



IN-DEPTH STUDY TO ASSESS THE GRIEVANCE MANAGEMENT SYSTEM AND EXPLORE OPPORTUNITIES TO INSTITUTIONALISE THE COMMUNITY RESPONSE

A Socio-Legal Research on Migration Dispute Resolution in Bangladesh

RESEARCH REPORT



Dhaka, Bangladesh

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**In-depth Study to Assess the Grievance Management System
and Explore Opportunities to Institutionalise the Community
Response**

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Dhaka, Bangladesh**

ACRONYMS

AC	Advisory Committee
ADR	Alternative Dispute Resolution
BMET	Bureau of Manpower, Employment and Training
DEMO	District Employment and Manpower Office
DFID	Department of Foreign Investment and Development
FGD	Focus Group Discussion
GMS	Grievance Management System
GMC	Grievance Management Committee
ILO	International Labour Organization
IOM	International Organization for Migration
MEWOE	Ministry of Expatriates Welfare and Overseas Employment
MLAA	Madaripur Legal Aid Association
MoWCA	Ministry of Women and Children Affairs
NGO	Non-Government Organisation
NLASO	National Legal Aid Services Organization
PD	Pre-departure Training
RMMRU	Refugee and Migratory Movements Research Unit
TTC	Technical Training Centre
WARBE	Welfare Association for the Rights of Bangladeshi Emigrants
YVG	Youth Volunteer Committee

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LIST OF POLICY, STATUTES, RULES & CONVENTIONS

Overseas Employment and Migrants Act, 2013 [Bangladesh]

Governs the fair recruitment process, protects migrant workers' rights, preventing fraud and exploitation, grievance redress mechanisms, and reintegration support for returning migrants to promote safe, orderly, and dignified migration.

Overseas Employment and Migrants Management Rule 2017 [Bangladesh]

The rule was established to regulate and facilitate overseas employment and ensure the welfare of migrants. It aims to create a transparent and efficient system for overseas labour migration while safeguarding the rights and interests of migrant workers serving abroad.

Expatriates' Welfare and Overseas Employment Policy, 2016

Focuses on ensuring safe, orderly, and regular migration, and protecting the rights of migrant workers.

The Wage Earners' Welfare Board Act, 2018

Established the Wage Earners' Welfare Board (WEWB) to support and assist Bangladeshi workers abroad and their families.

International Labour Organization (ILO) Conventions:

Bangladesh has ratified several ILO conventions, including:

- **ILO C-97:** Migration for Employment Convention (Revised), 1949.
- **ILO C-143:** Migrant Workers (Supplementary Provisions) Convention, 1975.

Global Compact for Safe, Orderly, and Regular Migration (GCM), 2018:

Bangladesh is a signatory to this non-binding agreement aimed at improving international migration governance.

CHAPTER ONE

ABOUT THE RESEARCH

1.1 Background of the Problem

Bangladesh—a labour-surplus country, plays a significant role in the supply side of the global labour market¹. Since 2000, over 200,000 people have migrated annually from Bangladesh as short-term contract workers, with this number steadily increasing². Notably, in 2007 alone, more than 800,000 individuals migrated to various countries across the globe³. The migration of Bangladeshi labourers, primarily to technologically advanced and economically developed countries, facilitates a valuable transfer of skills, ideas, and knowledge. It also fosters interpersonal networks, which contribute to the economic development of both home and host nations⁴. Remittances, in particular, serve as a critical measure of contribution by the migrant workers to home country development⁵. In 2022, global remittance flows amounted to \$794 billion, with \$626 billion directed to low- and middle-income countries—approximately two and a half times the value of official development assistance to these nations⁶.

Labour migration has been integral to Bangladesh's development strategy since 1976⁷. However, it was only in the late 1990s that successive governments began recognizing the transformative potential of remittances, leading to various reforms in national migration policies. Despite these advancements, migration-related fraud remains pervasive. Every year the country loses nearly 2700 crore taka due to fraud and cheating in migration.⁸ Aspirant migrants frequently fall prey to exploitative practices by local agents and brokers, leaving them

¹ World Bank Group. 'Bangladesh: A Step towards Better Employability' (14 June 2017) <<https://www.worldbank.org/en/news/feature/2017/06/14/a-step-towards-better-employability>> accessed 12 June 2024

² BMET (Bureau of Manpower, Employment and Training). 'Overseas Employment and Remittances (1997-2023)' <old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=16> accessed 10 June 2024

³ ibid

⁴ M. Aslam Chaudhary and S. Near H. Hamden, 'Return Migrants and International Transfer of Technology: A Case Study of Azad, Jammu and Kashmir' (2002) 17(2) *Journal of Economic Integration* 339

⁵ 'Remittances are a private source of capital that's over three times the amount of official development assistance (ODA) and foreign direct investment (FDI) combined. United Nations', see Christine Nesbitt, 'Remittances matter: 8 facts you don't know about the money migrants send back home' (*UN News*, 15 June 2019) <<https://news.un.org/en/story/2019/06/1040581>> accessed 18 May 2024; 'Remittances are more than money: they encompass social capital, objects, ideas, values, and norms. They bring new attitudes toward learning, well-being and health-seeking behavior, gender roles, and political participation.' see also, Silke Meyer, 'Theorizing Remittances — Social Positioning and the Making of Migrant Subjectivity' in Silke Meyer and Claudius Ströhle *Remittances as Social Practices and Agents of Change* (eds), (Palgrave Macmillan 2023)

⁶ World Bank/KNOMAD. 'Remittances Brave Global Headwinds' (2022) 37 *Migration and Development Brief* <https://www.knomad.org/sites/default/files/publication-doc/migration_and_development_brief_37_nov_2022.pdf> accessed 12 May 2024

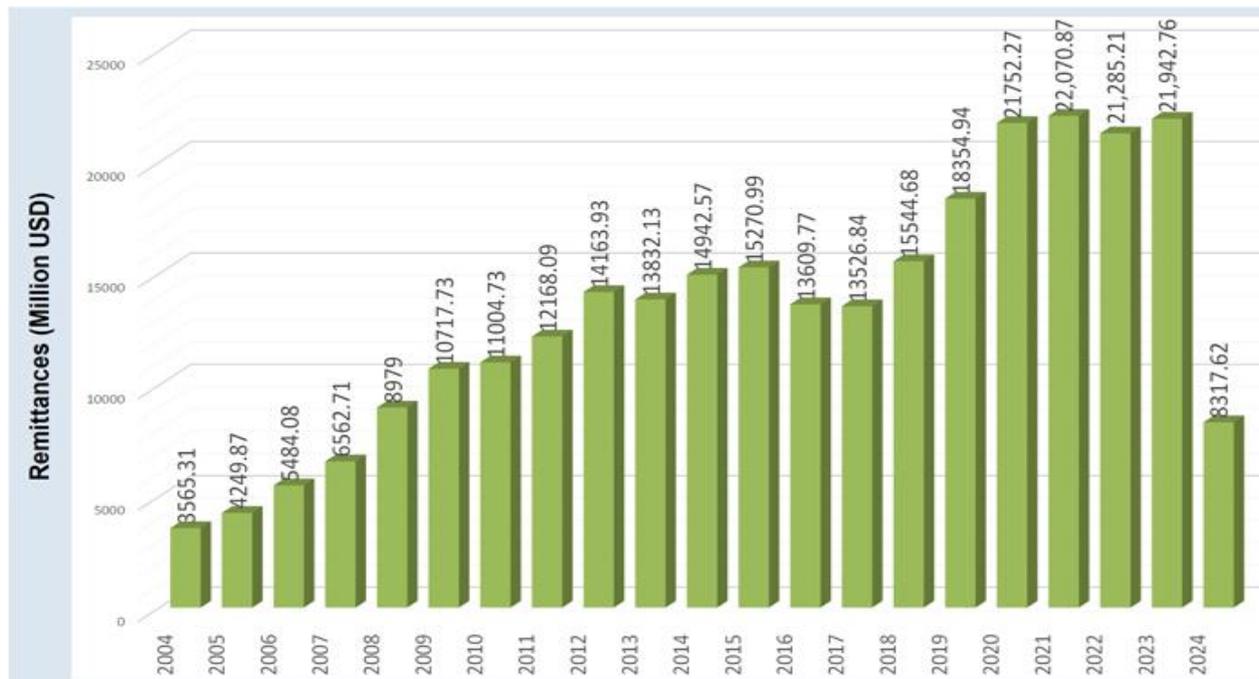
⁷ RMMRU. 'The Case for Ratification: 1990 UN Convention on the Protection of Migrant Workers' Rights' (Policy Brief no 3, Refugee and Migratory Movement Research Unit, 2007) Dhaka, P1.

⁸ Owasim Uddin Bhuyan, 'Bangladesh loses Tk 2,700cr annually due to cheating, fraud in migration' *Business Insider* (Bangladesh, 24 August 2022)

<<https://www.businessinsiderbd.com/economy/news/27186/bangladesh-loses-tk-2700cr-annually-due-to-cheating-fraud-in-migration>> accessed 22 September 2024

vulnerable and often in dire circumstances⁹. A significant policy shift in 2006 resulted in a notable increase in the number of female migrants from Bangladesh¹⁰. Within a decade from 2009 to 2018 the percentage of female migrants to total migrants in Bangladesh raised from 4.67 percent to 13.85 percent.¹¹ While this marks progress toward gender inclusion in labour migration, it also highlights the need for more robust safeguards to protect migrants—particularly women—from exploitation, trafficking, and exploitation abroad. Comprehensive policy measures and stringent regulatory frameworks are essential to ensure that migration serves as a genuine tool for development and empowerment.

Figure 1.1: Increasing trend of overseas workers’ remittance flow, in Bangladesh



Source: BMET, "Statistics: Employment and Remittances (2004- October 2024)." ¹²

In comparison with their male counterparts, female migrant workers, especially those in low-paid, low-skill occupations, are among the most vulnerable groups during their migration tenure, often facing a range of special challenges for decent work and social protection.¹³ These issues include non-payment or irregular payment of wages, as well as physical, verbal, and even sexual exploitation. In many cases, women are compelled to escape abusive employers,

⁹ Sadia Karim, ‘The Plight of Migrant Workers and the Reforms they Need’ *The Financial Express*, (Dhaka, 14 Dec 2021)

¹⁰ RMMRU. ‘Migration, Remittances, and Development’ (Policy Brief no 4, Refugee and Migratory Movement Research Unit, 2008) Dhaka, P1

¹¹ Heila Sha and Mohammad Rashed Alam Bhuiyan, “‘Amar beton khub e kom’: The Role of Commercial Recruitment Intermediaries in Reinforcing Gendered and Racialised Inequalities’ (2022) 5(1&2) *The Journal of Critical Global South Studies* 164

¹² BMET, ‘Overseas Employment & Remittances (1976-2023) ’ <old.bmet.gov.bd/BMET/viewStatReport.action?reportnumber=24

¹³ Mary Romero, and Nancy Pérez, ‘Conceptualizing the Foundation of Inequalities in Care Work’ (2016) 60(2) *American Behavioral Scientist* 172; see also, Janice Joseph, ‘The Plight of Female Migrant Domestic Workers in the Gulf States’ In Mally Shechory, Sarah Ben David and Dan Soen, (eds.) *Who Pays the Price?* (Nova Science Publishers 2010); see more, IOM and CREST, *Addressing Women Migrant Workers Vulnerabilities in International Supply Chains* <<https://roasiapacific.iom.int/sites/g/files/tmzbd1671/files/documents/addressing-women-migrant-worker-vulnerabilities.pdf>> accessed 20 December 2024

only to find themselves in even more precarious situations. Such runaways are often apprehended by predatory groups, exposing them to further exploitation. One earlier study revealed an alarming finding that 90 percent of female domestic workers return with various forms of mental stress or trauma, while another 44 percent of female migrant workers face food, water, and sleep deprivation causing mental disorders along with other physical pain and diseases.¹⁴ Mental stress on physical and sexual exploitation at workplaces may haunt female migrants even long after their return. Such stresses are even exacerbated through social stigma and cause a permanent deprivation of their well-being, if not treated early.¹⁵ A lowered sense of self-worth may lead them to remain silent about the event instead of pursuing justice through available channels.¹⁶

While well-planned recruitment processes could mitigate these hazards, the exploitative practices of unscrupulous, profit-driven manpower sub-agents in Bangladesh perpetuate this vicious cycle of deprivation.¹⁷ Social stigmas, the exorbitant costs of litigation, and the absence of accessible alternative dispute resolution (ADR) mechanisms exacerbate the plight of these migrants, leaving them both economically disempowered and socially marginalized.¹⁸ This highlights an urgent need to develop an effective ADR scheme tailored to resolving migration disputes in Bangladesh.

Given the significant number of labourers migrating from Bangladesh annually, the Bureau of Manpower, Employment, and Training (BMET) shoulders a monumental responsibility. Its mandate includes processing foreign labour demands, identifying new employment markets, regulating private recruiting agents, issuing emigration clearances, and providing institution-based vocational training in employable trades.¹⁹ Despite these extensive duties, BMET is also tasked with resolving disputes when migrant workers are exploited by local agents or overseas employers.²⁰ Therefore, it is often claimed by stakeholders that the centralized BMET dispute resolution system at Dhaka is struggling to meet the demand of a burgeoning number of disputes with an increasing number of migrant workers each year.

The challenges faced by BMET underline the pressing need for a robust, accessible, and cost-effective dispute resolution system. Such a system would not only address the grievances of migrant workers but also institutionalize community-driven solutions to migration-related disputes. This chapter aims to underscore the importance of such an ADR framework,

¹⁴ OKUP, 'Living with Violence: Mental Health Consequences of Women Migrant Workers' (2010) *Migrants' Rights are Human Rights* (Special Issue, 10 December 2021) < <https://www.okup.org.bd/wp-content/uploads/2021/12/Living-with-Violence-Mental-Health-Consequences-of-Women-Migrant-Workers-2.pdf> > accessed 12 December 2024

¹⁵ Ibid; see also, Lawton K. Swan, Martin Heesacker, and Kelly M.King, 'Are some descriptions of psychotherapy perceived as more (or less) stigmatizing than others? A preliminary investigation' (2016) 1(4) *Stigma and Health* 263

¹⁶ Rachel A. DiComo, and Matthew Mychailyszyn, 'The Relationship Between Stigma and Helping-Seeking Behaviors Among Refugee, Asylum Seeker, Immigrant (RASI) Populations Specifically of Muslim Origin' (2021) 15(2) *Journal of Muslim Mental Health* 1

¹⁷ Ashraful Azad, 'Recruitment of Migrant Workers in Bangladesh: Elements of Human Trafficking for Labour Exploitation' (2018) 5(2) *Journal of Human Trafficking* 1

¹⁸ UNRBHR, 'Justice in a Mobile World: Removing barriers to remedy for migrant workers' *Penal Discussion* (online, 25 September 2024) < <https://www.rbhrforum.com/justice-mobile-world> > accessed 30 November 2024

¹⁹ BMET, 'Major Functions' < <https://old.bmet.gov.bd/BMET/aboutAction> > accessed 22 November 2024

²⁰ Aminul Haque Tushar, 'The Migration Grievance Redress Mechanism' *The Financial Express* (Online, 19 January 2019) < <https://thefinancialexpress.com.bd/views/analysis/the-migration-grievance-redress-mechanism-1547821416> > accessed 20 November 2024

addressing a critical gap in the protection and empowerment of Bangladeshi migrant workers, particularly women.

1.2. Rationale of the Study

A detailed analysis of field-level survey data gathered by RMMRU from 5,400 migrant households reveals a concerning reality: half of these labourers reported experiencing some form of fraud during their migration attempts (see Figure 2). This pervasive exploitation highlights systemic vulnerabilities in the migration process and underscores the critical need for comprehensive reforms. To protect migrant workers and uphold their rights, existing dispute resolution mechanisms must be restructured to ensure they are not only accessible but also effective in addressing these systemic challenges. A robust and inclusive framework is essential to dismantle exploitative practices and provide migrant labourers with the justice and support they deserve.

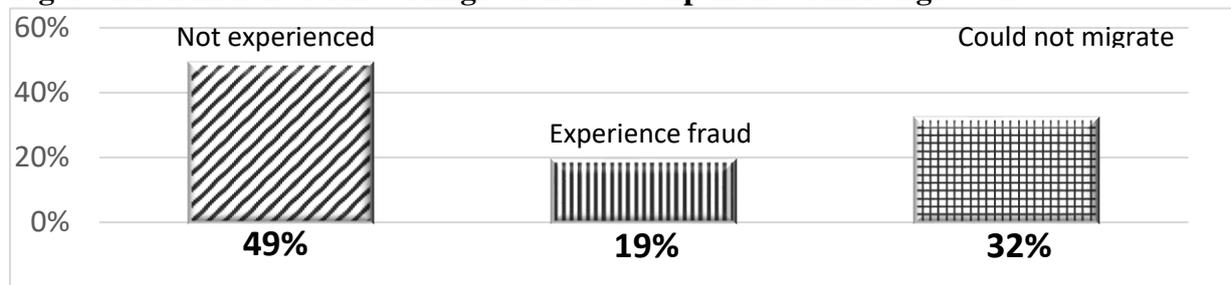
Table 1.1: Resolution of Migration Disputes at BMET, 2022-23

Complaints received	Complaints resolved	Compensation recovered
3044	693 (22.77%)	Tk. 4,30,02,390

Source: BMET Annual Report, 2022-23

The data in Table 1.1 exposes a weaker grievance management system with a very low rate of resolution. This stark contrast underscores a critical shortfall in the formal grievance mechanism established by BMET. While the system may appear robust on paper, its practical reach and impact still remain low. The statistic explored through a RMMRU survey further clarified the issue.

Figure 1.2: Different forms of migration fraud experienced in Bangladesh



Source: RMMRU

Currently, with the absence of any structured framework, migration and overseas employment-related disputes may be resolved in three ways. It could be a formal process through BMET. The ADR process remains formal with BMET, which is a formal authority and conducts arbitration following relevant sections of OEMA 2013 and Rule 2017. BMET may also conduct the mediation in the shadow of the relevant laws mentioned above. However, as indicated in earlier studies, most of the migration contracts in our country are arranged through migration brokers who work at the grassroots level. Therefore, these informal agents may remain out of the purview of a migration dispute resolution system if they cannot be presented before an informal dispute resolution mechanism in their village or other remote areas where it is hard for formal authorities to reach their control.

To address the challenges, RMMRU has developed a community-based grievance management approach titled Grievance Management System (GMS), which incorporates Alternative

Dispute Resolution (ADR) through a three-tier committee structure to resolve migration-related disputes locally. Over the years it has conducted several mediations in three districts of Bangladesh and helped to recover almost 4.5 crore taka for the affected migrants and family members. The BMET also plays a vital role in supporting migrant workers, particularly in grievance management. It has decentralized its grievance management system by extending services to District Employment and Manpower Offices (DEMOs).

By documenting best practices and identifying challenges, this study aims to offer actionable recommendations to improve transparency, accountability, and the overall effectiveness of grievance management and ADR systems for migrant workers in Bangladesh.

