

# A far cry from justice for migrants

A critical analysis of  
migrants' experiences in the  
arbitration system in Bangladesh

MARCH 2025

**OKUP**  
*a grassroot migrants' organization*

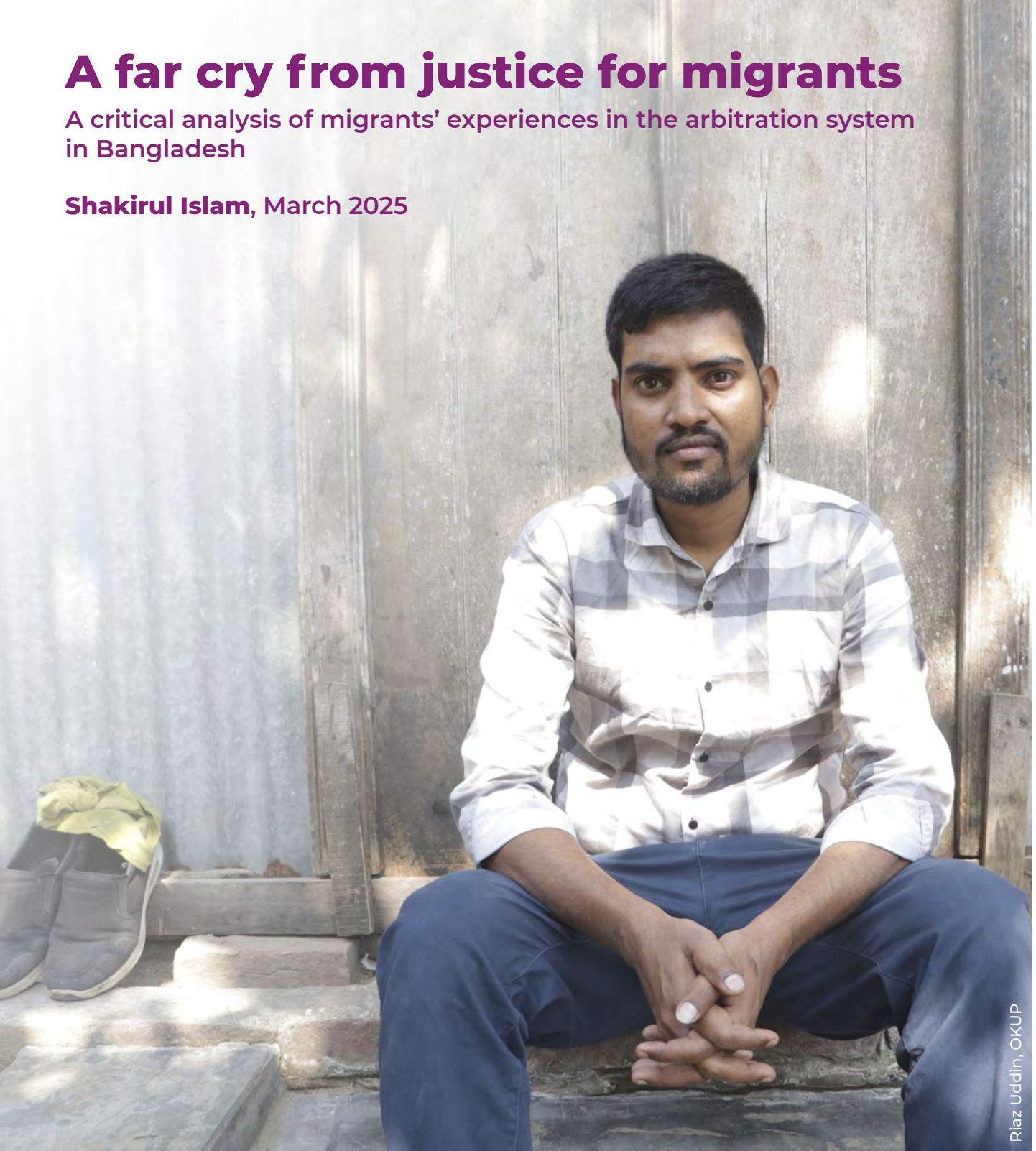
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# A far cry from justice for migrants

A critical analysis of migrants' experiences in the arbitration system in Bangladesh

Shakirul Islam, March 2025



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“

*I bought an auto-rickshaw with the money I received from arbitration. I dream of a new life with my family, forgetting all the sufferings I faced abroad.*



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# 1 Executive summary

## 1.1 Background

Migrant workers play a significant role in the socioeconomic development of both Bangladesh and the countries of destination. Remittances sent by Bangladeshi migrant workers constitute one of the country's largest sources of foreign exchange earnings, driving economic stability and development. However, despite their indispensable role, migrant workers frequently face unethical recruitment practices, exploitation, violations of rights, and significant barriers in accessing justice, both in Bangladesh and abroad.

In 2013 the Bangladesh government passed the Overseas Employment and Migrants Act (OEMA) to ensure migrant workers' rights to obtain legal aid, file civil and criminal suits, and seek remedies by establishing a structured arbitration system. A directive was issued in 2023 to detail arbitration procedures, but did not establish a separate and independent tribunal. This remains an impediment to delivering justice for migrant workers who continue to struggle to obtain adequate redress for grievances. Many destination countries have laws and mechanisms in place to resolve labour disputes, but there are limitations to effective implementation.

This report is based on the findings of OKUP's action research that was conducted from January 2023 to October 2024. It assessed 114 complaints filed by migrant workers and their families for Bureau of Manpower Employment and Training (BMET) arbitration. It identifies challenges in the arbitration procedures and loopholes in legal frameworks. The recommendations feed into policy advocacy to ensure justice for migrant workers.

## 1.2 Key findings

### Violations of legal provisions in recruitment practices

Despite government regulations aimed at ensuring fair and ethical recruitment, systemic violations persist at all stages of the recruitment process:

- 80 per cent of 114 migrant workers were recruited through unauthorised sub-agents, despite OEMA 2013 explicitly allowing only licensed agencies to conduct recruitment.
- 22 per cent of migrant workers claimed that agents forged their medical test certificates and 16 per cent claimed that agents forged pre-departure orientation certificates both of which are mandatory to obtain emigration clearance.

- 75 per cent of migrant workers complained that the agents did not provide a job contract before their migration. Of those who signed a contract before migration, 62 per cent signed a couple of hours before their flight and all claimed the contract was not explained to them.
- 100 per cent of male migrant workers were charged exorbitant migration fees, far above the legal rates set by the government: twice the legal rate for Saudi Arabia-bound workers, and six times the legal rate for Malaysia-bound workers.
- The government mandates zero migration fees for female domestic workers, but 65 per cent claimed agents illegally charged amounts ranging from 50,000 to 200,000 Taka.

### Violations of rights and entitlements faced by male migrant workers in destination countries

- 47 per cent of migrant workers were not provided with work permits. Of those that were, upon arrival, they were placed in confinement until their entry visas expired. Without jobs and the associated work permits, they were considered as having absconded under local legislation.
- No migrant workers received their salaries regularly. 53 per cent were paid every two or three months but less than the agreed amount.
- 6 per cent of migrant workers were critically wounded at the workplace and were denied treatment by their employers and forced to return with critical health conditions.
- Illegal recruitment practices by recruiters and employers forced 36 per cent of migrant workers to return home within three months of their arrival. Premature return pushed them into debt bondage and an undignified life.

### Violations of rights and entitlements faced by female migrant workers in destination countries

In many destination countries such as Saudi Arabia, the rights and entitlements of domestic migrant workers are covered by special regulations rather than the national labour law. Unfortunately, these regulations are not implemented resulting in gross violations.

Of the 34 female domestic workers included in the research, 94 per cent reported regular physical and psychological abuse; 82 per cent had worked excessive hours with no rest, and 97 per cent were

deprived of weekends and holidays. 79 per cent filed complaints concerning the withholding of their salary. 80 per cent reported food deprivation, 97 per cent were denied health treatment, 15 per cent were confined without food and water for days, and 47 per cent reported sexual exploitation.

### **Challenges and loopholes in the legal frameworks and their implementation in relation to the arbitration system in Bangladesh**

- The BMET oversees arbitration in addition to its regular duties. With no provision for additional staff or relevant training there are concerns about the quality of the arbitration. As the BMET is responsible for issuing recruitment agents' licenses and issuing migrants with emigration clearance certificates, their role in handling arbitration cases creates an inherent conflict of interest.
- The legal frameworks do not define or give directions about appropriate remedies or levels of monetary compensation. Migrant workers often receive unjustified and unfair compensation, pushing them into greater economic hardship.
- The lack of a standard system for arbitration procedures creates huge obstacles for migrant workers, from filing complaints to participating in the hearings. This often causes mistrust in the whole system.

## **1.3 Recommendations**

### **The government of Bangladesh should:**

- Implement the legal provisions adopted to promote safe and orderly migration and be transparent and accountable to migrant workers;
- Take legal action to remove the culture of impunity and ensure transparency and accountability with regard to unscrupulous recruiting agents;
- Establish appropriately resourced 'Legal Aid Cells' in the Labour Welfare Wings of Bangladeshi Embassies in destination countries;
- Establish a separate and dedicated Arbitration Department under the supervision of the Ministry of Expatriate Welfare and Overseas Employment;
- Review the existing directive on the disposal and redressal of migrant workers' complaints and adopt a comprehensive Arbitration Rule;

- Ensure proportionate compensation for migrant workers which considers not only financial loss but also social costs;
- Create mass awareness about migrant workers' rights to justice, including by incorporating a special session on country-specific information regarding available redressal mechanisms in the pre-departure orientation sessions for migrant workers.

### **The government of Saudi Arabia should:**

- Stop unethical visa trading by unscrupulous employers;
- Review the Labour Reform Initiatives to remove provisions that still allow employers to exercise power over migrant workers to deprive them of the opportunity to rectify absconding status and transfer to a new employer;
- Ensure migrant workers are well-oriented about existing redress mechanisms and make them more accessible, including by establishing 'Free Service Centre(s)' to assist migrant workers in filing complaints online.
- Take special measures to ensure proper implementation of the regulation to the redress of female domestic workers in fair and transparent procedures.

### **The government of Malaysia should:**

- Adhere to the recruitment provisions they agreed to in the MoU signed with the government of Bangladesh;
- Establish an easy and accessible facility for protection and support measures for migrant workers, such as the online system in Saudi Arabia and 'Free Service Centres'.

## 2 Introduction

### 2.1 Background and rationale

Migrant workers' access to justice and remedies following violations of their rights and entitlements in the migration cycle is a far cry from reality. This is despite their enormous contribution to the socioeconomic development of the countries of origin and destination.

The government of Bangladesh promotes overseas jobs through official channels to employ its hugely growing labour force. In 1976, the government of Saudi Arabia began recruiting Bangladeshi workers to meet its labour shortage. Over the years, Bangladesh has become the world's 8th largest labour-sending country.<sup>1</sup> The Bureau of Manpower, Employment and Training (BMET) data shows that approximately 17 million Bangladeshis have migrated to work overseas from 1976 to 2024<sup>2</sup>, representing an annual average of around 340,000 people. There was an 85 per cent increase in the number of workers sent overseas during 2021-2023 compared to the previous three years. The participation of Bangladeshi women in the overseas jobs market is historically lower than that of men: between 2021-2023, 8.55 per cent of Bangladesh's total labour migrants were women.

