



# Sub-Agent Registration

Three Models for Regularisation of Sub-Agents in  
Recruiting Migrant Workers at the Grassroots

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Fairer Labour Migration project of RMMRU supported by UKaid  
under its PROKAS programme managed by British Council

## **Three Models for Sub-agent Registration to Recruit Migrant Workers at the Grassroots**

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In popular perception, *dalals* are seen as the root of all evils in respect to recruitment of worker for overseas employment. However, a recent research of RMMRU demonstrates that in the current system *dalals* are essential part of recruitment. The study identified 17 types of services which are provided by *dalals* to the migrants. Without the services of *dalals* recruitment of workers from the grassroots would be impossible. This is precisely why RMMRU in its recent publication on the *dalals* has called for replacing the title “*dalals*” by grassroots facilitators of migration or sub-agent. The title sub-agent is known to majority of those who work on labour migration. Therefore, in this report we will use the term sub-agent. In rural areas sub-agents are the main sources of information on migration. They are the network that connects them in procuring work permit or visa. Information on training opportunities, addresses of language training centres, navigating through government procedures such as online registration, processing passport, facing the recruiting agencies, payment of migration cost, accompanying to pre-departure briefing centres, facilitation of medical test, accompanying migrants to Dhaka, accompanying to skill test centres, receiving BMET smart card, assistance in finger printing, receipt of air ticket, travel to the airport, and even support in opening bank account are some of the functions that are performed by the sub-agents. In the countries of destination when migrants are cheated or when they experience cruelty or decent work deficit, the first port of call for redress are their sub-agents. For their untimely return, the migrants’ attempt to recoup their financial losses through the sub-agents.

Successive governments have attempted to abolish the sub-agent system. The 2013 Migration Act also does not provide any scope for the sub-agents to operate. Nonetheless, in majority of the cases, recruiting agencies take the services of sub-agents but they procure that informally. Such informality has been identified by the government, civil society and academics as one of the sources that help unscrupulous agencies and sub-agents to commit fraud (Siddiqui and Abrar, 2019). RMMRU research further shows (2017), annually 19% of the migrants cannot go abroad even after paying partial or full migration cost to the recruiting agencies through the sub-agents. Siddiqui and Abrar (2019) projected that annually the cheated migrants have been losing around Tk. 2706.2 crore due to such fraudulence and lack of transparency. The civil society has been launching a movement against such non-transparency for decades.

The latest advocacy drive was launched in 2017 by RMMRU, WARBE DF, BOMSA, YPSA, IID under the Fairer Labour Migration project. Through research, policy advocacy and articulation of the demands of the sub-agents for regularisation and mobilisation of parliamentary caucus on migration these organisations have created

the public opinion for formalising the sub-agents. The parliamentary caucus on migration finally could convince their fellow policy makers to bring the functions of the sub-agents under legal purview. On the September 4, 2019, the Honourable Prime Minister of Bangladesh directed the ministry of EWOE to provide identity card to the sub-agents who are involved in international labour migration.

Through rigorous review of relevant legal documents, it is now understood that, sub-agents can be registered under the Contract Act of 1872. The Contract Act, 1872 is the chief contract law in Bangladesh. Based on English contract law and the British Indian contract law was enacted in the 19th century and re-enacted by the Parliament of Bangladesh after the country's independence. According to the section 191 of The Contract Act, 1872, "A sub-agent is a person employed by, and acting under the control of, the original agent in the business of the agency". Section 192 of The Contract Act provides for representation of principal by sub-agent duly appointed and agent and sub-agent's responsibility to each other. According to the Section 192, "Where a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent, and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal. The agent is responsible to the principal for the acts of the sub-agent. The sub-agent is responsible for his acts to the agents, but not to the principal, except in case of fraud or wilful wrong". The Overseas Employment and Migration Act, 2013, can define the rights and responsibilities of sub-agents and the consequences of breach of contract based on the provisions of Contract Act, 1872.