1.3 Objectives of the Research

- Examine the strengths and weaknesses of two existing ADR practices of BMET and NLASO.
- Examine the strengths and weaknesses of the mediation practices of WARBE and RMMRU.
- Develop recommendations to improve all types of ADR practices for resolving migration grievances and explore opportunities to institutionalise the community response.

1.4 Scope of the Research Work

The Consultant/Researcher will be responsible for the following tasks.

- **Literature Review:** Examination of ADR practices for resolving migration disputes in Bangladesh and similar contexts worldwide focusing on migrants' legal rights
- **Data Collection and Analysis:** Conduct interviews, focus group discussions, and surveys involving key stakeholders, including GMC members, NLASO, MLAA, BMET, WARBE, and migrant workers. Special attention will be given to gender-specific challenges faced by women and marginalized genders.
- **Sharing Good Practices:** Study grievance management systems in labour-exporting countries, such as Sri Lanka, Philippines, and Nepal, to identify the scope of improvement of grievance management system
- **Evaluation of Local Networks:** Review the operation of arbitration/ mediation networks and analyse grievance reduction impact through RMMRU, WARBE, BMET
- **Suggest Improvements:** Based on Good Practices sharing from Asia recommend the inclusion of other potential stakeholders e.g. NLASO legal aid and MoWCA services to improve the Grievance Management System for Migrant workers in Bangladesh

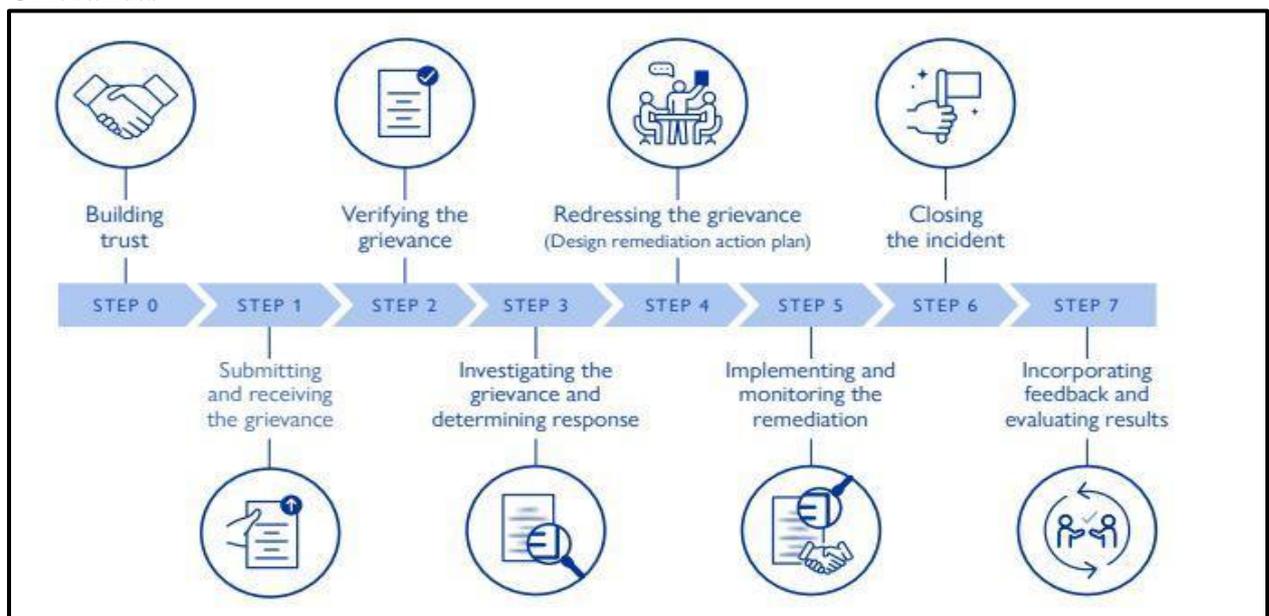
1.5 Research Methodology

This socio-legal research seeks to address the pressing issue of migration disputes by developing effective legal solutions rooted in evidence and practical applicability. To achieve this, a robust mixed-method approach will be employed, combining quantitative and qualitative

insights. Quantitative data, drawn primarily from authoritative sources such as government statistics and published reports, will provide a solid empirical foundation. Additionally, critical insights from unpublished NGO data and Key Informant Interviews will enrich the analysis, provided such information is accessible. For instance, the strengths and weaknesses of the dispute resolution process followed by various government and non-government organizations involved with migration workers will be highlighted by juxtaposing their respective models with the IOM operational guideline for dispute resolution depicted in Figure 1.3.

Qualitative research will delve deeply into existing laws and dispute resolution practices in Bangladesh while exploring innovative ADR models successfully implemented in South and East Asian countries like the Philippines. By leveraging desk reviews, and Key Informant Interviews (KII) with stakeholders this study goes beyond theoretical frameworks to offer actionable recommendations. Though the Madaripur Legal Aid Association (MLAA) is working with community mediation and Village Courts, only less than five percent of total disputes dealt with by MLAA comprise migration issues.²¹ Therefore a detailed MLAA mediation procedure is not discussed in this research. Nevertheless, the successful MLLA mediation model has a close similarity with the RMMRU migration mediation model, as initially, RMMRU built their model as a shadow of MLLA mediation model.²²

Figure 1.3: Operational Guidelines for Businesses on Remediation of Migrant Worker Grievances



Source: IOM, Malaysia, <https://mbhr.iom.int/en/resources/tools/operational-guidelines-businesses-remediation-migrant-worker-grievances>

This comprehensive, multi-layered methodology not only ensures the validity of the research but also positions it as a transformative step towards fair migration practices in Bangladesh. To ensure the findings are both credible and contextually relevant, insights are gathered from ADR practitioners in grassroots organizations, legal scholars, BMET arbitrators, and other

²¹ Jamila A Chowdhury, Phone Interview with Khan Md. Shahid, Chief Coordinator and Mediator (Madaripur Legal Aid Association, 27 January 2025)

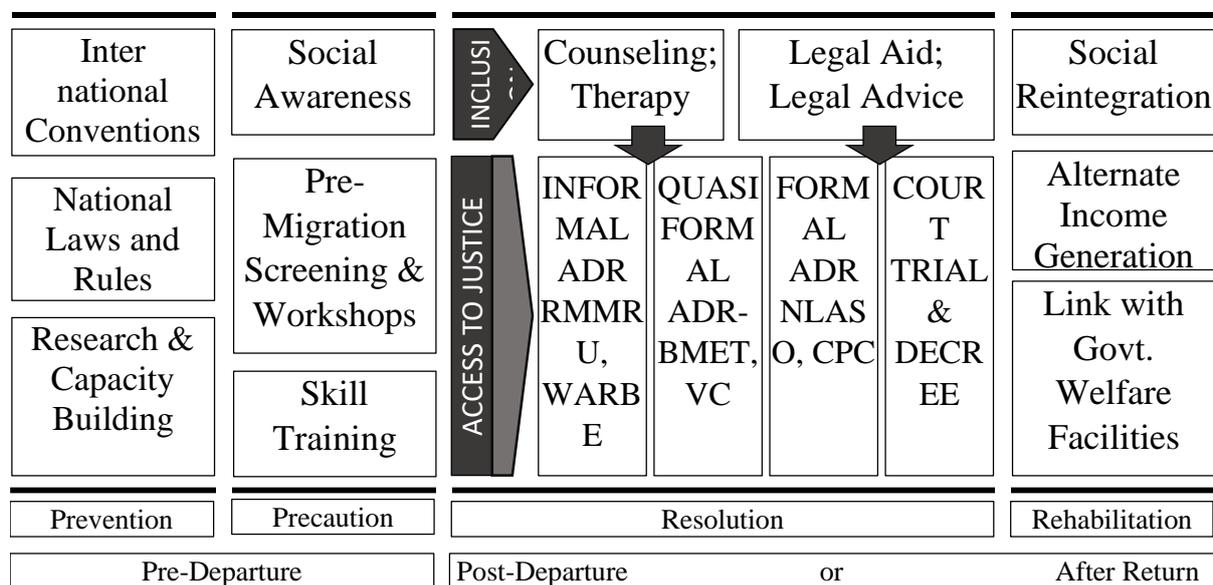
²² Jamila A Chowdhury, Phone Interview with Ms Marina Sultana, Program Director (RMMRU, 25 January 2025); See more, Madaripur Legal Aid Association, *Mediation Manual* (MLLA, March 2004)

government officials involved in migration dispute resolution, and recommendations are made in a way that aligns with Bangladesh’s socio-economic realities.

1.6 Analytical Framework to Assess the Migration Grievance Management System

The Grievance Management System for migrant workers is operated by various government and non-government participants in combination, their respective contributions and strengths and weaknesses are assessed in this study using the analytical framework as shown in Figure 1.4 below. Grievance management typically refers to the process by which an organization addresses complaints or concerns raised by its employees, clients, or stakeholders. These grievances may involve dissatisfaction with working conditions, policies, or management actions, but they do not always escalate into formal disputes. Effective grievance management plays a critical role in preventing conflicts from becoming formal disputes. By addressing concerns early and offering a clear path for stakeholders to express their issues, organizations can often resolve matters before they escalate into major conflicts. However, in this context of migration a Grievance Management System must begin at the pre-departure stage and extend well beyond the workers' return. It continues until meaningful rehabilitation and reintegration’s into society are achieved, ensuring that migrant workers are not only heard but supported in their journey toward justice and social restoration. The purpose is to minimize their grievance as much as possible, not only manage the grievance from escalation.

Figure 1.4: Migration Grievance Management Continuum



The Migration Grievance Management Continuum, as illustrated in Figure 1.4, clearly demonstrates the interconnected roles of government and non-government organisations in fostering a safe migration environment and minimizing fraud and associated grievances among migrant workers. This continuum illustrates that the protection of migrant workers, or aspiring migrant workers, against fraud, is achieved through a robust framework of national and international laws, as well as the promotion of best practices within the sector. Grassroots organizations, along with national and international NGOs, play a pivotal role in pre-departure grievance management through advocacy. Their efforts drive the enactment or amendment of migration laws and the ratification of international conventions that safeguard migrant workers'

rights. Such legal frameworks are instrumental in shielding workers from fraudulent activities or preventing misconduct by recruiting agents, thereby reducing the likelihood of grievances and ensuring a more secure migration process.

The protection of migrant workers from fraudulent activities remains incomplete unless potential migrant workers, particularly those aspiring to work abroad, are fully aware of their rights and equipped with the necessary skills for their employment. Ensuring careful scrutiny of pre-departure documentation is crucial in minimizing fraud and preventing the grievances that often arise while workers are abroad. Without such precautionary measures, poorly crafted migration contracts can entrap workers into inhumane working and living conditions, forcing them to return home prematurely. To mitigate these risks, many organizations conduct pre-departure workshops that educate aspiring migrant workers about their rights, provide emergency contact information, and offer guidance on navigating potential challenges abroad. These proactive, preventive measures at the pre-departure stage are essential in reducing the likelihood of grievances during the migrant worker's time abroad. However, even after their return, unresolved issues may persist unless they are properly addressed through available dispute-resolution mechanisms. Without such intervention, these grievances can continue to affect the lives of migrant workers long after they have returned home.

When returnee migrant workers return to their local communities to reunite with family and friends and share their grievances against migration sub-agents etc., disputes often arise, prompting resolution efforts by grassroots organisations. These initiatives are typically informal, as these organisations are not legally mandated to provide dispute resolution services. However, when these grassroots' efforts fall short, migrant workers can turn to semi-formal or quasi-formal dispute resolution mechanisms, such as the Bureau of Manpower, Employment, and Training (BMET). BMET, which has a legal mandate to resolve migration-related disputes, conducts these resolutions in a more formal setting, but outside the court system. If BMET's efforts prove unsuccessful, workers can seek redress through formal courts, and in some cases, BMET may refer disputes to criminal courts for further trial. Moreover, Section 28 of the Overseas Employment and Migrants Act, 2013 allows aggrieved workers to pursue civil suits under the Civil Procedure Code (CPC), in addition to criminal cases.

However, despite these avenues for resolution, there is no guarantee that aggrieved workers will have access to these forums. Subjective and objective barriers—such as high legal costs, delays in processing, social stigma, mental stress or trauma, and lack of legal aid—often prevent workers from pursuing their grievances. Though counseling service or therapy, and legal advice are provided by a number of NGOs including Ahsania Mission, OKUP, CCDA, and BRAC to physically exploited female migrant workers; this service is not yet institutionalized in the overall grievance management framework, rather provided in an ad-hoc basis. As a result, many issues remain unresolved, leaving migrant workers without proper recourse, and their grievances continue to go unnoticed. The grievances of migrant workers may never be fully resolved, even after exhausting all available forums, if the worker perceives the outcome as unfair. Ultimately, migrant workers migrate with the goal of improving their livelihoods, so rehabilitation efforts must go beyond procedural formalities in the grievance management process. These initiatives need to offer tangible, impactful alternatives that enhance the well-being of returnee migrant workers. This can be achieved through targeted skill training, entrepreneurship development, and direct access to essential government welfare services.

While rehabilitation may not address criminal offenses or provide restitution for personal injustices, it can still play a crucial role in alleviating other civil liabilities and offering a meaningful path toward economic empowerment and social reintegration. By providing workers with the tools they need to rebuild their lives, rehabilitation becomes an integral part of the grievance management process, helping to restore dignity and opportunity to those affected. Therefore, this study, as outlined in the title, focuses on the migration grievance management systems implemented by grassroots organizations. These organizations play a pivotal role in addressing the grievances of migrant workers through various means. However, in line with the specific objectives of the research, an in-depth analysis of the Alternative Dispute Resolution (ADR) systems employed by these organizations forms the core of this study, along with an evaluation of their strengths and weaknesses. This analysis aims to uncover effective practices, identify areas for improvement, and provide recommendations for enhancing the support systems available to migrant workers.

Expected Outcome

- Recommendations to institutionalise migration mediation model within the Village Court
- Recommendations to set a dedicated women-focused mediation mechanism under the Department of Women Affairs, Ministry of Women and Children Affairs
- Recommendations to decentralise the arbitration system of BMET at the community level more effectively
- Policy suggestions aimed at strengthening governance frameworks and accountability mechanisms to institutionalize the community-driven grievance management system

1.7 Structure of the Research Report

The final report, structured into six comprehensive chapters, aims to provide actionable insights into improving the grievance management system for migrant workers in Bangladesh. The introductory chapter sets the stage by addressing the critical gaps in the existing system, underscoring the necessity of fresh research to emphasize stakeholder collaboration for institutionalising community responses and improving the social welfare of migrant workers. It details the research objectives, methodology, and expected outcomes, and ultimately concludes with a roadmap for navigating the report's findings and recommendations.

Chapter Two delves into the current Alternative Dispute Resolution (ADR) practices of BMET, a pivotal player in migration dispute resolution, alongside key organizations like RMMRU and WARBE. By analysing their mediation processes through desk reviews and empirical data, the chapter identifies their strengths and uncovers weaknesses—chiefly, the fragmented efforts that undermine community voice and participation in resolving migration disputes. This sets the stage for a compelling case for a more unified approach to resolving migration disputes in Bangladesh.

To address these challenges, Chapter Three proposes pathways for embedding community responses into the dispute resolution process. Drawing from successful examples within Bangladesh and across Asia, it offers a robust theoretical and practical framework for institutionalizing these efforts. The chapter culminates in a suggested model for an effective National Referral Mechanism, ensuring community voices are systematically integrated into the dispute resolution ecosystem.

Recognizing the interplay between grievance management and dispute resolution, Chapter Four shifts the focus to factors that inhibit migrant workers from engaging in the process. Issues

such as social stigma, economic barriers, and gendered power disparities are critically examined, supported by insights from countries like Sri Lanka, the Philippines, and Vietnam. This chapter highlights innovative tools and strategies to overcome these challenges, paving the way for a more inclusive and effective system.

Building on these insights, Chapter Five explores the integration of NLASO and MoWCA activities into the grievance management framework. It emphasizes the long-term destabilizing effects of unresolved grievances and discusses the transformative potential of incorporating these mechanisms into the system. The chapter also considers the challenges and implications of such an integration, offering a nuanced perspective on its feasibility and impact.

Finally, the report concludes with a forward-looking integrated model to institutionalize community-driven grievance management. Chapter Six presents recommendations that include embedding migration mediation within Village Courts, decentralizing BMET's arbitration processes to community levels, introducing women-focused pre-mediation support under the Ministry of Women and Children Affairs, and strengthening governance frameworks through need analysis, capacity assessment, and developing a theory of change. These policy suggestions are designed to not only address current gaps but also establish a sustainable, accountable, and inclusive grievance management system for migrant workers in Bangladesh.

By weaving together practical recommendations, theoretical insights, and cross-country comparisons, this report aspires to redefine how migration-related grievances are managed, fostering more resilient and institutionalized community involvement in the migrant workers' dispute resolution and grievance management process.

CHAPTER TWO

Unfrtsnfng The Context: Prevailing Adr Practices Under the Grievance Management System for Migrant Workers in Bangladesh

2.1 MIGRANT WORKERS' GRIEVANCE MANAGEMENT SYSTEM IN THIS STUDY

The grievance management system for migrant workers in Bangladesh involves a collaborative effort between various government, non-government, and international partner organizations, all working toward the ultimate goal of maximizing the welfare of migrant workers by minimizing grievances throughout the migration process. Among the numerous government ministries and departments engaged in labour migration, the Bureau of Manpower, Employment, and Training (BMET) under the Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) stands out as the key organization leading practical changes in this sector. Within the NGO and civil society sector, a few key partners, such as the Refugee and Migratory Movement Research Unit (RMMRU) and WARBE play a central role in addressing migrant worker grievances, and their activities are highlighted in this study. While these two organizations are emphasized, it is important to acknowledge that the contributions of other similar organizations also remain crucial to the ongoing development of the migration sector in Bangladesh. As discussed in Chapter One, while the overall Grievance Management Systems (GMS) of various key stakeholders are detailed in this chapter, the primary focus is on the Alternative Dispute Resolution (ADR) systems employed by these organizations. As discussed in Chapter One, ADR is a part of GMS and the success of ADR and GMS are interlinked. This study delves into the strengths and weaknesses of these ADR systems, providing a comprehensive analysis of how they impact the grievance management process and contribute to the broader goal of safeguarding migrant workers' rights and welfare. Further, though this study analysis touched the base of network activities between international organizations with grassroots NGOs, a detailed discussion on the impact of such activities on grievance management remains out of the scope of this assignment.

