are required and could be introduced too, which would in turn help its effective implementation. To accumulate qualitative and quantitative data and information, this chapter has been prepared on the basis of interviews with some noted BMET personnel, Ministry officials and Migratory experts of the country.

#### **6.1.2 Improve Foreign Reserve**

The BB documents remittances flows to Bangladesh from all over the world. It has a separate department, the 'Foreign Policy Department', which regulates and monitors remittances. The term 'inward remittance' includes not only remittances by telegraphic transfer, money transfer and drafts but also purchases of bills, purchases of drafts under travels' cheques. The figures produced by the bank include the remittance from both long and short term

migrants (i.e. permanent settlers and migrant workers). Bank data shows that remittances sent by international migrants to Bangladesh have grown over time.

Table 1 presents remittances inflows to Bangladesh from 1998-99 to 2008-09 and the breakdown by source country of remittances. In 1976, the total remittances received by Bangladesh equals to USD 23.71 million. By 2009, remittance received has increased to USD 10 billion. Saudi Arabia appears to be the largest source of remittances to Bangladesh. Other major source countries of remittances are the U.S.A, UAE, and UK.

### **6.1.3 Established More Training Center**

Skill development training plays a very significant role in human resource development, increased productivity, addressing the unemployment problem and consequent poverty alleviation. Vocational Training helps school drop-outs and unemployed youths to develop themselves into human assets and give them opportunity of being self employed through their individual efforts. BMET is providing vocational skill development training through its institutional capacities. 15 TTC and one BIMT are already in operation under BMET. Another government project which includes 30 TTC and 5 BIMT is now in its final stage.

### **6.1.4 Harassments at the Airport Decreased:**

As our migrants are mainly unskilled and semi-skilled, so airport harassment was a common phenomenon for them. But last few years governments have taken some steps for those migrants such as *Introduction of Smart Card (Computer Chips)*, *Auto generation Embarkation Card*, *Eyeball Scanning for Departed Workers* make easier their departure.

### **6.1.5 New Technology Introduced for Remittance Transfer**

Bangladesh government tries to introduce remittance transfer via mobile phones. The system will enable expatriate Bangladeshis to send their hard-earned cash back home from any corner of the world. The system will not only make the transfer process faster, but also will cut down the costs of transfer significantly.

### **6.1.6 Unofficial Money Transitions Reduce**

Migrants use different methods in sending remittance involving both official and unofficial channels. *Hundi/* Money Courier are the most common among the unofficial channels of transfer. Some previous study found that 40 percent of total remittance came through *hundi*. After taking some steps by government, remittance transfer through official channel has increased significantly over the last couple of years.

### **6.1.7 Increased Number of Female Migrant**

Now women constitute half of total migrated workers in the world and Bangladeshi women are almost 7 percent in there. Among the total number of women migrant, more than 90 percent are domestic workers. These women have been contributing to the national economy through sending their hard earned remittances. The remittances of women migrants are contributing to improve family welfare including children's education and health.

### **6.1.8 Lack of Comprehensive Action Plan:**

The BOEP 2006 covers all the problems stemming from policy discrepancies. The policy is considered to be revolutionary since it is the first of its kind in South Asia. The protection of workers rights has become a crucial area of concern as increasing number of workers return home not being able to stand the abuse. But till today the government has not prepared any comprehensive plan of action for its implementation. Even no concrete steps have been taken to make the policy more gender responsive.

### **6.1.9 Traditional Destination Countries for Women: Unsuccessful to Meet the Demand of Nursing and Caregivers of Developed Countries:**

One of the commitments of the government is to ensure measures to maintain the existing labour market and explore new markets in the developed world and Asia. The government is also committed to develop human resources according to the global demand, develop short term and long term plan and send high powered delegation in potential long and short-term receiving countries to create employment opportunity for Bangladeshi workers.

By analyzing the current flow of female labour migrants based on present labour need in the international market and no significant shift to another new country or job market, we can see that women are going to the same countries for employment from 1991-2008. The major traditional countries of destination are remaining KSA, UAE, Kuwait, Oman, Bahrain and some other countries (see table-5). But male workers are migrating in some developed countries like Italy, Japan and Singapore in a huge number. However, there is a huge demand for nursing and care provider services in most European and North American countries especially in Germany, Norway, Sweden, Denmark, Netherlands, Greece, Ireland, Spain and France.

### **6.1.10 Insignificant Role of Ministry of Foreign Affairs:**

The role of MoFA seems very insignificant regarding promoting and protecting female migration. Though the policy clearly outlines that MoFA should cooperate with the MoEWOE in exploring external labour market to give training of the Foreign Service Officers. However in reality, there are huge gaps in co-ordination in terms of representing international forum, maintaining relationship with the receiving countries, bilateral agreement etc.

### **6.2 Changes Requires:**

According to the migration expertise, following actions are vital in improving the migration process as well as a successful implementation of the BOEP.

#### **6.2.1 Change the Emigration Ordinance of 1982**

The Emigration Ordinance of 1982 (see appendices 9.4) was promulgated when temporary labour migration was sparked off in the second half of the 1970s. The Ordinance was framed mainly for promoting labour export from Bangladesh and it generally provides for procedural and regulatory aspects of labour migration, which, however, does not cover, all aspects particular rights and welfare of migrant workers. It could not take into account the changes and complex dynamics of labour migration. Though the Emigration Ordinance 1982 is the key instruments for labour migration from Bangladesh, yet it has some major limitations. These are as follows:

- (a) Inherent Fault about Vulnerability of MWs.
- (b) Lack of Provision for Seeking Legal Aid.
- (c) Inadequate Provision to Resist the Dalals.
- (d) Limited Scope to Protect Undocumented Migration and Sustain Cost of Migration



- (e) Gender Discriminations and Lack of Welfare Measures.
- (f) Lack of Equitable Punitive Provision.
- (g) Insufficient Penal Provision
- (h) Lack of Provision of Regional or Bilateral Agreement on Labour Migration
- (i) Lack of Judicial Arrangement for Legal Redress
- (j) Non-fixation of the Structural and Responsibilities of the Recruiting Organization
- (k) Lack of Effective monitoring and Follow up Mechanism

There are so many shortcomings in the ordinance, which need to be replaced by a right-based and comprehensive policy after ratifying and including this MWC as policy model.

### **6.2.2 Ratify 1990 UN Convention:**

Bangladeshi migrant workers have suffered from unscrupulous recruitment practices and pauperization. In destination countries, due to the arbitrariness of employers and discriminatory policies of receiving states, migrants have experienced exploitation and loss of rights in the form of low and irregular wages, bad working conditions and restrictive job mobility. Upon return, Bangladeshi migrants experiences difficulties in reintegration due to the absence of an institutional support system. Bangladesh should ratify 1990 UN Convention for the following reason:

- Bangladesh is a major sending country and in protection the rights of its migrant workers it should do its utmost to meet international standards. The 1990 Convention provides the best framework to such protection.

- Being the most important foreign exchange earning sector further financial commitment to the sector that may increase efficiency of the agencies concerned, protect the migrant workers from vulnerability, improve the welfare services and further increase the remittance flows.
- Experiences of Sri Lanka and Philippines inform that ratification will not adversely affect Bangladesh's relationships with labour receiving countries.
- Ratification will convey the message that the government cares for its migrant workforce. It will also enhance Bangladesh's image as a country that upholds migrants' rights.
- The Bangladesh Law Commission has recommended ratification of the Convention.

### **6.2.3 Forming a Taskforce Committee under the supervision of the Bangladesh Government**

The officials carrying out different responsibilities under different ministries concerning the migratory matters are, obviously, quite competent and highly experienced. To serve even better, a Taskforce Committee could be formed under the supervision of the government in this regard. People from various sectors e.g. migration expert, gender expert and law personnel can join in to give it a stronghold. They can help the government through suggestions at the hour of crisis, so the government can carry out its job at an even quicker pace and in a more efficient way. We have only to cast a look at our neighboring countries, and there will not be a further need to search for similar instances.

#### **6.2.4 Government Should Maintain the Hard Line while Negotiating with the Labour Receiving Country**

Our overseas workers are stationed scattered over a 100 countries around the world. Keeping this in mind, our government, comparatively to other countries, stands in an advantageous position to control the world market. But since its inception, it has proved to be an utter failure in this bargain. It lacks the power needed to play a decisive role in the fixation of the cost of its labour. In recent times, countries like the Philippines, India and Srilanka have successfully fixed up the cost of their workers, what is it that is keeping us from taking such measures. Besides, we can exert even greater power if we can work this out going in line with SAARK.

#### **6.2.5 Media Can Play a Greater Role in the Migration Sector**

In today's world of globalization, media, if motivated properly, can play a greater role than ever before to influence the migration sector. For example, journalists can come forward to highlight the success stories of our overseas workers in the international media that could retrieve a little bit of our image crisis the world over. BTV, the government controlled television media, could be utilized in this aspect to reach the rural people and make them aware about the benefit and importance of remittance and migration. The media must take an effective step if the BOEP really wishes to achieve a total success.

#### **6.2.6 Resource Allocation in the Budget**

By declaring the Migration sector as a thrust sector, the government must ensure a regular allocation for this sector, so that, rights and welfare of all parties concerned are guaranteed.

### **6.3 Conclusion**

The government seems quite committed to execute the different sections of the BOEP. The measures taken so far and their positive implications are already proof enough in this. But as a labour export country of the third world, what shows up as the meanest setback in the whole migratory system is nothing, but its lack of coordination. It is not a concern of the MOEWOE and Ministry of Home Affairs only. There is a lack of coordination between the Bangladeshi missions abroad, the government ministry concerned and the agencies looking after the recruitment of these workers. It seems the government's earlier plan of employing professionals at the foreign missions to handle problems of this nature is yet to take effect.

The migration sector also involves the Ministry of Home Affairs, Ministry of Labour, Ministry of Law, Justice and Parliamentary Affairs, Ministry of Youth, Ministry of Women and Children Affairs, Attorney General's Office, National Human Rights Commission etc., apart from international organizations and NGOs. A high powered authority with a broad mandate and jurisdiction needs to be set up to coordinate their activities.

Exploration of overseas job markets is not a one- time or ad hoc activity. It is a continuous, labour and expertise intensive and innovative process. Given the importance and contribution of the migration sector, there is a dire need of a permanent research center which will have personnel with expertise on economic, financial, geographical, historical, legal, human rights, diplomatic, security, strategic aspects of migration. Professionalism, independence, innovation, and service should be its main motto.