Siddiqui and Abrar (2019) in their book "Making *Dalals* Visible" identified three possible options for providing identity documents to the sub-agents. These are (a) registration with Bureau of Manpower Employment, and Training (BMET), (b) registration with BMET processed by District Employment and Manpower Office (DEMOs), and (c) registration with Bangladesh Association of International Recruiting Agencies (BAIRA). Among the three options, Siddiqui and Abrar preferred the third option of BAIRA to provide the identity documents and BMET ultimately monitoring the combined roles of sub-agents and recruiting agencies. The Parliamentary Standing Committee (PSC) on Expatriates' Welfare and Overseas Employment as well as the Parliamentarians Caucus on International Labour Migration (PCMD) are still more inclined to the first option that is registration of sub-agents with the BMET.

Based on the suggestions of members of PSC and PCMD RMMRU has re-organised its earlier models for regularising the sub-agents. Here as well, RMMRU suggests three methods but in all the methods, BMET is the registering authority on behalf of the Ministry of EWOE. Model 1 and 2 are very close to each other. Model 1 suggests, registration by BMET to sub-agents nominated by recruiting agencies, Model 2 suggests registration by BMET through applications processed by DEMOs

and model 3 provides an option of registration by BMET to sub-agents nominated by BAIRA.

## **Model 1**

### **Registration by BMET to sub-agents nominated by recruiting agencies**

Recently, the Ministry of EWOE and its line agency BMET have suggested a simple method for providing identity cards to the sub-agents. This involves a process where individual recruiting agencies can employ 20 sub-agents in 64 districts of Bangladesh. However, they have to do the background check of the sub-agents and provide clearance certificate to them and individually the recruiting agencies will submit their list of sub-agents to BMET. There are some problems with this simple model. The recruiting agencies may recruit workers from different locations. The authorised 20 sub-agents may not have access to all the areas. Therefore, it creates the scope of creation of a system of sub-agents of the sub-agent. In order to avoid that, we suggest that, the recruiting agencies may employ as many sub-agents as they want but they will have to select them on the basis of a selection criteria set by BMET. The name, address and all necessary information of that dalal has to be provided to BMET at the beginning of the year. BMET will then enlist the concerned sub-agent in its online sub-agent registration system. If the recruiting agency uses an unlisted sub-agent, then BMET would not give clearance to the particular recruitment application. In the BMET clearance form, along with the license number and name of the recruiting agencies, the name and registration number of the concerned sub-agent should also be stated. If any occurrence happens with the sub-agents, both sub-agent and the recruiting agency will bear the consequences.

Simultaneously the recruiting agency can also conduct recruitment from the grassroots on its own without taking the help of any sub-agent. In that case, if cheating or untimely return takes place, it is only the recruiting agency who would be liable. The specific steps for registration by BMET to sub-agents nominated by recruiting agencies are suggested below:

**(a) Establishment of sub-agent registration cell in BMET office:** In BMET, a sub-agent registration cell has to be established. Dedicated staff members have to be recruited and necessary training must be imparted to them to manage sub-agent registration system.

**(b) Setting criteria for enlistment of sub-agents:** An expert committee has to be formed with membership of functionaries of the ministry, BMET officials, BAIRA, experts and civil society. This committee will set the criteria for eligibility to become a sub-agent. A sub-agent can be simultaneously registered with many recruiting agencies. Those who have past criminal record should not be allowed to apply for registration. The sub-agents should have a permanent address in the district. He or she should possess a national identity card. There should be a minimum bar of years for re-application by a sub-agent who has been convicted for conducting fraudulence

or cheating. An online data management system will be created where all the sub-agents under one recruiting agency will be enlisted. Separate files for individual recruiting agencies will be maintained with the names of all the sub-agents whom the recruiting agencies have taken clearance from BMET to work with. Annually a cross-check will be conducted to de-enlist the sub-agent who may have been enlisted with another recruiting agency and caught red-handed for committing fraud. In other words, if a sub-agent commits fraud with one recruiting agency that has been proven through due process, then the name of the sub-agent should be dropped from all other recruiting agencies' list. BMET should notify all the recruiting agencies about the fraud sub-agent.

**(c) Registration card with unique ID number:** The registered sub-agent will be provided with an ID card with a unique registration number by BMET. The sub-agent should be displaying the registration letter in a visible place where he conducts with business so that the potential migrants are assured of the authenticity of the sub-agent. The potential migrant or members of their families should be able to verify the authenticity of the sub-agent from BMET online list.