Labour migration not only contributes to creating jobs for the growing labour force, but it has also become the second largest source of foreign exchange earnings for Bangladesh. From 2019 to 2023, Bangladeshi migrant workers remitted a total of USD 105 billion<sup>3</sup>, which was more than 7 times higher than the net Foreign Direct Investment (FDI)<sup>4</sup>, contributing significantly to the country's GDP, increasing the foreign currency reserve, and boosting macro- and micro-economic development. The economic activities of the host countries rely heavily on migrant workers. In the Gulf Cooperation Council (GCC), around two-thirds of the labour force is comprised of migrant workers who mainly work in the private sector in construction, retail, tourism, and other labour-intensive industries (Udaya R. Wagle, 2024)<sup>5</sup>. South-east Asian countries such

as Malaysia are home to more than one million Bangladeshi workers; indeed, Malaysia's overall development is highly dependent on the migrant labour force.

Unfortunately, migrant workers face enormous challenges and often become the victims of abuse and exploitation in the migration cycle. The government focuses on increasing the deployment of the workforce to jobs overseas, but taking measures to uphold the welfare of migrant workers is not high on the political agenda. Consequently, violations of migrants' rights and entitlements remain overlooked and unaddressed.

OKUP has been working to improve the institutional mechanism for migrants' access to justice and remedies for over a decade by conducting action research and carrying out evidence-based advocacy. A range of national and international organisations have been working together to ensure justice for migrant workers at home and abroad.

Over the years, the government of Bangladesh has taken several initiatives to improve laws and regulations to ensure rights-based protection for migrant workers and promote their access to justice. In October 2023, the government introduced a rule through an office order entitled "Disposal and Redressal of Migrants' Complaints through Arbitration" to create a transparent and efficient arbitration system which would ensure that workers whose rights and entitlements were violated in the migration cycle received justice. OKUP's action research to understand migrant workers' practical experiences indicates that violations, as well as the denial of migrants' rights and entitlements during recruitment and employment, are extremely widespread.

This report is based on OKUP's action research focusing on the arbitration system dedicated to migrant workers. The action research, conducted from January 2023 to October 2024, intends to identify current challenges in the arbitration procedures and relevant laws and regulations to feed into policy advocacy to ensure fair justice and remedies for migrant workers.

1. *Hidden cost of migration: 57pc of returnees denied medical care abroad burdened with loans*

2. Ibid

3. Bureau of Manpower Employment and Training (BMET) *Statistical Report: Annual Foreign Employment and Remittance Flows by Country* (2004 to August 2024)

4. Bangladesh *Bank Foreign Direct Investment and External Debt Report* 2023

5. *Comparative Migration Studies, volume 12, Article number: 30* (2024)

## 2.2 Objectives

The overall objective of the action research is to contribute to the ongoing efforts to improve the institutional mechanism, particularly the current arbitration system for ensuring appropriate justice and remedies for abuse, exploitation, and rights violations that migrant workers encounter in the migration cycle. The immediate objectives of the action research are:

- Document violence against migrant workers through the lens of the current legal frameworks in Bangladesh and major destinations, mainly Saudi Arabia and Malaysia.
- Expose gaps and loopholes in the Arbitration Rules/system and the challenges in arbitration practices that hinder migrant workers from accessing justice and appropriate remedies.
- Present recommendations to improve the existing arbitration system for returned migrant workers.

## 2.3 Research scope

Over the last decade, OKUP has been carrying out evidence-based advocacy to improve the institutional mechanism for migrant workers' access to appropriate justice and remedies. In this effort, OKUP conducted action research, published several research papers and policy briefs, organised consultations, and carried out continuous negotiations with the relevant authorities. All reports were focused on identifying the loopholes and challenges in the existing legal redress mechanism.

The Overseas Employment and Migrants Act 2013 has clear directions about the right to access justice through civil suits and arbitration by filing complaints to the relevant government authority. The act has clearly defined offences, penalties, and procedures for trial on the one hand, and directions for the formulation of 'arbitration rules' to resolve complaints on the other.

Over the years, the concerned government authorities undertook a series of initiatives to improve the arbitration system run by the Bureau of Manpower Employment and Training (BMET). The initiatives were delivered on an ad hoc basis resulting in little progress.

Interestingly, the government adopted a rule by issuing an Official Order in 2023 entitled "Disposal and Redressal of Migrants' Complaints through Arbitration" aligned with relevant provisions of the

Overseas Employment Act 2013 and the Overseas Employment and Migration Management Rules 2017. The Order has detailed procedural provisions for filing complaints and for the resolution of complaints. This is a positive step forward in the improvement of the arbitration system and has widened the scope of this action research to review progress in implementing the expected changes.

## 2.4 Research methodology

OKUP's action research is primarily based on the cases of 114 returnee migrant workers (80 male and 34 female) who were provided with legal assistance by OKUP between January 2023 and October 2024. OKUP has made a systemic documentation of violations and the legal procedures followed in the existing arbitration system. The returnee migrant workers are from 17 districts, with a majority from the Dhaka division followed by Khulna, Rangpur, Chattogram, and Barisal. They were initially identified and referred to OKUP by OKUP community workers in the project areas, a peer network of returnee migrant workers, local stakeholders, or like-minded organisations abroad. Some referrals were received from co-workers who were aware of OKUP assistance because they had participated in OKUP community-level activities, and the Airport Welfare Desk in Dhaka under the Wage Earners Welfare Board.

The research followed a rigorous investigation of the complaints at two levels – a primary assessment which verified the merit of the complaints followed by an in-depth investigation and documentation. The primary assessment involved in-person discussions with migrant workers, their families, and neighbours and was documented by using 'Kobo' tools. The in-depth investigation was conducted with the returnee migrant workers in the form of in-depth interviews (IDIs) and using 'Kobo' tools. For both levels, the research used a close-ended questionnaire developed by OKUP based on their 12 years of intensive case management experience with migrant workers.

In addition, the research followed the systemic documentation of each step of the complaint from filing to the hearing, resolution and the settlement of the agreed compensation. For each case all relevant information and experience was gathered and carefully documented relating to interactions with the migrant workers and

concerned arbitration officials, the hearing procedures and the follow up. The research critically reviewed the legal frameworks for migrant workers, especially the Government Order issued by the Ministry of Expatriate Welfare and Overseas Employment in October 2023 to resolve complaints through arbitration as stated in the Expatriate Welfare and Overseas Employment Act (OEMA) 2013. The research also reviewed the Expatriate Welfare Policy 2016, the Overseas Employment and Migration Management Rules 2017, International Conventions for the Protection of Rights of All Migrant Workers and Their Families, and the Global Compact for Migration (GCM) that Bangladesh ratified and committed to implement. The available and related literature and research publications were also reviewed.

## 2.5 Limitations

- This report covers the day-to-day experiences of the arbitration procedures of 114 complaints assisted only by OKUP. The experiences of arbitration procedures of any other complaints have remained uncovered in this report.
- This report has focused on the laws and regulations relating to labour disputes and redressal mechanisms and practices of destination countries, in particular, Saudi Arabia and Malaysia. This was because a majority of complaints were filed for arbitration by the returnees from these two countries.



“

*I was told I would work as a tailor in Saudi Arabia, but I was given work in construction. My employer did not pay my salary. I returned empty-handed after six months.*



## 3 Overview of legal frameworks for the protection of migrant workers' rights

### 3.1 International frameworks that cover protection of migrant workers' rights

The government of Bangladesh is committed to upholding and protecting the rights and dignity of migrant workers by ratifying different international conventions, treaties, and frameworks such as the International Convention on the Protection of Rights of All Migrant Workers and Members of their Families (ICRMW) in 2011. Though the ICRMW is a non-binding convention, it makes states responsible, particularly those receiving labour, for ensuring equal treatment for migrant workers with regard to work, wages, and benefits (Art. 25(a)) and ensuring effective protection against violence, physical injury, threats, and intimidation (16(2)) by officials or by private individuals, groups or institutions, as well as conducting fair verification through maintaining legal procedures (16(3)) aimed to promote fair justice.

The General Assembly of the United Nations endorsed the Global Compact for Migration (GCM) in 2018 which is treated as an international cooperation framework based on existing international law, including the Universal Declaration of Human Rights. The compact is a state-led and state-owned framework to implement and review, but with the spirit of multilateral cooperation. The GCM has focused on promoting ethical recruitment and decent work by enhancing policies (6(f)). The compact contained provisions that the states would take necessary steps to address workplace-related vulnerabilities and abuse of migrants (7(d)), ensure migrants' access to reporting, complaints, and redress mechanisms (6(j)), and access to affordable, independent legal assistance (7(g)).

The New York Declaration for Refugees and Migrants adopted in 2016 by all 193 UN member states has outlined a framework for addressing refugee and migrant issues. Several conventions including the International Labour Organisation's (ILO) Convention No. 97, 143 promote the rights of migrant workers, address irregular migration and illegal employment of migrants aimed to prevent abusive conditions for migrant workers and respect their basic human rights; Convention No. 86 encourages international migration for employment, and provides guidance on how to combat abusive recruitment practices and promote job matching; and Convention No. 189 aims to improve the working conditions of

domestic workers by guaranteeing them the same labour protections as other workers.

The Migration Governance Framework of the International Organisation for Migration (IOM) aims to advance the socioeconomic well-being of migrants and society, address the mobility dimensions of crisis effectively, and ensure that migration takes place in a safe, orderly, and dignified manner.<sup>6</sup>

### 3.2 Bangladesh legal frameworks addressing migrant workers' right to justice and remedies

Bangladesh is either a signatory or ratified country to the majority of international frameworks, particularly the International Convention on the Protection of Rights of All Migrant Workers and Members of their Families (ICRMW). Bangladesh is one of 15 GCM 'champion' countries meaning that Bangladesh has volunteered to implement the GCM objectives on a priority basis.

To translate such international commitments into national legislation, the government of Bangladesh adopted the Expatriate Welfare and Overseas Employment (EWOE) Policy in 2016 with provisions for establishing rights-based protection for migrant workers (Art. 1.5). The policy highlighted the importance of strengthening the legal protection system (Art. 1.8.2) that also aligned with the provisions of the Overseas Employment and Migrants Act (OEMA) adopted in 2013 (revised in 2023). The OEMA 2013 reinforced the government's commitment to ensuring migrants' right to legal aid (Art. 27), filing civil suits (Art. 28), and filing complaints to the concerned government authority (Art. 41). The Act has defined offences, penalties, and trials for violations of the Act. The government also adopted 'Overseas Employment and Migration Management Rules' in 2017, detailing the provisions of the OEMA 2013. In addition, the government adopted an Office Order in 2023 for 'resolving complaints through arbitration'. This has detailed guidelines and instructions on how to navigate the arbitration procedure from filing a complaint to conducting investigations and resolving a complaint.

### 3.3 Legal frameworks of major labour-receiving countries mainly Saudi Arabia and Malaysia

Though the ICRMW is a non-binding framework, none of the major labour-receiving countries in the GCC have signed or ratified it. They all endorsed the Global Compact for Migration (GCM) which does not bind any country but puts a moral obligation on them to implement and review as a state-led and state-owned framework. Apart from the GCM, as a signatory or ratified country of any international human rights conventions like the Universal Declaration of Human Rights, these countries are obliged to ensure rights, including access to justice, for migrant workers.