**CHAPTER SEVEN**

## **CHAPTER SEVEN**

### **Conclusion and Recommendation**

#### **7.1 Conclusion**

As a labour exporting country of South Asia, the Declaration of BOEP 2006 is genuinely a laudable job done by our government. Such an endeavor certainly helps in ensuring the rights of our overseas workers in a foreign country. BOEP 2006, for the first time, has created overseas opportunities for both the male and the female workers. The government has pledged commitment to undertake all measures to safeguard the rights of the workers home and abroad. The actual data shows, 4.42 lac people have been employed overseas till November 2009 and a remittance of USD 9.84 billion has been earned during this period. This implies, despite horrendous hassles our workers are still rushing overseas for a better earning and thus boosting our foreign reserve. A review of the BOEP 2006 clearly reveals that, human rights of our overseas workers could be better ensured if it had included the 1990 UN Convention in an even greater context. Pecuniary benefits, rather than the question of human rights have been prioritized in BOEP 2006. Proper implementation of the policy under the present convention has, virtually, become impossible due to the lack of a categorical clarification regarding the rights and security of the female genre.

An investigation into the policy implementation process reveals, the roadmap endorsed by the government after the declaration of BOEP 2006 has not been included in the Plan of Action till today. The analysis of the BOEP under the public policy framework would have been much easier now, if it were done accordingly right then and there. In addition, we could have analyzed the outcome of the implementation of a certain policy respectively. Since it was

not included in the Plan of Action, we could not possibly reflect on anything else but the only deeds disjointedly undertaken by the government. Of course, some sections have been implemented and the outcome is encouraging. Here, we must say about the foreign exchange reserve of the country. Besides, occurrence of harassment at the airport has considerably been reduced. The government has introduced investment loan through the launching of Expatriate Welfare Banking. Nevertheless, the most laudable achievement in this sector is having the official acknowledgement of the female migrant workers through this policy.

In spite of this acknowledgment, women workers were not provided with an exclusive preference securing an extra importance for them. Logically, their problems, specially, the events of sexual abuse are continually being unnoticed during the implementation process of the policy. Our labour wings abroad are never seen playing an active role for the welfare of the workers on a foreign land. There is a ceaseless demand for the exploration of newer sectors, building up of skilled female workers before the government, but the response on the part of the government is quite frustrating. Being patronized by a society built up on a paternal structure as well as emphasizing negative news regarding female workers employed abroad are agents which is keeping us restrained from exploring the true potential of female overseas employment, an emerging sector in the global market.

Ratification of 1990 UN Convention has already been discussed. In doing this, we must remove the legal barriers initially. One can be hopeful as the government has undertaken a project to evaluate the existing migratory laws. The government policy makers have assured that through a comparative study of the local laws and those of its neighboring countries, certain revisions and additions would be included in it in a while.

Implementation of a public policy is not possible by any government solely on its own. It is a continuous process. To draw a definite timeline is also a wrong approach in the same measure. But this happens, since problems existing in the policy can not be justly identified unless it is taken into practice and field level implementation. There might even be an emergence of finding a solution and working it out right on the spot. The same truth applies to BOEP 2006. In the end, it is crystal clear that BOEP can truly be a success if only there is a strong political will and a continual coordination of the government, NGOs and the international donor agencies.



## 7.2 Recommendation

Bangladesh did not have a political government for a while since the declaration of the BOEP 2006. Afterwards, in 2007, when the political government came into power, it was expected that BOEP would be included in the Plan of Action at the earliest. Now it's 2010 and nothing noticeable has been done since those days. It is, therefore, suggested here that, regardless of political consideration, if the government decides to prioritize this sector as a major foreign exchange earning source, it would be possible to bring about a complete change in the migratory scenario. Since we do not see any sign of the government to call off the BOEP, it may be considered as the Overseas Employment Policy of the country so far. To meet up the gap and to eliminate the inconsistencies existing in the current policy, some recommendations in this regard are made below after a thorough review of the BOEP under the public policy framework:

1. The Bangladesh Government must ratify the 1990 UN Convention, which it has already signed, and ILO convention No.97 and convention No.143 immediately for framing a comprehensive and human rights-based national migration policy.
2. As a key ministry, the Ministry of Expatriate's Welfare and Overseas Employment should take proper initiative to place the proposal of the ratification of UN and ILO conventions for migrant worker's rights immediately avoiding the blame game with the Ministry of Labour and Employment.
3. There should be a 'Migration Policy and Information Cell' under the MEWOE run by trained officials and staffs who are aware of

international law, ratification mechanism of international instruments and liaison capacity with NGO's, international organization and private sector.

4. The Emigration Ordinance 1982 must be replaced with a new comprehensive legal framework containing punitive actions against government officials and employers for ensuring the dignity and rights of migrant workers in the light of international instrument. ✓
5. The Ministry of Foreign Affairs should take diplomatic efforts to inspire and encourage labour receiving countries for the ratification of ICMW and ILO conventions. It may make them realize that migrant workers through systematic, transparent and right-based and regular migration are beneficial for both the employers and migrant workers themselves.
6. The recruitment system of migrant workers is largely a *dalal* based one and fake recruiting agencies and travel agencies are also involved in fraudulent practices of sending labours abroad. The Ministry of Home Affairs should take drastic measures against these fake recruiting and travel agencies to check these fraudulent practices.
7. Migration cost should be reduced. For poor people Government can start low interest rate through Bank.
8. Embassy should be much more active to solve migrant's problem abroad.
9. Mass media campaign through radio, TV channel (especially BTV) newspaper should be increased.
10. Increase more awareness program at grassroots levels.

11. The money transfer companies need to initiate and support projects that directly benefit migrants and members of their families.
12. The BMET needs to undertake more pre-departure trainings and other programs.
13. Economic Reintegration must be addressed by a common platform on migration and development.
14. Problems of women migrants must be highlighted, since this is an unfortunate reality.
15. Opportunities should be created for returnee migrants.
16. Migration Bank should be simple and as well as normal commercial bank. It can establish branches all over states.
17. BOEP should be reviewed again and should remove the contradiction and repeated clauses effectively.
18. BOEP should be inserted a separate clause for women for securing the female migration.
19. MoEWOE need to be strengthened in respect of both human resources and budgetary allocation.
20. Promote positive image of female migrant workers that encourage government and civil society to promote and protect their rights.
21. Access to accurate and valid information regarding overseas employment opportunities and vulnerabilities.

22. Migrants' workers have the right to associate with human rights and women rights organization and Trade Unions. Women rights organization should help women migrant workers to establish a trade union where they could discuss about their rights, vulnerabilities and discrimination.

23. To mainstreamed female migration in projects and programmers of MoFA and MoEWOE Bangladesh mission in abroad, recruiting agencies, a gender analysis is appreciable task by applying Gender Analysis Framework. This may help to identify the proper needs of female migrant workers.

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## CHAPTER 9

### APPENDICES

#### Appendices 9.1 List of Interviewers

1. Kazi Abul Kalam, Deputy Secretary, MEWOE
2. Dr. Tasneem Siddiqui, Executive Director, RMMRU.
3. Ms Umbareen Kuddus, Project Coordinator, IOM.
4. Ms. Naheed M Ahamed, National Programme Manager , UNIFEM.
- 5 Dr. Nurul Islam, Director, Research and Computer BMET.
6. Mr, Masud Ahmed, Director General, BMET.
- 7 Syed Saiful Haque, Chairman, WARBE.
- 8 Mr. Faruque Ahmed, Finance Secretary, WARBE.
- 9 Mr. A.K.M. Abdul Alim, Member Secretary, Executive Committee, BAIRA.
- 10 Sumaya Islam, Project Director, BOMSA
11. Lily Jahan, President, BOMSA

Participate Different Workshop such as

1. Seminar on “Ratification of the UN Convention 1990 on Migrants’ Rights and Implementation ob Bangladesh Overseas Employment Policy” Organized by, WARBE Development Foundation on July 01, 2009
2. Seminar on Pre-budget Consultation on “Migration Rights, Economic Recession and Reintegration of Returned Migrants” . Organized By WARBE Development Foundation on April 21,2009.
3. Day long Programme on “REMITTANCE UTSHOB & SHONAR MANUSH AWARD”. Organized by RMMRU on 10 August 2009.

## Appendices 9.2 Questionnaires

### 1. For Government Agency

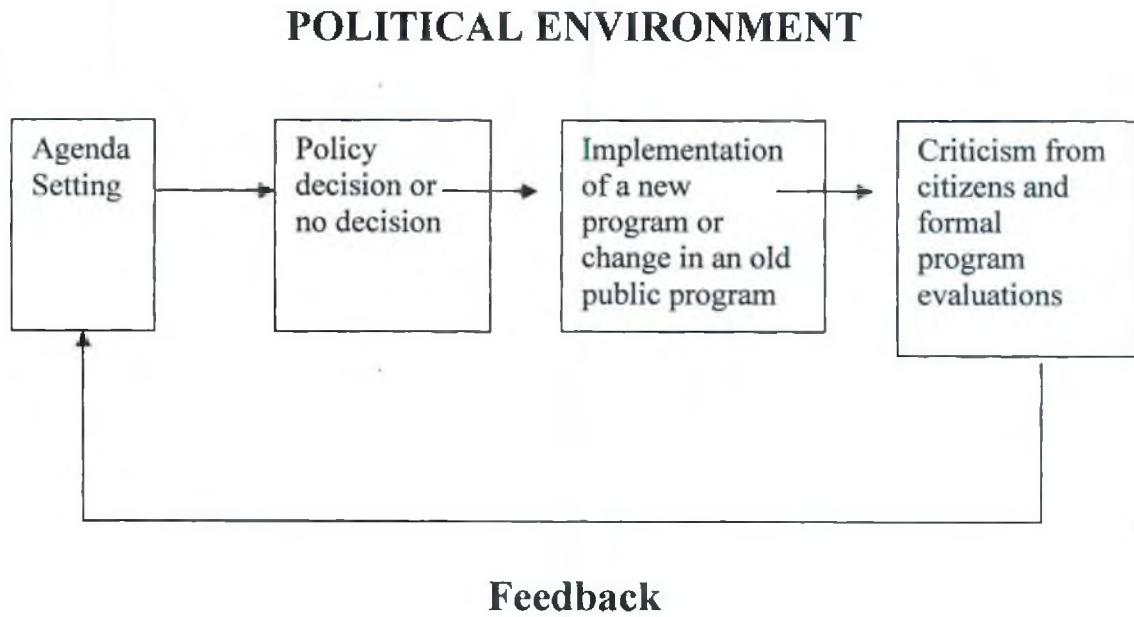
#### **Background Information:**

1. When did the process of formulation start?
2. Why did they think about formulating the policy?
3. Who were the major contributors, thinkers? (Civil society/NGOs? Research Institutions/ Government Agents)
4. Is there any gender expert in the team to work on it?
5. What is the time frame and process of policy formulation?
6. Is there enough conceptual clarification among the working group?
7. Why there is no specific article on women?

#### **Implementation;**

1. What is the major action plan taken by the government based on this policy after 2006?
2. Are there any initiatives to integrate the international human rights standards regarding migration?
3. Is there any memorandum of understanding (MOU) between governments of both receiving and sending countries signed?
4. Is there any special rule announced by the government after formulating the policy?
5. Do you think that this policy has made a space for women? Why and How?
6. What is the number of the ministries involved with this policy implementation?
7. What is the suggestion for implementation of the policy?
8. What are the major initiatives taken by the government to disburse this information among the grassroots organization?