**(d) Essential Information to be stored online by BMET:** Recruiting agencies should collect and provide all necessary information on the sub-agent to BMET. BMET should maintain online information on each sub-agent; this may include name, permanent address, sex, years of operation, criminal record, and national ID card number. Data on sub-agents should be programmed in a way that it can be sorted upto union level. Any potential migrant should be able to access information of the sub-agent from BMET portal.

**(e) Annual update of online union-wise list of sub-agents:** BMET will have to send a letter to individual recruiting agencies to update the union wise list of sub-agents annually. The online information base should also be updated accordingly.

**(f) Guideline for sub-agents to lawfully conduct recruitment:** The committee mentioned above should also prepare a simple guideline for the sub-agents on what should be considered as lawful recruitment and what will be treated as unlawful and punishable crime.

**(g) Training of recruiting agencies and sub-agents:** The sub-agents should be trained on terms of lawfully conducting recruitment and recruiting agencies should be trained on how to scrutinise and conduct background checks on the sub-agents.

**(h) Training of the BMET Staff:** BMET personnel who are in charge of arbitration should be trained once a year. The training should include the knowledge about essence of justice and rights of people to receive justice. The Ministry of EWOE can involve the Judges of National Legal Aid Services Organization (NLSO) to provide such trainings to BMET functionaries.

**(i) Inclusion of ID of sub-agents in R/A's application for BMET clearance:** The current clearance form of BMET has to be replaced by new form with provision for

the recruiting agency to mention the name and registration of the sub-agent. If the recruiting agency has not employed any sub-agent, then it should be clearly stated in the clearance form. In that case the recruiting agency will be fully liable for any misconduct. If a recruiting agency involves a sub-agent in procuring workers, then the name and unique registration number of the sub-agent should be mentioned in the BMET prescribed form of clearance.

**(j) System of filing complaint by aggrieved party:** If any migrant or potential migrant has a complaint against any sub-agent and any recruiting agency, then they should follow the same complaint mechanism with which complaints are lodged to BMET for arbitration. However, the aggrieved party will retain their right to take legal redress from court or through NLSO. BMET should have a formal application form for the migrants to lodge complaint. In that form along with the name of recruiting agencies, provision should be kept for the name of the sub-agent. The form should be available online.

**(k) System of conducting investigation:** The current system of conducting investigation by BMET has to be strengthened. Along with DEMO officials, NGO representative with legal knowledge can be made part of the investigation team.

**(l) System of conducting arbitration:** BMET has its own system of conducting arbitration. If the recruiting agencies had involved a sub-agent, then the sub-agent should also be summoned to the arbitration. The persons engaged by BMET in arbitration should possess legal degree. A system of evaluation of the arbitration conducted by the BMET should be in place. The Ministry of EWOE should have a system of evaluation of the arbitration system. After completion of the arbitration, each migrant should fill up a confidential evaluation form to express their satisfaction or dissatisfaction with the arbitration process. Concerned person from EWOE should be obliged to go through the evaluation and oversee if the arbitration was conducted fairly.

**(m) Representative of Migrants:** Provisions may be made to have representatives of the aggrieved migrants in addition to the arbitrator assigned to the arbitration process under BMET. Currently BMET allows NGOs to be present as observers in the arbitration if the migrant wishes. RMMRU suggests that, this system to be further formalised and institutionalised. The Labour Court can be an example in this case. According to the provisions of section 214 of The Bangladesh Labour Act, 2006, the Labour Court consists of the chairman of the Court and two members to advise him. In accordance with the provisions of that section, one of the two members of the Labour Court shall be the representative of the workers and the other shall be the representative of the employers. The government shall, in the manner prescribed by rules, by notification in the official Gazette, constitute two panels of representatives from both sides. Each panel of six members shall be reconstituted after every two years. This can be replicated in case of BMET arbitration.

**(n) Cancellation of registration when found guilty:** BMET should be the authority to cancel the registration of the sub-agent and bar the sub-agents from re-registration for certain period.

**(o) Punishment:** Under the sections 31, 32, 33, 34, 35, 36 of Overseas Employment and Migrants Act, 2013, the punishments that have been prescribed including compensation for the recruiting agents will also be equally applicable for the sub-agents.

**(p) System of appeal by sub-agents:** Recruiting agencies and sub-agents should also have the right to appeal to higher authority against any decision.

