

The Need for Ensuring Fair and Ethical Recruitment Practices

Key Messages

- The transition from a state-driven to a market-driven labour recruitment process has posed major protection challenges to policy makers and civil society activists. Migrants are human beings, not commodities, and they deserve to be protected. So, the traditional capitalist demand and supply paradigm is not applicable to labour recruitment process.
- As labour sending countries like Bangladesh strive to access new labour markets in the post-Covid era, they must ensure that migrants' rights and dignity are respected.
- Labour-receiving countries should acknowledge migrants' contributions to their economy and treat them with dignity and respect.
- Ensuring fair and ethical recruitment is a prerequisite for migrants to get the most out of their migration experience; migration should be a choice rather than a necessity.
- There has to be acknowledgement of the pervasive role of sub-agents in the labour recruitment process.
- Ethical recruiters should be recognised and rewarded, and unethical recruiters should be held to account and penalised.



Photo Courtesy: Afj/Karim Sahib

Introduction

Soaring demand for workers in the Gulf boosted the demand for labour migration from South Asia including Bangladesh in the mid-1970s. Although the labour migration process began as a state-driven process, it eventually evolved into a market-driven one with the privatisation of recruitment process. Consequently, it paved the way for unethical recruitment practices in the migration cycle. The unethical practices of recruiting agencies and the unmonitored work environment in destination countries make migrants' experiences difficult and harsh. During the Covid-19 pandemic, the situation became even more challenging. The unanticipated and involuntary repatriation of a large number of migrants has created a slew of hardships for them and their dependents. While the opportunities for employment at home shrunk even further as the economy suffered due to the pandemic, the significant drop in demand for workers overseas created new scope for unethical recruitment and irregular migration.

On average, nearly 600,000 Bangladeshis migrated each year from 2011 to 2019¹, but the figure drastically dropped to 217,669 in 2020² due to the impact of the global pandemic. A scenario of massive demand and limited scope for overseas employment has created a situation in which unscrupulous recruiting agencies are likely to take advantage of the urge of aspirant migrants to migrate. This is likely to contribute to an increased incidence of unethical and fraudulent recruitment practices. Besides, the pandemic-related health restrictions also triggered higher recruitment fees, while lack of access to redress and justice, lack of awareness and information, and lack of transparency in the recruitment sector continue as before.

Likewise, at the destination countries a good segment of the migrant workers continue to be victims of unethical recruitment. Their personal documents are seized and retained by employers, often their original contracts are substituted by new contracts with lower wages and other entitlements, the migrants work and live in unsatisfactory conditions, they do not make representation to their employers nor are able to seek remedies of their grievances. No less important is the fact that the kafala system restricts the workers' ability to change their employers.

Therefore, to reduce the vulnerabilities of the migrants at home and destinations, there is an urgent need to ensure ethical recruitment process more than ever.

The actors of the ethical recruitment process

In theory recruitment agencies are to play a key role in labour recruitment process for overseas employment. However, in reality it is the sub-agents at the grassroots level who play a major role in linking aspirant migrants with recruiting agencies. In more than eighty percent cases the work visas are secured from private sources and registered recruiting agencies have little engagement with such cases. The Government of Bangladesh (GoB) has been supervising the entire process through the Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) and its line agency the Bureau of Manpower, Employment, and Training (BMET). Furthermore, the Ministry of Foreign Affairs has a role in negotiating bilateral agreements with the labour receiving countries and facilitating regional and global consultative processes such as the Global Compact for Safe, Orderly and Regular Migration (GCM), Colombo Process, Abu Dhabi Dialogue, the Global Forum on Migration and Development and the UN High Level Dialogues. The Ministry of Home Affairs issues passports and offers related services. Both private and public entities are actively involved in the recruiting process.

The role of the actors of the ethical recruitment process

To ensure ethical recruitment, recruiting agencies should provide information about the conditions, facilities and other details pertaining to work before the workers proceed to take up the employment. They should also ensure the facilitation of migration at a minimal cost. Moreover, a written contract should be provided to the migrants providing the details of the work and living conditions, wages and entitlements etc. Failure to provide written contracts is a severe breach of ethical recruitment. That will ensure accountability of the sub-agents and bring to the fore the relationship between them and the registered recruiting agencies. This in turn will also lead to ensure accountability of the recruiting agencies. The government, needs to ensure policy coherence and coordination among its various ministries' agencies that concern the recruitment

¹Overseas Employment and Remittances (1976-2020), BMET <http://rb.gov.bd/1qbpm>

²Overseas Employment in 2020, BMET <http://rb.gov.bd/bkqdu>



process. There is also the need for acknowledging and incentivizing ethical recruiters.