Flow Chart 1



Flow Chart no 1: The Policy Process Circle

**Table no 1**  
**Country wise inward remittances from wage earners abroad**

countries	2004-05	2005-06	2006-07	2007-08	2008-09	2009-2010		
						July	Aug	Total
KSA	1510.46	1696.96	1734.70	2324.23	2859.09	270.09	278.46	548.55
UAE	442.24	561.44	804.84	1135.14	1754.92	151.41	160.85	312.26
Qatar	136.41	175.64	233.17	289.79	343.36	30.63	32.20	62.83
Oman	131.32	165.25	196.47	220.64	290.06	25.57	29.38	54.95
Bahrain	67.18	67.33	79.96	138.2	157.43	13.54	15.77	29.31
Kuwait	406.80	494.39	680.7	863.73	970.75	78.50	85.22	163.72
Libya	0.27	0.18	2.61	0.36	1.25	0.26	0.16	0.42
Iran	0.52	1.87	2.36	3.24	3.28	0.46	0.43	0.89
<b>Sub-Total</b>	<b>2695.20</b>	<b>3163.06</b>	<b>3734.81</b>	<b>4975.33</b>	<b>6380.14</b>	<b>570.46</b>	<b>602.47</b>	<b>1172.93</b>
USA	557.31	760.69	930.33	1380.08	1575.22	119.59	129.35	248.94
UK	375.77	555.71	886.9	896.13	789.65	70.55	47.49	145.04
Germany	10.10	11.9	14.91	26.87	19.32	1.51	2.06	3.57
Japan	15.99	9.41	10.17	16.29	14.12	1.26	1.18	2.44
Malaysia	25.51	20.82	11.84	92.44	282.22	37.89	44.77	82.66
Singapore	47.69	64.84	80.24	130.11	165.13	16.33	16.57	32.90
Australia	7.15	9.63	11.34	13.11	6.78	0.61	0.65	1.26
Italy	41.38	82.98	149.65	214.46	186.9	24.25	22.07	46.32
S. Korea	18.41	17.44	17.08	19.69	18.33	2.22	2.11	4.33
Hong kong	5.63	5.8	615	8.1	9.09	0.80	0.96	1.76
Others	48.15	99.6	125.05	142.17	242.36	39.91	38.47	78.38
<b>Sub-Total</b>	<b>1153.09</b>	<b>1638.82</b>	<b>2243.66</b>	<b>2939.45</b>	<b>3309.12</b>	<b>314.92</b>	<b>332.60</b>	<b>647.60</b>
<b>Total</b>	<b>3848.29</b>	<b>4808.88</b>	<b>5978.47</b>	<b>7914.78</b>	<b>9689.26</b>	<b>885.38</b>	<b>935.15</b>	<b>1820.53</b>

**Source: FEPD, Bangladesh Bank**

**Table no-2 Distribution of Skill Composition of Bangladeshi Manpower (In workers Category)**

Year	Professional	Skilled	Semi skilled	Unskilled	Total
1991	9024	46887	32605	58615	<b>1,47,131</b>
1992	11375	50689	30977	95083	<b>1,88,124</b>
1993	11112	71662	66168	95566	<b>2,44,508</b>
1994	8390	61040	46519	70377	<b>1,86,326</b>
1995	6352	59907	32055	89229	<b>1,87,543</b>
1996	3188	64301	34689	109539	<b>2,11,714</b>
1997	3797	65211	43558	118511	<b>2,31,077</b>
1998	9574	74718	51590	131785	<b>2,67,667</b>
1999	8045	98449	44947	116741	<b>2,68,182</b>
2000	10669	99606	26461	85950	<b>2,22,686</b>
2001	5940	42742	30702	109581	<b>1,88,965</b>
2002	14450	56265	36025	118516	<b>2,25,254</b>
2003	15862	74530	29236	134562	<b>2,54,190</b>
2004	1220	73569	13682	184487	<b>2,72,958</b>
2005	1291	107249	23775	120387	<b>2,52,702</b>
2006	928	109725	33930	236933	<b>3,81,516</b>
2007	676	165344	183754	482835	<b>8,32,609</b>
2008	1864	281450	132825	458916	<b>8,75,055</b>
<b>Total</b>	<b>1,68,277</b>	<b>18,96,212</b>	<b>9,91,879</b>	<b>32,09,541</b>	<b>62,65,909</b>

Source:BMET,2009.

Table no -3

## Migration of Female Workers 1991-2008(with major receiving Countries)

Year	Country								
	KSA	UAE	Kuwait	Oman	Mauritius	Bahrain	Lebanon	Jordan	Malaysia
2000	-	381	4	-	47	22	-	-	-
2001	335	162	15	27	-	22	-	95	1
2002	827	217	18	14	-	30	-	104	2
2003	808	108	333	-	-	37	1	1053	-
2004	3133	3241	1773	60	25	1058	-	1883	-
2005	6319	3786	930	132	25	553	12	1745	-
2006	7358	7355	589	629	468	232	743	518	1
2007	7341	5181	49	1380	610	244	3498	12	354
2008	4054	4716	-	274	769	130	5430	120	917
Total	30175	25147	3711	2516	1944	2338	9684	5530	1275

Source: BMET,2009.

Table -4

**Female Migration from Bangladesh by Profession 1991-2004.**

Profession	Middle East	Far East	Total	%
Doctor	175	0	175	0.84
Nurses	1038	157	1195	5.74
Teacher	13	0	13	0.06
Factory Workers	171	4845	5016	24.09
Garments Workers	3810	229	4039	19.39
Housemaid	6121	185	6306	30.28
Cleaner/Labour	4048	33	4081	19.60
Total	15376	5449	20825	100.00

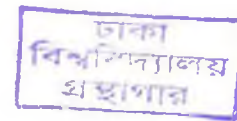
Source: BMET, 2009.

**Table no-5**  
**Number of male and female Migrant Workers (Year-Wise)**

Year	Male	Female	Total
2000	222232	454	222686
2001	188027	659	188686
2002	224040	1216	225256
2003	251837	2353	254190
2004	261699	11259	272958
2005	239132	13570	252702
2006	363471	18045	381516
2007	813515	19094	832609
2008	858404	16651	875055

Source: BMET, 2009.

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**Table no-6**  
**Gender segregated data on skill wise total clearance, 2008**

	Semi skilled	Professional	Skilled	Less skilled	Total
Number of Male migrants worker	1,30,277	1,748	2,78,913	4,43,290	8,54,221
Number of Female migrants worker	2,548	116	2,537	15,626	20,877
Total	1,32,825	1,864	2,81,450	4,58,916	8,75,098

Source: BMET, 2009.

Appendices\*

Annex-3: secure recruitment procedure for overseas employment for workers provided by BMET

Diagram-1: secure recruitment procedure for overseas employment for workers provided by BMET

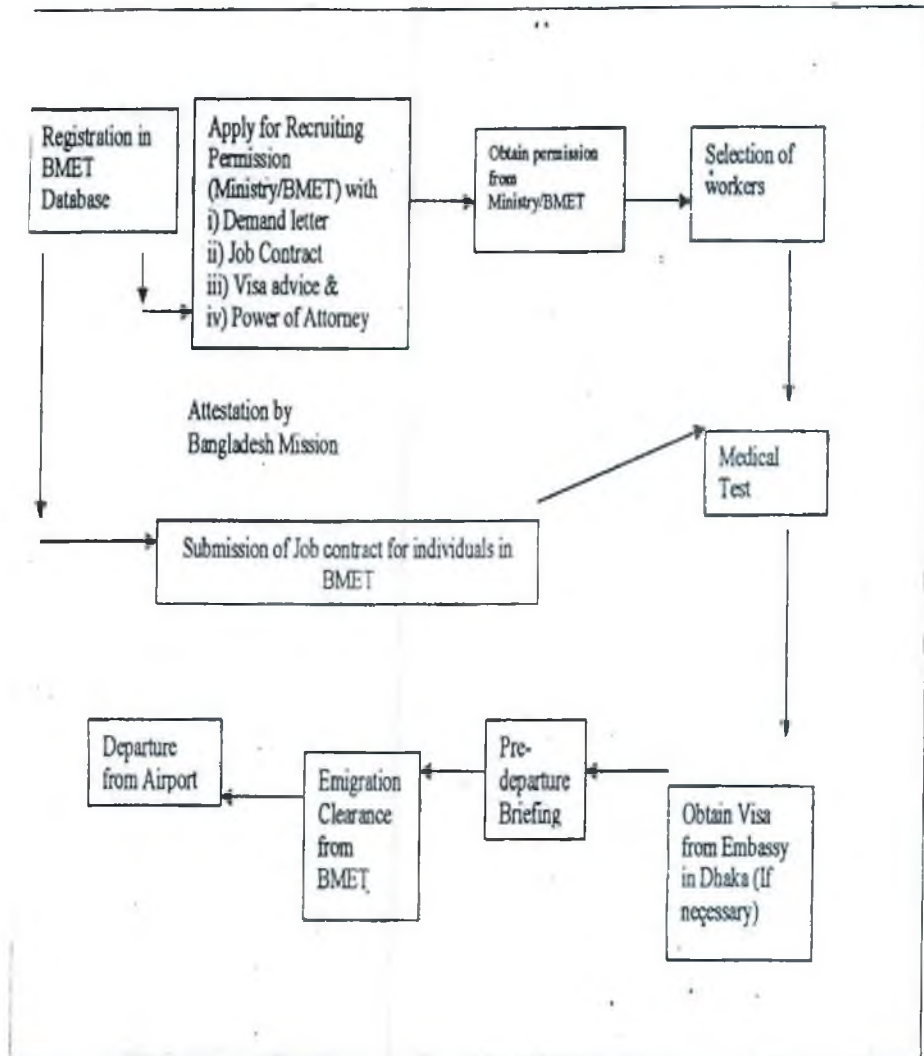



Figure: secure recruitment procedure for overseas employment for workers




Annex-4: Job Seekers Registration Card

**Government of the People's Republic of Bangladesh**  
**Bureau of Manpower Employment and Training (BMET)**  
**JOB SEEKER REGISTRATION CARD**

**REGISTRATION ID : CBM20050023734G**

Name	: ANISUL ISLAM KHAN	
Father's Name	: AMIN KHAN	
Mother's Name	: HAJERA BEGUM	
Nominee Name	: SAMIHA KHAN	
Passport No.	: P078978786	
Date of Birth	: 02-Feb-1981	
Address	: Village- MIRPUR, Thana- MIRPUR, Post Code- 1208, District- Cox's Bazar, Phone- 8915364	
Serial No.	: DH101-2005-8900008 Registration Date: 07-Feb-2006	

Annex-5: Sample Emigration Clearance card

	Government of the People's Republic of Bangladesh Bureau of Manpower Employment and Training (BMET) Emigration Clearance Card
	