### **Administrative Structure for Model 1**

A separate section has to be created at BMET under the director immigration/arbitration for registering the sub-agents. This department would require at least 3 staff members. These are, one administrative officer, one IT personnel, and one investigating officer. The administrative officer will manage the office and its account, prepare quarterly reports, disburse salary etc. The programme officer will receive all the applications both in person and online. The programme officer will also act as the investigating officer. He/she will conduct the background check of the applicants on the basis of criteria set by BMET. The IT personnel will maintain the online list of sub-agents who have been registered. The investigating officer will also annually conduct a survey with the recruiting agencies to enquire if they want to continue with the sub-agents they have enlisted last year or they would like to drop some of them. The same survey should also enquire if for the following year the concerned recruiting agency would like to enlist more names of sub-agents for registration. On the basis of the survey findings, the higher authority will accept the new names and provide registration with ID number. IT officer will annually update the list.

### **Model 2**

#### **Registration by BMET to sub-agents processed by DEMO**

The 2<sup>nd</sup> model also provides the responsibility of registration to BMET, however, instead of recruiting agencies, providing the names of sub-agents, an independent system of receiving applications from potential sub-agents will be created by using the district level DEMOs. Any person who has been or would like to conduct any functions related to recruitment of workers for overseas employment will have to apply to the concerned DEMO offices. DEMO will conduct the necessary background check of the aspiring sub-agent and those who have been cleared will be handed to BMET. BMET will then enlist the concerned sub-agent in its online sub-agent registration system. If the recruiting agency uses any other sub-agent not registered, then BMET would not give clearance of that particular recruitment. In the BMET

clearance form, along with the license number and name of the recruiting agencies, the name and registration number of the concerned sub-agent should also be stated. In case of any irregularity of sub-agents, both sub-agent and recruiting agency will bear the consequences.

Simultaneously the recruiting agency can also conduct recruitment from the grassroots on its own without taking the help of any sub-agent. In that case, if cheating or untimely return takes place, it is only the recruiting agency who would be liable. The specific steps of registration by BMET to sub-agents processed by DEMO are as follows:

**(a) Establishment of sub-agent cell in DEMO:** In DEMOs, a sub-agent cell has to be opened. Dedicated staff members have to be recruited and trained.

**(b) Process of Receiving Application:** Following the criteria set by BMET, the DEMO offices will have to install sign board describing the procedure of sub-agent application system and the criteria. Posters can be put up in different upazila UNO offices to invite sub-agents to apply for registration to district level DEMCOs. The punishments if anyone conducts any functions related to recruitment without being registered will also be mentioned in the posters. The list of registered sub-agents will be made available at the office of UNO, BMET website as well as Union Digital Centres under a2i.

**(c) Establishment of sub-agent registration cell in BMET office:** In BMET, a sub-agent registration cell has to be opened. Dedicated staff members have to be recruited and trained.

**(d) Setting criteria for enlistment of sub-agents:** An expert committee has to be formed with functionaries of the ministry, BMET officials and members of BAIRA, experts and the civil society. This committee will set the criteria for eligibility to become a sub-agent. Those who have past criminal record should not be allowed to apply for registration. The sub-agents should have a permanent address in the district. He or she should possess a national identity card. There should be a minimum bar on years for re-application by a sub-agent who has been convicted for conducting fraudulence or cheating. An online data management system will be created where the name and address of registered sub-agent will be posted. The recruiting agencies should check the BMET website before employing any sub-agent.

**(e) Registration card with unique ID number:** The registered sub-agent will be provided with an ID card with a unique registration number by BMET. The card should also mention the period for which the sub-agent is registered. If no complaint is filed against the sub-agent, then auto renewal can take place annually upto five years. The sub-agent should be displaying the registration letter in a visible place where he conducts the business so that the potential migrants are sure about the authenticity of the sub-agent. The potential migrant or their families should be able to verify the authenticity of the sub-agent from BMET online list.



**(f) Essential Information to be stored online by BMET:** DEMO offices should collect and provide all necessary information on the sub-agent to BMET. BMET should maintain online information on each sub-agent; this may include name, permanent address, sex, years of operation, criminal record, and national ID card number. Data on sub-agents should be programmed in a way that it can be sorted up to union level. Any potential migrant should be able to access information of the sub-agent from BMET portal.