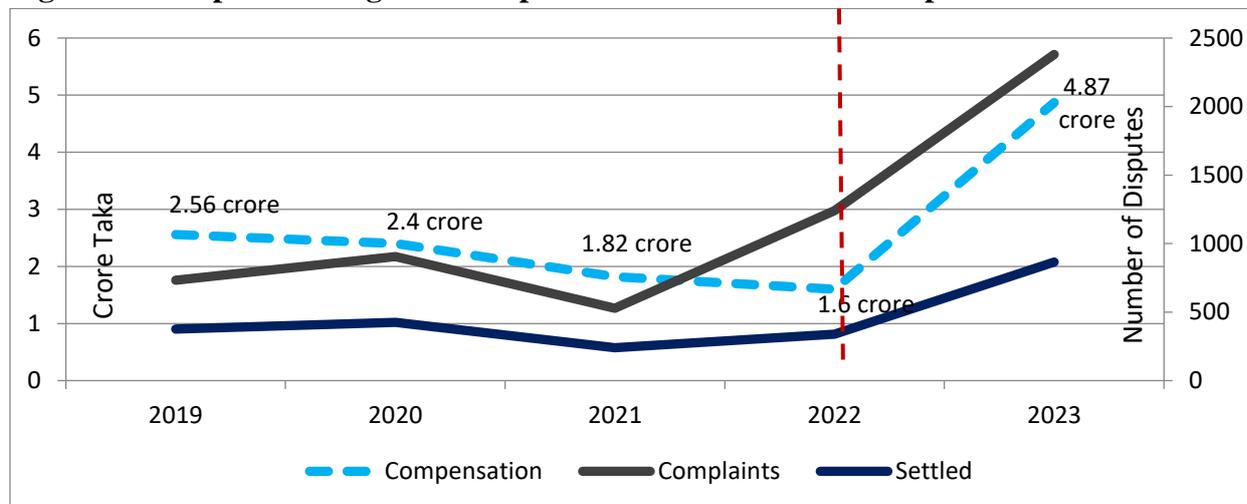
2.2 BMET—A FORMAL AUTHORITY FOR ENSURING MIGRANT WORKERS' WELFARE IN BANGLADESH

The Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) is the key government wing to take care of migrant workers and their welfare issues in Bangladesh. Nevertheless, at present the ministry remains the ultimate authority for planning and implementation of fair migration policies while BMET remains a key implementing agency of MoEWOE to oversee, regulate, and implement ministerial policies in this regard. Therefore, receiving complaints and resolving migration-related disputes are also part of the functions conducted by BMET.

BMET was established as an attached department of the then Ministry of Manpower Development and Social Welfare in 1976. The Government of the People's Republic of Bangladesh established BMET to recruit and send migrant workers overseas. At present, BMET is engaged in the overall planning and implementation of the strategies for regulating the migration process, promoting migrant workers' rights and skill development proper

utilization of migrant workers of the country. It is contributing immensely to the government services for migrant communities, job seekers, and other stakeholders.

Figure 2.1: Disposal of Migration Disputes and Realization of Compensation at BMET



Considering the number of labourers who migrate from Bangladesh each year, the volume of work performed by BMET is enormous. This bureau is assigned to processing foreign demands for Bangladeshi workers, seeking prospective labour markets for Bangladeshi workers, and regulating and monitoring private recruiting agents. It also controls and holds emigration clearance for recruited workers in overseas employment, providing institution-based vocational and technical training in different employable trades. Over and above, the agency is still assigned to resolve disputes when migrant labourers are deprived by their local migration agents or overseas employers.

As demonstrated in Figure 2.1 above, both the number of migration-related complaints and the amount of compensation realized through the BMET dispute resolution process increased over the year. For instance, as depicted in the right vertical axis the number of complaints received by BMET increased from a value below 800 to around 2400 in 2023. Against this threefold increase in the number of complaints received at BMET, the amount realized through BMET dispute resolution over the years also increased more than proportionately. As indicated in the left vertical axis, the amount realized increased from 2.56 crore in 2019 to 4.87 crore in 2023. This positive trend sets in especially after 2022. A closer look however indicates that the number of unresolved pending cases is also increasing at BMET. However, one major limitation of BMET resolution of migration disputes is that the rules of disposal and their respective authorities are clearly defined and remain very brief.²³ Therefore, in this chapter, we have suggested some possible improvements in the BMET dispute resolution system and possibilities for close cooperation with other civil service organizations dealing with similar disputes in Bangladesh. A similar has been urged by IOM in 2020.²⁴

Under the current legal framework in Bangladesh migration and overseas employment-related disputes in Bangladesh may be resolved in three ways. It could be a formal process through BMET. The ADR process remains Quasi-formal with BMET, which has the legal authority to resolve migration labour disputes following section 41 of OEMA 2013 and rule 15 of the

²³ IOM, Bangladesh ‘THE IMPLEMENTATION OF BANGLADESH’S OVERSEAS EMPLOYMENT AND MIGRANTS ACT OF 2013 AND THE PREVENTION AND SUPPRESSION OF HUMAN TRAFFICKING ACT OF 2012’ Policy Brief (January 2020) <<https://publications.iom.int/system/files/pdf/policy-brief-on-eoma.pdf>> accessed 20 November 2024

²⁴ *ibid*

Overseas Employment & Migration Management Rules 2017. Further, though there is no formal framework for involvement yet BMET may collaborate with other NGOs and civil society organizations involved in the informal resolution of migration disputes. It may also recourse to other quasi-formal processes such as Village Courts or NLASOs to accelerate the dispute resolution process and enhance community justice against migration frauds before advising clients to file cases in the relevant subordinate courts of Bangladesh. All these possibilities and their possible linkages will be discussed in this chapter.

2.2.1 Alternative Dispute Resolution (ADR) for Migrant Workers at BMET

BMET in Bangladesh has a dispute resolution process to address conflicts or grievances arising in the context of migration, particularly regarding overseas employment. This mechanism is designed to protect the rights of migrant workers and ensure accountability from recruitment agencies and other stakeholders involved in the migration process. The process is designed to provide a legal and structured mechanism to help migrant workers seek justice or appropriate compensation. BMET dispute resolution process starts with receiving complaints from defrauded or aggrieved migrant labourers and ends with a follow-up of the resolved disputes.

a) Filing of Migration Related Complaints at BMET

According to Section 4.1 of the Overseas Migration and Employment Act 2013, *any victim may file a complaint along with other allegations to the Government against any person including a recruiting agent for fraud, receiving money illegally, or violation of the employment contract.* Section 2.9 of the Overseas Migration and Employment Act 2013 further defined fraud as *to deceive induce or mislead by deliberate or irresponsible speech, action, conduct, written agreement, or document as to an event or law, and any deception caused based on the willingness of the deceptor or any other person and includes the expression "fraud" as is defined in section 17 of the Contract Act, 1872 (Act No. IX of 1872)²⁵.* Moreover, according to Section 22(2) of the Overseas Migration and Employment Act 2013 *the recruiting agent shall be deemed to be the representative of the foreign employer, and the recruiting agent and the employer shall be jointly and individually responsible for the contractual obligations.* Section 29(3) imposes an additional responsibility on recruiting agents that *if a migrant worker is in distress due to negligence or illegal activities of a recruiting agent, the Government may direct the concerned recruiting agent to bear the cost of repatriation of the emigrant worker.*

Therefore, issues of complaints to BMET may include

- Fraudulent and unethical recruitment practices
- Breach of contract by recruitment agencies or overseas employers
- Failure to provide promised salaries, benefits, or working conditions,
- Any exploitation, harassment, abuse, or misconduct experienced, especially by the female worker, during their stay abroad

²⁵ According to Sec 17 of the Contract Act 1872 "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:-

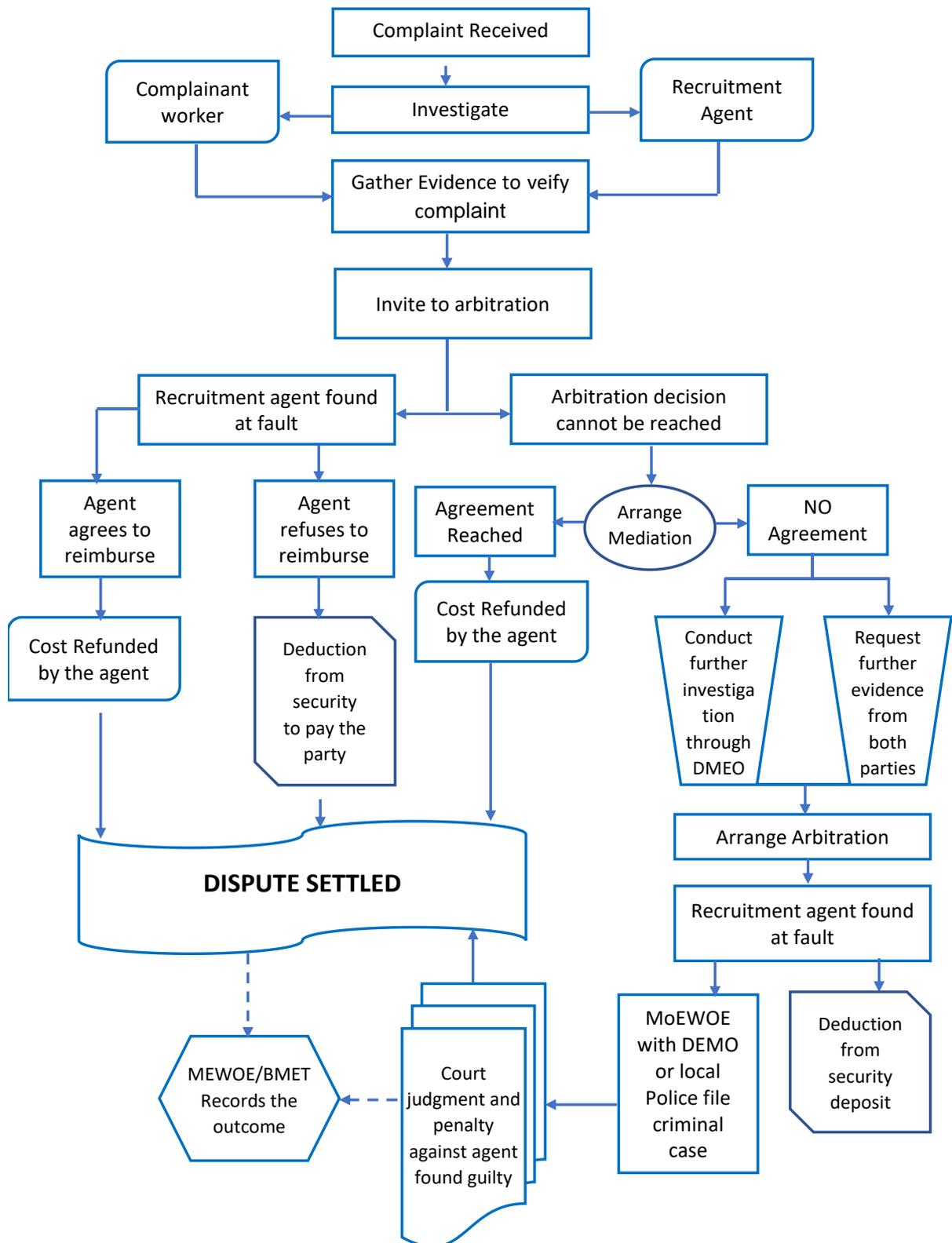
- (1) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
- (2) the active concealment of a fact by one having knowledge or belief of the fact;
- (3) a promise made without any intention of performing it;
- (4) any other act fitted to deceive; and
- (5) any such act or omission as the law specially declares to be fraudulent.

Migrant workers can lodge complaints at BMET offices, overseas welfare desks, or online platforms. Once a complaint is received the further task is to investigate the matter and verify documents to check the genuineness of the complaint.

b) Preliminary Investigation and Documentation Review: While filing a complaint aggrieved person has to submit a number of documents such as a Copy of a National ID or Passport for identification, an Employment Contract as proof of employment, Visa, NOC or Work Permit (if applicable), any correspondence with the employer or recruitment agency e.g. emails, letters, audio/video recording, etc., any proof of payment or remittance i.e. evidence of financial transactions with the agent or agency, and Police reports or legal documents (if the complaint involves criminal issues). Upon receiving a complaint, BMET carries out a preliminary investigation to verify the worker's claims. BMET may contact the recruitment agency, foreign employers, or relevant stakeholders to gather information and confirm the nature of the dispute. It reviews the migrant worker's contract, recruitment documents, and other evidence to determine whether the employer or recruitment agency has violated any legal or contractual obligations. If a violation is found, BMET can proceed with further steps to resolve the issue.

c) Dispute Resolution through Arb-Med-Arb at BMET: The Overseas Migration and Employment Act 2013 briefly discussed the dispute resolution process to be followed in resolving disputes between a recruitment agency and its agent. According to Section 41 of the act for any fraud committed by the recruiting agent, receiving money illegally, or violation of the employment contract an aggrieved worker may file a complaint to the Government. As the Government authorized BMET to deal with such complaints, BMET is the government authority that takes the initiative to resolve such complaints.

Figure 2.2: BMET Dispute Resolution Process



According to Section 41(2) and 41(3) of the Overseas Migration and Employment Act 2013, BMET has to *complete an investigation of any complaint within 30 days of its receipt* and has to *settle the complaint through arbitration or directly through executive order within 3 months from the date of completion of such investigation.*

As indicated in Figure 2.2 above, once preliminary investigation indicates the cognizable grounds for lodging a complaint, BMET proceeds with an invitation of arbitration to both the aggrieved worker and the concerned agent. Such arbitrations are usually held at the BMET office in Dhaka. If the arbitration tribunal finds a recruiting agent guilty of committing fraud or receiving money illegally it may order the agent to reimburse the money taken illegally or fraudulently from the aggrieved worker. As mentioned earlier, making such an order is permitted under Section 41.3 of the Overseas Migration and Employment Act 2013. A dispute is settled if the concerned agent agrees to reimburse accordingly. According to Rule 11.5 of the *Foreign Employment and Migrant (Recruiting Agent License and Conduct) Rules, 2019* recruiting agents shall abide by the arbitration decision made under Section 41.3 of the Act mentioned above. Therefore, in cases, where recruiting agents refuse to pay, BMET may deduct the required money from the security deposit maintained by recruiting agents during their registration.

However, if due to lack of evidence or otherwise any dispute cannot be resolved through arbitration BMET may invite the disputant parties to settle amicably through mediation. The dispute is settled once an agreement is reached through mediation and the amount is reimbursed by the recruiting agent to the aggrieved migrant worker. However, if parties fail to reach an agreement through mediation, BMET arranges further rigorous investigation through the District Employment and Manpower Office (DMEO) at the concerned district and asks parties to submit further evidence (if required) based on the Bureau inviting parties to attend a final award arbitration. If the arbitral tribunal finds a recruiting agent guilty, the required amount for reimbursement is deducted from their security deposit. According to Section 3 of the *Overseas Migration and Employment (Amendment) Act 2023* any penalty not less than Tk.50,000 and not greater than Tk. 200,000 may be imposed on a recruiting agent guilty of committing such an offense in violation of Rule 11 of the *Overseas Employment and Migrant (Recruiting Agent License and Conduct) Rules, 2019*. However, in case of criminal matters BMET along with the Ministry of Expatriate's Welfare and Overseas Employment (MoEWOE) file cases against concerned recruiting agents or transfer the complaint to the local police station for filing a police case. According to Section 41.1 of the *Overseas Employment and Migration Act 2013* aggrieved parties also have a right to file cases in a court even though their complaints are dealt with through BMET arbitration. Once the court judgment arrives, BMET or MoEWOE records the outcome for further reference.

2.2.2 Strengths and Weaknesses of BMET ADR Practices

The foremost strength of BMET ADR rests with its formal authoritative position having the power to sanction deviant recruitment agents causing problems to aggrieved migrant workers. In certain cases, it has the power to recommend a suspension or cancellation of a license to recruiting agents. Therefore, migrant agents have a tendency to abide by the fair arbitral awards made by it. The authoritative position also creates a positive assurance in the minds of aggrieved migrant workers who may attend arbitration or mediation to resolve their disputes through BMET. As Bangladeshi people belong to a high-context, high-power-distance society they are culturally prone to accept arbitration awards coming from a government authority like

BMET. Further, the Arb-Med-Arb formation of the BMET dispute resolution process ensures higher flexibility and more party control on the outcome than using arbitration as a standalone technique to resolve disputes. The opportunity of BMET to conduct a field-level investigation through DMEOs adds further possibility to derive more informed and fair decisions through the BMET ADR process. Other procedural advantages include the online receipt of applications that can be accessed by migrant workers even from abroad. A complaint can be submitted by the aggrieved worker or anyone on behalf of him/her.

However, the major limitation of the BMET ADR process is its lack of formal linkage with informal mediation held at the local level. For instance, if any community mediation is conducted by RMMRU or any other local NGO there is no enforceability of such mediation agreements and aggrieved migrant workers have to file a fresh complaint to BMET, in cases where alleged migration agents are not willing to abide by the decision made through community mediation. It causes delay and a possibility of constrained justice as the community people who may participate in grassroots mediation and assist the aggrieved workers to justify their claims through testimony may not be allowed or able to attend BMET mediation held at Dhaka. On the other hand, even if BMET can file cases in formal court against migration fraudulence experienced by migrant workers, respective workers may not be in a position to carry on such cases due to their weaker socio-economic condition and lack of access to legal aid. Nevertheless, the grievance may continue in a covert form.

2.2 RMMRU—A Policy Research Institute for Enhanced Welfare of Migrant Workers at the Grassroots Level

Refugee and Migratory Movements Research Unit, popularly known as RMMRU is a prominent research and advocacy organization based in Bangladesh. It specializes in issues related to migration, displacement, and refugee populations. Established in 1995, RMMRU operates as a center under the University of Dhaka, blending academic research with practical initiatives to address the challenges of migration and human mobility. In 2006, RMMRU got directly involved in providing services at the grassroots. Since then, it has been operating in 27 districts. It is delivering 26 types of services in different project areas. Besides policy research and publications, RMMRU is also actively involved in policy advocacy and played a pivotal role in shaping migration-related policies in Bangladesh including the drafting of the Overseas Employment and Migration (Amendment) Act 2023. The organization also provides training and carry-on awareness programs for government officials, NGO activists, and aspirant migrants to promote fair migration in Bangladesh.

According to RMMRU research, 51% of migrant workers or aspirant migrant workers in Bangladesh face various fraudulence consequences from migration agents or their local sub-agents. To address the challenges, RMMRU has developed a community-based grievance management approach titled Grievance Management System (GMS), which incorporates Alternative Dispute Resolution (ADR) through a three-tier committee structure to resolve migration-related disputes locally. Over the years it has conducted several mediations in three districts of Bangladesh and helped to recover almost 3.4 crore taka for the affected migrants and family members. The BMET also plays a vital role in supporting migrant workers, particularly in grievance management. It has decentralized its grievance management system by extending services to District Employment and Manpower Offices (DEMOs).

2.3.1 The RMMRU Approach to Migration Grievance Management: RMMRU contributes to all stages of migration grievance management as depicted in Figure 1.4. RMMRU (Refugee and Migratory Movements Research Unit) has made significant contributions to the field of migration research and advocacy since its establishment.

a) Research, Advocacy, and Capacity Building: The think tank has conducted over 100 original research studies, with around 25 of them being published as books. In addition, RMMRU has produced 52 working papers, 12 annual migration trends reports, 19 occasional papers, and 37 policy briefs on migration, along with 8 additional policy briefs focusing on climate change and migration. The research findings from these studies have been vital in driving policy advocacy to improve the welfare of migrant workers.

