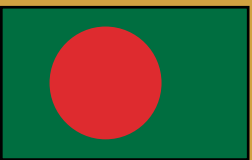


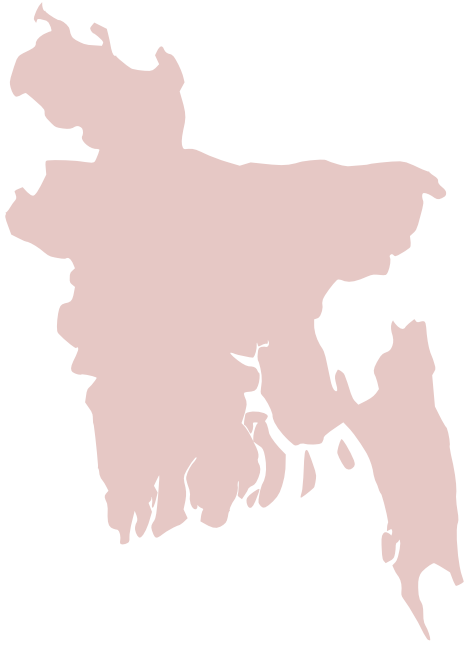


Photo credit: UN Women



SENDING COUNTRIES: SOUTH ASIA

People's Republic of Bangladesh



A. COUNTRY CONTEXT

Bangladesh is located in South Asia on the Bay of Bengal, and is bordered by India and Myanmar. It is one of the world's most densely populated countries, with approximately 150 million inhabitants.¹ 89.7 percent of Bangladeshis are Muslim, Hindus constitute 9.2 percent, Buddhists 0.7 percent and Christians 0.3 percent.² Bangladesh is a low-income country³ and ranks "low" on UNDP's latest human development index.⁴ Gross national income was placed at 770 US dollars per capita in 2010,⁵ and approximately 40 percent of the population lives below the national poverty line.⁶

Bangladesh has made progress in eradicating poverty and hunger through sustained growth in its economy in recent years. This has resulted in increased life expectancy and a decrease in the fertility rate, and has put the country on track for meeting the Millennium Development Goal of halving the population under the poverty line by 2015. Despite this, unemployment and underemployment remains a serious problem, particularly among people between 15 and 25 years of age, who represent 19 percent of the population. The Government has also

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- 1 World Bank, *Data page – Bangladesh*. Available from: www.worldbank.org/en/country/bangladesh/overview
 - 2 Human Rights Watch, *Will I Get My Dues ... Before I Die?, Harm to Women from Bangladesh's Discriminatory Law on Marriage, Separation and Divorce*, (New York, 2012), p.4 .
 - 3 Available from: <http://data.worldbank.org/country/bangladesh>
 - 4 Available from: <http://hdrstats.undp.org/en/countries/profiles/BGD.html>
 - 5 Available from: <http://data.worldbank.org/country/bangladesh>
 - 6 United Nations Development programme, *A Situation Analysis Report on Poverty and Hunger (Millennium Development Goal 1), Needs Assessment and Costing 2010-2015 - Bangladesh*. Available from: www.undp.org.bd/projects/prodocs/PRS_MDG/Situation%20analysis_poverty%20and%20Hunger.pdf

acknowledged that “the challenges with regard to reducing income inequality and the low economic participation of women remain a major concern.”⁷ The latest data, based on a 2010 labour force survey, show that total labour-force participation for women is only 36 percent.⁸

Bangladesh is primarily a labour-sending country. According to government estimates, the current stock of migrants from Bangladesh exceeds six million, or about 4 percent of the population. In recent years, the annual outflow of migrants has fluctuated between 200,000 and 300,000.⁹ Overseas employment is the country’s second-largest source of income with 2009 total remittances estimated at 10 billion US dollars.¹⁰ The majority of migrants (75 percent) travel to Gulf countries for work.¹¹ Because of social stigmatization and government policies that have discouraged female labour migration, women make up only a small percentage of Bangladesh’s overseas work force.¹² However, in 2002 and 2006, policy changes made it easier for low-skilled women to migrate, and recent figures show that currently 5.4 percent of Bangladeshis leaving the country for work are women.¹³

Human Development Index (2011)	Rank 146, Low human development ¹⁴
Stock of migrants from Bangladesh 2010	6 million ¹⁵
Share of population migrating for work	4% (2010) ¹⁶
Proportion of females among immigrants	13.9% (2010) ¹⁷

B. KEY GENDER AND HUMAN RIGHTS ISSUES

Bangladesh has ratified or acceded to all nine of the core international human rights treaties, including the Convention on the protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), which it ratified in August, 2011. Bangladesh acceded to the CEDAW on 6 November 1984 but made reservations to articles 2, 13(a), and 16(1) (c) and (f), stating that these provisions conflict with Sharia law. In 1997, the Government

7 Bangladesh, Planning Commission, General Economics Division, *The Millennium Development Goals Progress Report 2011*, (Dhaka, February 2012), p.1.