**(g) Annual update of online union-wise list of sub-agents:** BMET will have to send letter to each district level DEMOs to update the union-wise list of sub-agents annually. The online information base should also be updated accordingly.

**(h) Guideline for sub-agents to lawfully conduct recruitment:** The committee mentioned above should also prepare a simple guideline for the sub-agents on what should be considered as lawful recruitment and what will be treated as unlawful and punishable crime.

**(i) Training of concerned DEMO staffs and sub-agents:** The sub-agents should be trained on terms of lawful conduction of recruitment and DEMO staff members should be trained on how to scrutinise and conduct background check on the sub-agents.

**(j) Training of the BMET Staff:** BMET personnel who are in charge of arbitration should be trained once a year. The training should include the knowledge about essence of justice and rights of people to receive justice. The ministry of EWOE can involve the Judges of National Legal Aid Services Organization (NLSO) to provide such trainings to BMET functionaries.

**(k) Inclusion of ID of sub-agents in R/A's application for BMET clearance:** The current clearance form of BMET has to be replaced by new one where a specific area where the recruiting agency needs to mention the name and registration of the sub-agent. If the recruiting agency has not employed any sub-agent, then it should be clearly stated in the clearance form. In that case the recruiting agency will be fully liable for any misconduct. If a recruiting agency involves a sub-agent in procuring workers, then the name and unique registration number of the sub-agent should be mentioned in the BMET prescribed form of clearance.

**(l) System of filing complain by aggrieved party:** If any migrant or potential migrant has a complaint against any sub-agent and any recruiting agency, then following the same complaint mechanism with which complaints are lodged to BMET for arbitration should be used. However, the aggrieved party will retain their right to take legal redress through court or through NLSO. BMET should have a formal application form for the migrants to lodge complain. In that form, along with recruiting agencies, provision should be made available to state the name of the sub-agent and the concerned DEMO official. The form should be available online.

**(m) System of conducting investigation:** The current system of conducting investigation by BMET has to be strengthened. Along with DEMO officials, NGO representative with legal knowledge can be made part of the investigation team.

**(n) System of conducting arbitration:** BMET has its own system of conducting arbitration. If the recruiting agency involve a sub-agent, then the sub-agent should also be summoned to the arbitration. The persons engaged by BMET in arbitration should possess legal degree. A system of evaluation of the arbitration conducted by the BMET should be in place. The Ministry of EWOE should have a system of evaluation of the arbitration system. After completion of the arbitration, each migrant should fill up a confidential form to express their satisfaction or dissatisfaction with the arbitration process. Concerned person from EWOE should be obliged to go through the evaluation and oversee if the arbitration was conducted fairly.

**(o) Representative of Migrants:** Provisions may be made to have representatives of the aggrieved migrants in addition to the arbitrator assigned to the arbitration process under BMET. Currently BMET allows NGOs to be present as observers in the arbitration if the migrant wishes. RMMRU suggests that this system to be further formalised and institutionalised. The Labour Court can be an example in this case. According to the provisions of section 214 of The Bangladesh Labour Act, 2006, the Labour Court consists of the chairman of the Court and two members to advise him. In accordance with the provisions of that section, one of the two members of the Labour Court shall be the representative of the workers and the other shall be the representative of the employers. The government shall, in the manner prescribed by rules, by notification in the official Gazette, constitute two panels of representatives from both sides. Each panel of six members shall be reconstituted after every two years. This can be replicated in case of BMET arbitration.

**(p) Cancellation of registration when found guilty:** BMET should be the authority to cancel the registration of the sub-agent and bar the sub-agents from re-registration for certain period.

**(q) Punishment:** Under the sections 31, 32, 33, 34, 35, 36 of Overseas Employment and Migrants Act, 2013, all the punishment that has been prescribed including compensation for the recruiting agents will also be equally applicable for the sub-agents.

**(r) System of appeal by sub-agents:** Recruiting agencies and sub-agents should also have the right to appeal to higher authority against any decision.

## **Administrative Structure for Model 2**

At the BMET Head Office, a department has to be created under the director immigration/ arbitration for registering the sub-agents. This department would require at least 3 staff members. These are, one administrative officer, one IT personnel, and one investigating officer. The administrative officer will manage the office and its

account, prepare quarterly reports, disburse salary etc. The programme officer will receive all the applications both in person and online. The programme officer will also act as the investigating officer. He/she will conduct the background check of the applicants on the basis of criteria set by BMET. The IT personnel will maintain the online list of sub-agents who have been registered. IT officer will annually update the list.