A standout achievement of RMMRU was its pivotal role in the development of Bangladesh's Overseas Employment Policy in 2006, making Bangladesh the first country in South Asia to develop such a policy. RMMRU's advocacy efforts also led to the Prime Minister of Bangladesh advising the Ministry of Expatriates' Welfare and Overseas Employment (EWOE) in 2019 to provide identity cards to sub-agents, a campaign that the organization had long championed. In a related vein, RMMRU contributed to the passing of the Overseas Employment and Migrants (Amendment) Bill, 2023 as well as develop the rules for Sub-agents under this act. The think tank has also developed various strategic documents for key organizations such as BMET (Bureau of Manpower, Employment, and Training), WEWB (Welfare and Employment of Bangladeshi Workers), and BOESL (Bangladesh Overseas Employment and Services Limited), contributing to the improvement of labour migration systems in Bangladesh. RMMRU's contributions extend to empowering female migrant workers. Since the lifting of the ban on female migration in 2003, over 918,000 women have sought overseas employment, with their percentage share in the total migration flow increasing from less than 0.5% before 2003 to 13.6% in 2019. RMMRU has been instrumental in advocating for policies that enable and support female migration.

The organization also focuses on capacity building, organizing numerous training programs for stakeholders such as government officials, journalists, and grassroots NGO staff. In addition to this, RMMRU has trained around 1,200 bank officials to improve their services to migrants. The think tank has also been a key player in developing online complaint mechanisms and arbitration models to help migrant workers seek justice.

b) Social Awareness, Training, and Verification of Pre-departure Documents: One of RMMRU's most impactful innovations is the creation of the Migrant Rights Protection Committee (MRPC), a community-based initiative at the union level. The MRPC plays a vital role in empowering migrant workers and their families by disseminating critical information, enhancing knowledge on safe migration practices and remittance management, and actively working to reduce vulnerabilities. The committee raises awareness through a variety of engaging methods, such as courtyard meetings, *haat sabha*, miking, rallies, street theater, video screenings, and the distribution of leaflets. By 2021, approximately 1,000 community members were actively involved in MRPCs, demonstrating the broad reach and influence of this initiative. MRPC members have become key advocates for migrant rights at the grassroots

level, supporting migrants with essential services such as securing passports, verifying visas, registering for jobs at the DEMO office, opening bank accounts, and assisting with migration loan processing. This hands-on support fosters greater access to resources and opportunities for migrant workers, ensuring their rights are protected.

RMMRU's media presence has also been a powerful tool in advocating for migrant rights, particularly through its live TV program *Obhibashir Adalat* (Migrant's Court). This program offers crucial legal advice and solutions to migrant workers, having aired 120 episodes as of January 2025 and successfully addressed over 2,300 migrant grievances. Further, the Legal Cell of RMMRU provides legal counseling and aid when the issue remains unresolved through their community migration effort. Through its innovative approaches, RMMRU continues to be a driving force in promoting the rights and well-being of migrant workers.

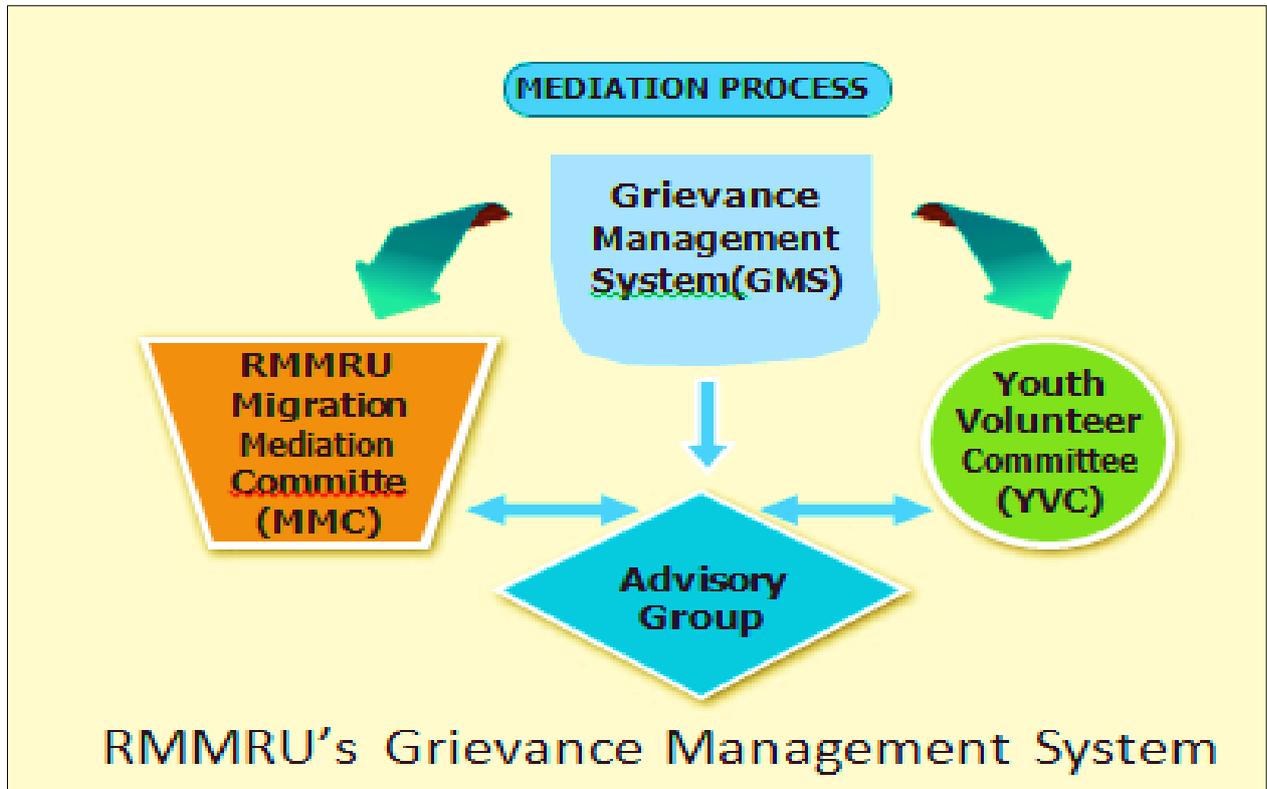
c) Alternative Dispute Resolution through Community Mediation: The Youth Volunteer Group of RMMRU assists aggrieved migrant workers in filing complaints to get migration mediation support for RMMRU. A detailed process of the RMMRU migration mediation model and its strengths and weaknesses will be discussed in the next two sections. The organization also refers migration disputes to BMET, files cases in courts, and provides legal counseling as required.

d) Emergency Support and Rehabilitation: In addition to its impactful research and policy initiatives, RMMRU runs a Migrant Service Centre (MSC) in Dakshinkhan, Dhaka, offering critical services such as emergency shelter, medical care, legal assistance, and reintegration support to returned migrants, particularly those who have experienced abuse or trauma. The MSC's role became even more vital during the COVID-19 pandemic, as it ensured that returnee migrants received immediate, comprehensive support during a time of widespread uncertainty and hardship. RMMRU further strengthened its support system with the establishment of a Legal Support Cell in 2018, which has proven essential in providing timely legal assistance to migrant workers in distress. In 2020 alone, RMMRU reached over 200,000 individuals—including migrant aspirants, returnees, and left-behind family members—offering them emergency assistance, vital information, referrals, legal support, and counseling services. This extensive reach highlights RMMRU's unwavering commitment to the well-being and rights of migrant communities, providing them with the resources needed to overcome challenges and rebuild their lives.

Through its research, policy advocacy, training programs, and direct services, RMMRU remains a pivotal force in the comprehensive grievance management of migrant workers. From preventing grievances before they arise to facilitating the successful reintegration of prematurely returned migrants into their communities, RMMRU ensures that migrant workers receive the full spectrum of support needed to address their challenges. This holistic approach not only empowers migrant workers but also fosters a more sustainable and supportive environment for their long-term well-being and integration.

2.3.2 Alternative Dispute Resolution Process through Tier GSM: RMMRU has developed a three-tier dispute resolution system known as the Grievance Management System (GMS) to settle disputes of migration workers at the grassroots level.

FIGURE 2.3: RMMRU Grievance Management System (GSM)



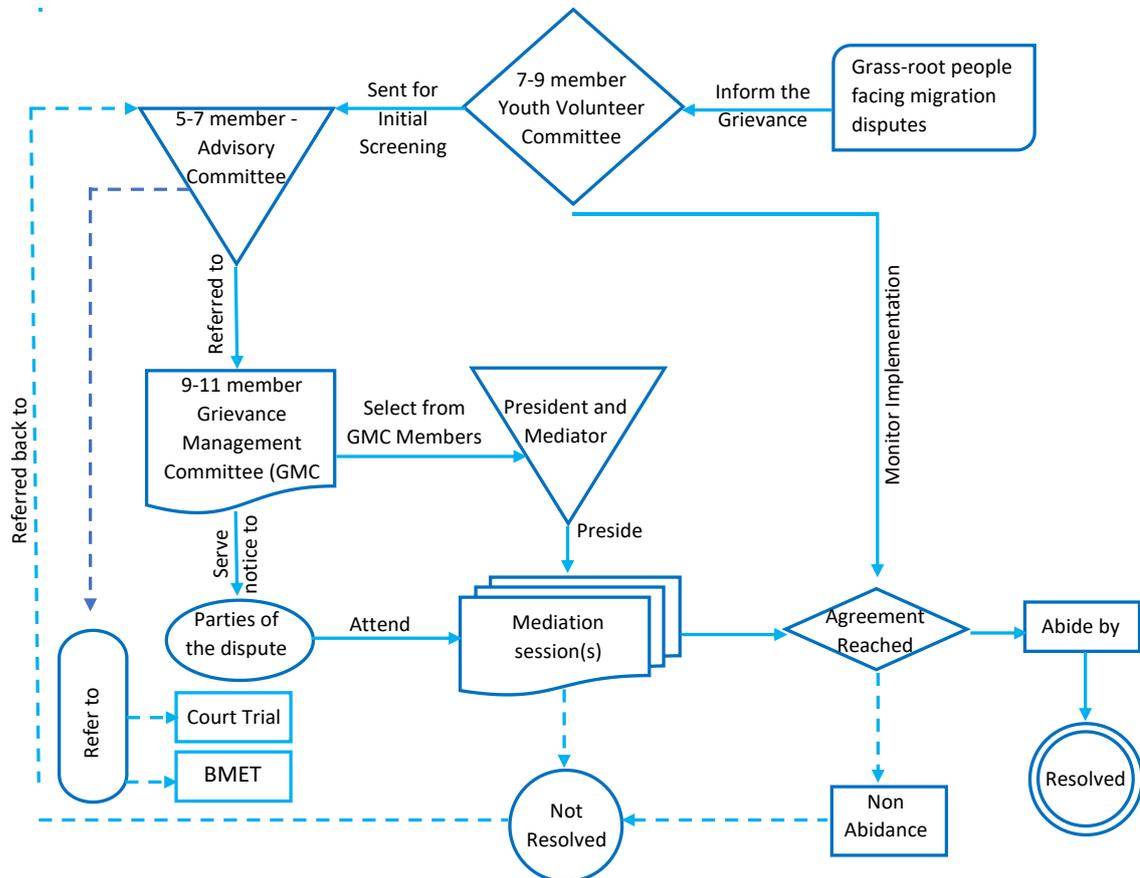
Source: Sumaiya Khair, *Migration Disputes Mediation Manual* (RMMRU, 2007)

a) Complaints Received by the Youth Volunteer Committee: RMMRU operates the GMS to effectively resolve disputes related to migration fraud and other associated issues through a structured mediation process. This comprehensive mediation is carried out in three distinct stages, ensuring that each case is handled with thoroughness and attention to detail. The process begins when the Youth Volunteer Committee (YVC) receives complaints about migration fraud from grassroots communities. These complaints are then forwarded to the Advisory Committee (AC) for careful scrutiny. The YVC, made up of dedicated volunteers aged 15 to 25, not only plays a crucial role in collecting and submitting these complaints but also takes responsibility for post-mediation follow-up activities, ensuring that resolutions are upheld and further issues are addressed. Once the AC has conducted an initial review and is satisfied with the merits of the case, it issues a formal notice to each member of the Grievance Mediation Committee (GMC), providing them with detailed information about the dispute. This process ensures that the GMC is fully informed and prepared to engage in mediation, facilitating a fair and informed resolution.

b) Dispute Resolution through Grievance Mediation Committee: The GMC at RMMRU is made up of 9 to 11 highly diverse members, including local government representatives, local leaders, and community members of the local community. This includes key figures such as

local government officials, local leaders, social workers, and business leaders, teachers etc. This diversity ensures that a broad range of perspectives and expertise are brought to bear on each case.

Figure 2.4: RMMRU Migration Mediation Model



When Youth Volunteer Corps (YVCs) submit a migration-related complaint to the GMC, the committee promptly issues a notice to the involved parties, requiring them to attend a mediation session. The notice also specifies the time, date, and venue for the meeting, ensuring transparency and clarity in the process. As shown in Figure 3.1, at the start of each mediation session, the GMC appoints a chairperson from among its members and designates another member to facilitate the mediation. During the session, the mediator plays a critical role in explaining the relevant laws to help the parties fully understand their legal rights and responsibilities. The mediator also ensures that both parties have the opportunity to present their case, submit supporting evidence, and engage in a constructive dialogue. This process empowers the parties to work towards a mutually acceptable solution, fostering understanding and collaboration in resolving their disputes.

c) Further Referral for Unresolved Disputes: The mediator offers additional time if parties are struggling to reach a consensual resolution to their dispute. Should the issue remain

unresolved, the mediator escalates the matter to the Advisory Committee (AC) for further action. As the highest authority in the RMMRU GMS process, the AC plays a critical role in ensuring fair and informed decisions. Comprised of 5 to 7 distinguished individuals with extensive experience and expertise in dispute resolution and migration, the AC members representing of District Employment and Manpower Office (DEMO), Technical Training Centre (TTC), Journalists, and Lawyers are highly educated, each holding at least a graduate degree. In contrast to the GMC, the AC brings a level of knowledge and authority that is vital for resolving complex matters. Upon referral by the GMC, the AC carefully reviews all documentation related to the dispute. If necessary, the AC can escalate unresolved issues to court or the Bureau of Manpower, Employment, and Training (BMET) based on the parties' requests. This rigorous process guarantees that disputes are handled with the utmost professionalism and thoroughness, ensuring fair outcomes for all involved.

2.3.3 Strengths and Weaknesses of the RMMRU ADR Practices

As discussed, the RMMRU GMS model works to bridge the gaps between migrants' needs and institutional responses, supporting migrant communities through more accessible access to justice at their doorsteps. However, as far as the Grievance Management and Dispute Resolution are concerned it is important to have a clear distinction between these two for understanding the strength and weakness of RMMRU mode within its capacity. Briefly speaking, a grievance is a form of dissatisfaction due to perceived unfair treatment or violation of rights. In response to their grievance, a person may or may not raise a complaint, however, the grievance continues. For instance, women may have grievances against domestic violence but may keep silent without making any overt complaint to others. Grievance detected at the early stage may also be resolved internally. On the other hand, a dispute is an escalated form and a more active and ongoing disagreement that usually requires negotiation, mediation, or legal action to resolve. Therefore, considering the nature of migration disputes managed by RMMRU and the method of resolution applied this section discusses the strengths and weaknesses of the RMMRU dispute resolution model. A more detailed discussion on Grievance Management and further doings required for effective grievance management of migrant workers is discussed in Chapter Four.

As RMMRU strives to resolve migration disputes at the grassroots level without having any formal authority and not following any legally defined procedure the dispute resolution by RMMRU falls in the realm of informal ADR. Nevertheless, the first and foremost strength of the RMMRU Mediation model is its attachment to that grassroots level that allows the organization to collect authentic firsthand information about a dispute from its inception through YVC up to the final disposal through AC. Further, the community mediation model applied by RMMRU empowers deprived migrant workers who may attend mediation sessions with their peer group to testify too many unwritten agreements and financial transactions that generally take place in our social settings. Once again the high power distance culture in our society bestows a general agreement towards the mediation agreement made under the guidance of socially dignified members of the GMC.

Nevertheless, there is no guarantee that both parties, especially the socially and politically powerful migration agents/sub-agents would abide by the agreement made through RMMRU mediation that does not have any legal enforceability. Therefore, in cases where any of the

parties abstain from abiding by the mediation agreement, the aggrieved parties need to file a fresh complaint and are not able to bring all the evidence generated through community mediation conducted at the grassroots level. Due to their poor socio-economic condition, migrant workers may not be able to file further complaints to BMET or civil and criminal courts. Therefore, the grievance may continue in the form of a covert dispute. Although RMMRU puts hard effort into detecting and resolving migration-related disputes, due to its limited resources the ability to track the long-term outcomes and sustainability of its interventions may be limited. Without continuous monitoring, it can be difficult to assess whether the mediation efforts are truly improving migrants' lives in a lasting way.

2.4 WARBE- An Association of Returned Migrants for Advocating and Protecting Migrants' Rights

The WARBE Development Foundation (Welfare Association for the Rights of Bangladeshi Emigrants) is a prominent non-profit organization in Bangladesh dedicated to promoting the rights of migrant workers and fostering safe migration practices. Starting its operation informally in Saudi Arabia in 1986 WARBW was established as a welfare organization in Bangladesh in 1987 by returnee migrant workers, WARBE primarily operates at the grassroots level to address migration challenges and advocate for migrants' welfare.²⁶ Considering the different geographical contexts and migration trends, WARBE Development Foundation exponentially started its grassroots-level activities in eleven districts. Having its central office located at New DOHS, Mohakhali, Dhaka WARBE has 11 MISC (Migration Information and Support Centers) in 11 districts.²⁷ Following the return of migrant workers either through the regular course of a contract or due to forced eviction or hardship WARBE provides support for community reintegration through livelihood training, counseling, and legal aid. The organization also provides legal counseling and provides arbitration services to migrants and their families.