Most of the GCC countries have taken Labour Reform Initiatives (LRI) intended to promote the rights of migrant workers to address widespread criticisms of them concerning labour rights violations. Under the LRI, Saudi Arabia has given the right to all migrant workers covered by the labour law to transfer jobs and leave the country without their employers' permission. They have implemented a digital system named 'Qiwa' to facilitate the process, which theoretically makes it more efficient and accessible. Workers who were accused of absconding having fled from exploitative conditions, can now use Qiwa to rectify their status and change employers, rather than face immediate detention and deportation. However, the transfer of employers still depends on the will of previous employers as their approval is a condition for the employer transfer.

Migrant domestic workers are not included in the labour law and the Qiwa. The Saudi government announced that they would revise the absconding regulation for domestic workers and make it effective in July 2024 but it is unclear whether this has been done.

The Labour Law of Saudi Arabia allows migrant workers to file complaints with Labour Offices (LO) against employers. The LOs follow the directives of the Ministry of Human Resource and Social Development (MHRSD) for the adjudication of disputes. In addition, there are 'Labour Courts' where migrant workers can also file cases to seek justice and remedies. However, the court procedure is lengthy and complicated for migrant workers. Under the reform initiatives in the Labour market, the government of Saudi Arabia has made the Labour Courts fully digital, overseen by expert judges appointed by the Ministry of Justice. The

Labour Courts have limitations. They do not rule on cases such as the transfer between employers or complaints related to absconding. They can only issue non-binding recommendations on the issue of employer transfer and absconding. Another significant limitation of the new reform in the dispute resolution system is that the complaints which fail to reach any amicable settlement in a Labour Office can only be escalated to the Labour Court. The new system stipulates a maximum timeline of 21 days for the amicable settlement of the filed disputes although in practice this often takes several months.

The use of an online portal to file complaints has reduced many practical challenges such as making multiple visits to a Labour Office to ask for information, file a complaint and attend hearings. However, the online system has other limitations such as migrants' technical know-how to navigate the online system, language barriers as the online documents are written in either Arabic or English, and access to suitable devices and an internet connection.

In Malaysia, labour migration is mainly governed by the Immigration Act 1959/63 and the Employment Act 1955. However, migrant workers are recruited by the government either signing a Bilateral Agreement or Memorandum of Understanding with the labour origin countries. The government of Malaysia signed MoUs with Bangladesh several times; each time, the MoU enabled recruiting agents from both Malaysia and Bangladesh to exploit migrant workers.

The Malaysian government adopted several laws and policies that cover the protection and welfare of migrant workers, for instance, Employee's Social Security Act 1969, Workers' Minimum Standards of Housing and Amenities Act 1990 (amended 2019), Foreign Workers' Compensation Scheme 1991, Amendment of Employee's Social Security Act 2019, and Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. The country also has multiple mechanisms to redress labour disputes. However, migrant workers are not oriented to these legal redressal mechanisms and have limited legal aid services to access such opportunities. The loopholes in the laws and policies and inadequate enforcement lead to continued exploitation of migrant workers.

### 3.4 Redressal opportunities for domestic workers in Saudi Arabia

Domestic workers in Saudi Arabia like many other countries in the GCC, are not covered by the national labour law. Therefore, the redressal mechanism for domestic workers is covered by a separate regulation adopted by the Ministry of Human Resource and Social Development. The regulation ensures the rights and obligations of domestic workers relating to recruitment and employment provisions, entitlements and obligations of both employers and domestic workers.

The regulation guide has specific Articles and provisions to deal with disputes and complaints. Both domestic workers and employers are entitled to file complaints to the Ministry of Human Resource and Social Development to seek redress which is supposed to be resolved amicably within five working days after the complaint is lodged. If the complaint is not resolved, a competent committee should come in to deal with the complaint during the same session, or another session within the next ten working days. The guide has specific provisions for different kinds of penalties for domestic workers and employers depending on the gravity of violations stipulated in the regulation.



## 4 Key findings

This chapter has been prepared based on the analysis of the quantitative data gathered through an in-depth investigation of the case history of 114 migrant workers (male 80, female 34) who sought legal assistance from OKUP from January 2023 to October 2024. OKUP followed a systematic documentation from primary identification to extending assistance to each migrant worker for filing complaints in the Arbitration, follow-up with the arbitration officials and the migrants, and ensuring migrants' presence at the hearing, up to the final verdict. This report will focus on two major labour destination countries for Bangladesh - Saudi Arabia and Malaysia - because 92 per cent of migrant workers covered in this report returned from those countries. The experiences of female domestic workers from recruitment to arbitration will be presented separately in this chapter.

### 4.1 Profile of migrant workers seeking justice

**Sex:** Of the 114 migrant workers, 70 per cent (80 persons) were male and 30 per cent (34 persons) were female.

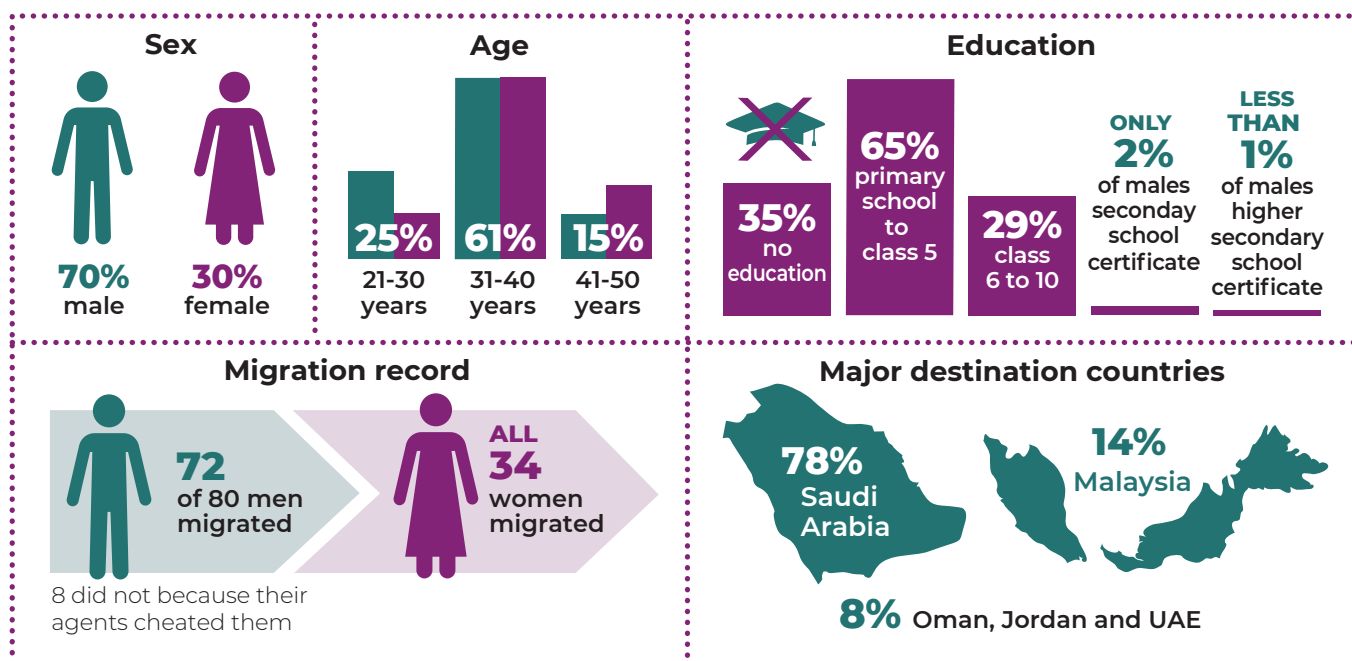
**Age:** A majority (61 per cent) of the migrant workers both male and female were between 31-40 years old, followed by 25 per cent (male 29 per cent, female 15 per cent) in the age group ranging 21-30 years and 15 per cent (male 15 per cent, female 24 per cent) in the age group of 41-50 years. The mean age of male migrant workers is 33 years while the mean age of women migrant workers is 36 years.

**Education:** 35 percent of migrant workers have never received an education. 65 per cent (male 60 per cent and female 76 per cent) reported they went to primary school and completed education up to a maximum of class five. 29 per cent of the

migrant workers (male 33 per cent, female 21 per cent) reached a level between classes six and ten. Only 2 per cent of males completed the Secondary School Certificate (SSC) and less than one percent (0.88 per cent) of males completed the Higher Secondary Certificate (HSC).

**Migration record:** Of the 80 male migrant workers who lodged complaints with BMET, 72 migrated but 8 were unable to migrate as their agents cheated them. On the other hand, all 34 complainant female workers migrated.

**Major destination countries:** The profile data of 106 migrant workers covered in this report shows that 78 per cent of migrant workers returned from Saudi Arabia and 14 per cent from Malaysia. The remaining 8 per cent returned from Middle Eastern countries such as Oman, Jordan, and the United Arab Emirates (UAE).



## Violations of legal provisions in recruitment practices

### Unauthorised sub-agents

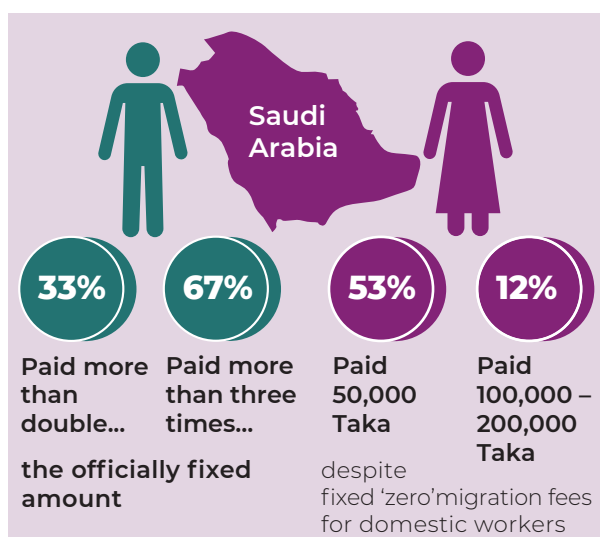


### Forged medical certificates

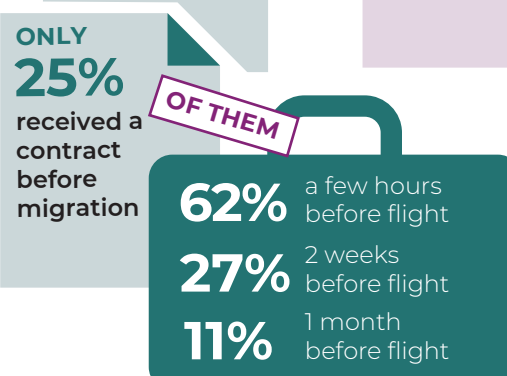
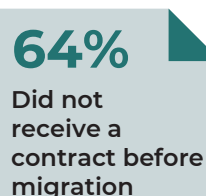
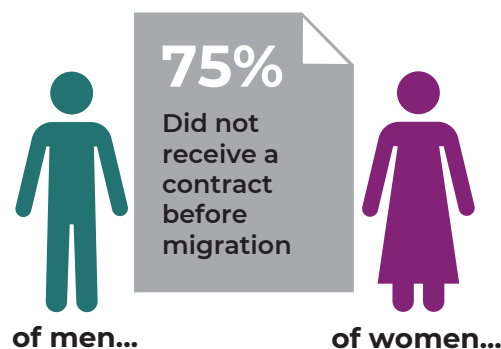


Destination countries require the taking of a medical test and good health as conditions for approval to migrate.

