

Mediation: A path to take Migration Act 2013 at the door steps of migrants

Summary

This policy brief highlights the efficacy of enforcement of Overseas Employment and Migrants Act 2013 at the grassroots. Along with filing court cases this law allows local level mediation as an alternative dispute resolution method. Under Fairer Labour Migration (FLM) project RMMRU has developed an institutional framework to conduct mediation between migrants and sub-agents (dalals) at the local level. From its inception in April 2017, 30 cases have been taken up by the RMMRU Migration Mediation Committee (RMMC) in Tangail, of which 15 cases have been successfully mediated. On an average cheated migrants got back Tk 74,928 from the dalals.



RMMC is conducting mediation on fraudulence

Introduction

Every year more than 600,000 Bangladeshi workers migrate abroad to take up employment. During the 1970s and the 1980s migrants could change their economic status substantially through short term international contract migration. However over the years, labour migration has become extremely complex. While the cost of migration has gone up, the real wage of the migrants has reduced. Moreover, migrants also face fraudulence in realising their migration dream.

RMMRU has recently conducted a door to door survey of 5400 households at one municipality and one union of Kalihati Upozilla of Tangail. It found that 40% are migrant HHs. Among these migrant HHs 733 experienced fraudulence at different stages of migration. 19% have failed to go abroad after paying a section or full amount and 32% have experienced inhumane and degrading treatment at the destination. The extent of financial loss in failed migration is quite significant. On average migrants lost Tk. 2,43,247. Many of these HHs did not possess necessary documents to pursue legal cases in court under the Overseas Employment and Migrants Act 2013. Only 7% of the respondents said that recruiting agencies played a major role in processing their migration. The rest 93% stated that their migration was processed by middleman commonly known as dalals, relatives, neighbours or acquaintances of their own village or other localities.

No migration can take place without the clearance of BMET through licensed RA. In none of the cases RAs were directly involved other than at the last stage of recruitment. Migration Act 2013 does not recognize the role of dalals and there is no provision for bringing the dalals under the purview of the law. RMMRU has conducted a number of consultations focusing the extent of fraudulence and near impunity of those who commit such act. Under such circumstances RMMRU realized that in order to enforce the Migration Act 2013 all types of interventions should be pursued simultaneously.

Under Migration Act 2013 migrants can seek redress against cheating in four different ways. These are mediation, engaging the National Legal Aid Services Organization (NLASO), arbitration of BMET and through court case. Those who do not possess any documentary evidence of cheating can seek redress against fraudulence through local level mediation. Those who do not possess legal document and local level

MIGRATION

93%

Processed By
Middleman

7%

Processed By
Recruiting Agency

Ways of Redress
Against Cheating

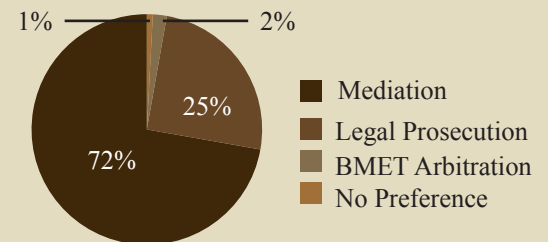
Mediation

NLASO

BMET Arbitration

Court Case

Preferred method of accessing justice



Mediation: 72%

Legal Prosecution: 25%

BMET: 2%

No Preference: 1%

In one of these consultations an expert on mediation stated that

'Local people want the solution through mediation because in mediation both parties can discuss openly. Government should decentralize this mediation system from centre to district level. Local level mediation can be a way to do this.'



- Advocate Khan Mohammad Shahid,
Madaripur Legal Aid Association



mediation is not producing any result in those cases people can seek redress by using the services of NLASO. Those who are acquainted with BMET and can travel to Dhaka city can seek redress through arbitration of BMET and the cases which have substances and enough documentation can be settled in the court.

RMMRU recently organized a miking campaign (using public address system) at three unions (Paikra, Bangra, Sahadevpur) of Kalihati Upazila, Tangail to collect data of fraudulence cases and know the preferred choice of accessing justice. The findings of this exercise showed that 72% people preferred mediation, 25% wanted justice through legal prosecution, 2% preferred BMET arbitration and 1% expressed no particular preference.