2.4.1 The WARBE Approach to Migration Grievance Management: WARBE plays a significant role in migration grievance management, particularly in cases involving recruitment malpractice, wage disputes, and abuse or exploitation in host countries. Unlike RMMRU most of the activities of WARBE DF are concentrated on the prevention of grievance at the pre-departure stage including the promulgation of national laws and policies for labour migration, social awareness on safe migration, and training to prospective migrants on workable skills, and cost-benefit analysis for migration. Once a dispute is received at WARBE, the organization tries to resolve it through arbitration. However, if sufficient supporting documents are not

²⁶ WARBE Development Foundation, 'about WARBE' (WARBE, 2023) <<https://warbe.org/about/history/1>> accessed 3 January 2025

²⁷ Information shared during the KII at WARBE head office in Mohakhali, Dhaka on 9 January 2025; specific work areas of WARE are located at Sreepur Centre at Gazipur, Dohar Centre at Dhaka, Naria Centre at Shariatpur, Keraniganj Centre at Dhaka, Bandar Centre at Narayanganj, Rupsha Centre at Khulna, Sadar Centre at Rangpur, Sadar Centre at Comilla, Muktagacha Centre at Mymensing, Sadar Centre at Bramhanbaria, Gouronodi Centre at Barishal, Rupganj Centre at Narayanganj, Sadar Centre at Norshindi, Fultala Centre at Khulna, Mithapukur Centre at Rangpur, and Sadar Centre at Tangail. See, Abdul Awal (ed), 'UN Convention on the Protection and the Rights of All Migrant Workers and Members of their Families' (Bengali Translation, Warbe Development Foundation, 2012)

available, WARBE arranges mediation to attain an amicable solution. To resolve disputes WARBE forms Grievance Management Committees comprising 12 members comprising of UP Chairman, UNO, retired principal, headmaster, media personality, Advocate, NGO worker, Human rights activists, returnee migrants, magistrates, and any eligible female UP member. Though WARBE DF does not have a rigorous dispute resolution system for migrant workers like RMMRU, it provides legal aid advice to migrant workers and their families and has an information-sharing program with law enforcement agencies to ensure fair treatment and access to justice for deprived migrant workers. These services are often facilitated through their Migration Information Support Centers (MISCs), which operate in multiple districts of Bangladesh.

a) Advocacy and Capacity Building for Safe Migration: WARBE Development Foundation serves as a powerful advocacy group championing safe migration and the rights of migrant workers in Bangladesh. To amplify the voices calling for safe migration practices and the welfare of migrant workers WARBE has made significant contributions to migration governance in Bangladesh, such as helping establish the Migrants' Welfare Bank, securing mandatory pre-departure training for migrants, and raising awareness about the voting rights of migrants. Furthermore, its advocacy was instrumental in the national recognition of December 18th as International Migrants Day, a milestone achieved in 2008.

A key focus of WARBE's capacity-building efforts is training local government representatives, particularly Union Parishad Chairmen and members. As the lowest administrative tier directly serving the community, Union Parishads play a crucial role in addressing community-based issues, including migration. By equipping local government bodies with knowledge and awareness about migration, WARBE ensures that they can more effectively govern and plan for their communities. As a result, local authorities are becoming increasingly aware of migrant issues and are more committed to supporting both current and prospective migrants with accurate information about safe migration practices.

b) Pre-departure Training and Meeting: Besides awareness campaigns, WARBE Development Foundation is committed to empowering prospective migrants through its comprehensive, three-day pre-departure training programs, which are held periodically. These training sessions are designed for individuals who are either planning to migrate or are in the process of completing emigration and overseas employment procedures. The goal of these training sessions is to provide participants with essential knowledge and practical guidance on various aspects of migration. Topics covered include safe migration practices, identifying and avoiding recruitment agency malpractices, understanding financial costs and risks, the benefits of migration, navigating administrative procedures, as well as adapting to living and working conditions in foreign countries. Additionally, the training addresses the crucial aspect of reintegration into the community upon returning.

The Ministry of Expatriates Welfare and Overseas Employment (MEWOE) of Bangladesh has recognized and approved the Pre-departure Training (PT) curricula and materials developed by WARBE, validating the foundation's commitment to delivering high-quality, reliable training to migrant workers. This endorsement underscores the credibility and relevance of WARBE's

programs, which ensure that participants are well-prepared for their migration journey. To further enhance the support for potential migrant workers, WARBE also offers vocational training programs in high-demand skills such as electrical and equipment installation and handicraft production. These programs provide valuable alternatives for those seeking additional livelihood opportunities or aiming to build skills that can be useful both abroad and at home.

WARBE does not offer pre-departure document-checking services, it rather organizes pre-decision meeting at the field level, engaging at least 25 participants. These sessions serve as an essential platform for providing detailed, practical information on how to safely navigate the migration process. The meetings focus on helping participants make well-informed decisions on whether to migrate or not, minimizing the risks and challenges associated with migration, and preventing potential grievances.

c) Debt Dispute Resolution through Community Mediation: Fair resolution of disputes can reduce or in ideal cases relieve the grievance from the mind of aggrieved migration workers. WARBE, however, does not take part in resolving migration disputes caused by fraudulent transactions or false promises made by local sub-agents, etc. through arbitration or mediation. Instead, WARBE has a program for debt dispute resolution for migrant workers in Bangladesh. Nevertheless, WARBE works closely with the national police force to share information about migration frauds at the community level and also invests in the capacity building of government officials dealing with labour migration and other relevant issues.

2.4.2 Strengths and Weaknesses of the WARBE ADR Practices

The strength of WARBE's migration grievance management system lies in its rigorous approach, focusing on both grievance prevention and protection. Through active engagement in national and international advocacy, WARBE works to create a safe migration environment by promoting legal and institutional reforms. These efforts help prevent fraudulent and illegal activities, safeguarding migrant workers and aspirants from the grievances that often arise from such practices. In addition, WARBE plays a pivotal role in raising community awareness about migrant workers' rights and providing essential skill training to prospective migrants. These initiatives protect not only the individual workers but also the broader community, preventing them from falling prey to fraudulent or illegal migration schemes often perpetrated by local sub-agents. By equipping workers with the knowledge and skills needed to navigate the migration process safely, WARBE ensures they can perform their jobs effectively while abroad, reducing the likelihood of exploitation or abuse.

CHAPTER THREE

Institutionalising Community Responses on Migration Dispute Resolution in Bangladesh

3.1 Institutionalising Community Responses on Migration Dispute Resolution

3.1.1 Institutionalisation—Meaning and Process

Institutionalization refers to the process by which a practice, norm, behavior, or system becomes embedded, standardized, and accepted within a specific organization, culture, or society.²⁸ It transforms informal or ad-hoc procedures into formal and structured practices that are consistently followed over time.²⁹ Institutionalization ensures stability, continuity, and legitimacy for policies, behaviors, or practices,³⁰ making them less dependent on specific individuals or transient conditions.

Institutionalization occurs through deliberate efforts to integrate practice into the fabric of an organization or society.³¹ Though this research may provide a guideline or roadmap of how community responses can be institutionalized in the dispute resolution process of migrant workers in Bangladesh, the following steps need to be followed to make it effective and sustainable in the long run. These are,

- a) **Establishing Clear Goals and Values:** For effective institutionalisation of any concept or idea into practice an organization has to clearly define the purpose, principles, and outcomes that the institutionalized practice or system seeks to achieve. It must be aligned with the broader mission or vision of the organisation;
- b) **Developing Formal Policies and Procedures:** We need to document our rules, guidelines, and standards that govern institutionalised practice. For better results, we need to create protocols that specify how the practice should be carried out consistently;
- c) **Providing Training and Awareness:** The real beneficiaries or stakeholders, in this case, the migrant worker community needs to be aware of the importance and expected outcome of such institutionalisation. Relevant stakeholders, in this case, BMET officials, RMMRU mediators, and village court members should get adequate training to make sure everyone involved understands their roles and responsibilities properly;
- d) **Securing Leadership Commitment:** Leaders in a sector that goes through institutionalizing some practice must get support from policymakers and endeavour to set examples and provide necessary resources to make the process successful.

²⁸ Adesina Osho, Iyalla Essien-Abasi, and Felix Ekweli, 'Institutionalization: A Contemporary Perspective of the Old and New Institutionalism for Managers' (2018) 5(2) *International Journal of Healthcare Sciences*, 624; see also, Andrew Whitworth, *Radical Information Literacy* (Chandos Publishing 2014)

²⁹ Ibid, Osho, Abasi and Ekweli

³⁰ Pamela S. Tolbert, Robert J. David, and Wesley D. Sine, 'Studying Choice and Change: The Intersection of Institutional Theory and Entrepreneurship Research' (2011) 22(5) *Organization Science*, 1332

³¹ Erica Wiseman, 'The Institutionalization of Organizational Learning: A Neoinstitutional Perspective' (Learning Fusion Conference, University of Warwick, 2007)

<<https://warwick.ac.uk/fac/soc/wbs/conf/olkc/archive/olkc2/papers/wiseman.pdf>> accessed 12 January 2025

e) **Embedding the Practice into Organizational Structures:** To monitor the institutionalization process an organization must assign accountability to individuals to oversee its execution and integrate the process in the organizational workflow.³²

f) **Creating Supportive Cultures:** To attain a good pace in the institutionalization process an organization shall create an environment where the practice of such institutionalisation is valued and encouraged. The required behaviour may be promoted through incentives, recognitions, and sanctions;³³

g) **Implementing Mechanisms for Monitoring and Evaluation:** To follow up the institutionalization process an organization must regularly **review and adapt the system based** on feedback and changing circumstances.

h) **Ensuring Sustainability:** To make an institutionalization effort sustainable means to make it resilient to leadership changes, resource variations, or external disruptions. Further, to build institutional memory through documentation and knowledge-sharing.³⁴

By following these steps, organizations or societies can ensure that practices or systems become enduring, integral parts of their operation or culture.

3.1.2 Community Involvement in Migration Dispute Resolution

In Bangladesh, community-based approaches to resolving migration-related disputes have emerged as a powerful tool to combat pressing challenges such as debt bondage, migration fraud, and social tensions between host communities and migrants.³⁵ These grassroots responses, rooted in the social capital migrant workers build within their communities, offer a formidable shield against fraudulent migration brokers (*dalals*) and other intermediaries who often occupy positions of significant power in rural society.³⁶ Reports from various national and international organizations highlight several promising areas for intervention³⁷, including:

- a) mediating debt disputes for returnee migrants,
- b) addressing fraud in migration processes,
- c) fostering social cohesion between host communities and returnee migrants, and
- d) raising awareness and providing training for better migration management.

These efforts have proven vital in enabling migrant workers to secure fair justice and reclaim their rights to fair migration.

³² Easy Sociology, 'Institutionalization: An Overview' (Easy Sociology, 7 September 2024) <[³³ LynneG. Zucker, 'Institutional theories of organization' \(1987\) 13 *Annual Review of Sociology* 443](https://easysociology.com/general-sociology/institutionalization-an-overview/#:~:text=Organizational%20institutionalization%20refers%20to%20the%20process%20through%20high,and%20structures%20become%20standardized%20and%20embedded%20within%20organizations.> accessed 20 December 2024</p></div><div data-bbox=)

³⁴ *ibid*

³⁵ Sumaiya Khair, *Migration Disputes Mediation Manual* (Refugee and Migratory Movements Research Unit, RMMRU 2017, 7)

³⁶ Nicola Nixon, 'Going legitimate? Tackling migration scams in Bangladesh' (*From Poverty to Power*, May 15, 2024) <[³⁷ RMMRU, 'Corruption behind shrinking overseas labour market' \(The Daily Star, Dhaka, 29 December 2024\) < \[Page 31\]\(https://www.thedailystar.net/top-news/news/corruption-behind-shrinking-overseas-labour-market-3786786> accessed 2 January 2024; see also, IOM, World Migration Report 2024 \(UN Migration 2024\)</p></div><div data-bbox=\)](https://frompoverty.oxfam.org.uk/going-legitimate-tackling-migration-scams-in-bangladesh/> accessed 5 January 2025</p></div><div data-bbox=)

For instance, the International Organization for Migration (IOM) has spearheaded initiatives to support returnee migrants burdened by debt incurred during migration.³⁸ Many migrants in Bangladesh take out loans from local moneylenders, often pledging their land as collateral, which exposes them to the risk of debt bondage and forced labour.³⁹ To tackle this issue, the IOM, in collaboration with the Government of Bangladesh and Civil Society Organizations, has focused on building capacity to manage these financial liabilities, facilitating the reintegration of returnees into society with dignity and stability. WARBE DS, a community-based national NGO is also working on debt mediation for migration workers. Similarly, the Refugee and Migratory Movement Research Unit (RMMRU) has introduced mediation programs aimed at resolving cases of migration fraud. These initiatives provide an accessible and effective mechanism for addressing disputes, empowering migrants to challenge fraudulent practices and claim justice.

Along with the disposal of migration-related disputes, local NGOs and community-based organizations play an indispensable role in formulating Bangladesh's migration policies, extending their reach to potential migrants. These organizations also educate potential migrants and their families about the social and economic dimensions of migration, guide them in navigating the migration process safely, and offer training on effective remittance management. Collectively, these efforts enhance grievance management by equipping prospective migrants with the knowledge and resilience to face future challenges, identify and counteract migration fraud, and access justice when needed.

Therefore, institutionalizing community responses within the dispute resolution process can mitigate power disparities, enhance inclusion, and provide robust evidence to support migrant workers in claiming fair justice. Through community organizations deal with varieties of migration-related issues, focusing on alternative dispute resolution (ADR) mechanisms primarily for addressing migration fraud, and debt management this research seeks to explore how strengthening the GMS on migration and institutionalizing community responses in ADR Bangladesh can build a more equitable system and a just society that upholds the rights and dignity of its migrant population.

3.2: Approaches to Institutionalise Community Responses in the Migration Dispute Resolution Process—Experience in Bangladesh and Sharing Lessons from India

3.2.1 The Bottom-UP Approach to Integrate Community Responses

As community responses stem from grassroots levels, their integration into dispute resolution processes inherently suggests a bottom-up approach. This assumption holds true when organizations like the Refugee and Migratory Movement Research Unit (RMMRU), which operates at the grassroots level, receive complaints of migration fraud and address them through community mediation. In these mediations, community members often participate voluntarily, offering their voices or free testimonies to uphold justice for their peers. This participatory mechanism not only fosters local empowerment but also reinforces social solidarity. However, as discussed in Chapter Two, there are instances where RMMRU cannot resolve disputes through community mediation alone. In such cases, they refer the unresolved

³⁸ Ibid, 254

³⁹ ICT Division, 'Post-COVID-19 ICT Roadmap: The Labour Migration and Remittance sector' (Government of Bangladesh, nd) <
http://ictd.portal.gov.bd/sites/default/files/files/ictd.portal.gov.bd/page/6c9773a2_7556_4395_bbec_f132b9d819f0/ICT%20Roadmap_two-pager_The%20Labour%20Migration%20and%20Remittance%20sector%20%281%29.pdf> accessed 22 December 2024

disputes to the BMET, a formal authority at a higher tier of the dispute resolution hierarchy. This referral demonstrates a *bottom-up approach*⁴⁰, wherein grassroots efforts are escalated to formal institutional mechanisms when the community or organizations like RMMRU lack sufficient control over a fraudulent migration agent.

Despite this promising synergy, the process remains informal and unstructured, as no standardized method or legal mandate exists for transferring cases from RMMRU to BMET. Even when unresolved disputes are referred by RMMRU to BMET, the absence of a formal linkage forces BMET to begin the process from scratch, rendering all the efforts invested by RMMRU and the community through previous mediation attempts futile. Moreover, many community members who participated in these mediations may face significant challenges in traveling to BMET's office in Dhaka, leading to the loss of crucial community input. This issue is particularly concerning as many migration transactions are conducted in cash, without proper documentation. In such cases, the testimony and involvement of community members are essential to ensure that justice is fairly served. Therefore, institutionalizing this process, along with a sharing of evidence generated through grassroots mediation, would drastically improve the effectiveness of ADR by formally recognizing the vital contributions of grassroots voices in resolving migration disputes. Such a shift would foster a more inclusive and effective approach to migration justice, benefiting all parties involved.

Another notable example of a *bottom-up approach* in Bangladesh is the resolution of rural disputes through village courts, as established under the Village Courts Act 2006. These five-member ad-hoc tribunals address petty civil and criminal offenses, with monetary penalties capped at Tk 300,000. The composition of village courts includes the Union Parishad (UP) Chairman, two UP members (one selected by each party), and two additional members chosen by the parties from among their friends and families. These courts serve as open forums, allowing some integration of community responses into their decision-making process. Moreover, if a party found at fault fails to comply with the court's decision, the UP Chairman can recover the due amount as an arrear in UP tax and transfer it to the aggrieved party. For further recourse, the aggrieved party can appeal to the Assistant Judge courts in their respective jurisdictions.

While village courts provide a platform for community participation, their quasi-formal structure imposes some degree of procedural barriers that may inhibit free and spontaneous expression. This contrasts with the more informal and flexible community mediations conducted by RMMRU, where participants can voice their concerns openly. Despite these limitations, village courts represent a critical opportunity to institutionalize community engagement in dispute resolution, bridging the gap between grassroots initiatives and formal legal frameworks.

⁴⁰ “A bottom-up approach to conflict resolution might shift the focus from divisions that increase conflicts to identifying commonalities and connectors among communities that promote peace”, see, ACCORD, ‘Bottom-up approaches to peace: a holistic approach to conflict prevention and peace building’ (Conflict & Resilience Monitor, 20 December 2021) < <https://www.accord.org.za/analysis/bottom-up-approaches-to-peace-a-holistic-approach-to-conflict-prevention-and-peacebuilding/>> accessed 12 December 2024; “This perspective appreciates that peace is not a top-down, one-size-fits all policy or outcome, but rather an emergent result of exercising diverse micro-level skills that need to be continually discovered, cultivated, and adapted through time. This view elevates the individual as the central source of peacemaking. It emphasizes cooperative power through horizontal relationship between equals as compared to coercive power via the vertical relationships that define top-down peacemaking.”, see also, Christopher J. Coyne , ‘Peacemaking: Top-Down vs. Bottom-up’ (2023) GMU Working Paper in Economics 23-42, 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4566357> accessed 22 December 2024

Therefore, to fully realize the potential of *bottom-up approaches* in resolving migration-related disputes, there is a pressing need to institutionalize mechanisms that integrate community responses into formal systems. Establishing structured protocols for collaboration between grassroots organizations like RMMRU and formal authorities such as BMET or village courts can ensure a more equitable, accessible, and effective dispute resolution process. By doing so, Bangladesh can harness the power of its communities to uphold justice and address the power imbalances that often undermine the rights of vulnerable populations.

3.2.2 Resolving Disputes under the Village Courts Act 2006: A Bottom-up Approach

The formal court system in Bangladesh is grappling with an overwhelming backlog of approximately half a million pending cases⁴¹. This daunting caseload renders access to justice a distant dream for countless citizens, particularly those who cannot afford the prohibitive costs of litigation or navigate the intricate formal legal processes.⁴² Many of these disputes, often straightforward in nature, could be resolved more effectively and affordably at the local level.

To address this critical challenge, the Ministry of Local Government Division of Bangladesh, in collaboration with the UNDP and the European Commission, has launched an innovative initiative titled Activating Village Courts in Bangladesh. The [Local Government Division] LGD has been leading the activation of Village Courts in new 3041 UPs and providing support to maintain VCs in the 1,416 UPs already activated under pilot and second phases of the project.⁴³ Complementary motivation programs will also raise public awareness about the benefits of the local justice system, fostering trust and participation at the grassroots level.