### Migration fees



### Job contracts



### Forged pre-departure training certificates



## 4.2 Violations of legal provisions in recruitment practices

As per the legal frameworks<sup>7</sup> adopted by the Bangladesh government to regulate labour recruitment for overseas jobs, the licensed recruiting agents are the sole authority and are responsible for completing the full recruitment process. This entails selecting the workers, ensuring 'emigration clearance' from the Bureau of Manpower, Employment, and Training (BMET), making travel arrangements, facilitating the signature of job contracts by the migrant workers and the employers, and ensuring migrants' protections, benefits, and rights as stipulated in the job contracts, as well as migrants' overall interests and benefits. Article 6(4) of the Migration Management Rule 2017 states that the BMET shall ensure that migrant workers are well-oriented and fully informed about the conditions mentioned in the job contract before they sign. Article 6(7) states the requirement relating to pre-departure training and orientation, and the submission of a medical certificate from medical hospitals or clinics approved by GCC states before obtaining 'emigration clearance' from the BMET. The investigation data collected for the 114 migrant workers covered in this report has found strong evidence of a wide violation of legal provisions in the recruitment practices of migrant workers from selection to departure.

### ■ Engagement of unauthorised sub-agents in the recruitment process

Investigation data shows that the sub-agents supplied 80 per cent of migrant workers to the licensed recruiting agents for recruitment which is a complete violation of Art. 19 of the OEMA 2013 (revised 2023). 17 per cent of migrant workers reported that close relatives who themselves are migrant workers managed the migration process for them. They applied for a visa on their behalf, paying licensed recruiting agents an average of 50,000 Taka to complete 'emigration clearance' for them. Only 3 per cent of returnee migrant workers said they went abroad directly with licensed recruiting agents with whom they were acquainted in various ways such as through referrals by relatives and friends.

### ■ Forgery of medical test certificate

The pre-departure medical test is mandatory for each potential migrant worker to get an entry visa for employment. The GCC states have set a common regulation to ensure quality screening of around 21 diseases through approved medical hospitals or clinics managed under an umbrella association called GCC Approved Medical Centre's Association (GAMCA). Malaysia also maintains an association of medical testing centres called FOMEMA to regulate mandatory medical tests for migrant workers. Submission of a medical test certificate from the approved hospitals or clinics is also a mandatory requirement to get 'emigration clearance' from the BMET. Any positive results in the medical test disqualify the migrant worker from obtaining a work permit in the destination country and ensure immediate deportation.

Investigation data shows that 22 per cent of the 114 migrant workers were diagnosed as 'UNFIT' as it is termed in the recruitment system. Among male migrant workers, the rate was 21 per cent and among females, it was 24 per cent. Despite this, all were sent abroad with a 'FIT' certificate, which is mandatory for emigration clearance. The recruiting agents charged migrant workers an additional amount to change the result on the certificates to 'FIT'. However, there is no proof to show whether the recruiting agents intentionally provided false information about the test results to extract an additional amount from the migrant workers or whether they created fake certificates in order to fulfill emigration clearance requirements, thereby violating laws.

### ■ Illegal charge of exorbitant migration fees

Aligned with the OEMA 2013, the Bangladesh government fixed migration fees for different countries. Licensed recruiting agents must charge migrant workers the same amount for recruitment. According to the Act, charging more than the government-fixed amount is illegal. However, there are widespread complaints and allegations that the recruiting agents often charge amounts several times higher than the government fixed rate.

The government-fixed amount for Saudi-bound male migrant workers is 165,000 Taka. However, the investigation data revealed that 33 per cent of male migrant workers paid more than double the officially fixed amount, and 67 per cent paid more than three times.

7. Overseas Employment and Migrants Act 2013 (revised 2023), Overseas Employment and Migration Management Rule 2017

According to Saudi regulations, employers must cover all migration fees for recruiting a domestic worker. The Bangladesh government has also fixed 'zero' migration fees for domestic workers. However, the investigation data revealed that more than half of the female domestic workers (53 per cent) had paid a minimum of 50,000 Taka whereas 12 per cent of females had paid between 100,000 – 200,000 Taka.

The government of Bangladesh fixed 78,990 Taka as migration cost for Malaysia following the signature of an MoU between Bangladesh and Malaysia in December 2021. The MoU states that the employer will bear costs for flight tickets, visas, security deposit, insurance, medical tests, document attestation, and service fees for Malaysian recruiting agents. On the other hand, the migrant workers will be responsible for bearing costs relating to passports, health checkups, BMET registrations, welfare, insurance, emigration clearance, and the service fees for Bangladeshi recruiting agents. According to the investigation data, the Bangladeshi recruiting agents charged around 500,000 Taka, on average, from each migrant worker which was six times higher than the government's fixed amount.

Unfortunately, the government has never challenged recruiting agents over illegal charges, nor did they take any legal action against them.

### ■ **Forgery of pre-departure training certificates**

Aligned with the provision (Art. 6(7)) of the Overseas Employment and Migration Rule 2017, a pre-departure orientation completion certificate issued by BMET is a mandatory requirement to obtain emigration clearance. The pre-departure orientation for male migrant workers lasts three days while for female domestic workers, it is three months.

The investigation data shows that 15 per cent of 114 migrant workers (14 per cent of males and 18 per cent of females) acknowledged they had not received pre-departure orientation before migration. The recruiting agents illegally collected the certificate from the concerned authority to meet the mandatory requirements of emigration clearance. They charged migrant workers an additional amount for this ranging from 10,000 to 15,000 Taka.

This unethical practice not only violates the recruitment laws, but also puts migrant workers, particularly female domestic workers at risk of more abuse and exploitation in their workplace in a foreign land.

### ■ **Illegal practices in signing job contracts by migrant workers**

The licensed recruiting agents are liable for providing orientation on the job contract to the migrant workers as per Art. 15 (c), Art. 22, and Art. 26 of the Overseas Employment and Migrants Act 2013. These articles aim to ensure that migrant workers are fully oriented and aware of their job contracts and related terms, conditions, benefits, etc. The Bureau of Manpower Employment and Training also holds liability for ensuring migrant workers receive adequate orientation about their job contracts as stated in Art. 6(4) of the Overseas Employment and Migration Management Act 2017. The Saudi regulations for domestic workers place responsibility on the recruiting agents to inform migrant workers about the amount of pay and other entitlements and benefits.

Unfortunately, the recruiting agents and sub-agents commit gross legal violations in this regard. According to the investigation data, 75 per cent of migrant workers filed complaints to the arbitration service claiming that the agents did not provide a job contract before their migration. Among male migrant workers, 64 per cent reported they had not received a job contract before migration. It is highly alarming that 100 per cent of female domestic workers claimed that they were not provided with a job contract to read, nor asked to sign any. In both cases, agents provided verbal promises and false positive depictions of the work and high salaries.

Discussions with many returnees showed that the agents offered them jobs that often matched their aspirations and needs. They intentionally target people with lower levels of education, underpaid jobs/unemployed and suffering financial hardship. Some are burdened with the repayment of micro-credit loans; others are shattered by disasters and are without any viable livelihood options to address their situation. In the case of women, they target widows, those who are separated from their husbands or victims of gender-based violence.

Investigation data shows that before migration, only 25 per cent of migrant workers (all male) were provided job contracts by the agents or sub-agents. 62 per cent of them reported that they were provided with the job contract a couple of hours before their flights. 27 per cent confirmed receiving a job contract two weeks before flights and 11 per cent confirmed receiving it one month before their flights. Most migrant workers claimed that the agents or sub-agents did not explain

or orient them about the terms and conditions written in the job contract in English and the language of the country of destination. Some tried to understand it with the help of educated people in the community. They were not aware of the importance of the job contract. They only knew that they must sign the paper to confirm their migration.

### 4.3 Violations of rights and entitlements experienced by male migrant workers in destination countries



Male migrant workers are mostly covered by the national labour law of the destination countries, including Saudi Arabia and Malaysia, the two major destinations of 72 male migrant workers covered in this report. They are entitled to various labour rights and facilities including the issuance of work permits and residency permits at the cost of their employer; the work must be as stipulated in the job contract; wage protection; safe working conditions; access to appropriate treatment in the case of workplace injury and accident, etc.

The investigation of the complaints lodged by 72 male migrant workers in the Arbitration in Bangladesh exposed gross legal violations. The

investigation data shows that employers of around 47 per cent of 72 male migrant workers did not provide them with work permits or offer work to them. Of the remaining 53 per cent who reported that their employers provided them with work and residence permits, 24 per cent (9 male migrant workers) claimed they were provided with completely different work to that which was promised by the recruiting agents or sub-agents before migration. The unethical treatment of migrant workers by employers and recruiters – both authorised agents and unauthorised sub-agents – means that gross violations of migrant workers' rights and entitlements occur to the benefit of the employers and agents.

“

*I completed all formalities and received a contract for a job, but I didn't find a company by that name and no such job existed. I returned having been deceived.*



## ■ Denial of work permits – a well-planned trap of visa trading

**“** I paid 335,000 Taka for my migration expenses, which I borrowed from NGOs and relatives. I was promised a job as either a plumber, a pipe fitter, or a sanitary worker, with a salary of 50,000 Taka. When I arrived in Saudi Arabia, I didn't get any job. Every time I asked for a job, I faced physical and mental torture by not giving me sufficient food or confining me in a room. I called my family and told them my miseries. They sent around 36,000 Taka to buy food. After a few months, they asked me to find a job myself. I found day labourer work without any legal documents.

Migrant workers are initially provided with an 'entry visa' valid for three months to travel to the destination country. The entry visa is based on the job offer and the job contract signed between the employer and the migrant worker. Employers are liable to ensure that work and residency permits are issued for each migrant worker before the expiry of the entry visa. If a work permit is not issued to a migrant worker, they are treated as 'absconding' workers under the law making it illegal for them to stay and work in the country. Other terms used for 'absconding' workers are 'undocumented' or 'irregular' workers.

47 per cent of 72 migrant workers were not provided with work permits within three months of arrival. The investigation and testimonies of migrant workers explored a vicious nexus between employers and recruiters who use unethical recruitment practices to exploit the scope of 'job transfers' under the Reform Initiatives in Saudi Arabia and other GCC countries. Employers hire migrant workers through the legal recruitment system. After that, they collaborate with the recruiters to trap the workers into a situation where they are confined for the duration of the entry visa. When the entry visa period is finished, they leave the workers and ask them to find jobs themselves without providing work and residence permits.