8 Ibid, p. 20.

9 Maxwell Stamp Ltd, *Study on the International Demand for Semi-skilled and Skilled Bangladeshi Workers*, prepared for IOM’s TVET Reform Project, (April 2010), p. IV-V. Available from: www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_140660.pdf

10 Rakhee Timothy and SK Sasikumar, *Migration of Women Workers from South Asia to the Gulf*, UN Women South Asia and the VV Giri National Labour Institute, (New Delhi, 2012). Available from: www.unwomensouthasia.org/assets/migration_women_southasia_gulf.pdf

11 Ibid.

12 Bangladesh, Planning Commission, General Economics Division, *The Millennium Development Goals Progress Report 2011*, (Dhaka, February 2012), p. 42.

13 UN Women South Asia, *Empowering Women Migrant Workers in Bangladesh*.

14 Available from: <http://hdrstats.undp.org/en/countries/profiles/BGD.html>

15 Maxwell Stamp: Study, p. IV-V.

16 Ibid.

17 Rakhee Timothy and SK Sasikumar, *Migration of Women Workers from South Asia to the Gulf*, UN Women South Asia and the VV Giri National Labour Institute, (New Delhi, 2012). Available from: www.unwomensouthasia.org/assets/migration_women_southasia_gulf.pdf

partially withdrew the reservations, specifically those relating to articles 13(a) and 16(1)(f).¹⁸ However, Bangladesh maintains reservations to article 2, which requires governments to effectively adopt laws and policies to provide equal rights for women and men. In the CEDAW Committee's 2011 Concluding Observations, it urged Bangladesh to withdraw its remaining reservations as they are "impermissible and fundamental to implementation of all the other provisions in the Convention".¹⁹

The government has taken steps to promote respect for women's and girls' human rights. Increased government stipends to girls in rural areas, along with exemptions from tuition fees, recently helped the country to achieve gender parity in primary and secondary education at the national level. There has also been a marked increase in the number of women parliamentarians, with women being elected to 19 percent of the seats in the 2008 national election. Additionally, in 2011, Bangladesh adopted the National Policy for Women's Advancement and a series of programmes designed to empower women.²⁰

Despite this progress, much more needs to be done to better protect and promote the rights of women. Violence against women and girls persists at an alarming rate with, Human Rights Watch repeating new cases in 2011 of "beatings, isolation, and other public humiliation of girls, all imposed following religious leaders' issuance of fatwas on issues such as talking to a man, pre-marital relations, having a child outside wedlock, and adultery."²¹ Enforcement of the newly enacted laws against domestic violence will help to address these problems. However, there remain a significant number of discriminatory laws related to marriage, divorce, nationality, guardianship and custodial rights that must be amended or repealed before domestic legislation fully complies with obligations under the CEDAW.²²

With respect to women migrants, more opportunities have opened up for Bangladeshis, as other labour-sending countries have recently tightened regulations or banned their citizens from working as domestic helpers in countries where exploitation and abuse is rife. This has resulted in an increased number of Bangladeshi women migrating for work. However, few protections are currently in place to ensure that they understand their rights as well as the risks of work abroad.²³

C. KEY STAKEHOLDERS

The Bangladesh Ministry of Expatriates Welfare and Overseas Employment (BMET)

is the government agency mandated to manage the migration process, and ensure the welfare of migrant workers. Some of its duties include: undertaking initiatives to increase overseas

18 Available from: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&lang=en#5

19 CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women – Bangladesh*, (CEDAW/C/BGD/CO/7) (Forty-eighth session, 2011) para. 11. Available from: www2.ohchr.org/english/bodies/cedaw/

20 Bangladesh, Planning Commission, General Economics Division, *The Millennium Development Goals Progress Report 2011*, (Dhaka, February 2012).

21 Human Rights Watch, *World Report 2012 – Bangladesh*, (New York, 2012). Available from: www.hrw.org/world-report-2012/world-report-2012-bangladesh

22 CEDAW: *Concluding Observations*, para. 15.

23 Human Rights Watch, *World Report 2012*.

employment; addressing complaints of Bangladeshi expats and ensuring redress; registration of recruitment agencies; enhancing the flow of remittances from overseas; and providing equal opportunity for people from all areas of the country to engage in overseas employment.²⁴

The Bangladesh Association of International Recruiting Agencies (BAIRA) is an association of over 800 member agencies. Some of its main activities include: coordinating the activities of licensed recruiting agents that have been approved by the Bangladesh Government; helping agents understand Government rules and regulations regarding overseas employment; establishing liaisons with foreign missions in Bangladesh and Bangladesh embassies in other countries for the purpose of creating job opportunities for Bangladeshi citizens; establishing a training centre to assist candidates selected for employment abroad; addressing problems raised by employers about employees; and disseminating information about labour laws in receiving countries to Bangladeshi workers.²⁵ In the past, BAIRA has also been very active in lobbying the government to rescind bans on women migrating for work.²⁶