Moreover, the enactment of the Village Courts Act 2006 has further reinforced the integration of Alternative Dispute Resolution (ADR) into the local justice framework, making justice more accessible, inclusive, and efficient. Hence, this section delves into the critical aspects of village courts—an indispensable component of Bangladesh’s statutory local justice system. By shedding light on this quasi-formal ADR mechanism, it seeks to enhance readers’ understanding of how the existing grassroots initiatives to resolve migration disputes may fit into the quasi-formal structure of village courts.

a) Constitution of Village Courts

The Village Courts Act 2006 outlines the structure and mandate for establishing village courts in Bangladesh. Unlike formal courts, which are presided over by a single judge, village courts follow a traditional *shalish* model where a panel of jurors, who are not legal experts but community members, decides disputes. Each village court is constituted separately for each case. Aggrieved parties may apply to the Union Parishad (UP) Chairman for the establishment of a village court within 30 days for criminal matters or 60 days for civil disputes. Once approved, a village court is constituted with five members including the UP Chairman, and four members nominated by the parties in dispute, with two members selected by each party.⁴⁴ One member selected by each of the parties must be a UP member unless waived by the

⁴¹ Supreme Court of Bangladesh, *Annual report of the judiciary, 2007* (Supreme Court of Bangladesh, 2008, 85)

⁴² Jamila A Chowdhury, ‘ADR Theories and Practices: A Glimpse on Access to Justice and ADR in Bangladesh’ (4th Edition, London College of Legal Studies (South) 2022, 182)

⁴³ UNDP Bangladesh, ‘Activating Village Courts in Bangladesh Phase III’ (UNDP, 1 July 2022) <<https://www.undp.org/bangladesh/projects/activating-village-courts-bangladesh-phase-iii>> accessed 12 December 2024

⁴⁴ Village Court Act 2006, sec 5(1)

Chairman.⁴⁵ If the parties cannot agree on nominees, the Chairman has the authority to make the decision. The court can still function if a member is absent⁴⁶, and the Chairman may be replaced if biased or unavailable.⁴⁷

b) Operation of Village Courts

The village court can try petty criminal and civil matters, with the authority to order compensation or penalties not exceeding 300,000 taka. It can also order the return of movable or immovable property if the value does not exceed this Tk. 300,000 limit.⁴⁸ Though the term migration disputes is not specifically mentioned in the act, according to the 1st schedule of the Act “*any lawsuit for the recovery of dues based on any contract, receipt, or document*” can be dealt with by village courts.⁴⁹ Therefore, migration disputes can be brought under the purview of this Act as far as payments are made against a receipt or contract, etc.

Though not operating like other formal courts, village courts can issue summons for witnesses and documents, though certain exceptions apply, such as for confidential government documents or individuals living far from the court's jurisdiction, unless expenses are covered.⁵⁰ In comparison with other formal courts village courts follow a simplified process, exempting some formalities including the following.

- Physical appearance may be waived under specific conditions
- Confidential documents are exempt from submission
- Summons may not be issued if unreasonable costs or delays are expected

Further, village courts are exempt from the formal rules of evidence under the Evidence Act 1872, and the provisions of the Penal Code, CPC, and CrPC.⁵¹ Lawyers are also restricted from representing parties, ensuring direct communication between juries and disputing parties.⁵² Hence, besides grassroots initiatives, this can be one additional forum to institutionalise grassroots initiatives and make the consensual agreements binding and enforceable with a minimum of time, effort, and money.⁵³

3.2.3 A Top-Down Approach to Integrate Community Responses: The Indian CPC in Perspective

An alternative yet contrasting approach to attain grassroots justice is the *top-down approach*⁵⁴, wherein a formal authority refers disputes to a lower tier for resolution. This method ensures a low-cost, more accessible mechanism for resolving disputes at the community level. As illustrated in Figure 3.1, an exemplary model can be found in the Indian Code of Civil Procedure (CPC), which allows courts to delegate disputes to lower-tier institutions, such as Lok Adalats or other appropriate bodies. *Lok Adalats* in India function similarly to Village

⁴⁵ *ibid*, sec 5(4)

⁴⁶ *ibid*, sec 5(5)

⁴⁷ *ibid*, sec 5(2)

⁴⁸ *ibid*, Schedule I

⁴⁹ *ibid*, sec 3(1)

⁵⁰ *ibid*, sec 10

⁵¹ *ibid*, sec 13

⁵² *Ibid*, sec 14

⁵³ *Ibid*, sec 12

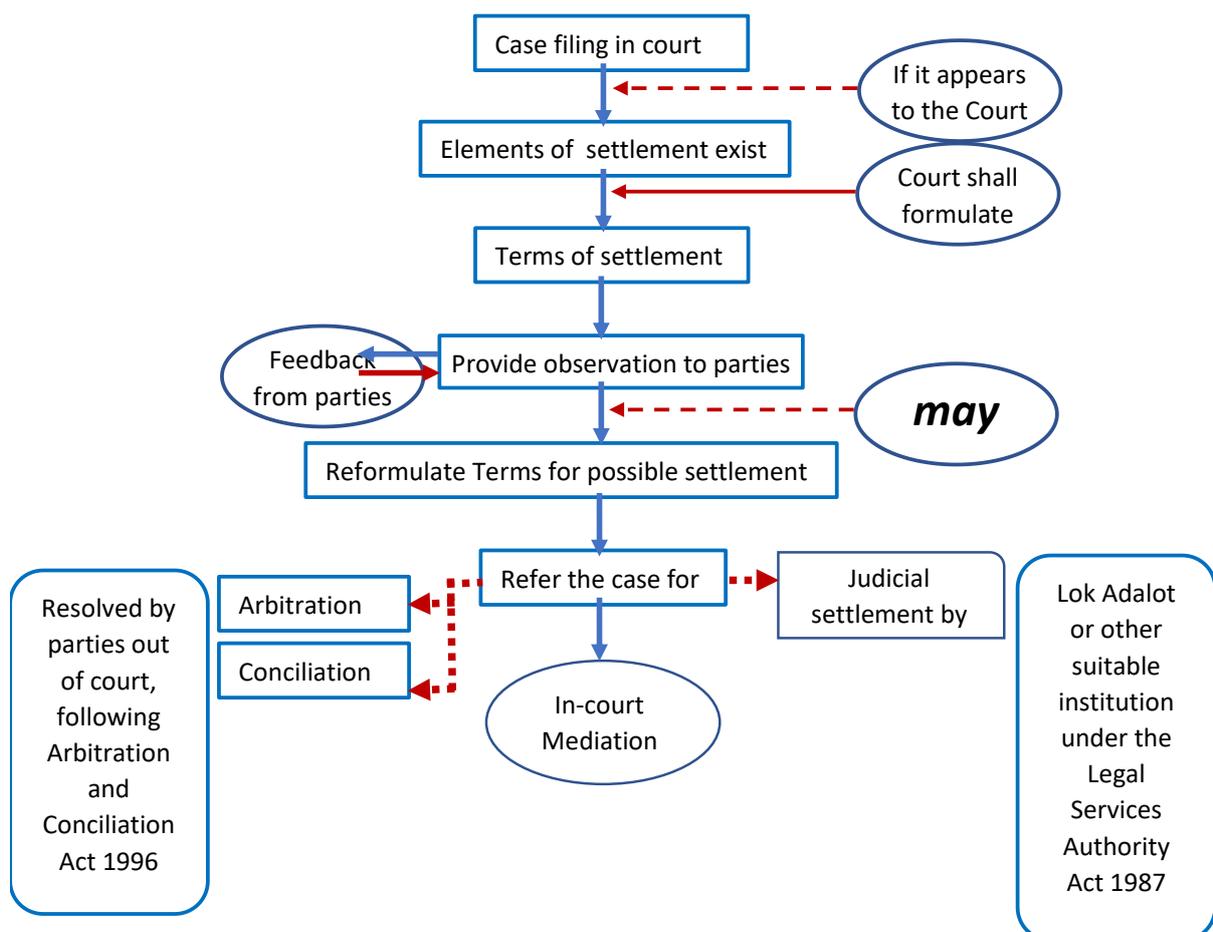
⁵⁴ A dominant approach that defines peace as an absence of large-scale violence, and a result of state action; see, Coyne, above n 40

Courts in Bangladesh, addressing minor civil and criminal disputes, particularly those related to monetary matters.

However, unlike Village Courts, *Lok Adalats* do not have the authority to impose imprisonment. Despite their efficacy, a critical distinction exists: the integration of such mechanisms within the formal judiciary is explicitly permitted under the Indian CPC, whereas the CPC in Bangladesh lacks similar provisions. Hence, a later part of this chapter will examine the potential integration of this bottom-up approach using a different route available in the migrant dispute resolution system in Bangladesh.

As indicated in Figure 2.5, civil courts are applying much authority by determining the terms of a possible solution and referring to the appropriate mode of ADR. Though this model of court-connected ADR Scheme may not be readily applicable in our country, apart from its general applicability to reduce case backlog in our civil courts, we may draw some valuable lessons from this court-connected ADR scheme to strengthen our intended ADR Scheme for resolution migration-related disputes. Further, due to the absence of any procedural law on conciliation in Bangladesh, relevant sections of the Arbitration and Conciliation Act 1994 India could be instrumental in our out-of-court ADR scheme-building process.

Figure 3.1: Court-connected ADR Scheme in India: court referral to reduce case backlog



Source: Adapted from Civil Procedure Code, India

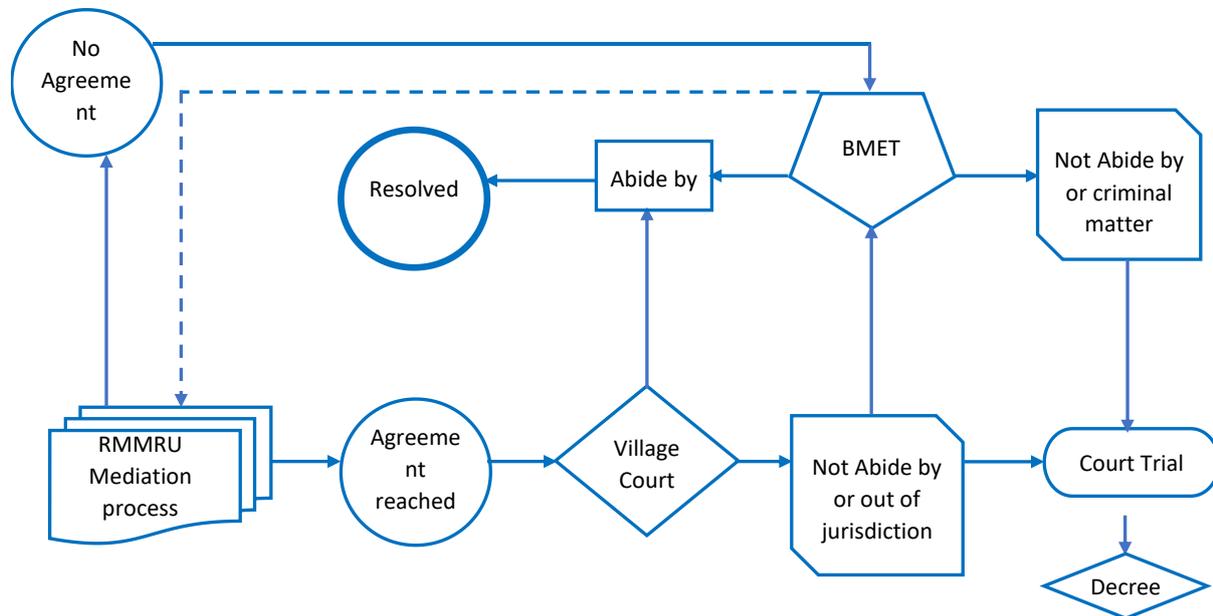
It rather focused on the top-down integration possibility with BMET and other lower-tier forums such as village courts and NGOs and other grassroots civil society organizations like RMMRU. As discussed in Chapter 2, BMET may receive its complaints on labour grievances from three different channels. Firstly, the aggrieved migrant labourers may file their complaints through a) the PROBASHI KALLYAN Desk at airports, b) the online portal of BMET to lodge complaints and c) by visiting the BMET Office physically. Whatever may be the case, there is a possibility that after initial screening BMET may transfer some cases to informal forums like RMMRU or other NGOs that remain out of court and do not have their procedural law to conduct ADR. Alternatively, BMET may transfer some disputes to quasi-formal forums like Village Courts that remain out of the realm of formal court but have their procedural law. The following section will discuss the possibility of institutionalizing community responses at all stages of the dispute resolution process by making proper linkages between BMET, Village Courts, RMMRU, WARBE, and other informal and quasi-formal organizations involved in the process.

3.3 Institutionalising Community Responses to Migration Dispute Resolution in Bangladesh—A Suggestive Model

In Chapter Two we discussed various natures of migration dispute resolution applied by government agencies and NGOs in Bangladesh. The earlier part of this chapter further elaborated on how top-down and bottom-up approaches may be applied to integrate the migration dispute resolution efforts of various informal and quasi-formal bodies operating in this sector.

The integration of community-based dispute resolution aims to maximize the use of local knowledge and efforts to ensure that migration disputes are resolved quickly, fairly, and at an affordable cost, all while maintaining the convenience of resolving issues within the community. As illustrated in Figure 3.2, when disputes are addressed through community mediation at RMMRU, the parties involved do not automatically acquire legal rights to claim compensation. To give legal weight to the agreements reached through community mediation, RMMRU may advise clients to submit these consensual agreements to the courts for a legally binding decision.

Figure 3.2: Institutionalizing Community Response by Integration of Formal, Quasi-formal, and Informal Dispute Resolution Processes



If one of the parties refuses to formalize the agreement through village courts or denies liability before the court, RMMRU may guide the aggrieved party to submit their claim to the BMET. Requesting the parties to legalize agreements through the village court serves as an important reality check, helping mediators assess the feasibility and practicality of the settlement before pushing for further legal intervention. In cases where parties are unwilling to legalize the agreement through the village court, or if the nature of the dispute falls outside the jurisdiction of the village court, the case may be referred directly to BMET. Should BMET attempt to resolve the dispute through arbitration and any party refuses to comply with its decree, BMET may recommend that the parties take their case to civil court.

This multi-tiered approach ensures that the parties have access to various means of resolution, while also ensuring that their rights are protected and upheld through legal channels, if necessary.

3.4 Institutionalising Community Responses to the Migration Dispute Resolution Process in Bangladesh—Prospects and Challenges

Considering the current legal framework for migration dispute resolution in Bangladesh, the top-down approach outlined above presents a valuable opportunity for BMET to enhance its effectiveness by partnering with grassroots organizations, such as RMMRU (Refugee and Migratory Movements Research Unit). As the licensing authority, BMET holds significant leverage over migration agents and sub-agents and can encourage compliance with decisions reached through grassroots mediation processes. This centralized power enables BMET to guide the resolution of migration-related disputes, ensuring that decisions made at community levels are implemented effectively if not voluntarily.

While RMMRU has the potential to help bridge the gap between community-based mediation and BMET's arbitration processes, the institution of village courts can also play a crucial role in enforcing consensual agreements. RMMRU agreements can be presented before the village courts to secure a legally enforceable decree, which can then be pursued further in the assistant judge or first-class magistrate courts. This process provides a formal pathway to uphold mediation agreements and ensure justice for migrant workers and their families. However, it is important to note that institutionalizing community responses through BMET may not always be feasible, particularly when the disputes are unrelated to migration agents or sub-agents, such as land ownership transfers or the repayment of debts related to migration expenses. BMET's mandate does not extend to resolving civil matters of this nature, limiting its ability to address broader community concerns.

However, a significant challenge to fully realizing this linkage lies in the absence of laws permitting such a connection. Political influence within village courts, which are usually composed of at least three local union council members, could also skew decisions in favor of more powerful, politically affiliated, or affluent migration sub-agents or mahajons, potentially undermining the fairness of the resolution process.⁵⁵ To mitigate this risk, it is essential to ensure that community responses are fairly mediated through RMMRU and other grassroots organizations before being taken to village courts. This ensures that mediation agreements are fair and just, minimizing the impact of political influence on the outcome.

Moreover, the Village Courts Act 2006 provides an added layer of protection for community members by imposing a strict three-month deadline for resolving complaints.⁵⁶ If a dispute is not resolved within this timeframe, the ad-hoc village court is automatically dissolved.⁵⁷ This sunset clause helps safeguard against prolonged delays in dispute resolution, ensuring that community members can achieve timely justice without undue obstruction. On the other hand, BMET may also revert some cases to RMMRU and other grassroots organizations when limited documentation makes the disputes complex and requires strong community support and testimony to establish the facts. No matter whether the flow is top-down or bottom-up, legalizing grassroots mediation agreements through village courts could be an effective avenue to institutionalize community responses for developing an effective grievance management system for migrant workers in Bangladesh.

In conclusion, while challenges exist in institutionalizing migration-related dispute resolution through BMET and village courts, the potential for collaboration between community organizations, local courts, and BMET remains strong. By addressing political biases and leveraging the strengths of both BMET and village courts, we can create a more effective and accessible system for resolving migration disputes and supporting the rights of vulnerable migrant workers and their families.

⁵⁵ Strong political connection of local migration brokers or sub-agents remain a big challenge for grassroots organizations in mediating migration disputes; Key Informant Interview with Syed Saiful Haque, Chairman & Founder Member, WARBE DF (WARBE DF, 5 January 2025)

⁵⁶ Village Court Act 2006, sec 6(c)2

⁵⁷ *ibid*, sec 6(c)3

CHAPTER FOUR

Bridging The Inclusion Gap to Access Gms —Sharing Experience From Selective Asian Countries

4.1: Factors Inhibiting Migrant Workers' Inclusion in the Grievance Management System

Migrant workers, often moving to foreign countries in search of better economic opportunities, frequently face a range of challenges, including disputes with employers or labour recruiters. Unfortunately, many migrants are unable to access the Grievance Management System effectively, resulting in prolonged exploitation, injustice, and even physical harm. Several factors inhibit their access to these systems, making it more difficult for them to resolve grievances and assert their rights.⁵⁸ The purpose of this chapter is to highlight the primary factors inhibiting migrant workers' access to dispute resolution systems. As earlier chapters explained various initiatives of the government and other civil society organizations in protecting migrant workers' rights factors identified in this chapter are important to recognize the gaps for which we may gather good practice examples from other Asian countries.