	
Employee's Name	RANU AKTER
Father's Name	MAHATAB UDDIN
Registration ID	MKF20060124216B
Departure Port	Dhaka
Clearance Date	31/05/2006
Passport No	E 0376100
Issue Date	08/05/2006
Recruiting Agent ID	N/A
Employee's Address	APTESHAH, Manikganj, Post Code: LAOHAZIDJ
SL : IC-2006-2019972	

Annex-6: Checking process at departure terminal at airport

Passage way:Departure

File Help Login

Departure Interface (Direct)

Clearance ID: SA-1-2006-0120847

Issue Date: 2001-06-25

Employee Name: MISS QUMRUN NAHAR AZAD (BHOJNA)

Employee Reg ID: DHF20060124153

Passport No: Q 0424490

Country: Saudi Arabia

Flight No: 8Q 008

Departure Type: New Clearance

Date of Departure: Wed 14-Jun,2006

Employee departs successfully

Update Reset Exit

## **Appendices 9.3 Bangladesh Overseas Employment Policy 2006**

Registered No: D A-1

## BANGLADESH GAZETTE

Additional issue  
Published by the Authority  
Sunday, November 5, 2006

**Government of the People's Republic of Bangladesh**  
Ministry of Expatriates' Welfare & Overseas Employment  
Section – 5

Notification  
Dated, 7 Kartik 1413/22 October 2006

No: MEWOE-5/Misc.-14/2002(Part-2/1063 : Since manpower is a major export sector for Bangladesh economy and since the government has taken decision to undertake long term program for ensuring the welfare of the Bangladeshi expatriates and to enhance and streamline employment opportunities for Bangladeshis in abroad;

Therefore, to fulfill the vision of the government, this policy under the title of '**Overseas Employment Policy**' is launched as per principles enumerated below:

### 1.0 Preamble

According to Article 20 and 40 of the constitution of the People's Republic of Bangladesh, the state is pledge-bound to assist all citizens, males and females, in creating opportunities for employment as per their qualifications also to facilitate human resource development. In performing this constitutional responsibility, the government is responsive and active in generating employment within the country as well creating job opportunities in abroad for its citizens. Realizing the deep linkage between migration and economic development, the 8<sup>th</sup> Parliamentary government created a separate ministry under the title of the Ministry of the Expatriates' Welfare and Overseas Employment (MOEWOE) to ensure efficient management of the manpower export sector. To make the sector dynamic, rewarding and hassle-free for aspirant migrants, the Ministry took the initiative through inter-ministerial meetings and gathered assistance of experts to formulate the **Overseas Employment Policy**. After the independence of the country, realizing the dearth of employment opportunities within the country due resource constraint, the Late President Ziaur Rahman took the initiative to create the Bureau of Manpower, Employment & Training in 1976 to promote export of manpower abroad. Since then and in the period between 1976 and 2005, about 4.2 million skilled and unskilled Bangladeshis have been employed in different countries through private and government efforts. Encouraged by excellent performance and rapidly increasing demand for Bangladeshi workers in abroad, special focus has been placed on manpower export activities. Resultantly, scope and reach of the Bureau of Manpower, Employment &

Training has been expanded and 12 Labor Wings established in Bangladeshi missions abroad.

Considering the great contribution of migrant workers to our national economy, the newly established ministry undertook some measures to promote transparency and instill dynamism in the trade, facilitate qualitative change in the trade, reduce fraudulent practices, migration cost and ensure better salary, create an environment for accessibility of aspirant migrants to migration process from all areas of the country and to ensure overall welfare for the dependents of the Bangladeshi expatriates and migrant workers. Resultantly, within short time of creation of the ministry, significant increase both in export of manpower and remittances is achieved. If the manpower export sector is brought under an appropriate policy framework, it will have a very positive impact on overall economic development of the country.

The relationship between migration and development is age-old. Recently the UN, the World Bank and IMF have identified migration as a tool for faster development. In the face of declining population in the developed countries, it has become imperative to encourage migration to sustain the pace of their development. Fast emerging economies of South-East Asian and the oil-rich countries of the Middle East are largely dependent on migrant workers from Bangladesh.

Bangladesh is one of the labor sending countries in the international labor market. Due to very limited employment opportunities within the country, special emphasis is given to enhance scope for overseas employment as a tool to accelerate pace of poverty alleviation activities. The remittances from Bangladeshi expatriate workers has greatly helped to maintain a stable foreign currency reserve and reduced dependence of the country on foreign aid. To strengthen Bangladesh's participation in the competitive global job market and to make our manpower export sector more dynamic and streamlined, the present government has taken the initiative to formulate a national policy on overseas employment.

## 2.00 Scope

All the Bangladeshis, male and female migrant workers who are presently working abroad on contractual jobs, the permanent and temporary residents who already are foreign citizens or willing to embrace foreign citizenship but keeping close relationship and participating in the socio-economic activities of the home country, commonly termed as **Diaspora**, shall fall under the scope of this policy.

## 3.00 Objectives

Irrespective of males and females, the Government shall extend all assistance to the Bangladeshi citizens in the process of choosing standard employment. The government shall remain vigilant in ensuring and protecting the rights and privileges in the workplace as per labor laws of the host country and ensure protection of their universal human



rights and social securities. In addition to protecting economic entity, the government shall also ensure recognition and protection of social identity of the migrants.

#### 4.00 Principle

The aim of the Overseas Employment Policy is expand the scope of overseas employment opportunities and bring discipline in the sector implementing the following.

- 4.01 Ensure opportunities for all aspirant Bangladeshis from anywhere in the country at reasonable cost for both short-term and long-term migration.
- 4.02 Take effective measures for abolition of irregular migration in cooperation with related ministries.
- 4.03 To be proactively committed in protecting rights, dignity and security of the migrant workers both inside the country and in abroad.
- 4.04 Along with skilled and un-skilled workers, the government is also committed to enhance migration opportunities for professionals.
- 4.05 To take steps in ensuring, within the country, the social security and protection of movable and immovable properties of the families of both short-term and long-term migrants.
- 4.06 Ensure measures to sustain the existing labor markets and explore new ones.
- 4.07 To sustain current markets and access the new market, arrangements shall be made to impart training as per standards of the receiving countries as well as the target markets.
- 4.08 Manage the recruitment process efficiently.
- 4.09 To brand fraudulence practices in the migration process as offence against national interest and formulate new laws, as needs be, to prosecute any such offender whether he/she is an individual, a government employee or a private enterprise.
- 4.10 Make provisions for rewarding and honoring recruiting agents on the basis of their contribution in opening new markets, success in sending significant number of skilled workers, skilled female workers and for procuring demands at low migration cost with better salaries.
- 4.11 Facilitate market opening for Bangladeshi goods in the host countries keeping in view the demand generated by Bangladeshi migrants living there.
- 4.12 Undertake various projects to ensure welfare of migrant workers through utilization of Wage Earners' Welfare Fund.
- 4.13 Encourage remittances through formal channel and assist the migrant and his family in proper and efficient utilization of remitted fund.
- 4.14 Strengthen steps for encouraging the long-term and short-term migrants for investing in Bangladesh.
- 4.15 Assist returned migrants in social and economic reintegration within the country.
- 4.16 Arrange co-ordination among related ministries/departments, government and semi-government bodies, BAIRA and other private and international organizations involved in the labor migration process.

## 5.0 Implementation Activities

### 5.1 Protecting the rights of migrant workers:

#### *In abroad*

- 5.1.1 Sign bilateral agreements or Memorandum of Understandings with labor receiving countries.
- 5.1.2 Collect and review human rights practices and labor laws of the receiving countries and disseminate such information among the migrant workers.
- 5.1.3 Store pertinent information of all the expatriates (like address of the worker and employer, etc.) in the computer database of Bangladeshi missions abroad.
- 5.1.4 Provide legal assistance the workers in trouble and in need such assistance.
- 5.1.5 Provide all sorts of assistance by the government to expatriate Bangladeshis in facing any sort of emergencies.
- 5.1.6 In league with other labor sending countries, articulate and press for rights and related issues of migrant workers in international forums.
- 5.1.7 Actively participate in seminars, meetings and symposiums organized by ILO, IOM or such international organizations.

#### *Within the country*

- 5.1.8 Increase the duration and also spread to the divisional and district level, the ongoing pre-migration briefings programs given to the migrant workers for preliminary ideas on their duties, nature of job, salaries and benefits, the culture and laws in the host countries, and also to review and change the curriculum and to print and distribute booklets containing pertinent information for the migrant workers.
- 5.1.9 To save aspirant migrant workers from fraudulence practices and to create awareness of the risk and bad consequences of illegal migration, a concerted campaign to be launched in print and electronic media by informing the people of the process of legal migration, migration cost, job natures, salaries and other benefits, usual terms of contract, the necessity for written agreement with employer, etc.
- 5.1.10 Fixation of pragmatic labor standards and its regular evaluation.
- 5.1.11 Ensure specific mention of working hours, rate of wages, over-time, leave, health services, entertainment and freedom of mobility, etc. in the job contract between the worker and employer.
- 5.1.12 Create awareness among migrant workers about health related issues, especially of the HIV/AIDS viruses.

## 5.2 Sustaining current labor markets and exploring new markets

- 5.2.1 Collect information from websites and prepare report on future development programmes of labor receiving countries and the estimated projections of their future labor requirement. The reports, so prepared, to be distributed to concerned ministries/departments of government and private organizations involved in human resource development and upload such reports in the website of Ministry of Expatriates' Welfare and Overseas Employment.
- 5.2.2 Send high-powered government delegation to existing labor importing countries as well as to the potential countries to explore and create opportunities for export of Bangladeshi workers.
- 5.2.3 Regularly publish information on labor markets in the form of a bulletin.
- 5.2.4 Disseminate information in host countries on availability of different categories of human resources in Bangladesh.
- 5.2.5 Sensitize and invigorate foreign missions to put every effort for creating employment opportunities. Regular reports on such activities to be sent to the Ministry of Foreign Affairs and the Ministry of Expatriates' Welfare and Overseas Employment.

## 5.3 Human Resource Development

- 5.3.1 Review the existing national policies on human resource development in the context of international labor markets and trends.
- 5.3.2 Identify areas for incorporating vocational training in current curriculum.
- 5.3.3 Align human resource development activities in line with global requirements.
- 5.3.4 Introduce standard English language education from primary level in cooperation with related ministries.
- 5.3.5 Identify and follow international standards in the areas of specialized training.
- 5.3.6 Enhance foreign employment of women through creating training opportunities for professions such as nursing, housemaids, care-givers of elderly people, childcare, etc.
- 5.3.7 Create increased number of human resources in different sector including information technology.

## 5.4 Recruitment Process

- 5.4.1 Fixing of labor standards for migrant workers by regularly evaluating and analyzing international labor markets.
- 5.4.2 Set specific standards for issuing and renewing licenses of recruiting agencies.
- 5.4.3 Fix category-wise reasonable migration cost by comparing expenses in employing country, airfare, passport cost, medical fees, service charges for recruiting agencies, training expenses, etc. with those of other labor sending countries of similar job categories and disseminate such migration cost widely in print and electronic media.