In DEMO offices, a Cell has to be created with at least two functionaries one with legal background and other with the IT background. The programme officer with legal background will receive applications from potential sub-agents, verify their credibility, and ensure if they fulfil all the criteria set by BMET. When the programme officer is satisfied then he/she will place all necessary information of the potential sub-agent to the IT official. IT official will then prepare online application and submit that to the relevant department of BMET.

RMMRU observes a major problem may arise in punishing a sub-agent as it is registered by BMET through DEMO. In case of fraudulence, the recruiting agency may say that, they will not bear the responsibility of misconduct of the sub-agent as they do not have any role in selecting them. It is the BMET who has provided them with the list of sub-agents. Therefore, the responsibility lies with BMET, not the recruiting agencies.

### **Model 3**

#### **Registration by BMET to sub-agents nominated by BAIRA**

The model 3 suggests that BAIRA should be involved in nominating the sub-agents to BMET for registration. To make this model functional, it would require establishment of district level offices. For a long time, government as well as civil society organizations are demanding that recruiting agencies should institutionalise their presence at the district level. Nomination of sub-agents through BAIRA will create this opportunity. Under this process, BAIRA will require to establish district level offices. Sub-agents of that district can apply to district level BAIRA office for registration to conduct recruitment at grassroots on behalf of any recruiting agency. The officials of district BAIRA offices will conduct the background check as per the criteria set by BMET, and nominate their names for registration to a higher central authority of BAIRA based at Dhaka. BAIRA will be in charge of ensuring authenticity of the sub-agents. It will then submit the list along with all necessary information of sub-agents to BMET. BMET then will provide the registration to those sub-agents. BMET will issue an ID card to sub-agents with unique registration number. The list of sub-agents will be subject to annual updating. The update could also be biannual and it will be made available online to be accessed both by the recruiting agencies as well as the potential migrants. In exchange of fees to be paid to BAIRA, the recruiting agencies can avail the services of the sub-agents. If migrants experience fraud in the process, then the aggrieved migrant would be able to lodge complaint against the whole recruitment process. The aggrieved party can seek redress by

using any of the legal redress system, such as, BMET arbitration, NLSO mediation or court case. If recruiting agencies or sub-agents feel that, the legal obligation of the contract of particular labour recruitment has not been honoured, any of the parties can also take legal recourse. If the aggrieved parties are seeking redress through BMET arbitration, then they should lodge complaint to the arbitration cell of BMET. BMET will follow due process and ensure accountability of the concerned party. Pursuing arbitration through BMET does not curtail the right of the aggrieved parties to avail the services of NLSO as well as the formal courts.

Simultaneously the recruiting agency can also conduct recruitment from the grassroots on its own without taking the help of any sub-agent. In that case, if fraudulence occurs, the liability will have to be borne by the recruiting agency alone. BMET registration with BAIRA will involve actions by two entities, BMET and BAIRA. First we will discuss the steps to be taken by BMET and then the steps to be taken by BAIRA.

Steps to be taken by BMET:

**(a) Establishment of sub-agent registration cell in BMET office:** In BMET, a Sub-agent Registration Cell has to be established. BMET arbitration cell can be transformed into department of arbitration. Sub-agent registration can be part of the function of BMET arbitration department. Dedicated staff members have to be recruited and trained to manage sub-agent registration system.

**(b) Setting the criteria:** BMET will set the criteria for becoming eligible to perform the function of a sub-agent. An expert committee has to be formed with functionaries of the ministry, BMET officials, and members of BAIRA, legal community and migration experts and the civil society. Those who have past criminal record should not be allowed to apply for registration. The sub-agents should have a permanent address in the district. He or she should possess a national identity card. There should be a minimum bar of years for re-application by a sub-agent who has been convicted for conducting fraudulence or cheating.

**(c) Online list of sub-agents:** BMET will have to send letter to BAIRA to update the union wise list of sub-agents annually. The online information base should also be updated accordingly. BMET should be repository of the data but it should be available in all district level offices of BAIRA as well as in the website of BAIRA head office.