- **Lack of Awareness of Rights and Mechanisms:** A significant barrier for migrant workers is their limited awareness of their rights and the dispute-resolution mechanisms available to them.⁵⁹
- **Lack of Pre-departure training:** As observed in Nepal, insufficient training causes migrant workers' lack of understanding of how to access grievance systems once they are employed abroad.⁶⁰
- **Language Barriers:** Migrant workers in Asia are often employed in countries where they do not speak the local language, which complicates their ability to navigate legal systems.⁶¹
- **Communication difficulties:** Even when grievance mechanisms are available, the inability to communicate effectively with legal bodies, embassies, or labour department's makes it challenging for workers to raise issues or seek redress for their problems.⁶²

⁵⁸ IOM UN Migration, 'Operational Guidelines for Businesses on Remediation of Migrant Worker Grievance' (Migration, Business and Human Rights, 6 June 2023) < <https://mbhr.iom.int/en/resources/tools/operational-guidelines-businesses-remediation-migrant-worker-grievances>> accessed 7 January 2025

⁵⁹ *ibid*

⁶⁰ Prajesh Aryal and Arjun Kharel, 'Does Pre-departure Orientation Protect Labour Migrants? Examining Pre-departure Interventions in Nepal' (2023) 10 AGRUMING Policy Brief Series , 5

⁶¹ Migrant Forum ASIA, 'Challenges on Access to Justice for Migrants' <https://mfasia.org/migrantforumasia/wp-content/uploads/2018/05/Access-to-justice-is_MFA.pdf> accessed 6 January 2025

⁶² *ibid*

- **Fear of Retaliation:** Migrant workers often face the fear of retaliation from their employers, especially when they work in countries with weak labour protections or high levels of employer control.⁶³
- **Vulnerability to exploitation:** This fear is heightened for undocumented workers or those with expired visas, as they are often reluctant to approach authorities due to fear of being deported or blacklisted.⁶⁴
- **Bureaucratic Challenges and Complex Legal Processes:** In many countries, the grievance process can be complex, bureaucratic, and time-consuming.
- **Inaccessibility of support services:** Migrants often struggle to find the right contacts for support or face delays in getting assistance due to the overload of cases in the grievance management systems.
- **Insufficient Legal Protection:** In some migrant-receiving countries, there are insufficient legal frameworks in place to protect migrant workers.
- **Weak enforcement:** In many cases, even if a dispute is resolved through the grievance mechanism, migrant workers may not receive compensation or be protected from further retaliation, leading to a lack of confidence in the system.
- **Discrimination and Social Exclusion:** Migrant workers, especially those from marginalized or minority communities may face discrimination within the legal system.
- **Bias and inequality:** Discrimination from authorities, legal professionals, or even fellow workers can contribute to migrant workers feeling unsupported or unwelcome within dispute resolution systems.
- **Financial barriers:** The inability to afford legal assistance or navigate the complex and costly legal processes is a major factor preventing migrant workers from effectively resolving their disputes.
- **Limited Access to Legal Aid:** Many migrant workers in developing Asian countries including Nepal, Vietnam, and Sri-Lanka do not have access to affordable legal assistance or cannot afford the legal fees associated with dispute resolution.
- **Lack of Support Systems and Advocacy:** In many countries, there is a lack of effective advocacy groups or support networks to assist migrant workers with their grievances.
- **Corruption and Lack of Accountability:** In some countries, corruption within legal systems, government agencies, or labour departments may prevent migrant workers from accessing justice.
- **Undue influence on legal outcomes:** Corruption within the system can distort the fairness of dispute resolution, making it difficult for migrants to trust that their complaints will be addressed in an impartial manner.
- **Economic Dependency and Lack of Options:** Migrant workers, especially women and those in low-wage or informal sectors, often face economic pressures that force them to endure substandard working conditions or exploitative practices.
- **Dependence on income:** Migrants may fear the economic consequences of challenging their employers, particularly when they depend on their earnings to support families back home.
- Governments, employers, NGOs, and international organizations must work together to address these challenges by providing education on workers' rights, improving legal

⁶³ UNRBHR Forum Asia Pacific, 'Justice in a Mobile World: Removing barriers to remedy for migrant workers', *Panel Discussion* (25 September 2024) <<https://www.rbhrforum.com/justice-mobile-world>> accessed 6 January 2025

⁶⁴ Migrant Forum ASIA, above n 62

frameworks, increasing access to legal aid, and strengthening support networks for migrant workers. Bridging these gaps will help ensure that migrant workers can effectively resolve grievances, access justice, and protect their rights in both their host countries and home countries.

4.2: Identification of Access Gap in the Context of Grievance Management for Migration Workers in Bangladesh

When considering the factors inhibiting migrant workers' grievance management in general and access to dispute resolution in particular, as discussed in various initiatives by stakeholders in this report, a few key barriers emerge. These barriers are significantly hindering migrant workers' ability to resolve disputes and, in some cases, contribute to protracted processes that fail to deliver lasting solutions.

Firstly, various stakeholders have taken significant steps to raise awareness among prospective migrants and society about workers' rights and the standard processes for making complaints (such as completing medical checkups, applying for an ID card, or checking visa status online). The Bureau of Manpower, Employment, and Training (BMET) has implemented language training courses to help workers overcome communication barriers abroad, and regular skill development programs are offered locally to prepare workers for skill-based employment opportunities overseas. Additionally, the Ministry of Foreign Affairs, alongside other relevant ministries, remains vigilant in negotiating with host countries to safeguard migrant rights and ensure that foreign governments do not expel workers under retaliation policies. Nevertheless, there are still notable challenges.

For instance, many workers continue to face fraud, exploitation, and mistreatment before, during, and after migration. Some are expelled or forced to return home without compensation. Returnee migrant workers often struggle with bureaucratic hurdles and lengthy processes to file complaints, frequently lacking knowledge of the correct procedures or contacts for lodging grievances. To streamline this process, the government has established one-stop cells to register complaints from migrant workers. Yet, as a BRAC study highlights, many returnees, both male and female, experience psychological distress stemming from factors such as discrimination, harassment, lost wages, and the social stigma associated with returning home empty-handed. Hostile attitudes often strain family relationships, sometimes leading to separation or divorce. Additionally, the overwhelming financial burden caused by unpaid debts incurred during the migration process further exacerbates the psychological pressures returnee workers face. Unfortunately, counseling services provided by psychotherapists remain insufficient and are often unavailable to support these workers. Many returnee migrants face significant financial constraints, which hinder their ability to access dispute resolution forums, including BMET and formal courts.

Furthermore, financial assistance, alongside proper training, is critical for rehabilitating returnee workers who may not receive adequate compensation and are left vulnerable with unresolved grievances. Several reports indicate that expatriate workers often receive little support from Bangladeshi government officials when confronting adverse working conditions or medical issues in host countries. Although this study primarily focuses on the role of stakeholders in securing migrant rights in Bangladesh, it is evident that many grievances could be addressed more effectively if workers received timely intervention from Bangladeshi government officials abroad to negotiate on their behalf with foreign employers. With the objective of drawing lessons, the following section discusses the mode of interventions and

assistance made by various Asian governments to soothe constraints and facilitate migrant workers' access to the Grievance Management System.

4.3: Good Practices in Migration Grievance Management: Experience from Asia

Though many countries in Asia are still struggling in developing an effective grievance management system for migrant workers and upholding their rights still there are many good practices that can be shared from other Asian countries to improve the grievance management system or migrant workers in Bangladesh. In this regards, this section briefly introduce a number of good practices observed in Sri-Lanka, Vietnam, and the Philippines that can be instrumental for Bangladesh.

In Sri Lanka, human rights organizations work in collaboration with Sri Lanka Bureau of Foreign Employment (SLBFE) and the Sri Lankan government to advocate for workers' rights, addressing the challenges faced by migrant workers, particularly in cases of exploitation, abuse, and other legal issues. Therefore, rights of migrant workers are treated as human rights. In Philippines a number of government agencies including the Overseas Workers Welfare Administration, Philippine Overseas Employment Administration, Department of Foreign Affairs, National Labour Relations Commission, and Philippine Overseas Labour Offices collaborate to ensure safe migration and upholding their rights both at home and abroad. As the volume of migrant workers is increasing in Bangladesh over the years, specialized service and strong co-ordination of various government agencies may improve the overall grievance management for migrant workers in Bangladesh. In case of Vietnam all recruitment agencies are regulated by the government, and they must provide workers with clear, legally binding contracts. These contracts should outline the rights and responsibilities of the migrant worker and employer. The government ensures that these agencies inform workers about their legal options in case of disputes. As vague and brief contracts sometimes make it difficult for migrant workers in Bangladesh to claim their rights, detailed and transparent migration contracts could be a key to reduce migration grievance in Bangladesh.

CHAPTER FIVE

A Comprehensive Migration Grievance Management System Integrating Community Responses: Role of Nalso and Mowca in Perspective

5.1 NLASO—A Potential Organization for Creating Synergy in the Migration Dispute Resolution Process

Accessing justice should not be limited by one's financial situation, and NLASO is dedicated to ensuring that individuals in need receive the legal support they deserve.⁶⁵ As illustrated in Figure 5.1 below, the NLASO legal aid Alternative Dispute Resolution (ADR) process begins with a straightforward application, where applicants provide case details and demonstrate their financial inability to afford legal representation.⁶⁶ After receiving an application through NLASO or directly at his office a legal aid officer conducts a thorough eligibility assessment, taking into account both the applicant's financial situation and the legal nature of the case. If the applicant meets the criteria, they are promptly assigned a qualified lawyer or a team of lawyers to represent them in the relevant legal forum or court.⁶⁷ Before proceeding with litigation, however, the Legal Aid Officer first encourages the applicant to attempt resolving their dispute through mediation,⁶⁸ which may take place at the officer's office or any other mutually convenient location.⁶⁹ Once the applicant agrees, the Legal Aid Officer (LAO) proceeds to serve notice to the opposing party, specifying the date, time, and venue for the mediation session.⁷⁰ Mediation begins only if both parties consent to participate.

During the mediation session, the Legal Aid Officer does not impose a decision on the parties but instead fosters an environment conducive to open participation.⁷¹ The officer explains the process to both parties, listens to their cases, and identifies the key issues causing the dispute.⁷² The mediator facilitates communication between the parties and assists in developing options that lead to a mutually beneficial solution, remaining neutral and impartial throughout the process. If an agreement is not reached during the first session, the Legal Aid Officer may postpone the session, scheduling a follow-up within no more than seven days.⁷³ Should the parties come to a resolution through mediation, the Legal Aid Officer records the terms of the agreement, ensures both parties understand the document and facilitates their signatures.⁷⁴ The officer then signs the document and affixes the official seal. A copy of the signed agreement is

⁶⁵ Jamila A Chowdhury, 'Legal Aid and Women's Access to Justice in Bangladesh: A Drizzling in the Desert' (2012) 1(3) International Research Journal of Social Sciences, 8 <https://www.researchgate.net/profile/Jamila-Chowdhury/publication/299445630_Legal_Aid_and_Women%27s_Access_to_Justice_in_Bangladesh_A_Drizzling_in_the_Desert/links/56f7f72608ae7c1fda307165/Legal-Aid-and-Womens-Access-to-Justice-in-Bangladesh-A-Drizzling-in-the-Desert.pdf>

⁶⁶ Legal Aid Services Act 2000, sec 16

⁶⁷ Legal Aid (Legal Advice and Alternative Dispute Resolution) Rule 2015, r 3(3)

⁶⁸ *ibid* r3(4)(a)

⁶⁹ *ibid* r(5)

⁷⁰ *ibid* r 6,7

⁷¹ *ibid* r11

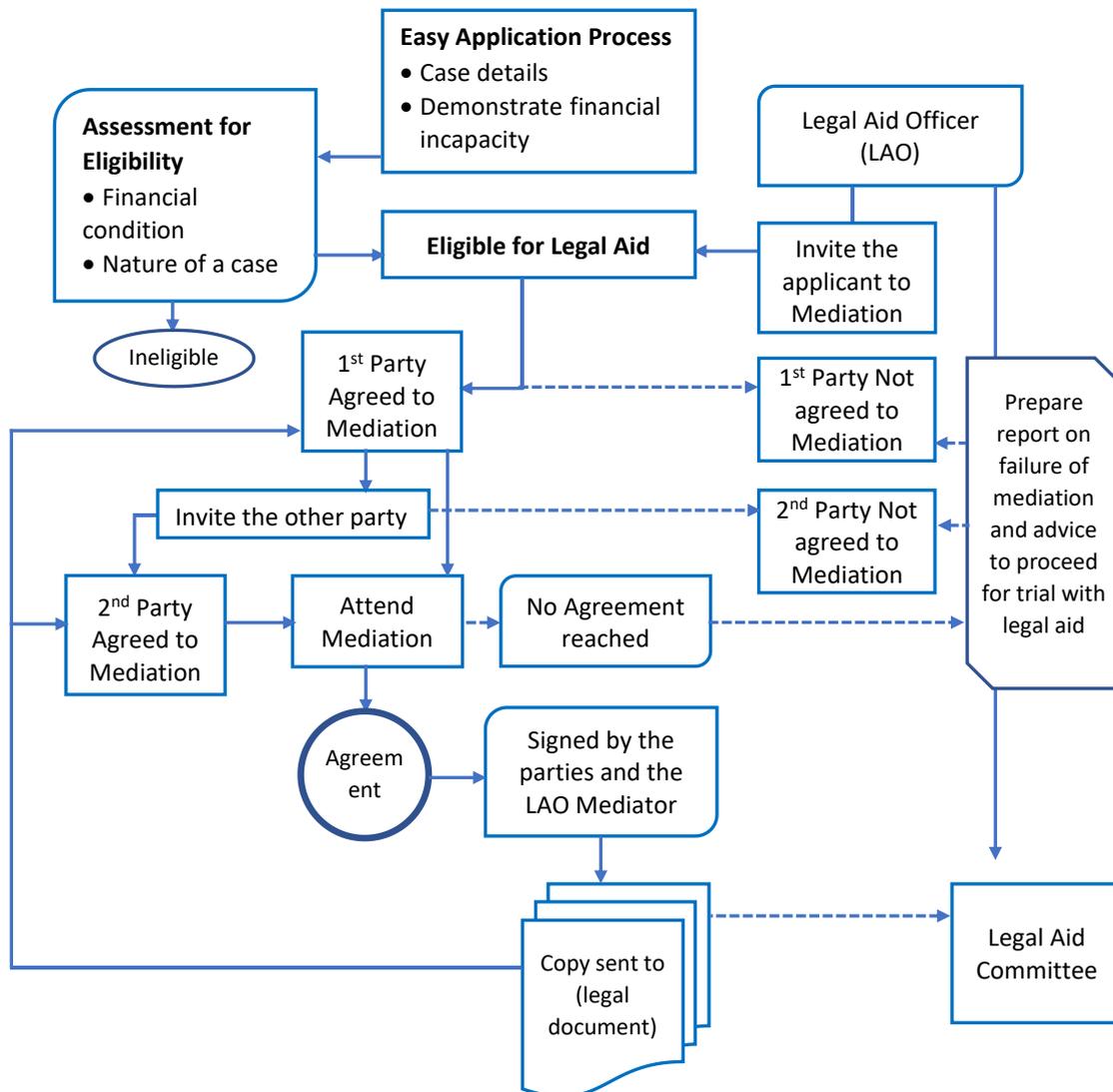
⁷² *ibid*

⁷³ *ibid* r10

⁷⁴ *ibid*, r13(1)

sent to both parties and the legal aid committee within five days.⁷⁵ If the mediation does not result in an agreement, a failure report is prepared and sent in the same manner and timeframe.⁷⁶

Figure 5.1: NLASO ADR Process to Access Legal Aid



As an efficient and cost-effective alternative to lengthy court proceedings, NLASO's mediation process is particularly effective in resolving family and civil disputes, fostering amicable solutions that benefit all parties involved. Even if the parties do not choose to resolve their disputes through legal aid, NLASO continues to offer comprehensive legal support, assisting with document preparation and court representation. Once a case reaches a resolution, NLASO follows up diligently to ensure that clients receive any compensation or benefits awarded. Whether the dispute is settled through mediation or other ADR methods, NLASO works to ensure the enforcement of these agreements, providing lasting peace of mind to all parties. Therefore, for offering comprehensive legal aid services, NLASO has a mandate to ensure that justice remains accessible, fair, and within reach for individuals, regardless of their financial circumstances.

⁷⁵ *ibid*, r13(3)

⁷⁶ *ibid*, r13(2)

5.2: Strengths and Weaknesses of NLASO ADR Practices

As discussed, the National Legal Aid Services Organization (NLASO) in Bangladesh is a vital force in ensuring that marginalized communities, especially distressed returnee migrants, have access to justice. With its extensive network extending to the upazila level, NLASO provides legal aid and Alternative Dispute Resolution (ADR) services where they are needed most, empowering migrants who often face exploitation or unfulfilled agreements by local sub-agents. Migrants can connect to NLASO’s helpline to access crucial legal advice and assistance, giving them the confidence and tools they need to address disputes effectively. For financially vulnerable migrant workers, NLASO’s free legal services are not just a convenience—they are a lifeline. By offering legal advice at no cost, NLASO ensures that these individuals understand their rights, breaking the barriers that prevent them from pursuing justice. This knowledge not only alleviates the stress of navigating the legal system but also empowers workers to continue their legal journey despite financial hardships.

Perhaps most importantly, NLASO’s approach to mediation and ADR helps to level the playing field, providing migrants with the support needed to negotiate fair outcomes. With expert legal advice and strategic mediation, they are better equipped to advocate for themselves, ensuring that they don’t just accept unjust outcomes but fight for their rightful share. This empowerment ultimately helps to restore trust in the legal system, demonstrating that everyone—regardless of their financial situation—can access justice and fair resolution. Furthermore, the Legal Aid ADR rule enables LAOs to follow a standard mediation procedure that can be applied.

By offering accessible, affordable, and efficient legal support, NLASO is not only resolving disputes but also strengthening the resilience and dignity of migrant workers, enabling them to hold powerful parties accountable and build a better future for themselves and their families.

Table 5.1: Government Legal Aid Services: 2009- 2024 (up to November)

Service provider office	Legal advice	Legal Aid to resolve through trial		ADR services (Pre-case and Post-case)		Service through hotline (before the helpline)
		No of cases received LA	Cases resolved through LA	Initiated for ADR	Resolved through ADR	
Supreme Court Legal Aid Office	25,137	3,225	2,275	146,480	133,515	
District Legal Aid Office	226,699	402,233	204,294	3,299	1,912	17328
Dhaka & Chittagong Labour Aid Cell	21,257	4,407	795			
Helpline	180,765					
Total (%)		409,865 (100%)	207,364 (50.60%)	149,779 (100%)	135,427 (90.42%)	

Source: NLASO, Ministry of Law, Justice and Parliamentary Affairs⁷⁷

⁷⁷ NLASO, Ministry of Law, Justice and Parliamentary Affairs

As indicated in Table 5.1, Alternative Dispute Resolution (ADR) has a significantly higher potential for resolving cases compared to formal trial procedures. For example, while legal aid through trial cases shows an effective resolution rate of 50.60%, mediation services achieve a resolution rate of over 90%. However, a recent study across several legal aid offices in Bangladesh reveals that ADR initiatives face challenges such as low client awareness, lack of motivation from lawyers, and inadequate training for judges and legal aid officers in conducting effective ADR sessions.

For migration workers, two specific limitations further hinder the success of NLASO ADR. First, there is no referral service to guide and motivate prospective migrant clients to access free ADR services or subsequent legal aid. Therefore, despite having their unappealed grievances, migrant workers may stop to proceed further, due to their constrained financial condition. Second, NLASO's ADR services are restricted to clients who are mentally and physically stable enough to participate in mediation. This is a particular challenge for returnee migrants, especially female migrant workers who have suffered physical or sexual harassment abroad. These women often experience severe mental stress, hindering their ability to engage effectively in mediation. Many remain silent, entering mediation with a mindset of "low reward expectation." It is essential that such women receive proper counseling or therapy before participating in mediation to ensure their effective involvement in the process. The next section will explore how the Ministry of Women and Children Affairs can help fill this gap through counseling services.

5.3 MoWCA- A Potential Big Player Ensuring Inclusion and Effective Grievance Management for Female Migrant Workers

The Ministry of Women and Children Affairs (MoWCA) in Bangladesh works to protect the rights and well-being of women and children, addressing issues like domestic violence, child marriage, and exploitation. The central office of MoWCA and NLASO are situated in the same premise in Dhaka, similar to their close physical location MoWCA works closely with NLASO to provide legal support to female victims of gender violence. As the NLASO initiatives and procedures have already been discussed in this Chapter, the remaining discussion is dedicated to explaining how MoWCA is re-empowering women under stress and trauma after experiencing various forms of violence.