- 5.4.4 Determination of minimum wage of migrants in accordance to standards of the destination country for different job categories and take all initiatives to ensure receipts of such wages.
- 5.4.5 Ensure all types of financial transactions through banks by recruiting agencies in their recruitment process and take legal measures against errent recruiting agencies.
- 5.4.6 Control recruitment through registration in computer database.
- 5.4.7 Take all measures to prevent illegal migration.
- 5.4.8 All steps to be taken to case and modernize issuance of state-of-art passports to migrant workers and also to ensure issuance of Police Clearances within 15 (fifteen) days submission of application by migrant workers, as and when needed.
- 5.4.9 To take legal actions against illegal and unauthorized employment by recruiting agents and enact new laws, if needs be.
- 5.4.10 To give legal aid/support to the deceived migrant workers in home and abroad.
- 5.4.11 Collect and preserve information of all types of both short-term and long-term migrant workers.
- 5.4.12 Encourage private and proprietorship employment agencies to create overseas employment opportunities.

## 5.5 Welfare of the Expatriates

- 5.5.1 Manage the Wage Earners' Welfare Fund in accordance with the provisions in Wage Earners' Welfare Fund Rules-2002.
- 5.5.2 To ensure easy access of the migrant workers, One-Stop-Service center to be expanded and managed appropriately.
- 5.5.3 Provide effective pre-departure briefings to the migrant workers and educate them on 'to do' and 'not to do'-s in the destination countries.
- 5.5.4 Maintain and operate Welfare Desks at the departure and arrival points in the airports.
- 5.5.5 Assist in repatriation of dead bodies and handing them over to the relatives.
- 5.5.6 Make sure the proper collection and distribution of compensation (*from foreign employers/governments*) in case of accidents and deaths of migrant workers and provide grants in special cases.
- 5.5.7 To repatriate expatriate Bangladeshi workers who have been arrested and imprisoned in abroad.
- 5.5.8 Provide medical support to sick/disabled expatriate workers.
- 5.5.9 Issue identification cards to returnee migrant workers through registration at the Bureau of Manpower, Employment & Training (BMET).
- 5.5.10 If needs be, create positions and employ local-based welfare officers under the Labor Wing of Bangladesh missions in the destination countries where at least ten thousand or more Bangladeshi migrants are working.

## 5.6 Remittance flow and investment

- 5.6.1 Strengthen implementation of different measures adopted by Ministry of Finance and Bangladesh Bank for streamlining remittances through formal channel.
- 5.6.2 Inspire and encourage expatriates to send money through formal channel and caution and educate them of the punishable offences in remitting through informal/illegal channels.
- 5.6.3 Launch campaign to educate the expatriates and their families of the benefits of investment in foreign currencies, in government's bond instruments, etc. introduced by Bangladesh Bank.
- 5.6.4 Arrange dissemination of information among migrants and their families of different remittance-based financial programs introduced by different banking and financial institutions/organization.
- 5.6.5 Assist the migrants and their families to invest their remittances in potential productive sectors.

## 5.7 Economic and social reintegration of returned migrants

- 5.7.1 Make arrangement for registration of returned migrants.
- 5.7.2 Provide information to returned migrants of the employment opportunities.
- 5.7.3 Assist returned migrants in using their acquired skill in national development.
- 5.7.4 Assist to develop their linkages with private sector.
- 5.7.5 Assist returned migrants in adopt sustainable projects and avail credit facilities.

## 5.8 Discipline and behavioral pattern of migrants

- 5.8.1 Take steps to ensure that the migrant workers abide by the rules and regulations and observe and honor the customs and culture of the host country.
- 5.8.2 Any migrant worker found guilty as per laws of the host country, he has to return home at own expense.

## 6.0 Institutional infra-structure for Policy Implementation

International migration from Bangladesh is conducted under the framework of Emigration Ordinance 1982. As per this ordinance, the primary responsibility of implementation of 'Overseas Employment Policy' lies with the Ministry of Expatriates' Welfare & Overseas Employment. Under overall control of the ministry, the Bureau of Manpower, Employment & Training shall ensure its application. Apart from the Ministry of Expatriates' Welfare & Overseas Employment, other ministries, government and non-government bodies, private organizations, institutions and associations are also linked to the migration process. Their activities are interlinked. Under these circumstances, inter-ministerial and inter-agency coordination among all stakeholders is extremely important (detailed responsibilities and duties are appended as 'Annexure'.) This responsibility will be carried on with sincere cooperation of all concerned and by the Ministry of Expatriates' Welfare & Overseas Employment.

## Annexure

Duties and responsibilities of different Ministries/Departments, Offices, Directorates, Public and Private Organizations in respect of welfare of expatriates and overseas employment:

### 1.0 Ministry of Expatriates' Welfare & Overseas Employment

- 1.1 Protect the current labor markets and explore new ones.
- 1.2 Formulate and legislate new laws, rules and principles and amend, add and/or change existing ones in line with principles embodied in Overseas Employment Policy.
- 1.3 Control, monitor and supervise the public and private training centres including those of BMET.
- 1.4 Control and monitor all activities of Bangladesh Overseas Employment Services (BOESL).
- 1.5 Appoint and administer the officers and staff of Labour Wings of our foreign missions abroad.
- 1.6 Administrative supervision of the Wage Earners' Welfare Fund.
- 1.7 Perform the secretarial responsibility of all the financial matters of the Ministry.
- 1.8 Maintain liaison and sign agreements, Memorandum of Understandings, etc., as and when needs be, with international organizations and global bodies whose works are functionally related to this ministry.
- 1.9 Create a research cell to collect and store data and other information related to the matters under responsibility of the ministry.
- 1.10 To fix and realize government fees (except legal instruments' fees) on the applicable matters under the purview of the ministry.
- 1.11 To enhance honor and status of our expatriates, the ministry will undertake special projects and observe such days, like Bangladesh Migration Day, International Migration Day, etc. and honor expatriates by decorating deserving expatriates as Commercially Important Persons (CIP) and awarding medals and other forms of recognition.
- 1.12 Make all efforts to integrate second and third generation expatriates with Bangladeshi cultures and its heritage.
- 1.13 Encourage expatriates to invest in Bangladesh.
- 1.14 Create facilitating environment to attract and make best use of the experiences and skills acquired by long-term expatriates.

- 1.15 To keep close contact with long-term migrants and with their support and cooperation, educate and restrain our migrant workers from unwarranted political and trade union activities in the host country.

## **2.0 Bureau of Manpower, Employment & Training (BMET)**

- 2.1 To prepare quarterly report and updates on the data and information received from Bangladeshi missions abroad.
- 2.2 To take necessary steps for procuring demands and enhance overseas employment opportunities for Bangladeshis.
- 2.3 Evaluate the activities of Labor Wings in every six months.
- 2.4 To keep informed the related ministries of the areas for development of human resources compatible to changing demand patterns in short and long-term markets.
- 2.5 Ensure creation of data-base on the basis of profession categories and skill level of the aspirant migrants.
- 2.6 Enhance efficiency of human resource development institutions under BMET.
- 2.7 To educate and make aware the government and private specialized training institutions of the demand patterns of foreign job markets.
- 2.8 To disseminate correct information on safe migration to aspirant female migrants.
- 2.9 Give pre-departure briefing and prepare and distribute booklets containing information about rights and privileges, responsibilities, ways and means of sending remittances through proper channel, salaries and terms of contract, medical facilities, etc. and of laws, language and culture of the host countries.
- 2.10 Undertake proper activities to ensure security and welfare of the migrants.
- 2.11 Issue emigration clearances through computerized online system and control illegal movement with the help appropriate IT technology.

## **3.0 District Employment and Manpower Offices (DEMO)**

- 3.1 Register aspirant migrants on skill-category basis into online computer database.
- 3.2 Take measures to enhance efficiency of staff in doing job-seekers' registration.
- 3.3 To register returnee migrant workers according to job-category.
- 3.4 To assist in treatment and rehabilitate the returnee migrants who fell victim of accident in foreign country.
- 3.5 To assist in transportation and burial of dead bodies of migrants in their own town or village.
- 3.6 To distribute compensation received against death or accident of migrant worker to the victim or the legal inheritors.

#### **4.0 Bangladesh Overseas Employment and Services Ltd. (BOESL)**

- 4.1 In competing with private recruiting agents, identify the road-blocks in enhancing manpower export and work-out modus operandi for removing such barriers.
- 4.2 Create examples of reduced migration cost.
- 4.3 Project data and information in BMET's website on the position of demand in labor importing countries.
- 4.4 Procure more demands for manpower export.
- 4.5 Recruit from BMET's database against procured demands.
- 4.6 Explore avenues of job placement of females and take appropriate measures for their employment.
- 4.7 Train BOESL staff on proper utilization of market information.

#### **5.0 Technical Training Centers and Bangladesh Institute of Marine Technology**

- 5.1 Modernize the training institutes as per need of the day.
- 5.2 Create skilled manpower as per requirement of home and abroad.
- 5.3 Targeting the need and demand of the labor employing countries, initiate new and modern vocational trainings.
- 5.4 Give training to female workers as per need and demand foreign markets.
- 5.5 Create skilled marine technicians by imparting technical and vocational trainings.
- 5.6 To increase scope and diversity of training of electronics and IT technicians compatible to global demand.

#### **6.0 Bangladesh Association of International Recruiting Agencies (BAIRA)**

- 6.1 Monitor and control recruiting agencies as per rules and regulations of the Government.
- 6.2 Search out overseas job markets alongside the government's efforts.
- 6.3 Assist and cooperate in establishing transparency and accountability in the trade and ensure compliance of responsibility and duties of the recruiting agencies.
- 6.4 Take effective measures in curbing the unethical competition among recruiting agencies in foreign markets.
- 6.5 Take necessary measures in eliminating harassment of the recruits by the middlemen.
- 6.6 For the cause of enhancing manpower export, give every support, cooperation and advice to government's efforts and measures to such end.



## 7.0 Responsibilities of related ministries and departments on overseas employment

- 7.1 Strengthen manpower export activities.
- 7.2 Allocate funds for development of manpower export sector and for welfare of expatriates.
- 7.3 Sustain and develop diplomatic relations with labor importing countries.
- 7.4 Ease the emigration process.
- 7.5 Enhance services in airports.
- 7.6 Take steps to protect and secure life and properties of the families of expatriates living in the country.
- 7.7 Keeping pace with need of global demand, introduce courses in our education system for improving written and spoken use English and other languages and also introduce vocational training courses.
- 7.8 Ease the medical check-up process.
- 7.9 To facilitate creation of appropriate environment for savings and investment of money sent by expatriates and also to encourage other development activities, the ministries will take appropriate initiatives. Additionally, the Ministry of Expatriates' Welfare & Overseas Employment shall initiate and seek assistance and support from any other ministry for increasing manpower export and for other measures related to welfare of expatriates.
- 7.10 Take all measures to stop illegal migration.
- 7.11 To initiate steps to introduce modern state-of-art passports for the expatriates and ensure its easy availability and also to make sure that applicant job seekers get police clearance certificate within 15 (fifteen) days of placement with concerned Police Station.