The Bangladeshi Ovbashi Mohila Sramik Association (BOMSA) is a non-profit organization established in 1998 to support female migrant workers. One of its founding principles is to raise awareness among communities with high numbers of potential women migrant workers in order to decrease their risk of being exploited. BOMSA also conducts skills training for migrant workers, helps to streamline the remittance process, provides counselling to traumatized migrant women, and helps returnees to reintegrate into economic activities that ensure self-reliance.²⁷

The Bangladesh Women Migrants' Association (BWMA) was established in 2002 to assist both returnee and outgoing female migrant workers. Its main aims are to: organize migrant women to achieve their targets; provide information to aspiring female migrants about the process for migrating, risks associated with migrant work, and work conditions in destination countries; provide skills training to outgoing workers and provide information regarding work possibilities upon return.²⁸

The Welfare Association of Repatriated Bangladeshi Employees (WARBE) was founded in 1997 by a group of returned migrant workers – with the goal of promoting the welfare and rights of migrant workers. It has organized migrant centres in communities across the country to raise awareness about migrants' rights and provide support to returned migrants and the families of current migrants. It has also lobbied for more transparency and accountability in the wage earner welfare fund.²⁹

24 Available from: www.bgdportal.com/Government-Politics/Government-Ministry/Ministry-of-Expatriates-Welfare-and-Overseas-Employment/

25 Available from: www.hrexport-baira.org/index.php/aims-objectives

26 Migrant Forum in Asia, *CEDAW and the Female Labour Migrants of Bangladesh*, (Quezon City, Philippines, 2010)

27 UNIFEM, *Good Practices from Bangladesh: NGO partnership BOMSA*. Available from: www.migration-unifem-apas.org/docs/Good_practice_BOMSA.pdf.

28 Available from: www.samren.net/Civil_Society_Initiatives/bangladesh/Bangladesh-8.htm

29 Nazli Kibria, *Returning International Labour Migrants from Bangladesh, The Experience and Effects of Deportation*, The Inter-University Committee on International Migration, The Rosemarie Rogers Working Paper Series, no. 28, (July 2004), pp. 8 and 9. Available from: <http://web.mit.edu/cis/www/migration/publications.html#rrwps>

The Refugee and Migratory Movements Research Unit (RMMRU) at Dhaka University was established as a forum for conducting research and advocacy work on behalf of migrants.³⁰ It has produced research showing that, through migration, many women are able to make positive economic and social advancements in their lives.³¹

D. RATIFICATION RECORD

The following table illustrates Bangladesh's ratification status of international treaties related to women migrant workers.

TREATIES	RATIFICATIONS
MWC	7 October 1998 s
CEDAW	6 November 1984 a
ICCPR	6 September 2000 a
ICESCR	5 October 1998 a
ICERD	11 June 1979 a
ILO C29 Forced or Compulsory Labour	22 June 1972
ILO C87 Freedom of Association	22 June 1972
ILO C97 Migration for Employment	-
ILO C98 Right to Organize and Collective Bargaining	22 June 1972
ILO C100 Equal Remuneration	28 January 1998
ILO C105 Abolition of Forced Labour	22 June 1972
ILO C111 Discrimination in Employment	22 June 1972
ILO C138 Minimum Age for Admission to Employment	-
ILO C143 Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	-
ILO C181 Private Employment Agencies	-
ILO C182 Prohibition Worst Forms of Child Labour	12 March 2001

³⁰ Ibid, p. 8

³¹ Migrant Forum in Asia: *CEDAW and the Female Labour Migrants of Bangladesh*.

E. COMPLIANCE WITH CEDAW ARTICLES

DISCRIMINATION

Recent legislative reforms on violence against women, equal pay, maternity leave and parliamentary quotas have contributed to eliminating discrimination against women. Bangladesh has also made impressive gains in achieving gender parity in primary and secondary education.³² These efforts have increased gender equality and are in line with the CEDAW. However, because Bangladesh's Constitution only guarantees equal rights to men and women in state and public life, but not the private sphere, women do not enjoy equal rights with men under laws governing marriage, separation/divorce, nationality, guardianship and custodial rights, and land distribution.³³

These discriminatory laws and practices have widespread implications beyond family life as they limit women's access to resources, contribute to poverty and hinder women's self-determination and ability to act autonomously as equal members of society. Thus, the CEDAW Committee has called upon Bangladesh to "extend the application of the guarantees of equal rights between women and men to the private sphere in its Constitution". It also urged it to "harmonize domestic legislation with obligations under the CEDAW and enhance law reform through partnership and collaboration with religious leaders, lawyers and civil society organizations."³⁴

Cultural biases and stigmatization also contribute to discrimination against women, and in particular limit their ability to access quality employment. Traditional notions of what constitutes appropriate women's work, means that many women are concentrated in jobs that are considered typically female. This is particularly true for women migrant workers who, because of patriarchal stereotypes casting them as docile, obedient, and willing to provide personal service, are most often employed as domestic workers, entertainers, restaurant/hotel staff, or assembly-line workers in clothing and electronics industries. Women employed in these sectors generally receive low wages and are subject to harsh conditions. They may also suffer from isolation, vulnerability, exploitation and abuse. As a result, these jobs tend to be shunned by local women.³⁵