Based on the consultations and result of this miking campaign RMMRU initiated local level mediation programme in Tangail.

RMMRU has been organizing services for migrants since 2006 by forming Migrant Rights Protection Committee (MRPC) at the union level. These MRPCs provide information on safe migration to potential migrants, organize training and also help reintegration of returnee migrants. Under this broad umbrella of MRPCs, mediation can be conducted. From this realization RMMRU formed three tiers of mediation structure to help migrants recoup money from those who cheated them while processing migration. It has an advisory body at the district level and a mediation committee at the grassroots. This mediation committee is supported by youth volunteers.

Process of case collection

Cases are selected for mediation from Paikora Union and Elenga Pouroshobha of Kalihati Upazila of Tangail through HH listing census, mentioned earlier. In order to conduct the mediation following due procedure a module on mediation has been developed by RMMRU.

RMMRU collected and reviewed the documents of Bangladesh Legal Aid and Services Trust (BLAST), Ain o Salish Kendra (ASK), and National Legal Aid Services Organization (NLASO), Madaripur Legal Aid Association (MLAA) and others to develop its own method of mediation. RMMRU secured the expertise of the MLAA in training the members of mediation committees. From this training they

“There is justice after all”

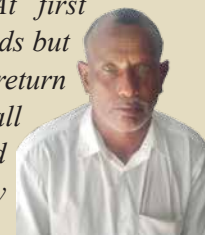
‘I sent my son to Qatar by a local dalal named Md. Abul Kalam Azad. I paid Tk 3,50,000 for this. My son worked there only for a month and got Tk 10,000 as salary. After that he was sent back against his wishes. The employer stated that he suffered from jaundice and became physically unfit to work. I went through mental depression and economic crises. I tried to solve the problem through local government arbitration system but failed. Through RMMRU mediation committee, I got Tk 1,10,000 back from dalal. At least someone stood up for me and I got some compensation.’



- Sanoar Hossain, affected migrant

“I wish all migrants who were cheated could get back their money like me”

‘My son migrated to Qatar through a local dalal named Rokeya Sultana Munni paying Tk 3,50,000. Her husband sends visa and she sells them. After migration my son faced degrading treatment. Within 5 days he was returned to Bangladesh. I tried to solve this problem through local salish but dalal refused to compensate. Then I was inspired by local people who submitted their case to RMMC for mediation. At first dalal denied all his misdeeds but at the end he agreed to return back Tk 70,000. I wish all migrants who were cheated could get back their money as I did.’



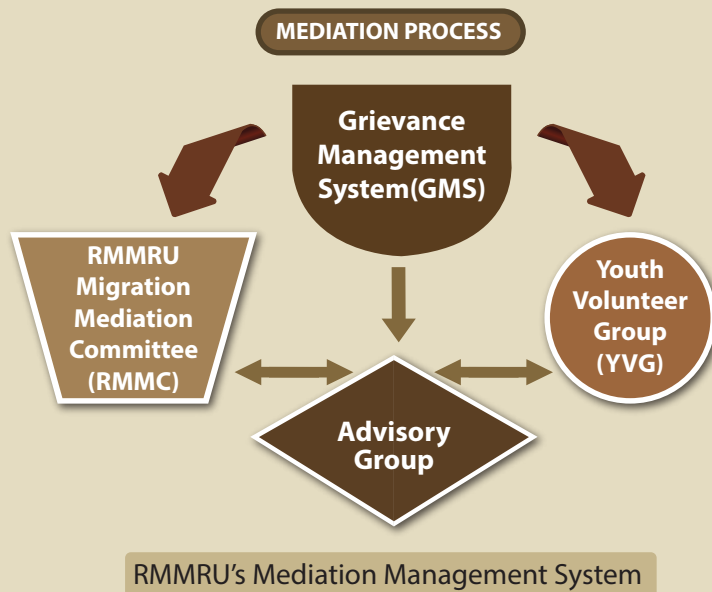
- Hafiz Uddin, affected migrant



learnt the process and steps of mediation, role and functions of mediator, importance of collecting documents in mediation, quality of mediator, and do's and don'ts in mediation process etc.