By order of the President of Bangladesh

(Ashfaque Hamid)

Secretary

Ministry of Expatriates' Welfare & Overseas Employment

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## **Appendices 9.4 The Emigration Ordinance 1982**

**THE EMIGRATION ORDINANCE, 1982**

(ORDINANCE NO XXIX OF 1982).

[7th September, 1982]

**An Ordinance to repeal and, with certain amendments, re-enact the Emigration Act, 1922.**

WHEREAS it is expedient to repeal and, with certain amendments, re-enact the Emigration Act, 1922 (VII of 1922), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:

**Short title,  
application and  
commencement**

1. (1) This Ordinance may be called the Emigration Ordinance, 1982.

(2) It applies to all citizens of Bangladesh wherever they may be.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint; and different dates may be appointed for different provisions of this Ordinance.

**Definitions**

2. (1) In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "citizen" means a citizen of the People's Republic of Bangladesh;

(b) "demand" means any requirement or offer for employment of workers by a foreign or Bangladeshi employer, having any project or contract or establishment abroad, which is supported by visa instructions or work permit from the competent Government authority of the country of employment;

(c) "depart" and "departure" means the departure out of Bangladesh of any person for employment by any foreign or Bangladeshi

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employer or for self-employment by any means;

(d) "dependent" means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;

(e) "emigrant" means any person who emigrates or is assisted to emigrate or has emigrated under this Ordinance and includes any dependent of an emigrant;

(f) "emigrate" and "emigration" means the departure by sea, air or land out of Bangladesh of any person for the purpose or with the intention of working for wages or engaging in any trade, profession or calling in any country beyond the limits of Bangladesh;

(g) "licence" means a document issued by the Government authorising a person or an entity to operate as recruiting agent for employment abroad;

(h) "newspaper" shall have the same meaning as defined in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973);

(i) "overseas employment" means employment of a citizen outside Bangladesh;

(j) "prescribed" means prescribed by rules made under this Ordinance;

(k) "recruiting agent" means a person licensed under section 10;

(l) "recruit" means issuing a letter of appointment signing contracts for employment abroad by a foreign or Bangladeshi employer, making preliminary arrangements for selecting persons for employment abroad through advertisement, publicity, letter, preparation of panel, verbally or in writing, and any other steps towards furtherance of the objectives of the employment of a citizen abroad;

(m) "Registrar" means a Registrar of Emigrants appointed under this Ordinance; and

(n) "rules" means rules made under this Ordinance.

(2) In case of any doubt or dispute arising otherwise than in the course of any proceedings, as to whether a person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Government and such determination shall be final.

**Appointment of Registrar of Emigrants**

3. (1) The Government may appoint a person to be a Registrar of Emigrants and define the area to which the authority of a Registrar so appointed shall extend.

(2) Every Registrar shall be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

**Duties and functions of the Registrar**

4. Every Registrar shall, in addition to the duties assigned to him by or under this Ordinance, perform such functions as may be assigned to him by the Government.

**Agents in foreign countries**

5. The Government may, for the purpose of safeguarding the interest of emigrants and promoting overseas employment, appoint persons to be agents in any place outside Bangladesh and may define their powers and duties.

**Delegation of certain authority**

6. The Government may authorise any authority subordinate to it to-

(a) promote emigration of citizens;

(b) contract and regulate such emigration; and

(c) look after the interest and welfare of emigrants at home and abroad.

**Regulation for emigration**

7. (1) Emigration for overseas employment shall not be lawful from any port or place except from such ports or places as the Government may, by notification in the official Gazette, declare to be ports or places from which such emigration is lawful.

(2) No person shall, unless he possesses a valid demand, recruit or attempt to recruit any citizen for overseas employment except in accordance with the provisions of this Ordinance and the rules made thereunder.

(3) Notwithstanding anything contained in any other law for the time being in force, emigration of a citizen shall be lawful, if he is in possession of valid travel documents with registration endorsement under sub-section (4) of section 11, and-

(a) he is in possession of a letter of appointment or a work permit from a foreign employer, or an employment or emigration visa from a foreign Government; or

(b) he has been selected for emigration by a foreign employer through an organisation or authority or by a recruiting agent, recognised by the Government in this behalf or under an agreement or treaty between the Government and a foreign Government.

**Power to prohibit emigration of workers**

8. (1) If the Government, having regard to the occupation, profession, vocation or qualification of any person or class of persons is satisfied that emigration of such person or class of persons is not in the public interest, it may, by order, prohibit the emigration of such person or class of persons and thereupon the departure of such person or class of persons otherwise than in accordance with such order shall not be lawful.

(2) Notwithstanding the provisions of sub-section (1), where the Government has reason to believe that sufficient grounds exist for prohibiting emigration of any person or any class of persons to any country, it may, by notification in the official Gazette, declare that emigration of such person or class of persons to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

**Prohibition of advertisement, etc**

9. (1) No person or organisation shall, except with the prior permission of the Government or any authority designated, recruit or attempt to recruit a citizen for overseas employment or issue an

advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration.

(2) No newspaper shall publish any advertisement for employment abroad unless it is satisfied that the same is intended to be issued with the Government approval or clearance.

**Grant of licence**

10. (1) Whoever desires to engage, or to recruit, or to assist, any person to emigrate shall apply to the Government, for licence at such time and in such manner, and shall, with his application, furnish such information and documents and pay such security and fee as may be prescribed.

(2) On receiving an application under sub-section (1), the Government may, after such enquiry regarding the character, antecedents and solvency of the applicant as it may consider

necessary, grant the licence applied for on such terms and conditions, if any, as may be prescribed, or reject the application for licence.

(3) The decision of the Government under sub-section (2), shall be final and shall not be questioned in any Court of law.

(4) A licence under this section may be issued in favour of a citizen or in favour of a corporation, company, partnership firm or any other entity, if-

(a) in the case of corporation or company, at least sixty per cent of the stock of the corporation or the company, and

(b) in the case of a partnership firm or any other entity, at least sixty per cent of the capital or proprietary right of the firm or the entity, is owned or controlled by Bangladeshi citizens.

**Appearance of emigrants before the Registrar, etc**

11. (1) Before any person departs from Bangladesh, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Registrar and furnish such information regarding terms of his engagement or contract, and such other matters concerning his selection as may be prescribed.

(2) If the person departing from Bangladesh is directly appointed or recruited by a foreign Government or organisation or agency or by other foreign employers, such person shall furnish required information to the Registrar.

(3) If the Registrar is satisfied that the terms of agreement under which a person has been engaged or assisted are in conformity with the terms on the basis of which the licence to recruit was granted, he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants, if any, and the person engaging or assisting him in such form as may be prescribed.

(4) Registration of persons departing Bangladesh shall be endorsed on their passports by the Registrar.

**Registration of emigrants residing abroad**

12. An emigrant residing abroad and who has not been registered under this Ordinance shall get himself registered with such Labour Attaché or, in his absence, with any such other officer as may be specified by the Government in this behalf and such registration shall be reported to the Registrar.

**Non-transferability of licence or authority**

13. (1) No licence shall be used, directly or indirectly, by any person other than the person in whose favour it was issued or at any place other than the place mentioned in the licence nor shall the licence be transferred, conveyed or assigned to any person or entity.

(2) No transfer of the business address or designation of any agent or representative mentioned in the licence shall be made without prior approval of the Government.

**Cancellation, suspension, forfeiture of security, etc**

14. (1) If, at any time during the pendency of a licence, the Government is satisfied, after making such enquiry as it may deem necessary, that the licensee has been guilty of misconduct or that his conduct or performance as a licensee has been unsatisfactory or that he has violated any of the provisions of this Ordinance or the rules made thereunder or the prescribed Code of Conduct, it may, after giving the licensee an opportunity of being heard, by order in writing, cancel the licence or suspend it for a period to be specified in the order and may also forfeit the security furnished by him under section 10 in full or in part.



(2) The security money forfeited under sub-section (1) may be-

(a) paid to an affected person, or

(b) utilised for repatriating of any stranded person in foreign country or for such other purpose as the Government may deem appropriate in the public interest.

(3) On expiry of the period for which the licence is granted or on the intimation by the licensee that he does not intend to continue to act as a recruiting agent and on being satisfied that no ground for forfeiting the security in whole or in part exists, the Government may order the refund of the security or part thereof to the person by whom it was furnished or to his authorised representative.

**Power to  
withdraw licence**

15. Notwithstanding anything to the contrary contained in this Ordinance, if, at any time, the Government is satisfied that it is necessary in the public interest to discontinue the practice of granting licence to recruiting agents, it may, by notification in the official Gazette, withdraw all licences granted under section 10.

**Decision under  
sections 14 and  
15 to be final**

16. The decisions of the Government under sections 14 and 15 shall be final and shall not be questioned in any Court of law.

**Inspection, etc, to  
ensure  
compliance with  
the provisions of  
this Ordinance**

17. The Government may, for the enforcement of the provisions of this Ordinance and the rules made thereunder, appoint such officers as it may deem fit and an officer so appointed may-

(a) enter into any office or premise maintained or used by any person or entity in connection with the recruitment of emigrants for overseas employment;

(b) require and enforce the production of any books of accounts and records maintained by such person or entity and inspect such books of accounts and records; and

(c) examine such person or entity and obtain from him or it

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statement in writing in this behalf.

**Power to search  
and detain  
vessels**

18. All the powers for the time being conferred by law on officers of customs with regard to the searching and detention of vessels may be exercised for the prevention of offences under this Ordinance by any such officer or by any officer authorised by the Government in this behalf.

**Power to make  
rules**

19. (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) powers and duties of officers appointed by the Government under the Ordinance;

(b) the licensing, supervision and control of persons engaged in recruiting persons for overseas employment or causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged;

(c) the establishment, supervision and regulation of any place of accommodation provided for emigrants and for their medical care while resident there;

(d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with the rules made under clause (b);

(e) the manner of inspection of premises, books of accounts and records of any person or entity connected with recruitment of emigrants for overseas employment;

(f) the information to be furnished by recruiting agents to emigrants and the language in which such information is to be furnished;

(g) appearance of emigrants before the Registrar and furnishing information under section 11;

(h) fees to be paid by a recruiting agent to the Registrar for each emigrant departing Bangladesh;

(i) setting up training, orientation and briefing centres to guide and advise intending emigrants and their dependants proceeding abroad;

(j) recall and repatriation, in the public interest, of an emigrant;

(k) measures to be adopted for the welfare of emigrants and their dependants;

(l) disposal of complaints against recruiting agents;

(m) formation of an association of recruiting agents and framing of Code of Conduct to be observed by recruiting agents;

(n) service charge to be paid to a recruiting agent;

(o) depositing of fees and securities by a recruiting agent;

(p) procedure for sending of emigrants by persons possessing secured contract or sub-contract for the purpose;

(q) the security, well-being and protection of emigrants; and

(r) fees receivable from persons recruited and going abroad for employment.