**(d) Guideline for sub-agents to lawfully conduct recruitment:** The committee mentioned above should also prepare a simple guideline for the sub-agents on what should be considered as lawful recruitment and what will be treated as unlawful and punishable crime.

**(e) Training of BAIRA Officials, R/A officials and sub-agents:** All three parties should be trained on terms of lawful conduction of recruitment. District level BAIRA

officials should be trained on how to scrutinize and conduct background check on the sub-agents.

**(f) Training of the BMET Staff:** BMET personnel who are in charge of arbitration should be trained once a year. The training should include the knowledge about essence of justice and rights of people to receive justice. The ministry of EWOE can involve the Judges of National Legal Aid Services Organization (NLSO) to provide such trainings to BMET functionaries.

**(g) Inclusion of ID of sub-agents in R/A's application for BMET clearance:** The current clearance form of BMET has to be replaced by new one where a provision has to be made for the recruiting agency to mention the name and registration of the sub-agent. If the recruiting agency does not employ any sub-agent, then it should be clearly stated. In that case the recruiting agency will be fully liable for any misconduct. If a recruiting agency involves a sub-agent in procuring workers, then the name and unique registration number of the sub-agent should be mentioned in the BMET prescribed form of clearance.

**(h) System of filing complain by aggrieved party:** If any migrant or potential migrant has a complaint against any sub-agent and any recruiting agency, then following the same complaint mechanism with which complaints are lodged to BMET for arbitration should be used. However, the aggrieved party will retain their right to take legal redress through court or through NLSO. BMET should have a formal application form for the migrants to lodge complaint. In that form, along with recruiting agencies, space should be there to mention the name of the sub-agent. The form should be available online.

**(i) System of conducting investigation:** The current system of conducting investigation by BMET has to be strengthened. Along with DEMO officials, NGO representative from the concerned district with legal knowledge can be made part of the investigation team.

**(j) System of Conducting arbitration:** BMET has its own system of conducting arbitration. If the recruiting agencies had involved a sub-agent, then the sub-agent should also be summoned to the arbitration. The persons engaged by BMET in arbitration should possess legal degree. A system of evaluation of the arbitration conducted by the BMET should be in place. The ministry of EWOE should have a system of evaluation of the arbitration system. After completion of the arbitration, each migrant should fill up a confidential form to express their satisfaction or dissatisfaction with the arbitration process. Concerned person from EWOE should be obliged to go through the evaluation and oversee if the arbitration was conducted fairly.

**(k) Representative of Migrants:** Provisions may be made to have representatives of the aggrieved migrants in addition to the arbitrator assigned to the arbitration process under BMET. Currently BMET allows NGOs to be present as observers in the arbitration if the migrant wishes. RMMRU suggests that, this system to be further

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**(l) Cancellation of registration when found guilty:** BMET should be the authority to cancel the registration of the sub-agent and bar the sub-agents from re-registration for certain period.

**(m) Punishment:** Under the sections 31, 32, 33, 34, 35, 36 of Overseas Employment and Migrants Act, 2013, all the punishment that has been prescribed including compensation for the recruiting agents will also be equally applicable for the sub-agents.

**(n) System of appeal by sub-agents:** Recruiting agencies and sub-agents should also have the right to appeal to higher authority against any decision.

Activities to be undertaken by BAIRA to Support the Registration Process of Sub-agents:

**(a) Establishment of BAIRA District Level Offices:** BAIRA will have to establish its own offices in all 64 districts of Bangladesh. District offices should have at least 3 staff members for conducting all necessary work for registration of sub-agents. These are, one administrative officer, one IT personnel, and one programme officer. Following BMET criteria, this office will nominate names and other information of sub-agents to BAIRA head office. The BAIRA head office would then after scrutiny send the list of sub-agents to BMET for registration.

**(b) Submission of Application by the sub-agents:** Most of the recruiting agencies have their own sub-agents. They can ask their sub-agents to get registered at the district level BAIRA offices by providing all necessary information that BMET requires. Along with this, the BAIRA district office can also include other interested sub-agents from the district after due investigation.

**(c) Scrutiny of Application of sub-agents:** The programme/investigating officer will conduct the background check of the applicants on the basis of criteria set by BMET.

**(d) Training of the Officer:** The programme/investigating officer has to be trained properly on the BMET criteria. He or she should also be trained on how to conduct investigation.