The CEDAW Committee has recognized Bangladesh's efforts to change stereotypical notions about women's roles in society through use of the media and other educational programmes. The Committee noted however, that despite these efforts, persistent "patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men ... continue to perpetuate discrimination against women and girls and are reflected in their disadvantageous and unequal status in many areas, including employment, decision-making, marriage and family relations, and the persistence of violence."³⁶ The

32 Organisation for Economic Co-operation and Development Development centre, *Social Institutions and Gender Index – Bangladesh* (webpage, 2012). Available from: <http://genderindex.org/>

33 CEDAW Committee, *Concluding Observations*.

34 Ibid.

35 Migrant Forum in Asia, *CEDAW and the Female Labour Migrants of Bangladesh*.

36 CEDAW Committee, *Concluding Observations*, para. 17.

Government should therefore amplify its efforts to challenge stereotypical attitudes that lead to gender divisions of labour, and diversify employment opportunities for women, including opportunities for working abroad.³⁷

POLICY MEASURES

Traditionally, women with limited skills were prohibited from migrating abroad for work. As a way of helping women lift themselves and their families out of poverty the Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) adopted new policies on female migration in 2003, allowing unskilled or semi-skilled women aged 35 years and older to migrate with special permission. The new policy also encouraged the development of training centres to teach women specialized skills such as use of domestic appliances, English and Arabic language skills, and raise awareness of their rights regarding wages, accommodation and medical services. Later, in 2006, the policy was amended to reduce the minimum age from 35 to 25 and restrictions on unmarried women were withdrawn.³⁸

These changes were welcome, and have allowed more women to seek employment overseas. However, because many of these women have limited education and work experience, they are vulnerable to abuse. A comprehensive gender-sensitive migration policy is therefore needed that recognizes women's disadvantageous position in relation to men in the society, which is especially acute in the migration process.³⁹ The policy should ensure that pre-departure orientations, embassy and consular services and reintegration programmes are prepared to address the unique experiences of migrant women who, more often than men, are denied their basic rights, become victims of sexual harassment and physical abuse, and have little access to redress mechanisms for these violations.

Bangladesh's recently approved National Women's Development Policy 2011 (NWDP), which accords women equal political and economic rights as men, and advocates the removal of all forms discrimination against women, including discrimination against women migrant workers, is a good basis to start from in creating such a gender-sensitive policy on migration.⁴⁰

TRAFFICKING AND FORCED LABOUR

Trafficking

Bangladesh is a source country for women subjected to forced labour and sex trafficking. According to the US State Department's 2012 Trafficking in Persons (TIP) Report, men and women in Bangladesh use recruitment agencies to migrate to Saudi Arabia, Bahrain, Kuwait, the United Arab Emirates (UAE), Qatar, the Maldives, Iraq, Iran, Lebanon, Malaysia, Singapore,

37 Migrant Forum in Asia, *CEDAW and the Female Labour Migrants of Bangladesh*.

38 *Ibid.*

39 *Ibid.*

40 Bangladesh, Ministry of Women and Children's Affairs, *National Women Development Policy 2011*, Arts. 23 and 25

Europe, and other countries for work. Some of these agencies engage in unethical practices, including charging exorbitant fees, fraudulently representing the terms and conditions of employment, and placing migrant workers in conditions of labour bondage.

PROSECUTION

Bangladesh is a party to the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking of Women and Children for Prostitution, and in February 2012 Parliament passed the Human Trafficking Deterrence and Suppression Act, prohibiting and punishing all forms of human trafficking. Penalties for labour trafficking offense are now five to 12 years' imprisonment and fines of not less than 600 US dollars. Penalties for sex trafficking offences range from five years to the death sentence.⁴¹ This new law represents a good gender-sensitive rights-based practice and addresses the CEDAW Committee's concerns, articulated in its most recent concluding observations, that Bangladesh should incorporate provisions of the SAARC into its domestic laws.

The penalties prescribed in the new law are considered to be sufficiently stringent, but to be effective the law must be adequately enforced. In the past, NGOs have alleged that members of parliament are working with corrupt recruitment agencies and brokers at the village level to facilitate fraudulent recruitment and trafficking. Despite these serious allegations, the Government has not investigated or prosecuted any officials suspected of involvement in trafficking.⁴² Additionally, in 2011, only 14 trafficking offenders were convicted.⁴³ The CEDAW Committee has commented on this low number of convictions and called on Bangladesh to harmonize legal procedures aimed at the prosecution of traffickers.⁴⁴

PROTECTION

In 2011, the government identified 181 victims of trafficking. Although there are no shelters or services specifically for trafficking victims, the government does support nine homes, as well as a one-stop crisis centre for women victims of violence, which are open to trafficking victims. Additionally, due to the prevalence of violence against domestic workers in Saudi Arabia, the Bangladeshi Government runs a shelter for Bangladeshi female migrant workers who are fleeing abusive employers.⁴⁵

While provision of shelter and support services is to be commended, there are no systematic procedures in place for identifying trafficking victims among vulnerable populations. This results in some victims being detained, fined or jailed for unlawful acts, such as illegal migration

41 US State Department, *Trafficking in Persons Report 2012 – Bangladesh*, (2012). Available from: www.state.gov/j/tip/rls/tiprpt/2012/

42 *Ibid.*, p. 82.