**Unlawful  
emigration**

20. (1) Whoever, except in conformity with the provisions of this Ordinance and the rules made thereunder, emigrates or attempts to emigrate or departs or attempts to depart shall be punishable with imprisonment for a term which may extend to one year simple imprisonment or with fine not exceeding Taka five thousand or with

both.

(2) Whoever, except in conformity with the provisions of this Ordinance or the rules made thereunder,-

(a) makes or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or

(b) causes or assists, or attempts to cause or assist any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing, or

(c) causes any person engaged, assisted or recruited by him, after grant of the licence under section 10 to depart without appearing before the Registrar as required under section 11, or

(d) furnishes or publishes information or notice or document in relation to recruitment for employment abroad, or

(e) substitutes or alters any employment contract approved and verified by the Registrar, or

(f) withholds or denies travel documents from a prospective emigrant for monetary or financial consideration other than those authorised under this Ordinance,

shall be punishable with rigorous imprisonment for a term which may extend to five years, or with fine, or with both.

(3) When in the course of any proceeding in connection with emigration in which a recruiting agent or a person or an

organisation is concerned, a breach of the provisions of this Ordinance or the rules made thereunder is committed, such agent or, as the case may be, person or organisation shall be liable to the punishment provided by sub-section (2), unless he proves that he was not responsible for and could not have prevented the commission of the breach.

(4) A person who recruits a citizen or holds an interview or

examination or issues an advertisement for such recruitment in contravention of the provisions of section 9 shall be liable to the punishment provided by sub-section (2).

**Fraudulently inducing to emigrate**

21. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into an agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**False representation of Government authority**

22. Whoever falsely represents that any emigrant is required by the Government or is to be engaged on behalf of the Government, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**Receiving money, etc, for providing foreign employment**

23. Whoever for providing or securing, or on the pretext of providing or securing, to or for any person, employment in any country beyond the limits of Bangladesh-

(a) being a recruiting agent, charges any fee in addition to the prescribed amount;

(b) not being a recruiting agent, demands or receives or attempts to receive, for himself or for any other person any money or other valuable thing;

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**Penalty for contravention of agreement**

24. Whoever contravenes the terms of the agreement with his foreign employer by abandoning his employment or otherwise, shall, after the repatriation to Bangladesh, be punishable with fine which may extend to five thousand Taka.

**Recovery of expenditure for repatriation, etc**

25. (1) The amount of expenditure, if any, incurred by the Government for repatriation to Bangladesh of a person who is convicted of an offence punishable under sub-section (1) of section 20 or section 24, shall be recoverable from such person in

accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

(2) The Government may recover the amount involved in an offence under section 21 in accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913) and the amount so recovered shall be paid to the person who had paid it.

#### Special Courts

26. (1) The Government may, by notification in the official Gazette, establish as many special Courts as it considers necessary for trial of offences under this Ordinance and, where it establishes more than one special Court, shall specify in the notification the headquarters of each special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.

(2) A special Court shall consist of a person who is the Chairman of a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969).

(3) A special Court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing made by such person as the Government may, by a general or special order, authorise in this behalf.

(4) A special Court trying an offence under this Ordinance shall try such offence summarily and in trying such offences, such special Court shall follow the procedure laid down in the Code of Criminal Procedure, 1898 (Act V of 1898) for summary trial.

#### Indemnity

27. No suit, prosecution or other legal proceeding shall lie against the Government, Registrar or any person for anything in good faith done or intended to be done under this Ordinance.

#### Ordinance not to apply to certain persons

28. This Ordinance shall not apply to the departure of a person-

(a) who is not a citizen of Bangladesh, or

(b) who is in the service of the Republic or of a local authority and is proceeding on duty, or on training, or leave, or for employment with any international organisation, with the permission of the Government, or

(c) who is engaged as a member of the crew on board a foreign-going vessel, or

(d) who is a dependent of a citizen already resident or employed in a foreign country and is on a temporary visit to Bangladesh.

**Repeal and savings**

29. (1) The Emigration Act, 1922 (VII of 1922), shall stand repealed in relation to any provision in respect of which this Ordinance comes into force.

(2) Notwithstanding such repeal,-

(a) anything done or any action taken or any rule made or any notification issued or any proceeding commenced under the provisions of the said Act, shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken, made, issued or commenced, as the case may be, under the corresponding provision of this Ordinance; and

(b) all cases pending before any Court immediately before the commencement of this Ordinance shall be tried and disposed of by such Court, and all matters in connection with such cases shall be regulated in accordance with the provisions of the said Act, as if the said Act had not been repealed by this Ordinance.

## **Appendices 9.4 1990 UN Convention**



## The 1990 Convention

**Text of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

English, Français, Español / Back



### United Nations General Assembly

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS  
OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Adopted by the General Assembly at its 45th session on 18 December 1990 (A/RES/45/158).

Preamble

Part I : Scope and definition

Part II : Non-discrimination with respect to rights

Part III : Human rights of all workers and members of their families

Part IV : Other rights of workers and members of their families who are documented or in a regular situation

Part V : Provision applicable to particular categories of migrant workers and members of their families

Part VI : Promotion of sound, equitable, human and lawful conditions in connection with international migration of migrant workers and members of their families

Part VII : Application of the Convention

Part VIII : General provision

Part IX : Final provision

Preamble

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on

Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All

## Discrimination against Women and the Convention on the Rights of the Child.

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organization, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity for Migrant Workers (No. 143), the Recommendation concerning Migration for Employment (No. 144), the Recommendation concerning Migrant Workers (No. 151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105).

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education, the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

Recalling that one of the objectives of the International Labour Organization, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

Recognizing the importance of the work done in connection with migrant workers and members of their families by various organs of the United Nations, in particular in the Commission on Human Rights and the

Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations.

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field.

Realizing the importance and extent of the migration phenomenon, which involves millions of people and a large number of States in the international community.

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish a framework which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families.

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they encounter arising from their presence in the State of employment.

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection.

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the families,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and end clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of fundamental human rights.

Considering that workers who are non-documented or in an irregular situation are frequently employed under unfavourable conditions of work and that certain employers find this an inducement to recruit such workers in order to reap the benefits of unfair competition.

Considering also that recourse to the employment of migrant workers who are in an irregular situation is discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, granting certain additional rights to migrant workers and members of their families in a regular situation will all migrants and employers to respect and comply with the laws and procedures established by the States concerned.

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which is applied universally.

Have agreed as follows:

## PART I

### Scope and definitions

#### Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status or other status.
2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and residence in the State of employment as well as return to the State of origin or the State of habitual residence.

#### Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in remunerated activity in a State of which he or she is not a national.
2. (a) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;
- b. The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;
- c. The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel in a State of which he or she is not a national;
- d. The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation under the jurisdiction of a State of which he or she is not a national;
- e. The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, is required to travel to another State or States for short periods, owing to the nature of his or her occupation;
- f. The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period of work solely on a specific project being carried out in that State by his or her employer;
- g. The term "specified-employment worker" refers to a migrant worker:

Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or

Who engages for a restricted and defined period of time in work that requires professional, commercial, or other highly specialized skill; or

Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief; and who is required to depart from the State of employment at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that assignment or duty or engages in that work;

h. The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity other than under a contract of employment and who earns his or her living through this activity normally working together with members of his or her family, and to any other migrant worker recognized as self-employed under the applicable legislation of the State of employment or bilateral or multilateral agreements.

### Article 3

The present Convention shall not apply to:

- a. Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;
- b. Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;
- c. Persons taking up residence in a State different from their State of origin as investors;
- d. Refugees and stateless persons, unless such application is provided for in the relevant national legislation or in international instruments in force for the State Party concerned;
- e. Students and trainees;
- f. Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in remunerated activity in the State of employment.

### Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects

equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

### Article 5

For the purposes of the present Convention, migrant workers and members of their families:

- a. Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in remunerated activity in the State of employment pursuant to the law of that State and to international agreements which that State is a party;
- b. Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided in subparagraph (a) of the present article.

Article 6

For the purposes of the present Convention:

- a. The term "State of origin" means the State of which the person concerned is a national;
- b. The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or engaged in a remunerated activity, as the case may be;
- c. The term "State of transit" means any State through which the person concerned passes on any journey from the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART II

Non-discrimination with respect to rights

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and ensure to all migrant workers and members of their families within their territory or

subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind on the basis of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

PART III

Human rights of all migrant workers and members of their families

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin, and to return to their country of origin. No migrant worker or member of his or her family shall be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.
2. Migrant workers and members of their families shall have the right at any time to enter and remain in the country of their origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.
2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4. For the purpose of the present article the term "forced or compulsory labour" shall not include:

- a. Any work or service not referred to in paragraph 3 of the present article normally required of a person while he is in detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
- b. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- c. Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

#### Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.
2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.
4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of the children in conformity with their own convictions.

#### Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.
2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.
3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - a. For respect of the rights or reputation of others;
  - b. For the protection of the national security of the States concerned or of public order (ordre public) or of health or morals;
  - c. For the purpose of preventing any propaganda for war;
  - d. For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

#### Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour or reputation. Each migrant worker and member of his or her family shall have the right to the protection of law against such interference or attacks.

## Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the concerned shall have the right to fair and adequate compensation.

## Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.
2. Migrant workers and members of their families shall be entitled to effective protection by the State against physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.
3. Any verification by law enforcement officials of the identity of migrant workers or members of their families carried out in accordance with procedures established by law.
4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with procedures as are established by law.
5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest, if possible, in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.
6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to a fair trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should the occasion arise, for the execution of the judgement.
7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:
  - a. The consular or diplomatic authorities of his or her State of origin or of a State representing the interest of the State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;
  - b. The person concerned shall have the right to communicate with the said authorities. Any communication addressed to the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;
  - c. The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.
8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language of the court.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

## Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.
2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of origin for violation of provisions relating to migration, shall be held, in so far as practicable, separately from other persons or persons detained pending trial.
4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.
5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.
6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and children.
7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.
8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infractions of provisions related to migration, he or she shall not bear any costs arising therefrom.

## Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.
3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:
  - a. To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;
  - b. To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;
  - c. To be tried without undue delay;



- d. To be tried in their presence and to defend themselves in person or through legal assistance of their own to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to any case where the interests of justice so require and without payment by them in any such case if they do sufficient means to pay;
  - e. To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
  - f. To have the free assistance of an interpreter if they cannot understand or speak the language used in court;
  - g. Not to be compelled to testify against themselves or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.
6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.
7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

#### Article 19

- 1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of omission that did not constitute a criminal offence under national or international law at the time when the offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time the offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.
- 2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

#### Article 20

- 1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.
- 2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless the failure of that obligation constitutes a condition for such authorization or permit.

#### Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or member of his or her family.