The Ministry of Women and Children Affairs (MoWCA) has undertaken a series of pivotal initiatives aimed at empowering and supporting destitute women, especially those who have suffered from violence, trauma, and abuse. Through counseling, psychosocial training, and a range of support services, MoWCA has been providing crucial assistance to help women not only overcome their past experiences but also regain the strength to rebuild their lives.

One of the cornerstone initiatives of MoWCA is its network of One-Stop Crisis Centres (OCCs), which are strategically located in Public Medical College Hospitals across the country. These centers offer comprehensive, multi-faceted support under one roof, ensuring that women victims of violence and rape receive the care and attention they deserve. Services at these centres include healthcare, police assistance, DNA testing, social services, legal assistance,

psychosocial counseling, and shelter.⁷⁸ As a result, victims can access immediate, coordinated, and holistic care, effectively addressing both their physical and emotional needs.

The journey of the One-Stop Crisis Centres began in 2001, in collaboration with the Government of Denmark, as a pilot project. The first two OCCs were established at Dhaka and Rajshahi Medical College Hospitals. Since then, the network has expanded to 14 OCCs across Bangladesh, with centres in major cities such as Chittagong, Sylhet, Barisal, and Khulna. By 2011, additional centres were established in Rangpur and Faridpur, and to date, over 18,000 women and children have benefited from these services, providing evidence of the tremendous impact and success of this initiative.

In addition to these 14 One-Stop Crisis Centres, MoWCA has extended its reach by establishing 47 One-Stop Crisis Cells at district hospitals and 20 cells at Upazila health complexes, ensuring that women and children across the country have access to support in times of need. Furthermore, MoWCA runs National and Regional Trauma Counseling Centres to offer long-term healing through psychosocial counseling. These centers provide women and children with the mental and emotional support needed to recover from their experiences and move forward with their lives.

For women in need of immediate support, MoWCA offers a toll-free national helpline (109), available 24/7, ensuring that help is always within reach. Additionally, to ensure the safety and security of women who may be in danger during trials or in need of temporary residence, MoWCA operates shelter homes in six locations. These homes provide not only safe refuge but also essential services such as meals, clothing, healthcare, and primary education for children. Women and their children are given the opportunity to rebuild their lives, often receiving training in various skills that enable them to become self-reliant.

The Ministry's commitment to women's rights extends beyond direct services. MoWCA has been an advocate for significant legal reforms, including the Women and Children Repression Prevention (Amendment) Act, 2020, which imposes harsh penalties on perpetrators of rape. Furthermore, the establishment of 101 tribunals ensures that cases of gender-based violence are expedited, helping victims achieve justice swiftly and efficiently. At the grassroots level, MoWCA has built a vast network to raise awareness of gender violence and advocate for the rights of women and children at every tier of society, from the central to the union level.

However, despite these extensive efforts to combat gender-based violence and empower women, there is a critical gap: MoWCA currently lacks formal partnerships with government and non-governmental organizations to assist female migrant victims. These women, who are vulnerable and in need of immediate support, are often left without the necessary shelter or services they are entitled to. Bridging this gap is essential for ensuring that all women, regardless of their background or status, have access to the protection and services they need to heal and thrive.

In conclusion, MoWCA's initiatives have already made a profound difference in the lives of thousands of women and children across Bangladesh. With a commitment to legal advocacy,

⁷⁸ Government of Bangladesh, 'Implementation of the Convention on the Rights of the Child' Written Reply to the Fifth Periodic Report, reply no. 23(27) <
https://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/6768565c_9b45_4aed_b390_919a52462d6c/CRC_draft_final_15.6.2015_bn.pdf> accessed 28 December 2024

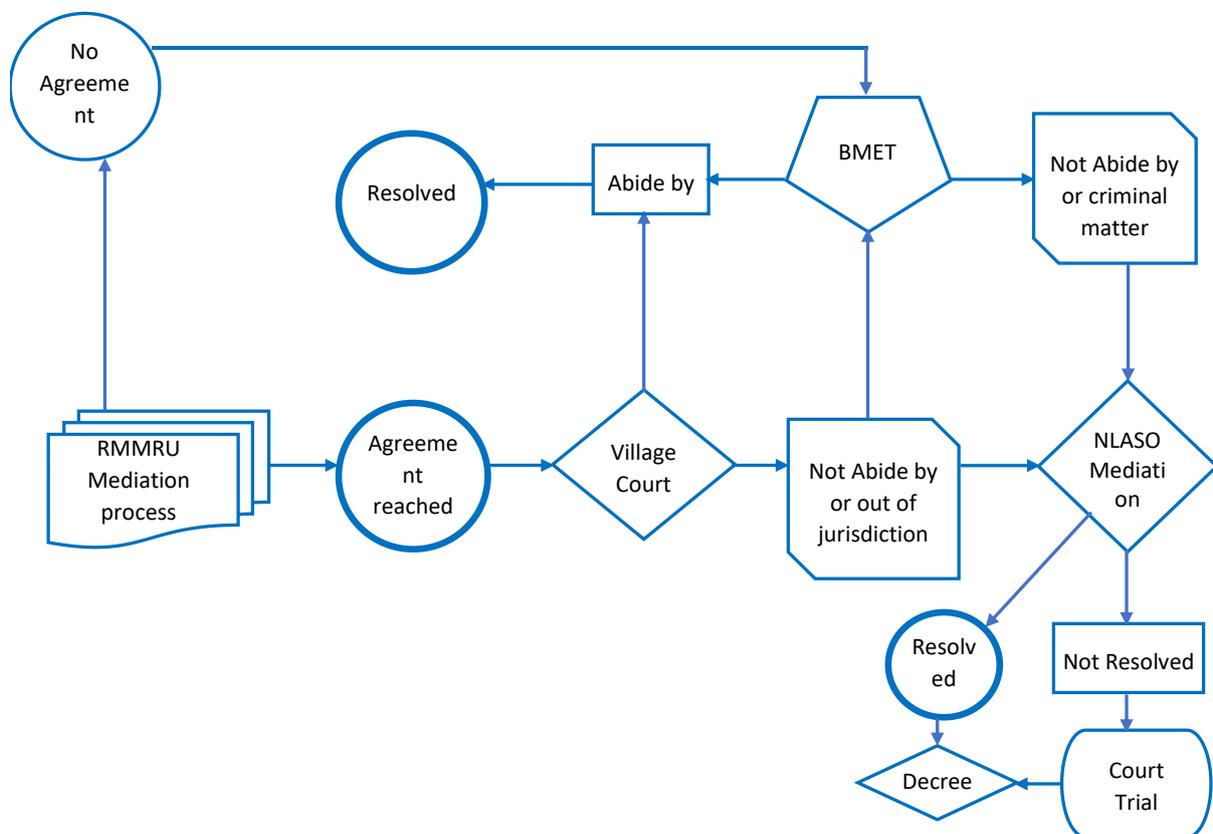
comprehensive crisis support, and long-term healing, MoWCA has established itself as a champion for women’s rights. To further its mission, it is imperative that formal linkages are created with organizations serving female migrant victims, ensuring that no woman is left behind in the fight for justice and dignity.

5.4 An Integrated Grievance Management System Institutionalising Community Responses Alleviating the Inclusion Gap through NLASO Legal Aid

Building on the model proposed in Figure 3.2 to institutionalize community-based responses through village courts, Figure 5.2 illustrates how migrant workers, who remain excluded from the grievance management system due to economic hardship can be effectively integrated into the system using NLASO legal aid to ensure that their rights are protected. For this stakeholders involved in migration ADR practice need to build an effective partnership and an institutionalized referral mechanism in this regard.

As shown in Figure 5.2, integrating counseling services, potentially in collaboration with MoWCA, can provide vital support to women experiencing mental distress, enabling them to engage effectively in the dispute resolution process. Additionally, incorporating NLASO legal aid and NLASO ADR mechanisms offers an added layer of protection, ensuring migrant workers have the resources and support necessary to secure their rights

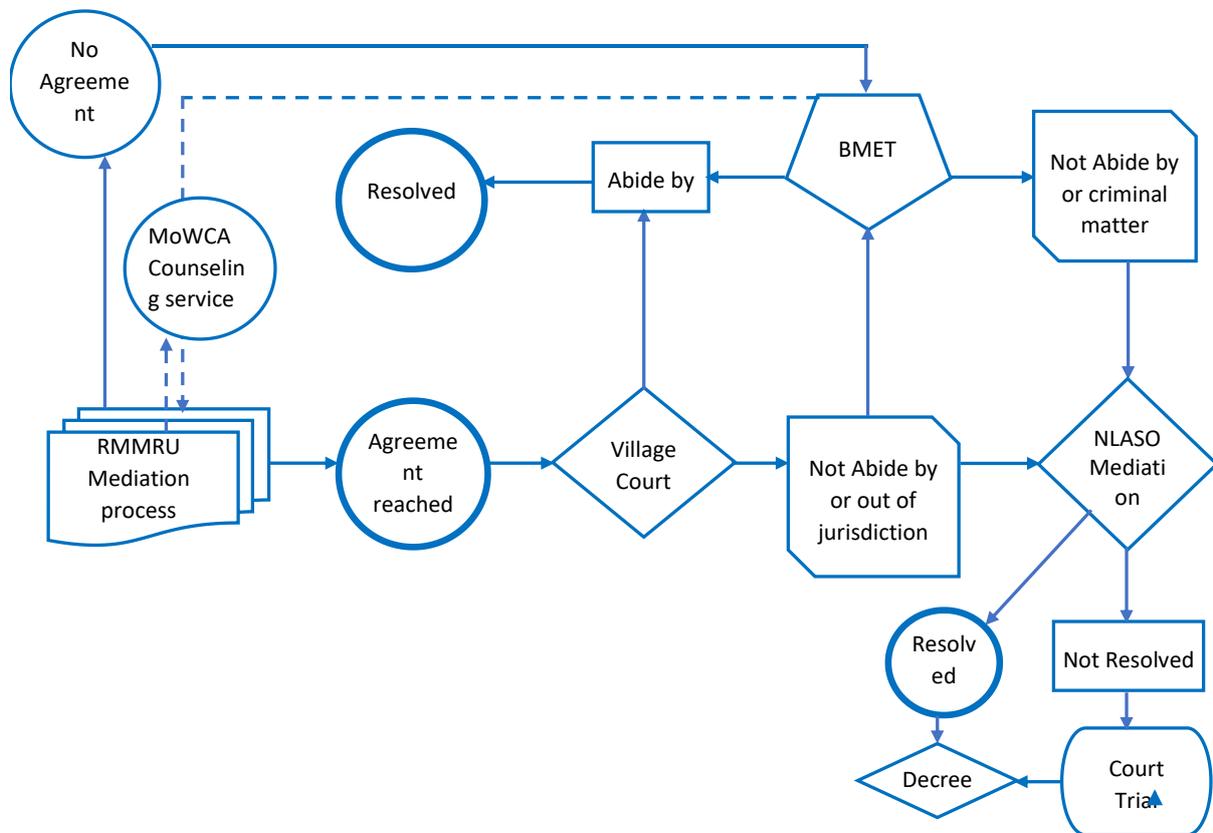
Figure 5.2: Inclusive Model Institutionalising Community Responses and NLASO Legal Aid for Migration Dispute Resolution



5.5 Potential Inclusion of MoWCA Counseling Services to develop a pro-women Grievance Management System for Migrant Workers in Bangladesh

Building on the model proposed in Figure 3.2 to institutionalize community-based responses through village courts, Figure 5.3 illustrates how female migrant workers, who remain excluded from the grievance management system due to economic hardship or mental distress, can be effectively integrated into the system to ensure that their rights are protected.

Figure 5.3: Pro-women ADF Model Institutionalising Community Responses, Legal Aid and MoWCA Counseling Services for Migration Dispute Resolution



As shown in Figure 5.3, integrating counseling services, potentially in collaboration with MoWCA, can provide vital support to women experiencing mental distress, enabling them to engage effectively in the dispute-resolution process. Additionally, incorporating NLASO legal aid and NLASO ADR mechanisms offers an added layer of protection, ensuring migrant workers have the resources and support necessary to secure their rights.

CHAPTER SIX

Recommendations

6.1: Recommendations for an Inclusive and Effective Grievance Management System Institutionalising Community Responses

Grievance management plays a crucial role in ensuring the well-being and protection of migrant workers, particularly in countries like Bangladesh, where the migration of workers for employment abroad is a significant aspect of the economy. Migrant workers often face numerous challenges, including exploitative labour conditions, lack of legal protection, and inadequate access to support mechanisms, which can lead to grievances that remain unresolved or poorly addressed. An effective grievance management system is vital in providing workers with a safe and accessible channel to voice their concerns during ADR sessions, seeking justice, and securing their rights.

This chapter outlines critical recommendations for improving grievance management systems for Bangladeshi migrant workers. The goal is not only to enhance existing mechanisms but also to introduce innovative strategies that empower workers, protect their rights, and hold employers and intermediaries accountable—especially during mediation and arbitration processes. By addressing these recommendations, the government, employers, recruitment agencies, and civil society organizations can foster a more supportive, just, and equitable environment for resolving disputes and soothing grievances for migrant workers. This, in turn, will significantly contribute to their well-being and drive the social and economic progress of Bangladesh.

Considering the GMS for various government and non-government organizations discussed throughout this report, and a gap analysis and good practice sharing from other Asian countries in Chapter Four, this report identified two primary concerns that have emerged as pivotal to advancing migrant workers' welfare: ensuring effective access to dispute resolution systems and creating a secure environment that curtails the grievance of migrant workers against illegal activities of local sub-agents, and various other related issues. These are providing legal aid to returnee migrant workers unable to access the dispute resolution forums or remain mentally distressed and not able to attend mediation or arbitration without having effective counseling services beforehand. Another key focus is raising awareness within society and among aspiring migrant workers regarding their rights and duties. It is also crucial for the government to introduce or amend laws and build capacity to protect its citizens from foreseeable fraudulent activities, preventing the escalation of grievances. By acting on these recommendations, we can pave the way for a just migration environment, supported by institutional responses and legal protections.

The following key recommendations are essential for developing an effective grievance management system that institutionalise community responses in the overall grievance management system, and particularly in the dispute resolution practices through various modes of ADR.

6.1.1 Establish a Standing Committee for Dispute Resolution

The Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) should develop a Standing Committee for grievance management under the BMET as a dedicated mechanism for dispute resolution. The Standing Committee may comprise representatives from BMET, relevant government agencies, recruiting agencies, civil society organizations, and legal experts, DEMO members as well as GMCs from grassroots.

6.1.2 Include Expatriate Representatives and Community Organizations in the Policy Forum

The government should appoint one or two members from expatriate communities or organizations dedicated to migrant workers' welfare. Including representatives from the migrant community and grassroots organisations like RMMRU will guarantee that their voices are reflected in shaping policies that directly affect them, fostering more inclusive and relevant policy-making processes.

6.1.3 Strengthen Collaboration Between BMET and Grassroots Organizations

It is crucial to formalize partnerships between BMET and grassroots organizations like RMMRU. These collaborations will enhance the Alternative Dispute Resolution (ADR) process, ensuring that the valuable work of grassroots organizations is not undermined or lost as disputes are transferred from grassroots to BMET or formal courts. However, to influence BMET or the court to recognize the documents generated at the grassroots, these organizations need to standardise dispute resolution templates that can foster greater understanding and cooperation across all stakeholders, improving the effectiveness of grievance management.

6.1.4 Provide Legal Aid Access for Returnee Migrant Workers

A significant barrier for returnee migrant workers is the lack of financial resources to pursue justice. To address this, grassroots organizations should have direct access to the district legal aid committees. By including a representative from these organizations, migrant workers can receive timely legal assistance, ensuring they can seek justice through BMET or the courts without financial constraints.

6.1.5 Decentralize BMET ADR Services to Reach All Migrant Workers

BMET has already taken steps to decentralize its ADR services through DEMO at district level to make them accessible to migrant workers who face financial and logistical barriers to accessing services in Dhaka. Further, local BMET offices should be equipped to handle arbitration services effectively, with representatives from grassroots organizations ensuring the process remains objective. In the interim, BMET can offer online arbitration services, conducted at local offices, to facilitate greater accessibility and minimize the burden on migrant workers.

6.1.6. Extend MoWCA Counseling Services to Female Migrant Workers

The Ministry of Women and Children Affairs (MoWCA) currently provides counseling to destitute women, and this initiative should be expanded to support returnee female migrant workers who may be experiencing emotional distress. By referring these women to MoWCA services, organizations like RMMRU can help them regain emotional stability, empowering them to engage in the dispute-resolution process with confidence. If space in MoWCA's safe

homes is limited, these services could also be offered online, ensuring continued support for these vulnerable women.

6.1.7. Follow a Mediation Rule for a Commonly Shared Understanding of Procedural Details

Organizations continue to express the importance of the dispute resolution process, including questions such as: Who will receive complaints? Who should be on the mediation committee? How should a mediation agreement be summarized? And what actions should be taken if parties fail to comply with an agreement? While these aspects are commonly addressed with slightly varied forms, the procedural details regarding how a mediator can establish initial trust and confidence among parties, as well as the dos and don'ts to ensure fairness in the mediation process, remain largely unspoken. These procedures are typically followed informally, with varied interpretations by different mediators. However, to foster effective collaboration, there must be a shared understanding of the procedural framework, preferably a clearly defined mediation rule.

6.1.8. Develop a Theory of Change with Common and Shared Responsibilities Among Stakeholders

Grassroots organizations such as RMMRU and relevant right-based organisations focus on providing services to migrant workers, including social awareness, skills training, and assistance with pre-departure formalities. However, these efforts often overlap and, in many cases, remain insufficient when measured against the national demand for such services. The same can be said for other entities like BMET, NLASO, Village Courts, and MoWCA. To develop a comprehensive, long-term strategy, it is crucial for all relevant stakeholders to collaborate in conducting a needs assessment and gap analysis. This will enable the development of a shared theory of change, with clearly defined roles and responsibilities. The Sustainable Development Goals (SDGs) and their associated monitoring mechanisms can play a pivotal role in guiding this collaborative effort.

By adopting these strategic recommendations, Bangladesh can take a major step forward in creating a more equitable migration environment. These measures will empower migrant workers, protect their rights, and strengthen the systems designed to support them, ultimately contributing to the overall development and prosperity of the nation.

6.2 Future Research Niche

To activate the proposed integrated GMS model, the first step, after achieving general consensus among key stakeholders, including the government and donors, should be conducting a thorough needs assessment and capacity analysis. This should be followed by the development of a robust theory of change, outlining shared and common responsibilities aimed at meeting targets aligned with long-term objectives, ideally the SDGs.

Further research will be essential to effectively carry out these tasks. A crucial area of this research would focus on developing a comprehensive mediation rule, complete with clear procedural guidelines and documentation templates. These tools would enable grassroots organizations to follow a structured approach to dispute resolution and to escalate issues to higher forums when necessary.

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