43 *Ibid.*, p. 82.

44 CEDAW Committee, *Concluding Observations*, para. 22b.

45 US State Department, *Trafficking in Persons Report*

or prostitution, that were committed as a result of trafficking.⁴⁶ To address this problem the CEDAW Committee has urged the Government to implement gender-sensitive training for the judiciary, police, border guards and social workers so that they can better identify victims and assist rather than prosecute them.⁴⁷

PREVENTION

Bangladesh's National Plan of Action for Combating Human Trafficking for 2012-2014 includes provisions for implementing the new anti-trafficking law, raising awareness about trafficking of women and children, and improving oversight of the migrant labour recruitment process.⁴⁸ This is a good gender-sensitive practice and addresses the CEDAW Committee's recommendation to Bangladesh that it "adopt a comprehensive action plan to address trafficking."⁴⁹

FORCED LABOUR

The Bangladeshi penal code prohibits forced or bonded labour; however, according to the US State Department's 2011 Human Rights Report for Bangladesh, the prescribed penalty of imprisonment for up to one year or a fine has not been sufficiently stringent to deter the offence, and the government has not enforced the prohibitions effectively.⁵⁰ Women migrant workers who use irregular channels of migration are particularly vulnerable to trafficking and forced labour. Bangladesh's lack of enforcement of its forced-labour laws is a violation of article 6 of CEDAW on trafficking which obligates States parties to "take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women."

EMPLOYMENT

Pervasive under- and un-employment has contributed to mass poverty, and is "the single most critical development-retarding problem in Bangladesh," according to the Bangladesh Institute of Labour Studies (BILS)⁵¹ Research by the institute has shown that approximately 80 percent of those who are employed are working in the informal sector, where labour standards are usually not recognized or followed. For those working in the formal sector things are not always much better, with widespread reports of human rights violations in the

46 Ibid.

47 CEDAW Committee, *Concluding Observations*, para. 22c.

48 US State Department: *Trafficking in Persons Report*, p. 83.

49 CEDAW Committee, *Concluding Observations*, para. 22c.

50 US State Department, *Human Rights Report 2011 – Bangladesh* (webpage, 2011). Available from: www.state.gov/j/drl/rls/hrrpt/2011/sca/186459.htm

51 Jakir Hossain, Mostafiz Ahmed and Afriza Akter, *Bangladesh Labour Law: Reform Directions*, Bangladesh Institute of Labour Studies, Research and Advisory Team (November 2010), p. 2.

country's garment factories. Approximately 85 percent of garment workers are women who work long hours for very low wages, often in unsafe conditions. These women also face many barriers in forming unions and therefore are mostly not organized into representative bodies such as unions.⁵²

To better regulate working conditions, the Government passed the Bangladesh Labour Law of 2006 (BLL). The BLL covers most issues related to employment including conditions of service, youth employment, maternity benefits, health and hygiene, safety, welfare, working hours and leave, wages, workers' compensation for injury, and trade unions. Specifically, workers are given a weekly day of rest and work hours are not to exceed 48 hours in one week. Overtime cannot be more than two hours per day, and must be compensated at twice the normal wage. Discrimination against women is prohibited and women receive 16 weeks maternity leave.⁵³

Those covered by the law include any person who is employed directly or through a contractor/agency for any skilled, unskilled, physical, technical, business development or clerical job in any establishment or industry. However, the law does not cover domestic workers, agricultural workers, or workers at schools. Also, women are prohibited from working between 10:00 p.m. and 6:00 a.m. without consent, and from handling or running dangerous machines (unless they are sufficiently trained). Women are also prohibited from working underwater or underground.⁵⁴

In many respects the BLL is a good example of gender-sensitive lawmaking in that it explicitly prohibits discrimination against women, requires equal pay for equal work and provides good maternity coverage. However, because the law does not cover workers in the informal sector or domestic work, where many women are employed, it increases their vulnerability to exploitation and abuse and is discriminatory. In response, the CEDAW Committee has called upon the government to "eliminate both horizontal and vertical segregation, narrow the wage gap between men and women, and apply the principles of equal remuneration and equal opportunities at work."⁵⁵ The CEDAW Committee also noted that gendered notions of appropriate work for women are discriminatory and "result in job opportunities that reflect familial and service functions ascribed to women or in informal jobs."⁵⁶ Thus the BLL's prohibitions on women working underground or underwater, running dangerous machines or working late hours are also discriminatory and contradict the CEDAW.