**(e) Development of Programme for Online Database:** Once the investigating officer finishes his/her investigation, and select some of the applicants for

nomination, the IT official will have to feed in all the information online. Therefore, a programme for such database has to be developed.

**(f) Scrutiny by BAIRA Head Office and Submission to BMET:** It will be the concerned section of head office of BAIRA who will finally hand over the list of sub-agents for upcoming year. During the course of the year, BAIRA may wish to add some more sub-agents if need arises.

**(g) Online Data of Registered Sub-agents and Verification Service:** The district offices will maintain a separate online programme which is only for the registered sub-agents. This they will maintain in collaboration with BMET. Based on this data, the district offices will verify the authenticity of the sub-agents if any aspirant migrant requires such service.

**(h) Use of the Sub-agents from the Database:** The individual recruiting agencies will only use the sub-agent who has been registered by BMET upon receiving list from BAIRA. The recruiting agency is also free to conduct recruitment at the grassroots on its own without taking the help of any sub-agents. For using the services of the sub-agents, the recruiting agency will pay a certain fee which is pre-determined by their association- BAIRA.

**(i) Process of Annual Update of Sub-agent List:** The investigating officer will annually conduct a survey with the recruiting agencies enquiring if they want to continue with the sub-agents they had enlisted last year or they would like to drop some of them. The same survey should also enquire if for the following year the concerned recruiting agency would like to enlist some more names of sub-agents for registration. On the basis of the survey findings, the IT officer of BAIRA district offices will annually update the list.

### **Administrative Structure for Model 3**

District offices of BAIRA should have at least 3 staff members for conducting all necessary works for registration of sub-agents. These are, one administrative officer, one IT personnel, and one programme officer. The administrative officer will manage the office and its account, prepare quarterly reports, disburse salary etc. The programme officer will receive all the applications both in person and online. The programme officer will also act as the investigating officer. He/she will conduct the background check of the applicants on the basis of criteria set by BMET. The IT person will create the programme to maintain an online list of selected sub-agents and send that to BAIRA head office. BAIRA will officially process that to BMET.

This process initially will require large scale infrastructural investment of BAIRA. BAIRA may not be willing to make such investment. However, BAIRA has to be convinced by the government about the possibility of institutionalization of the association. Along with providing registration, the district office can be used by BAIRA members for many other activities related to recruitment. For example,

recruiting potential trainees for receiving training at their training centres or training centre of their member organizations.

Donor agencies are keen to work with private sector in respect to labour migration. This opens up their opportunity to help institutionalise BAIRA by financially and technically supporting the Association in this matter. Government can also initially contribute towards establishing district offices as this process would definitely lead towards accountability and transparency in labour recruitment. In the long run, the BAIRA offices will be self-sufficient as they will be earning by charging the individual recruiting agencies for giving access to the sub-agents and also other services.

## **Conclusion**

This report detailed out three methods of regularising the sub-agents through providing ID card. These are, registration by BMET to sub-agents nominated by recruiting agencies, registration by BMET to sub-agents processed by DEMO and registration by BMET to sub-agents nominated by BAIRA. The model 1 may seem more simple to implement. However, it will create situation where same sub-agent will have to be registered under 50 or more recruiting agencies. As out of 1400 recruiting agencies the same sub-agent can be used by more than 50 of them.

RMMRU observes a major problem in model 2. Situation may arise where the recruiting agencies will be able to disown its responsibility in case of fraudulence. In this model, the sub-agent is registered by BMET through DEMO. Taking this as advantage, the recruiting agency may claim that they will not bear the responsibility of misconduct of the sub-agent as they do not have any role in selecting them. It is the BMET who has provided them with the list of sub-agents. Therefore, the responsibility lies with BMET, not the recruiting agencies.

Although it sounds ambitious, the third model where BAIRA creates the list of sub-agents through its district offices or directly from the recruiting agencies, will ensure one entry of a sub-agent which may be used by as many recruiting agencies as they want. This will reduce the workload of BMET and at the same time increase the accountability of the system. In this system, the recruiting agencies cannot avoid their responsibility in case of fraudulence. A major challenge of this model is that, it may initially require large scale infrastructural investment of BAIRA. However, if BAIRA is willing to make this investment, it will institutionalise the organisation in the long run.

## **References**

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