The statements of those migrant workers who were denied work permits explain that upon arrival they were dumped in a cramped room with 30 – 40 other migrant workers, mostly Bangladeshis. They were provided with a small amount of food twice a day. The agents kept them under continuous surveillance, restricting

their movement and their communication with outside people, even with their families. Most of the migrant workers testified that the agents promised they would start work every week, but nothing happened. This lasted for two or three months after which they were told to find work and leave the room. Most migrant workers alleged that the employers and the recruiting agents intentionally passed the first three months of arrival without issuing work permits to avoid falling foul of their legal responsibility – ensuring work permits for every worker they recruited. After three months the employer filed an absconding case against the migrant workers and washed their hands of the legal responsibility, putting all liability onto migrant workers who were now considered as absconding and undocumented.

## ■ Deception in providing jobs

**“** I was given a cleaner visa to go to Saudi Arabia. Before my flight, they asked me to sign a job contract that mentioned 'Steel fixer' as a profession. When I arrived, they assigned me to road excavation work. I had no option but to do the work. After four months, they paid salaries for the first two months and told me they would pay the remaining amount with the next month's salary. In the middle of the next month, they told me the company had suspended its operations, and that I would no longer be employed. They took away my work permit and told me to wait. After two months without a job, I contacted the agency. They told me to wait again. Within a few days, the police caught me and sent me to jail as I had no work permit. They sent me back empty-handed after several weeks in jail.

Investigation data revealed that of the 53 per cent of male migrant workers who were provided with work permits, only 24 per cent were provided with jobs, and only a few were given jobs in the same sector they had been promised. Most migrant workers could not continue with the jobs they were given. In some cases, the agents in the destination countries forced migrant workers to leave their jobs and join another one against their will. Some migrant workers claimed that the company sacked them after a few months without notice. They alleged that the jobs they were offered were deliberately for short periods, mostly to cover the entry visa period.

Some of them tried to find a job but failed, returning to Bangladesh before the expiry of the three-month entry visa to avoid arrest and detention. Their families had to pay for their return ticket by taking out further loans. Others became undocumented and tried to do various odd jobs illegally before they were caught and deported by the police.

### ■ Wage exploitation

*“When I asked for my salary, the employer slapped me and confined me from dawn to dusk for the entire day as punishment. I worked for nine months, but I was paid for only two months. Despite being promised a salary of 25,000 Taka per month, I only received 15,000 Taka in total. Furthermore, I was forced to cover the cost of my own travel back to Bangladesh.”*

No migrant workers affirmed that they received their due salaries regularly. The investigation data shows that all male migrant workers who were provided with temporary jobs by the recruiting agents or who managed to find jobs on their own after being denied either work permits or jobs or both, were deceived and did not receive their hard-earned wages.

Some migrant workers claimed they were not paid every month but every two or three months. Others claimed they were paid lower wages than the agreed amount and felt forced to accept for fear of being sacked from the job or because the employer threatened to call the police and get them arrested. Many companies or employers withheld workers' wages for months saying they would pay them later but never did. There are testimonies that after salaries were withheld for several months, the migrant worker was discharged from their job without ever receiving the salary due to them.

### ■ Denial of basic labour rights

*“I was given a job as a labourer on a construction site in a desert. I had to work more than 10 hours a day under the scorching sun. I couldn't drink enough water because there were no good facilities for drinking water. I was provided with accommodation in a camp with 3,000 workers – one room for 6/7 people, and one toilet for 100 people.”*

The labour rights of migrant workers are commonly violated in their workplaces. The testimonies of migrant workers affirmed that they had hardly any access to basic labour rights. The company or employers are mostly profit-centric at the cost of the workers' toil. They hardly respect the basic rights of migrant workers. They hardly pay attention to providing adequate facilities such as drinking water, toilets, healthy accommodation, and dining or cooking space. The GCC states have regulations that prohibit working under the scorching sun in the summer and stipulate adjusted working hours schedules. The denial of basic labour rights often causes health complications leading to other forms of rights violations.

*“When I arrived, I was assigned a job as a cleaner in an office. After several weeks, they took me to a construction site and asked me to run a piling machine. I refused to do that since I had no previous experience, but they forced me to do it. One day, the machine overturned. I narrowly escaped death and suffered severe mental trauma. I requested them to get treatment, but they refused, and they did not even agree to give me a return ticket.”*

### ■ Violation of migrants' right to treatment in case of workplace accident and injuries

**“** *I was given work in a construction company as promised. It was harder than I could have ever imagined. They made me work 12 to 14 hours daily, often without food and water under the burning sun. My hands became raw, and my body felt exhausted. But I could not stop working for fear of being sacked. After several months, while working on the third floor of a high-rise building, I lost my footing and fell. My neck and legs got fractured, my head became swollen, and my body was covered in bruises. The pain was unbearable. I needed proper treatment, but the company washed their hands of me. They sent me back in that condition with no money, nothing.*

The labour law covers the right to treatment in the case of a workplace injury or accident including all direct and indirect expenses arising from hospitalisation, medicine, diagnosis, and transportation to and from the hospital. Unfortunately, only a few companies respect the migrant workers' rights to treatment. The investigation data showed that around 6 per cent of 72 migrant workers returned with different health complications due to workplace injury or accident. They confirmed that their employer rejected their appeal to get treatment and by doing this they violated the labour law and pushed migrant workers into more painful, uncertain, and undignified lives.

### ■ Premature returns

Illegal recruitment practices by recruiters and employers forced 36 per cent of migrant workers to return home within three months of their arrival, 40 per cent between 3 to 6 months, and 24 per cent between 6 months to two years. Returning before completing their first job contracts pushed them into debt bondage and an undignified life.

#### 4.4 Violations of rights and entitlements experienced by female domestic workers in destination countries

of 34 female domestic workers...



Though migrant domestic workers are excluded from the national labour law in many labour-receiving countries in the Middle East such as Saudi Arabia, they have regulations for domestic workers which ensure rights and entitlements to migrant domestic workers. Unfortunately, the day-to-day experiences of female domestic workers show that the regulations are disregarded and that they face gross violations of their rights and entitlements. According to the OEMA 2013 (revised 2023), the recruiting agents and the employer are jointly liable for ensuring wages, benefits, and good workplace conditions as per the job contract.

##### ■ Physical and mental torture

**“** They (employer/family members) used to beat me and torture me often for little mistakes. One day, they had a party at night. I roasted chicken for them. It was midnight and I got tired of doing all the work from dawn. So, I felt dizzy. I cannot remember how long my eyes were closed, but I jumped up screaming. My madam took the burning coal from the oven and pushed it on my arm.

This sort of testimony is not that of just one female domestic worker. 94 per cent of returnee female domestic workers investigated before filing complaints to the government arbitration shared a horrible account of the physical and mental torture they experienced in their workplace. Physical torture was frequently meted out with little or no excuse with workers suffering face slapping, punching, kicking, beating, and wounding with belts, keys, shoes, etc. Some returnee female domestic workers described the brutal behaviour of their employers who pulled out their hair and banged their heads against the wall. Others reported employers scalding them with hot water, burning them with cooking oil, and pushing them downstairs resulting in broken bones. Many women complained about various forms of mental torture including continuous cruel treatment, being insulted verbally, being falsely accused, suffering rest and sleep deprivation, and living in fear of sexual harassment/abuse.

### ■ Long working hours with inadequate rest and sleep

“ I was told I would work in a small house with simple daily household activities. But, when I arrived, I found a terrible reality. It was a large house with eleven members. I had to clean the entire house, wash and iron clothes, cook food, and comply with every single order instantly like a machine. I used to work non-stop from dawn to midnight, often around 18 hours a day. I had not a single holiday during my stay.

82 per cent of returnee female domestic workers (out of 34) claimed to have worked long hours from dawn to midnight with no rest whereas 97 per cent stated they never enjoyed any weekends or holidays during their stay in the destination countries. Every returnee female domestic worker suffered horrible experiences regarding long working hours.

The Saudi regulation for domestic workers directs employers not to assign domestic workers to work other than that specified in the job contract or assign any domestic worker to work for someone else other than the original employer and family. Unfortunately, many employers violate the regulation and force female domestic workers to work in the houses of several of their relatives without any additional pay. Female migrant domestic workers have little option but to agree to avoid further torture and exploitation such as their salary being cut or withheld. Around 15 per cent of returnee female domestic workers (5 out of 34) complained that they were forced to work in multiple houses belonging to their employers' relatives.

### ■ Wage exploitation

“ I went to Saudi Arabia as a domestic worker to earn a better salary to give my children a good life. A local dalal (sub-agent) promised me a good family where I would work eight hours only and a monthly salary of 1,500 Riyals. After three months, they paid me only 3,000 Riyals. When I asked for the remaining 1,500 Riyals, they told me nothing but started using abusive language, restricting food, increasing workloads, etc. They didn't pay my salary for the last month when I went to the Bangladesh embassy for help. I am still owed 3,000 Riyals from my salary.

The Saudi domestic worker's regulation covers the payment of wages to domestic workers as an entitlement saying that the employer must pay wages in full to the domestic worker as stipulated in the unified job contract signed by the employer and the worker. There is no provision relating to any permissible deductions from the wages. Unfortunately, 79 per cent of returnee female domestic workers claimed their salaries had been withheld for several months. Some females shared that their employer had told them that they were doing it to help them save and ensure they had a good amount when they returned home. But in most cases the employer completely refused to pay the agreed amount and deducted the cost of their return air tickets from their wages if they returned home.

“

*I returned with bruises all over my body but couldn't complain to anybody in Saudi Arabia. I have filed a complaint in Dhaka and I am still fighting for justice.*

### ■ Sexual exploitation

“My madam worked in an office, but her husband and three sons had no work. They lived inside the house all day. Within a week of my arrival, the man forced himself on me. I, somehow, saved myself. I told my madam what happened to me when she returned from work. I thought that she would act against her husband, but alas! She warned me not to speak up about it. I had no way to flee so I became the victim not only of her husband but of her three sons. Every evening, madam fed me a vitamin tablet. Over time, I understood the tablet was a contraceptive, not a vitamin.

Incidents of sexual exploitation always remain underreported due to a fear of stigma and discrimination in the family and society. No returnee female domestic workers filed any complaints against the perpetrator to get remedies against sexual exploitation. However, the investigation identified that 47 per cent of returnee females had experienced sexual exploitation at the workplace during their stay. In some cases, the staff of the recruiting agents in the destination country exploited females sexually if they were dropped off at the agency offices by their employers to be replaced.