REGULATION OF EMPLOYMENT AGENCIES

The Emigration Ordinance of 1982 provides for the appointment of agents in foreign countries for the purpose of safeguarding the interest of emigrants and promoting overseas employment (article 5). It also describes regulations for licensing and inspection

52 Ibid, pp. 2 – 3.

53 Ibid.

54 Ibid.

55 CEDAW Committee, *Concluding Observations*.

56 CEDAW Committee, *General recommendation No. 26 on women migrant workers*, (CEDAW/C/2009/WP.1/R) (UN Doc A/64/38 at 15 2008) (Forty-second session, 2008), para. 13. Available from: www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf

of recruitment agencies (articles 10 and 17). It includes provisions for redress, including: the forfeiture of security deposits for misconduct by recruitment agencies, which may be paid to an affected person (article 14(2) (a)); penalties for fraudulently inducing to emigrate (article 21); penalties for charging higher than the prescribed amount of recruitment fees (article 23); and provides for the establishment of Special Courts consisting of the Chairman of a Labour Court (article 26).⁵⁷

Although this ordinance contains several provisions for the protection of migrant workers, lax oversight of Bangladesh's recruiting agencies means that many are able to violate the law with impunity. According to the US State Department's 2011 TIP Report, many agencies charge recruitment fees in excess of a year's salary, and fraudulently represent the terms of employment. This practice contributes to migrants becoming victims of forced labour, including women and girls lured by promises of good jobs, who are then trafficked from Bangladesh to India, Pakistan, and other place and forced to work as prostitutes against their will.⁵⁸

Legislation against abusive practices by recruitment agencies is not enough to meet CEDAW obligations to ensure substantive equality for women. If these laws are not enforced, women will continue to be discriminated against and vulnerable to abuse. To ensure substantive equality for women migrating from Bangladesh for work, the government must improve oversight of international recruiting agencies to ensure their practices comply with the law and respect the human rights of women.

REMITTANCES

Migrant worker remittances make significant contributions to Gross Domestic Product (GDP), family welfare, education, consumer demand, and community-level development. Remittances in 2010 were 10.7 billion US dollars and contributed 13 percent of Bangladesh's GDP.⁵⁹ According to the World Bank, Bangladesh is one of top five remittance-receiving countries. For that reason it is important that programmes and systems are in place to facilitate remittances from migrant workers. The law in Bangladesh strictly prohibits sending remittances through informal channels. Despite this, a study by the World Bank showed that in 2005, only 46 percent of total remittances were received through banking channels. Forty percent were received through the informal hundi systems, 5 percent were delivered through friends and relatives, and the rest was delivered during visits home by migrant workers themselves.⁶⁰

57 Bangladesh, *Emigration Ordinance 1982*.

58 US State Department, *Trafficking in Persons Report*, p. 81.

59 Institute for Human Rights and Business, *Bangladeshi Migrant Workers – Responsible Recruitment, Responsible Return*, (London, June 2011). Available from: www.ihrb.org/pdf/June_2011_IHRB_Business_and_Migration_Roundtable_3_Report.pdf

60 Abul Kalam Azad, "Migrant Workers' Remittances: A Source of Finance for Micro-Enterprise Development in Bangladesh?", in *Remittances – Development Impact and Future Prospects*, Amuel Munzele Maimbo and Dilip Ratha, eds. (The World Bank, Washington DC, 2005), p. 126. Available from: <https://openknowledge.worldbank.org/bitstream/handle/10986/7339/32598a.pdf>

In response, Bangladesh has established special programmes to encourage remittances through official channels, and enhance the contribution to national economic development, such as: a speed case system to facilitate remittances; appointment of banking representatives in major labour-importing countries; agreements with banks in host countries; arrangements for investments in privatized industries; and special savings incentives.⁶¹ The creation of such safe, legal, and inexpensive channels for women migrant workers to send remittances to their countries of origin is an example of gender-sensitive rights-based practice as their money plays a critical role in supporting families and communities by jump-starting small and medium enterprises, and promoting investment in rural areas often left behind by national development initiatives.⁶²

Minimum Wage

According to the International Labour Organization's (ILO) Global Wage Report 2010/2011, Bangladesh's average monthly minimum wage is 58 dollars - the lowest among all Asian countries.⁶³ This extremely low minimum wage has been a source of constant strife in the country, causing tens of thousands of workers to strike and leading to the closure of 300 clothing factories.⁶⁴ Commenting on these low wages, Prime Minister Sheikh Hasina has stated, "The wage the workers are paid, I will say, is not only insufficient, but also inhumane. It is simply impossible for the [garment workers] to even live from hand to mouth in the capital with the peanuts they get in wages."⁶⁵ The extremely low wages paid to Bangladesh's factory workers and other low-skilled jobs contravene the International Covenant on Economic, Social and Cultural Rights (ICESCR) which recognizes the right to fair wages – defined in the Covenant as 'wages that, at a minimum, provide a decent living for the worker and her family'.⁶⁶ The fact that Bangladesh's minimum wages are the lowest in Asia is also a driver of women migrating out of the country for work.⁶⁷