Structural challenges of ethical recruitment

In ensuring ethical recruitment in Bangladesh, we need to address its related structural challenges. The weak enforcement of laws and policies is a major structural challenge in Bangladesh. As stated earlier the unregulated 'sub-agents' is another challenge. The percentage of semi-skilled and lowly skilled workers in the migrant stock with limited ability to protect themselves against unscrupulous agencies is another important structural challenge.

The retention of passport and other identity documents of migrants in destination countries is rampant. Likewise, workers do not always receive their wages and other entitlements on regularly, directly and on time. There is hardly any opportunity for workers to elect their representatives and secure redress for their grievances. Their work and living conditions are not always safe and decent. All these act as hindrance to ethical recruitment practices.

Dhaka Principles for Migration with Dignity*

Core Principle A: Equal treatment and no discrimination

Core Principle B: Protection of Employment Law

General Principles:

1. No fees are charged to migrant workers.
2. All migrant workers' contracts are clear and transparent.
3. Policies and procedures are clear and inclusive.
4. No migrant workers' passports or identity documents are retained.
5. Wages are paid regularly, directly and on time.
6. The right to worker representation is respected.
7. Working conditions are safe and decent.
8. Living conditions are safe and decent.
9. Access to remedy is provided.
10. Freedom to change employment is respected, safe and timely return guaranteed.

* The Dhaka Principles were developed by the Institute of Human Rights and Business and first shared publicly at a migration roundtable in Dhaka, Bangladesh, June 2011 that was co-hosted by RMMRU and subsequently launched on 18 December 2012. The final draft was agreed and endorsed by the Confederation of International Recruitment Agencies (Ciett, now the World Employment Confederation) and the International Trade Union Confederation (ITUC).

Reflections of Key Speakers

Instead of engaging in a blame-game, constructive and participatory approach should be taken in advocating for fair and ethical recruitment.

- Alexis Nadine Bautista, MFA

The migrants pay significant amounts of money to the unscrupulous recruiters and illegal agents to secure jobs abroad which binds them to indebtedness.

- Giorgi Gigauri, Country Head, IOM, Bangladesh

From recruiting agencies to Bangladesh missions in destination countries, all must act coherently and holistically to ensure the ethical recruitment.

- Barrister Shameem Haider Patwary, MP
Chairperson, Bangladesh Parliamentarians' Caucus
on Migration & Development

Fair and ethical recruitment are intertwined; if one is achieved, another will be automatically achieved.

- Shamim Ahmed Chowdhury Noman,
Former Secretary General, BAIRA



Recommendations

- The government must ensure that issuance and renewal of recruiting license be based on merit and performance than other considerations.
- The worker recruitment process should be based on transparent and accountable system so that workers can make an informed choice.
- The sub-agents should be brought under the legal framework and their relationship with recruiting agencies should be made transparent.
- The recruiting agencies should strive to secure work contracts at 'zero' migration cost. The employers should also bear all recruitment fees and costs including mandatory health insurance of workers. During pandemic situations employers should cover all expenses such as quarantine, testing, and vaccination and mandatory health insurance for migrants.
- As skilled workers enjoy relatively higher protection efforts must be made by government to enhance the skills of aspirant migrant workers that match the requirements of demands of destination countries.
- The government should provide clear and accurate information on COVID-19, health protocols required by both origin and destination countries, its related hazards, workplace safety and health during the pandemic, and access to legal remedies for both

- documented and undocumented / irregular migrants.
- The recruiting agencies should frame a code of conduct to ensure ethical and accountable recruitment process.
- The countries of origin and destination need to cooperate to create an enabling environment for development of ethical recruitment of workers.
- Both countries of origin and destination are to ensure that policies, bilateral agreements and MOUs related to recruitment of migrant workers adhere to the ILO General Principles and Operational Guidelines on Fair Recruitment and IRIS Ethical Recruitment.
- Governments should ensure that all migrant workers, including undocumented/irregular workers, have access to legal remedies including for recruitment related violations.

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