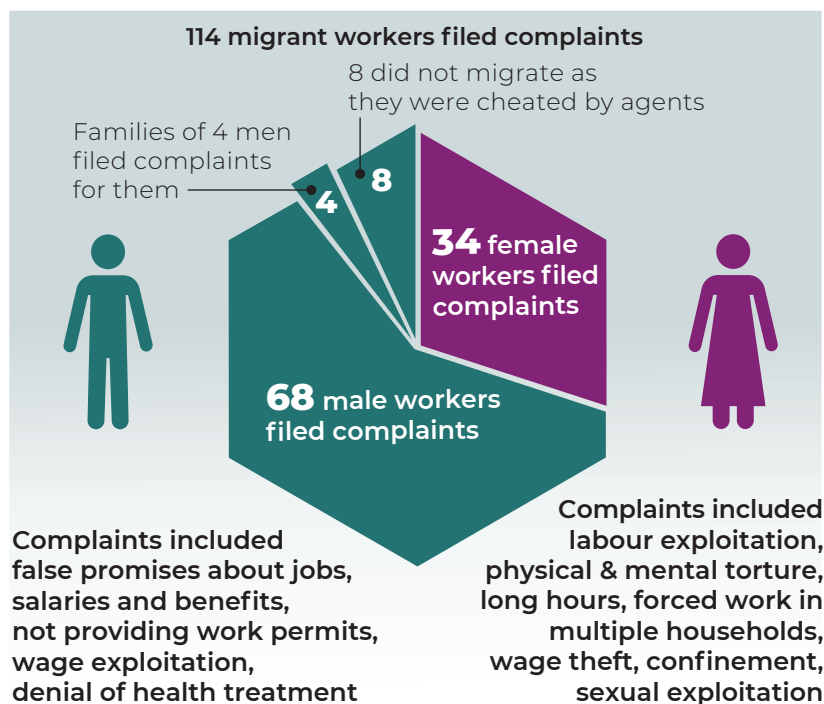
### ■ Locking up and confinement of the domestic worker

“Since I protested against the mishaps that happened to me, my madam got angry and locked me in the bathroom. I thought it was for a while, but she locked me up there for two days without any food or drinking water. Having no way to survive, I drank tap water in the bathroom.

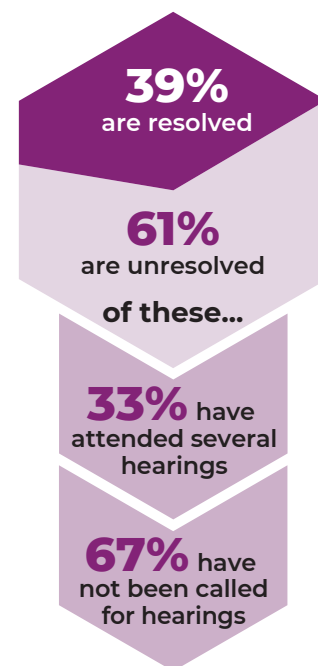
The testimony is not as simple as it seems. Being locked in a small space or within the four walls of a house day after day produces a feeling of imprisonment. No human rights treaties or frameworks allow the confinement of a person in any form - be they locked into or confined to a room, have their movement restricted, or stopped from communicating with their families. The investigation data shows that 15 per cent of female domestic workers were confined to or locked in a room during their stay in the destination countries. They received no redress against such a violation in the destination country.

## Migrant workers' experiences in the arbitration system in Bangladesh

### Profile of complaints



### Current status of complaints



### Timeframe for completing complaint procedures

#### The legally required timeframe

Issue of notice for first court hearing

4 months later

The trial is concluded



However, there is no fixed timeline for issuing the notice for the first hearing from the date of filing the complaint

ONLY 11%

were issued the notice without pursuing the authorities

64%

were issued the notice after pursuing the authorities several times

25%

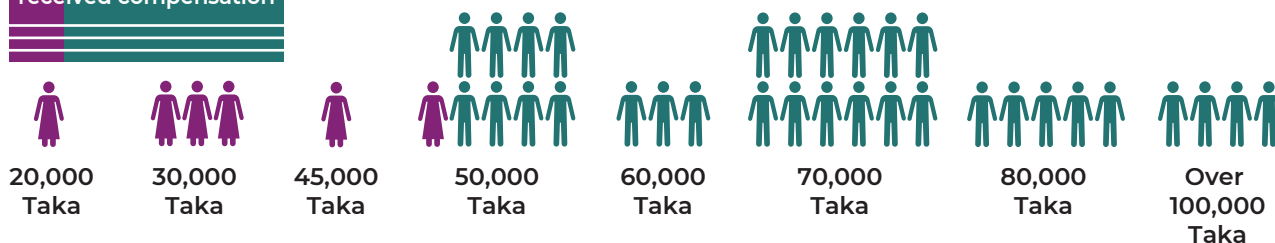
had not been issued any notice

of the 45 resolved complaints the process took 15 – 120 working days

47% needed more than 1 hearing

### Compensation awarded in the 45 resolved complaints

94% received compensation



## 4.5 Migrant workers' experiences in accessing justice and remedies

### 4.5.1 Migrant workers' experiences in destination countries

Migrant workers' access to justice is well documented in the laws and regulations adopted by most destination countries. The GCC states, particularly Saudi Arabia have improved the labour dispute system under the Labour Reform Initiatives (LRIs). They have digitalised the labour court system to make it easier for migrant workers to file complaints and seek justice through an online portal. Malaysia, the other major destination for Bangladeshi migrant workers, has a multi-pronged system in place including the country's overall judicial system (civil and criminal courts), Labour Department, Labour Court, Industrial Relations Department, Social Security Organisation, etc.

The investigation data of 106 migrants shows that none had sought justice and remedies in their respective destination countries. Testimonies of migrant workers highlighted that no migrant workers were oriented on the legal system in the destination countries. They faced many practical limitations such as language barriers, lack of agency, conditions of their status (confinement, under surveillance, already irregular), lack of financial resources, etc. The complicated legal system and lengthy procedures with no legal services either by the government of the destination or Bangladesh discouraged migrant workers from seeking justice in the destination country.

### 4.5.2 Migrant workers' experiences in the arbitration system in Bangladesh

#### ■ Procedural obligations of the arbitration as per legal frameworks

The Overseas Employment and Migrants Act 2013 ensured migrants' right to file complaints to the concerned government authority to get redress through arbitration. This is in addition to the right to file a civil suit. Later in 2017, the Overseas Employment and Migration Management Rules spelled out the arbitration procedures without much detail except that the government, as per Art. 41 of OEMA 2013, can appoint any officer of the BMET to resolve complaints through 'arbitration or mediation'. The Rules pointed out that the appointed officer should issue written notice to call both parties for a hearing on a specific date, place, and time. The officer could resolve the complaints based on the hearings of both parties, any third person if needed, and verify documents provided as proof. The Rule had no details about types of violations, investigation procedures, timeframe, or compensation.

Interestingly, in September 2023, the government introduced an Office Order named "Disposal and Redressal of Migrants' Complaints through Arbitration". This is a step forward which has detailed the arbitration procedures. For example, it has defined types of complaints (aligned with OEMA 2013), complaint channels, investigation procedures, arbitration procedures, arbitration authority, documentation, and reporting systems, and most importantly, the steps and timeframe for the whole procedure. The Rule has given any aggrieved party – the complainant or the defendant - the right to file a complaint if offended by the arbitration verdict.

However, the Office Order has no guidelines about remedies and compensation. Furthermore, it does not talk about setting up an explicit 'arbitral tribunal' with appropriate resources to operate the arbitration procedural business freely, fairly, and in a timely manner in order to ensure justice.

## The complaints process

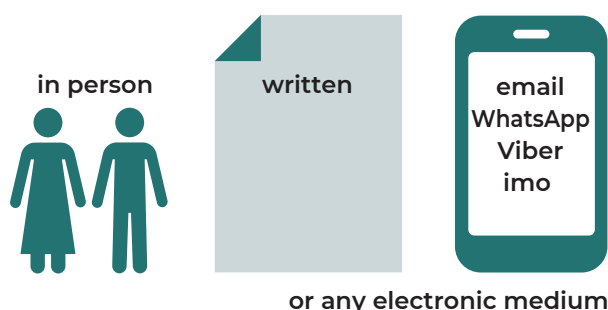
### Type of complaint as stated in the OEMA 2013



### Parties involved



### Method of submitting complaint



### Complaint investigated by

Investigation Officer and Arbitration Officer  
(separate or same person)

**They must maintain register  
to document complaint history  
from date of submission to end**

### ■ Type of complaints filed by the migrant workers in the arbitration covered in the report

From January 2023 to October 2024, 114 migrant workers (80 male, 34 female) filed complaints for arbitration with OKUP support to seek justice and remedies. Of those, eight male migrant workers did not migrate as they were cheated by the recruiting agents after completing all processes and paying in full. Of the remaining complaints, 102 complaints were filed by returnee migrant workers themselves (68 male and 34 female) whereas four were filed by the families of male migrant workers abroad.

The major complaints made by male returnee migrant workers related to deception by providing false promises about jobs, salaries, and benefits, or not providing work permits, wage exploitation, and denial of health treatment in case of workplace injury and accidents. The major complaints made by the migrant workers still abroad were not being provided with jobs and work permits as promised as well as being exploited due to a lack of work permits and jobs.

Most returnee female migrant workers complained about various types of labour exploitation including physical and mental torture,

long working hours, forced work in multiple households, withholding of wages, wage theft, confinement and sexual exploitation.

### ■ Current status of the complaints in the arbitration process

By December 2024, 39 per cent of the 114 cases were resolved, and 61 per cent were unresolved. Of the unresolved complaints, one-third (33 per cent) of the complainants attended several hearings but their complaints remained unresolved for various reasons. Approximately 67 per cent of the remaining complaints have not been called by the 'arbitration' authority for hearings from the date of filing. Five complaints were withdrawn from the arbitration process because the local sub-agents resolved the complaints locally after the complaints had been filed for arbitration.

Analysis of resolved cases identified three main reasons behind the disposal of the complaints. Firstly, the complainant migrants and the families acting on behalf of the migrants still abroad were much more vocal, active, and inclined to resolve their complaints. The second important reason was the positive role of the assigned government officials - active, transparent, and respectful - and finally, the cooperation of the recruiting agents concerned, the most powerful actors in the process.

Several reasons hinder the arbitration process. One major hindrance is the lack of a separate, well-resourced office to deal with arbitration procedures as provided for in the 2023 Rules (Officer Order). Both the lack of officials, the frequent transfer of the officials working on the complaints, and the non-digitalised documentation and monitoring system cause procedural delays. The other major hindrance is the non-cooperation of the recruiting agents. They often make threats, humiliate and disrespect migrant workers, and offer unfair remedies and compensation. All these factors challenged the transparency of the process. The decentralisation of arbitration to the district level without the necessary preparations to handle it professionally has emerged as a challenge.

### ■ Timeframe required for completing complaint procedures

According to the provisions of the “Disposal and Redressal of Migrants’ Complaints through Arbitration” Rule, any complaint is supposed to be completed within four months from the filing of the complaint to the final disposal by the arbitration authority. The Rule has set a period of 30 working days for the completion of the investigation of a complaint from the date of filing followed by a period of 90 working days to resolve the complaints from the date of completion of the investigation. However, the Rule has not fixed a timeline for issuing the official notice to the aggrieved parties for the first hearing from the date of filing the complaint.

The systematic documentation of the follow-up of each complaint filed to the arbitration indicates that only 11 per cent (13) of 114 complaints were issued notice for the first hearing without either the complainant or OKUP pursuing the authorities. 64 per cent (73) of complaints were issued notice for the first hearing after the authorities were pursued several times, and 25 per cent (28) had not been issued any notice by December 2024 despite constant pursuance.

The experiences with the 45 resolved complaints show that the completion of the investigation took 15 working days minimum and 120 working days maximum. Of those, the investigation of 40 per cent of complaints (18) was completed within 30 working days from the date of filing, and 60 per cent of complaints (27) needed 63 working days on average. One complaint took 115 working days and the other one 215 days. 53 per cent (24) of the resolved complaints needed only one hearing whereas 47 per cent (21) complaints needed more than one hearing ranging from two hearings to four hearings maximum.