Minimum age

The Bangladesh Labour Act (BLA) provides that the minimum age to work is 14 (although a special clause states that children between the ages of 12 and 14 may be employed to do "light work" that does not endanger their health, development and education).⁶⁸ National legislation also prohibits women who are younger than 25 from emigrating for work.⁶⁹ This prohibition,

61 International Organization for Migration, *Labour Migration in Asia – Protection of Migrant Workers, Support Service and Enhancing Development Benefits*, (Geneva, 2003). Available from: www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/labour_migration_asia.pdf

62 UNIFEM, *Good Practices to Protect Women Migrant Workers*, report from high-level government meeting of countries of employment, (2005). Available from: www.unwomen-eseasia.org/projects/migrant/Docs/GdPracticesReportWebPubV1.pdf

63 International Labour Organization, *Global Wage Report 2010/11: Wage policies in times of crisis* (Geneva, 2010). Available from: www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_145265/lang--en/index.htm

64 BBC News Asia, "Bangladesh Pay Row shuts Ashulia Garment Factories", 17 June 2012. Available from: www.bbc.co.uk/news/world-asia-18475788

65 Institute for Global Labour and Human Rights, "Why is Wal-Mart blocking 35 cents an hour for Bangladeshi Workers?", (webpage, July 28, 2010). Available from: www.globallabourrights.org/alerts?id=0176

66 UNIFEM, *Human Rights Protections Applicable to Women Migrant Workers*, briefing paper (New York, 2003), p. 8. Available from: www.unrol.org/files/HRProtectionsApplicable2WMW_eng.pdf

67 Jean D'Cunha, *Claim and Celebrate Women Migrants' Human Rights through CEDAW*, UNIFEM, (New York, 2005), p. 29. Available from: www.unifem.org/materials/item_detailc768.html

68 Abul Kalam Azad, "Migrant Workers' Remittances".

69 International Labour Organization, *Decent Work Country programme (2006 – 2009) – Bangladesh*, (Geneva, 2008), p. 9. Available from: www.ilo.org/public/english/bureau/program/dwcp/download/bangladesh.pdf

designed to protect women, in fact violates their right to mobility, and is discriminatory since men are not subject to the same age restrictions. Additionally, rather than protecting women, such prohibitions, which do not address the root causes of exploitation and abuse, predispose women to violence, as those who must migrate choose dangerous avenues to move – driving them into the hands of traffickers.⁷⁰ Hence Bangladesh's age restrictions on migration should be amended to ensure compliance with article 11(1) of the CEDAW which guarantees women equal rights in employment, including the right to the same employment opportunities as men and the application of the same criteria for selection in matters of employment.⁷¹

BILATERAL AGREEMENTS

Bangladesh has concluded bilateral labour agreements with Qatar (1988/2008), UAE (2007), Oman (2008), Republic of Korea (2007), Libya (2008), Kuwait (2000/2008), Malaysia (2003/2006), and the Maldives, and is in the process of negotiating agreements with Bahrain, Italy and Jordan.⁷² The creation of bilateral Memorandums of Understandings (MoUs) between countries of origin and countries of employment is an example of rights-based good practice as it provides effective government-to-government migration channels, sets out methods of migration management to be jointly implemented, and guarantees women migrant workers coverage under the labour law.

The CEDAW Committee urges governments to enter into to such agreements,⁷³ as does the Global Commission on International Migration, which has stated that: "Bilateral agreements are a valuable means of addressing migration issues that affect two states. They must always respect the normative framework affecting international migrants and thereby safeguard migrant rights."⁷⁴ Bangladesh should continue to develop bilateral MoUs and agreements with other labour-receiving countries that are in line with international standards and contain provisions explicitly protecting women migrant workers.⁷⁵

GOOD PRACTICES FROM BANGLADESH

Since 2005, UN Women has worked with Bangladesh's Ministry of Expatriates' Welfare and Overseas Employment division to empower potential, current and returned women migrant workers and their communities. In 2009-10, UN Women assisted the Bangladesh Government in establishing its first resource centre to provide comprehensive information, resources and training to aspiring migrant women, and to conduct rehabilitation programmes for women returning from work abroad.

70 Jean D'Cunha, *Claim and Celebrate Women Migrants' Human Rights through CEDAW*, p. 27.

71 UNIFEM, *Human Rights Protections Applicable to Women Migrant Workers*, p. 9.

72 International Organization for Migration, *Labour migration from Colombo Process countries – Good practices, challenges and ways forward*, (Geneva, 2011). Available from: http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=1&products_id=758.

73 CEDAW Committee, *General recommendation No. 26*, Art. 27a.

74 UNIFEM, *Good Practices to Protect Women Migrant Workers*.

75 *Ibid.* UNIFEM (2005), *Good Practices to Protect Women Migrant Workers*.