Practices of Mediation at Grassroots Level

RMMRU has formed a youth volunteer group to analyze those cases received from door to door HH listing survey. These groups contact the complainer to verify the cases and secure their commitment for mediation. Those who agree to solve their cases under RMMRU Migration Mediation Committee (RMMC), fill up a number of forms for submitting the case to



pursue under RMMC with details about complaint and nature of fraudulence he/she faced. Then RMMRU staff and RMMC members complete all the processes until a solution is arrived at. They follow the guidelines of mediation in order to arrive at a solution. Documentation of each sitting and the final settlement is maintained by the committee.

Challenges and Achievement

Conducting mediation is the most challenging project that RMMRU has ever undertaken. It is a matter of recovering money. The first challenge is trust building of both parties. Affected parties' and witnesses are afraid of dalals as their networks are very powerful. In most of the cases complainant does not have relevant documents to back up his or her claim. Another major challenge is to convince dalals and the witness to sign any document. More importantly both parties may have some points that can not be ignored.

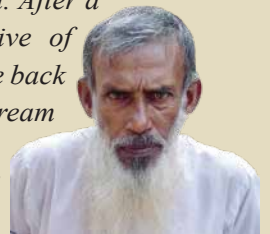
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Youth Volunteer is Collecting Information

“Never in my dream I thought I will be able to make the dalal accountable”

‘My son went to Dubai with the help of a local dalal named Abdul Latif after paying Tk. 175,000. He was not given a job there and after 10 days he had to come back. I tried everything to make the dalal accountable, went to influential people and organized local shalish. He did agree to pay me back the money that I spent. He paid back a little amount and then stopped further payment. When RMMRU took up my son’s case things changed. After a few sittings, representative of the dalal agreed to pay me back Tk.95,000. Never in my dream I thought I will be able to make the dalal accountable!’



- Badsha Mia, affected migrant

15 cases
solved
in 7 months

Total
Money recovered
Tk 10,45,000



Over last several months, RMMRU has identified 30 cases of fraudulence from Elenga municipality and Paikora Union. Among them 15 cases has been resolved up to November 2017 and rest of the cases are currently being pursued by Mediation Committee. On an average committee has successfully recovered Tk 74,928 from the dalals on behalf of the cheated migrants. Mediation has created enthusiasm among the cheated migrants; both men and women. They are looking at this as a prompt and peaceful dispute resolution mechanism. Women are also getting inspired to file their cases to this committee.



Juriboard is discussing for best solution

Replication

RMMRU has taken this work of mediation on a pilot basis. It aims to expand this mediation programme throughout Bangladesh by multiplying the structure of mediation committee. The strength of this structure is that it involves government officials, lawyers, local leaders, social workers and youth groups.

‘You have called me to join this mediation, I have come. If I was dishonest then I would not have come. I am not responsible for this case, because plaintiff was physically unfit for work as he was affected by jaundice.’

- Abul Kalam Azad, dalal

Conclusion

Migration is an extremely complex process. Half of those who aspire to migrate or have migrated experienced fraudulence. Those who experienced fraudulence cannot make the perpetrator accountable as formal legal process is expensive and time consuming. The institution of RMMC has taken the legal system at the door steps of the affected households. RMMC model of RMMRU is an innovative step to make the recruiters accountable through application of Migration Act 2013. RMMRU is confident that in the long run this will have demonstration effect and contribute to reducing fraudulence.



Migrant victim received money after mutual understanding with middleman

Acknowledgment

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“People are not informed well that migration fraudulences cases can be solved through local mediation. We need to undertake more awareness programmes on migration mediation. If these cases can be solved through mediation instead of section 420 of criminal procedure then it will bring more effective result.”



- Advocate Barkat Ali, BLAST





Practice of mediation at grassroots level

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