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## Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each expulsion shall be examined and decided individually.
2. Migrant workers and members of their families may be expelled from the territory of a State Party only in accordance with a decision taken by the competent authority in accordance with law.
3. The decision shall be communicated to them in a language they understand. Upon their request where not mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of their rights before or at the latest at the time the decision is rendered.
4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.
5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.
6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to present any claims for wages and other entitlements due to him or her and any pending liabilities.
7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.
8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.
9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

## Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of their State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

## Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

## Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:
  - a. Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, termination of the employment relationship and any other conditions of work which, according to national

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or of the irregularity of the child's stay in the State of employment.

#### Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families. States Parties shall not prevent them from maintaining their cultural links with their State of origin.
2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

#### Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the State concerned, their personal effects and belongings.

#### Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:
  - a. Their rights arising out of the present Convention;
  - b. The conditions of their admission, their rights and obligations under the law and practice of the State concerned, and such other matters as will enable them to comply with administrative or other formalities in that State.
2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall cooperate with other States concerned.
3. Such adequate information shall be provided upon request to migrant workers and members of their families free of charge, and, as far as possible, in a language they are able to understand.

#### Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

#### Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.

#### PART IV

Other rights of migrant workers and members of their families who are documented or in a regular situation

#### Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in Part III.

## Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay, remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

## Article 38

1. States of employment shall make every effort to authorize migrant workers and members of their families temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.
2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which temporary absences are authorized.

## Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.
2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

## Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.
2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

## Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their origin and to vote and to be elected at elections of that State, in accordance with its legislation.
2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

## Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

#### Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

a. Access to educational institutions and services subject to the admission requirements and other regulations of such institutions and services concerned;

b. Access to vocational guidance and placement services;

c. Access to vocational training and retraining facilities and institutions;

d. Access to housing, including social housing schemes, and protection against exploitation in respect of

e. Access to social and health services, provided that the requirements for participation in the respective schemes are met;

f. Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;

g. Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social and cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may restrict the establishment of such facilities subject to the requirements generally applied in that State concerning their

#### Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to special protection by society and the State, shall take appropriate measures to ensure the protection of the unity and integrity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as provided in paragraph 2 of the present article, to other family members of migrant workers.

#### Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

- a. Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
  - b. Access to vocational guidance and training institutions and services, provided that requirements for participation are met;
  - c. Access to social and health services, provided that requirements for participation in the respective scheme are met;
  - d. Access to and participation in cultural life.
2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, facilitating the integration of children of migrant workers in the local school system, particularly in respect of their knowledge of the local language.
  3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of the mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.
  4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

## Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal effects, household effects as well as the equipment necessary to engage in the remunerated activity for which they have been admitted to the State of employment:

- a. Upon departure from the State of origin or State of habitual residence;
  - b. Upon initial admission to the State of employment;
  - c. Upon final departure from the State of employment;
  - d. Upon final return to the State of origin or State of habitual residence.

## Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

## Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:
  - a. Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed or levied in similar circumstances;
  - b. Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to them.

nationals in similar circumstances, including tax allowances for dependent members of their families:

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and of migrant workers and members of their families.

#### Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, States of employment shall issue to migrant workers authorization of residence for at least the same period as their authorization to engage in remunerated activity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to the period during which they may be entitled to unemployment benefits.

#### Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunification authorization to stay; the State of employment shall take into account the length of time they have already spent in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting the right of family members to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

#### Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were authorized. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes or retraining during the remaining period of their authorization to work, subject to such conditions and limitations as may be specified in the authorization to work.

#### Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:
  - a. Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;
  - b. Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for the recognition of such qualifications.

recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also

a. Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;

b. Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.

4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

#### Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activities on the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

#### Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the provisions provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

a. Protection against dismissal;

b. Unemployment benefits;

c. Access to public work schemes intended to combat unemployment;

d. Access to alternative employment in the event of loss of work or termination of other remunerated activity in accordance with article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer or she shall have the right to address his or her case to the competent authorities of the State of employment in accordance with the terms provided for in article 18, paragraph 1, of the present Convention.

#### Article 55

Migrant workers who have been granted permission to engage in remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity:



## Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.
2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.
3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

## PART V

Provisions applicable to particular categories of migrant workers and members of their families

## Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.

## Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of that State of employment, taking into account that they do not have their habitual residence in that State.
2. States of employment shall consider favourably granting frontier workers the right freely to choose to engage in remunerated activity after a specified period of time. The granting of that right shall not affect their status as migrant workers.

## Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of that State of employment and that are compatible with their status in that State as seasonal workers, taking into account that they are present in that State for only part of the year.
2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

## Article 60

Itinerant workers, as defined in article 2, paragraph 2 (e), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of that State of employment and that are compatible with their status as itinerant workers in that State.

## Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs

(c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and article 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.
3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.
4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their country of origin or habitual residence.

#### Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).
2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 54, paragraph 1 (d).

#### Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers under a contract of employment.
2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

#### PART VI

Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

#### Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.
2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

#### Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:

against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territories of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-a-vis their employer arising from employment shall not be impaired by such measures.

#### Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territories in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other considerations, in particular those relating to their family situation.

#### Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

#### Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of migrant workers or members of their families.
2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

### PART VII

#### Application of the Convention

#### Article 72

1. For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");

The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party shall nominate one person from among its own nationals;

Members shall be elected and shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention.

Convention and subsequent elections every second year. At least four months before the date of each election the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties at least one month before the date of the corresponding election, together with the curricula vitae of the persons nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes, an absolute majority of the votes of the States Parties present and voting.

5. The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of five members shall be chosen by lot by the Chairman of the meeting of States Parties;

The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-fifth State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

The members of the Committee shall be eligible for re-election if renominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

a. Within one year after the entry into force of the Convention for the State Party concerned;

b. Thereafter every five years and whenever the Committee so requests.

2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

3. The Committee shall decide any further guidelines applicable to the content of the reports.

4. States Parties shall make their reports widely available to the public in their own countries.

## Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.
2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.
3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit copies of such parts of these reports as are of interest to specialized agencies as well as to intergovernmental organizations, within their competence.
4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on matters dealt with in the present Convention as fall within the scope of their activities.
5. The International Labour Office shall be invited by the Committee to appoint representatives to participate in its meetings in consultative capacity, in the meetings of the Committee.
6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within its field of competence are considered.
7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.
8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

## Article 75

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The Committee shall normally meet annually.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

## Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- a. If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication, the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt of the communication by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- c. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies has been unreasonably prolonged;
- d. Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the rights and obligations set forth in the present Convention;
- e. The Committee shall hold closed meetings when examining communications under the present article;
- f. In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee shall request the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- g. The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be heard and to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:
2. If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall include in its report a brief statement of the facts and of the solution reached;
  3. If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set out the relevant facts concerning the issue between the States Parties concerned. The written submissions and records of oral submissions made by the States Parties concerned shall be attached to the report. The Committee may communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

4. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

#### Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

a declaration.

2. The Committee shall consider inadmissible any communication under the present article which is anonymous which it considers to be an abuse of the right of submission of such communications or to be incompatible provisions of the present Convention.

3. The Committee shall not consider any communications from an individual under the present article unless ascertained that:

a. The same matter has not been, and is not being, examined under another procedure of international investment settlement;

b. The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communication submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months after the communication is received, the State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under the present article in the light of all information available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article until notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

#### Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of the conventions adopted by the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

#### PART VIII

#### General provisions

#### Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing the admission of migrant workers and members of their families. Concerning other matters related to their legal status and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

## Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

## Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

a. The law or practice of a State Party; or

b. Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any liability to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the Convention.

## Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

## Article 83

Each State Party to the present Convention undertakes:

a. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

b. To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the law of the State, and to develop the possibilities of judicial remedy;

c. To ensure that the competent authorities shall enforce such remedies when granted.

## Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

## PART IX

## Final provisions

## Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

## Article 86



1. The present Convention shall be open for signature by all States. It is subject to ratification.
2. The present Convention shall be open to accession by any State.
3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

## Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the instrument of ratification or accession.

## Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or prejudice to article 3, exclude any particular category of migrant workers from its application.

## Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of the receipt of the notification by the Secretary-General of the United Nations.
3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not consider any new matter regarding that State.

## Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication a majority of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted the amendments. States Parties still being bound by the provisions of the present Convention and any earlier amendment that has been accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.
3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States Parties.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

## STATUS OF MIGRANTS RIGHTS UN CONVENTIONS RATIFICATIONS

Present status: 41 ratifications and 15 signatures

### Ratifications:

SL. NO	Countries Who Ratified	Date of Ratification	Region
01	Albania	05.06.2007	Europe
02	Algeria	21.04.2005	Africa
03	Argentina	23.02.2007	Latin America
04	Azerbaijan	11.01.1999	Asia
05	Belize	14.11.2001	Latin America
06	Bolivia	12.10.2000	Latin America
07	Bosnia & Herzegovina	13.12.1996	Europe
08	Burkina Faso	26.11.2003	Africa
09	Cape Verde	16.09.1997	Africa
10	Chile	21.03.2005	Latin America
11	Colombia	24.05.1995	Latin America
12	Ecuador	05.02.2002	Latin America
13	Egypt	19.02.1993	Africa
14	El Salvador	14.03.2003	Latin America
15	Ghana	08.09.2000	Africa
16	Guatemala	14.03.2003	Latin America
17	Guinea	08.09.2000	Africa
18	Honduras	11.08.2005	Latin America
19	Jamaica	25.09.2008	Latin America
20	Kyrgyzstan	29.09.2003	Asia
21	Lesotho	16.09.2005	Africa
22	Libyan Arab Jamahiriya	18.06.2004	Africa
23	Mali	05.06.2003	Africa
24	Mauritania	22.01.2007	Africa
25	Mexico	08.03.1999	Latin America
26	Morocco	21.06.1993	Africa
27	Nicaragua	26.10.2005	Latin America
28	Niger	18.03.2009	Africa
29	Paraguay	23.09.2008	Latin America
30	Peru	14.09.2005	Latin America
31	Philippines	05.07.1995	Asia
32	Rwanda	15.12.2008	Africa
33	Senegal	09.06.1999	Africa
34	Seychelles	15.12.1994	Africa
35	Sri Lanka	16.03.1996	Asia
36	Syria	02.06.2005	Asia
37	Tajikistan	08.01.2002	Asia
38	Timor Leste	30.01.2004	Asia
39	Turkey	27.09.2004	Europe
40	Uganda	14.11.1995	Africa
41	Uruguay	15.02.2001	Latin America

### Signatures:

SL. NO.	Signatory Country	Date of Signature	Region
01	Bangladesh	07.10.1998	Asia
02	Benin	15.09.2005	Africa
03	Cambodia	27.09.2004	Asia
04	Comoros	22.09.2000	Africa
05	Congo	29.09.2008	Africa
06	Gabon	15.12.2004	Africa
07	Guinea-Bissau	12.09.2000	Africa
08	Guyana	15.09.2005	Africa
09	Indonesia	22.09.2004	Asia
10	Liberia	22.09.2004	Africa
11	Montenegro	26.10.2006	Europe
12	Sao Tome and Principe	06.09.2000	Africa
13	Serbia	11.11.2004	Europe
14	Sierra Leone	15.09.2000	Africa
15	Togo	15.11.2001	Africa