### Timeframe of complaints process



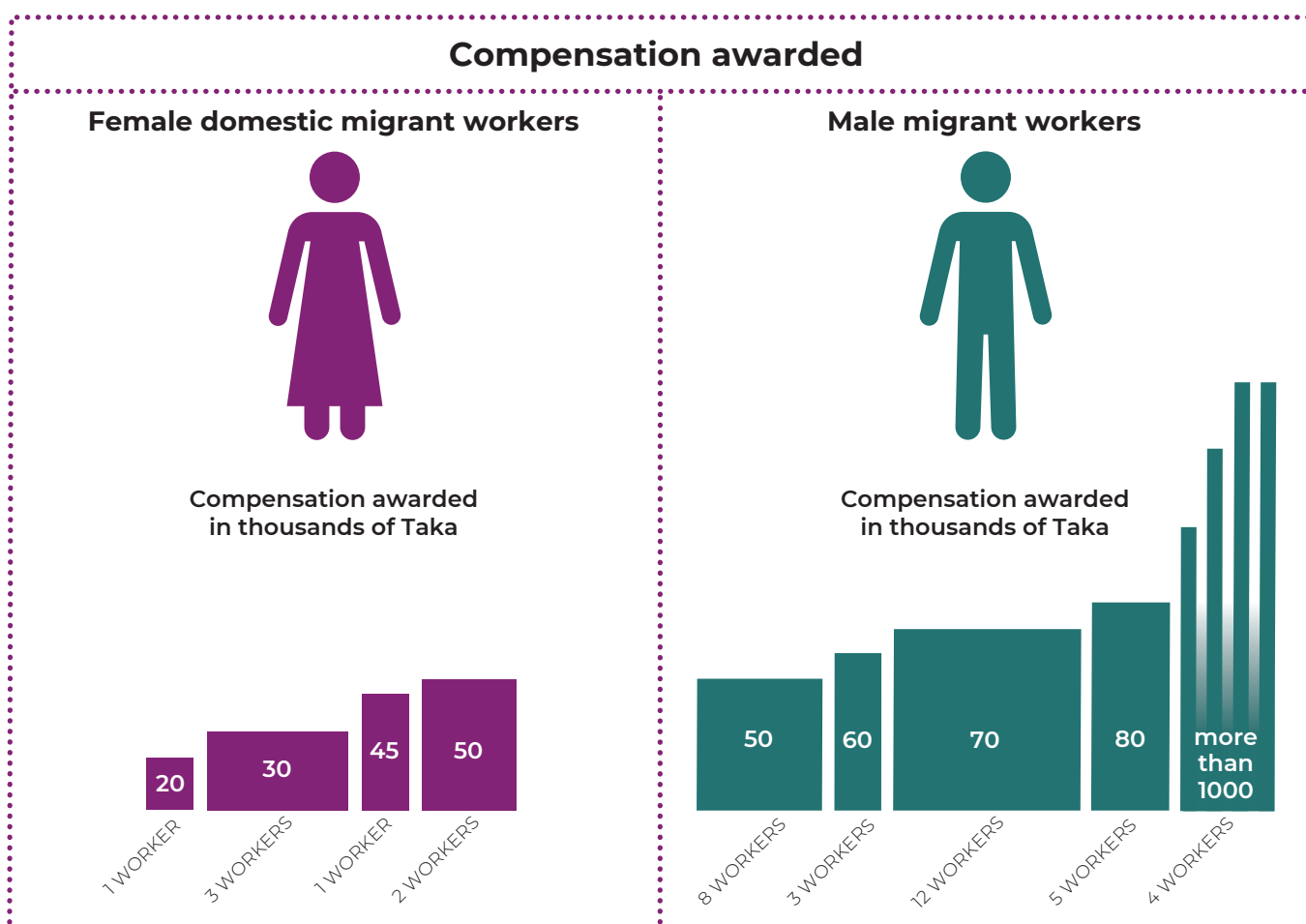
### ■ Compensation awarded in the arbitration

Before the issuance of the “Disposal and Redressal of Migrants’ Complaints through Arbitration” Rule, there was nothing that directed the arbitrary authority to give recommendations for the disposal of the complaints. Article 10.6 of the newly introduced Rule states that the investigation officer can recommend monetary or non-monetary or both types of compensation as deemed appropriate based on investigation findings and the relevance of the complaints. The government authority concerned will take the necessary action to realise the recommendations as he/she deems appropriate. However, the rule does not give any directions on how to calculate monetary compensation.

Records of 45 complaints resolved in the arbitration show that around 94 per cent of complainants (42 out of 45) received monetary compensation from their recruiting agents. Of them, 35 were male returnee migrant workers and seven were female returnee domestic workers. As demanded by the families during the arbitration hearings, the recruitment agents responsible for the two male migrant workers who were still

abroad, ensured better jobs for them than they were promised and also repatriated one female domestic worker.

Most of the migrant workers claimed compensation for the migration fees they had paid, unpaid wages, compensation for premature return, compensation for the loss of a job, treatment costs for health complications, and compensation for overall socio-economic loss resulting from violence during recruitment and employment. However, the arbitration only considered the unpaid salary. The high migration fees that the recruiting agents charged to migrant workers illegally violated the provisions of the Overseas Employment and Migrants Act 2013 putting 60 per cent of migrant workers into debt bondage. Many migrant workers expressed dissatisfaction with the monetary compensation saying that it was unjust.



## 5

## Overview of legal framework and practices on the ground – loopholes, gaps, and challenges in the arbitration system

### 5.1 Challenges in the destination country

Key findings of the 114 complaints covered in this report show clear evidence that unchallenged unethical recruitment practices were carried out by both the employers and the recruiters and workplace rights were violated due to improper enforcement of the laws. This resulted in widespread exploitation of migrant workers, especially female domestic workers.

The major destination countries for Bangladeshi migrant workers, such as Saudi Arabia and Malaysia, have comprehensive laws and policies to ensure migrant workers' access to justice. They have the infrastructure and systems in place for migrant workers to file complaints to access justice and remedies. However, the loopholes and gaps in the laws and policies as well as practical challenges discouraged many migrant workers from accessing the labour dispute system.

None of the 114 migrant workers covered in this report filed any complaints against exploitation they experienced in destination countries. Multiple reasons discouraged migrant workers from filing complaints, such as they were not informed and educated about the complaint system, and they could not speak either the local language, or English, the most common language of communication. Support services were not provided to assist migrant workers in filing complaints and accessing justice, either by the government of the destination or Bangladesh.

The government of Saudi Arabia has established an 'Online' complaint system intended to provide easy access for migrant workers seeking justice. However, hardly any information was provided to them about it. The language of the online system is Arabic with translation into English meaning the language barrier prevents most migrant workers from benefitting from it. The low knowledge and experience in navigating the online system was also a discouragement. Another significant investment of the Saudi government was to establish a 'Hotline' for migrant workers in nine languages. None of the migrant workers were informed about it so none could utilise it for their benefit.

The migrant workers in Malaysia encountered the same limitations and challenges in accessing justice and remedies. The lack of information about access to the justice process, complicated and lengthy trial procedures, lack of support and services, corruption, etc. hindered migrant workers from accessing justice.

Bangladesh Embassies' Labour Wings are supposed to provide legal assistance to migrant workers but few are reached owing to various limitations. Most migrant workers therefore return home from their destination countries without justice and remedies.

### 5.2 Challenges in the arbitration system in Bangladesh

Over the years, the government of Bangladesh has improved its legal framework to promote migrant workers' access to justice. The office order titled "Disposal and Redressal of Migrants' Complaints through Arbitration" rules published in 2023 is a milestone. The rules detail many procedural issues, including types of complaints, complaint channels, investigation procedures, arbitration procedures, arbitration authority, timeframe for the whole procedure, etc. However, there are loopholes and challenges in the legal framework and the implementation process.

#### Loopholes in the Legal Frameworks

##### ■ No direction about a dedicated 'arbitral tribunal'

The Office Order 2023 (Disposal and Redressal of Migrants' Complaints through Arbitration) has no specific provisions to determine an arbitral tribunal. It allows the government (Ministry of Expatriate Welfare and Overseas Employment (MoEWOE)) or the concerned Bureau (BMET), District Employment and Manpower Office (DEMO), and Bangladesh Missions abroad to receive complaints from any aggrieved migrant workers or individuals. It has authorised the government or any authority or individual appointed by the government or the responsible officer under the Bureau (BMET) to investigate and resolve the complaints directly or through arbitration. There is no segregation of roles and responsibilities between each concerned authority or person. There is no mention of the modality of coordination among the concerned authorities.

The BMET deals with the arbitration process, is mainly responsible for emigration clearance, and recruiting agents' license-related activities as well as overall monitoring of the recruitment processes. BMET's role in the arbitration process might therefore cause a conflict of interest and challenge its transparency and accountability, particularly when the BMET has no dedicated and expert pool of arbitrators.

### ■ No guidelines for remedies and compensation

The Office Order 2023 has defined all fraudulent activities in recruitment practices as articulated in the Overseas Employment and Migrants Act (OEMA) 2013 as the offence. However, there are no guidelines to determine remedies and compensation for the victim migrant workers. Therefore, remedies and compensation depend on the mercy of the recruiting agents. In most cases, migrant workers are deprived of appropriate compensation to recover their financial losses in addition to the social, psychological, and physical damage suffered. This pushes migrant workers and their families into a debt cycle and further economic hardship.

## Procedural challenges

### ■ Lack of standard arbitration process

There is no standard system to operate a standard arbitration process. Office Order 2023 has provisions and details on issues such as the complaint submission process, investigation, and disposal process, etc. It mentions maintaining a register book for documentation. However, the document does not indicate any guidelines for day-to-day operations, progress follow-up, and monitoring. This has turned the arbitration process into a voluntary activity rather than a state obligation to ensure migrant workers' access to justice. The investigation data shows that nearly 90 per cent of complaints remained unnoticed with no progress at all despite the concerned officials being pursued several times. The lack of standard operation methods causes long delays in the arbitration process in addition to frequent incidents of missing applications from files, and the denial of receipt of applications.

### ■ Frequent changes and transfer of officials in the arbitration process

There is a lack of consistency in the arbitration practice. Frequent directions, different requirements, and the transfer of the appointed officials often with no formal notification cause many challenges and difficulties for migrant workers in submitting complaints and participating in the arbitration process. Such inconsistency results in complaint applications going missing and delays to follow up on progress, investigation and hearings, etc. The practice demotivates migrant workers to file complaints, creates a negative impression of the arbitration process, and promotes a lack of trust, transparency, and accountability.

### ■ Lack of trained and dedicated arbitrators

BMET officials are appointed to conduct the arbitration process on a case-by-case basis meaning that it is an additional responsibility on top of their regular jobs. This causes delays in the investigation and disposal of the complaints. Appointed arbitrators rarely have a legal background and therefore do not have experience in dealing with investigations and disposal of arbitration in a sensitive, transparent, and accountable manner. This results in inefficiency in dealing with the process, often revictimising the migrant workers rather than ensuring appropriate justice.

### ■ Unfair environment for migrant workers in the arbitration process

The victim migrant workers often claimed that recruiting agents used abusive words, blamed them for the violence they were victims of, and threatened to file false cases against them. The recruiting agents often do this during hearings in front of the arbitrator. Such humiliation, harassment, and threats create an unfair environment for the aggrieved migrant workers, decreasing their morale in negotiating, and forcing them to compromise with the recruiting agent concerning compensation and remedy.

### ■ Unjustified compromise and disproportionate compensation

Office Order 2023 related to arbitration has no direction about remedies and compensation for migrant workers. It has defined complaints and authorised the arbitrator to resolve complaints rationally according to the laws and rules. The investigation of complaints covered in this report shows that all migrant workers paid excessive amounts to the recruiting agents. 33 per cent of the male migrant workers who went to Saudi Arabia paid more than double, 58 per cent paid triple, and 9 per cent paid four times more than the government's fixed rate. No one was able to go by paying the government's fixed rate. The migrant workers bound for Malaysia had the same experience. They paid six times more than the government rate. The migration costs for female domestic workers are declared as 'zero'. Only 35 per cent of female domestic workers claimed their recruiting agents did not charge them any amount for migration.

The experience of migrant workers who received compensation evidenced that the arbitrator considered only a part of the unpaid salary to

pay to migrant workers as compensation. Data shows that only two returnee migrant workers of 45 resolved were paid 165,000 maximum which is 2-3 times lower than the amount they were forced to pay. The arbitrator had not considered that the high migration fees that the recruiting agents charged to migrant workers illegally violated the provisions of the Overseas Employment and Migrants Act 2013. The arbitrator had also not considered compensation for false promises about jobs, salaries, premature return, health treatment, or socio-economic loss resulting from violence during recruitment and employment. This disproportionate compensation pushed 60 per cent of migrant workers into debt bondage. Many migrant workers termed such compensation as 'unjust'. They claimed that they were forced to compromise with the unjustified amount that the arbitrator declared.

#### ■ Centralisation of arbitration

The government piloted the decentralisation of arbitration in three districts in September 2022. The District Employment and Manpower Office (DEMO) was authorised to deal with the arbitration

process. Decentralisation of arbitration has positive sides such as reducing migrant workers' long travel and overnight stay, financial costs related to visiting the central office of the Bureau (BMET) in the capital Dhaka for filing complaints, attending hearings, etc. Migrant workers can also follow up with the respective authority on their own. However, there have been a number of negative consequences. The understaffed DEMO has been overburdened with additional activities resulting in long delays to the process. In most cases, the recruiting agents concerned are absent from the hearings while the sub-agents put more pressure on the victim migrant workers to compromise with their compensation offer. This pushes migrant workers and their families into more vulnerable situations. 12 migrant workers out of 114 covered in the report filed complaints at their respective districts from January 2023 to October 2024. Only two complaints filed by female domestic workers were resolved. One female received 11,000 Taka. Another female received 45,000 Taka but she faced threats and was humiliated and harassed by the local sub-agent.

“

*I have filed a complaint to get compensation. It is pending. I have no idea if I will get any compensation. I want fair compensation to revive my life: to pay back loans and rebuild a source of income.*



## 6 Recommendations

Though migrant workers are one of the key development partners for the countries of destination and origin, they are neglected and often forgotten in the political agenda. Consequently, workplace duress and gross violations of migrants' rights and entitlements remain overlooked and unaddressed.

There are various international human rights frameworks including the International Convention on the Protection of Rights of All Migrant Workers and Members of their Families (ICRMW), the Global Compact for Migration (GCM), ILO Conventions, and IOM's Migration Governance Framework. Most of these are non-binding, but put a moral obligation on governments to ensure rights and uphold the welfare and protection of migrant workers.

Most countries of destination and origin have national legislation to ensure safe and orderly migration and the protection of migrant workers' rights, including access to justice. However, the appropriate implementation of legislation is a challenge that pushes migrant workers into situations where they are at risk of abuse and exploitation during both recruitment and employment.

This report has been prepared based on the critical investigation of 114 complaints of migrant workers filed in the arbitration process in Bangladesh. The report has identified loopholes in the key legal frameworks and practical challenges migrant workers encountered both in the migration cycle and in accessing fair justice and remedies, particularly in the arbitration process in Bangladesh.

The recommendations are prepared based on those loopholes identified in the legal frameworks and the practical challenges migrant workers encounter.

### 6.1 Overall recommendations for recruitment reforms

#### **Ensure the fair and ethical recruitment of Bangladeshi migrant workers, with a focus on female domestic workers**

The implementation of provisions relating to recruitment must be adhered to in practice. The investigation data evidenced that recruiting agents at home and abroad together with employers deliberately violated legal provisions in the recruitment process. The agents forged pre-departure orientation certificates and the results of mandatory medical tests and charged migration fees up to six times higher than the government fixed rate. They violated the provisions relating to signing the job contract and deceived migrant workers by not providing promised jobs, salaries, and benefits. Employers ensured entry visas for the workers they recruited but upon their arrival in the destination country they were often placed in confinement until their entry visas expired. Without the jobs they were recruited for and the associated work permits, the workers were then considered to have absconded under local legislation. We strongly recommend that:

The Bangladesh government must

- adhere to implementing the legal provisions they adopted to promote safe and orderly migration and be transparent and accountable to the migrant workers.
- take appropriate legal action to remove the culture of impunity and ensure transparency and accountability with regard to unscrupulous recruiting agents.

The government of Saudi Arabia must

- stop unethical visa trading by unscrupulous employers by taking strict legal action.
- review the Labour Reform Initiatives to remove provisions that still allow employers to exercise power over migrant workers to deprive them of the opportunity to rectify absconding status and transfer to a new employer.

The government of Malaysia must

- adhere to the recruitment provisions they agreed to in the MoU signed with the government of Bangladesh

### Improve protection and support measures for migrant workers in destination countries

The governments of destination countries, particularly Saudi Arabia and Malaysia, have several initiatives for migrant workers, including female domestic workers, to access redressal. For instance, the government of Saudi Arabia has established a comprehensive system consisting of Labour Offices, Labour Courts, and an online system to file complaints and get redressal. Unfortunately, migrant workers are mostly unable to benefit from the system due to various limitations. In Malaysia, there are multiple mechanisms to access justice and remedies which are often confusing and complicated for migrant workers. We strongly recommend that:

The government of Saudi Arabia must

- ensure that migrant workers are well-oriented about the existing redress mechanism.
- consider migrant workers' limitations relating to language barriers and technical knowledge to navigate the online portal for filing complaints.
- introduce an audio version along with online and digital platforms in the native language of migrant workers to help them understand requirements and processes.
- establish 'Free Service Centre(s)' to assist migrant workers in filing complaints online.
- take special measures to ensure proper implementation of the regulation to the redress of female domestic workers in fair and transparent procedures.

The government of Malaysia must

- establish an easy and accessible facility such as the online system in Saudi Arabia and 'Free Service Centres'.

The Bangladesh government must

- establish appropriately resourced 'Legal Aid Cells' in the Labour Welfare Wings of Bangladeshi Embassies in destination countries.

### 6.2 Specific recommendations for improving the arbitration process in Bangladesh



#### Establish a separate and dedicated arbitration department

The Office Order 'Disposal and Redressal of Migrant's Complaints through Arbitration' is ambiguous about the role and function of different entities. For instance, the Office Order mentions that the government or the Bureau or district offices under the Bureau, or any individual appointed by the government will play an additional role in receiving complaints, investigating, and conducting arbitration sessions. There is no separate and specific department to deal with the arbitration system, and hence, the Bureau runs the arbitration as an additional responsibility, being understaffed to operate its primary responsibilities. These include issuing emigration clearance for migrant workers as well as issuing and renewing licenses for recruiting agents. Requiring existing staff who have no legal background and experience to handle legal issues is a concern to ensure fair justice and remedies. Significantly, BMET's role in the arbitration process represents a conflict of interest given their direct engagement with the licensed recruiting agents as part of their primary responsibilities. In such a context, we strongly recommend that:

- The Bangladesh government must establish a separate and dedicated arbitration department or wing under the direct supervision of the Ministry of Expatriate Welfare and Overseas Employment to remove the existing limitations and challenges in the arbitration process and ensure fair justice and remedies for the migrant workers.

### **Improve the arbitration procedures with due transparency and accountability**

Migrant workers encounter numerous obstacles and hindrances in the arbitration process from filing complaints to participating in the hearings in an enabling environment with dignity and without fear. Therefore, it is imperative to improve all aspects of the arbitration procedures given the practical challenges migrant workers encounter. We strongly recommend that:

The Bangladesh government must review the existing directive on the disposal and redressal of migrant workers' complaints and adopt a comprehensive arbitration rule that must incorporate the provisions such as:

- fair treatment and justice aligned with human rights principles, human dignity, privacy, and confidentiality of each party, especially the victim migrant workers.
- secure penalties for the absence of any party in the hearings.
- censure if any arbitration fails to dispose within the stipulated timeline.
- introduce an online tracking system to ensure a well organised, well documented, and transparent arbitration process.

The government must set a Standard Operational Procedure for day-to-day operational activities with a Code of Conduct to define the roles and responsibilities of the arbitrators, the recruiting agents, and migrant workers.

### **Ensure proportionate compensation for migrant workers**

Migrant workers are forced to pay exorbitant migration fees, often six times higher than the officially fixed rate. They are the victims of wage exploitation and wage theft, denied medical treatment in case of illness or a workplace accident, or face physical torture, sexual abuse, psychological stress, or other forms of loss and damages. Migrant workers often return empty-handed with the burden of unpaid loans they took for migration, and also with severe physical illness, accidental injuries, and mental trauma. They fall into debt traps and are humiliated by their family and society. Female migrant workers often face stigma and separation from their husbands. There are no written guidelines about the level of arbitral awards. Furthermore, no parameters are given to establish the extent of loss and damage suffered by returnee migrant workers. The award

fully depends on the inquisitorial mind of the arbitrators. Data shows that migrant workers are deprived of appropriate compensation. Therefore, we strongly recommend that:

- The Bangladesh government must ensure proportionate compensation for migrant workers which considers not only financial loss but also social costs due to physical, psychological, and other forms of exploitation and consequences.

### **Undertake mass awareness initiatives on migrants' access to justice**

Migrant workers are not aware of the laws and policies that protect their legal rights. Families of migrant workers are also unaware of the legal rights of migrant workers. In addition, the prevailing social taboos, lack of confidence and trust in the legal system, lengthy procedures, lack of finance, services, etc. have created a negative mindset with respect to accessing justice. Furthermore, neither the pre-departure nor any post-arrival orientation includes a session on redressal mechanisms available at home and abroad. We must recommend that:

- The government must take appropriate initiatives to create mass awareness about migrant workers' rights to justice and redressal mechanisms.
- The government must incorporate a special session on country-specific information regarding available redressal mechanisms in the pre-departure orientation sessions for migrant workers.

“

I had lost myself after returning home from abroad. With OKUP's support, I filed a complaint and received my money through arbitration. Through OKUP's training and counselling, I was able to rebuild my life. Today, I am very happy to receive the Joyeeta Award (which recognises women leaders who make outstanding contributions).





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*a grassroots migrants' organization*

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