UN Women has also worked in tandem with the Government to train labour attachés of embassies and government officials in receiving countries to ensure they are sensitive to the needs of immigrating women. Additionally, a 26-episode programme was broadcast on national radio in local dialects, which focused on the safest ways to migrate for work. It received an overwhelming response and many aspiring women migrants called in with queries.⁷⁶

BOMSA's efforts to ensure safe migration of women and reduce their vulnerabilities to trafficking also represent good practices. Some of these projects include:

- Providing skills training for thousands of female migrant workers.
- Providing pre-departure training of female migrant workers to ensure they are aware of their rights and can avail themselves of assistance if needed.
- Supporting projects aimed at streamlining remittances through official channels.
- Providing counselling for traumatized returnee female migrant workers.
- Assisting returnee women migrant workers with initiating small and medium enterprises.
- Training returnee women migrant workers in skills that allow for successful reintegration, including homestead gardening and livestock rearing.⁷⁷

EQUALITY BEFORE THE LAW

Freedom of Movement

The notion of women migrating for work goes against Bangladesh's strict cultural restraints and traditions, which identify the public realm as a man's world and the domestic sphere as the woman's domain. Stereotypes, customs and norms, prevalent throughout Bangladeshi society, result in far fewer options, training opportunities and support services for women wishing to migrate, compared with those available to men. This denial of women's right to freedom of movement and right to choose their profession accounts for the overall low number of women migrant workers.⁷⁸ Consequently, the CEDAW Committee has urged the government to do more to eliminate stereotypical attitudes that constrain women's ability to freely choose where they work.⁷⁹

Women's Access To Justice

Despite traditional and cultural biases against women migrating, Bangladeshi women are increasingly being recruited as domestic workers in the Middle East and other countries, in part because other labour-sending countries are tightening regulations or imposing bans in response to widespread exploitation.

While this has opened up opportunities for women, according to Human Rights Watch, the Bangladeshi government "has failed to introduce minimum protection measures ... to ensure

⁷⁶ UNIFEM, *Good Practices from Bangladesh*

⁷⁷ *Ibid.*

⁷⁸ Migrant Forum in Asia, *CEDAW and the Female Labour Migrants of Bangladesh*.

⁷⁹ CEDAW Committee, *Concluding Observations*.

that embassies abroad are adequately equipped with labour attaches and shelters to respond to cases of abuse”.⁸⁰ As a result, female migrant workers subjected to illegal recruitment practices, non-payment or underpayment of wages, sexual harassment, lack of food, or denial of access to medical care are often unable to seek redress for these labour violations.

According to the US State Department, because embassies abroad are unresponsive to complaints of migrant workers, “when Bangladeshi migrant workers [have] complaints of labour and recruitment violations they most often resort to arbitration by BAIRA, which [does] not provide sufficient financial compensation and rarely address[e] the illegal activities of some BAIRA-affiliated recruitment agents.”⁸¹ Failing to ensure that migrant women have adequate access to redress mechanisms is a violation of the CEDAW. In General Recommendation 26 the CEDAW Committee requires governments to “put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse” and “ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid.”

Bangladesh has set up the Wage Earners’ Welfare Fund to provide financial assistance to migrant workers facing difficulties overseas is a response to some of these problems. The Fund is based on subscriptions from the migrant workers, licenses of recruiting agencies, surcharges on the fees collected through the missions abroad and personal and institutional contributions. The ILO has described such welfare funds are considered good rights-based practice as they increase women’s access to justice and redress by providing “assistance in forced repatriation in the event of illness, violence at work, contract violation, or non-existent jobs. They can also be used for litigation in countries of employment, medical care for injured workers abandoned by their employers, and for conciliating disputes.”⁸²

F. ANALYSIS AND CONCLUSIONS

The Government of Bangladesh is taking steps to improve the migration process for women workers. Examples of gender-sensitive and rights-based good practices include:

- Ratification of all core international human rights instruments, including CEDAW and the Convention on the Protection of Migrant Workers.
- Partial withdrawal of reservations to CEDAW and a commitment, through the Government’s Development Plan for 2010-2021, to withdraw all remaining reservations.
- Active participation in the Colombo process, a regional consultative process on the management of overseas employment and contractual labour for countries of origins in Asia.

80 Human Rights Watch, *World Report 2012*.

81 US State Department, *Trafficking in Persons Report*, p. 83.

82 Available from: www.pstalker.com/ilo/o-welfare.html

- Reforms to legislation on violence against women, equal pay, maternity leave and parliamentary quotas, which have contributed to eliminating discrimination against women.
- A national overseas employment policy, which is a good basis for formulation of a gender-sensitive migration policy, as recommended by the CEDAW Committee.
- Adoption of the National Women Advancement Policy in 2011, which prohibits discrimination against women and accords them equal political and economic rights to those of men, through benefits like social security, ensuring the enactment of laws to reduce violence against women, and catering to their health and nutrition needs.
- The Perspective Plan for Bangladesh (the Government's development plan for the period 2010-2020), which aims to: "give women their rightful share in skills development training both at home and abroad, and will improve professional excellence"; remove reservations to CEDAW; review all laws relating to gender inequality "to ensure gender sensitive good governance, security at home and in the workplace, the rule of law, and transparency and accountability in all public and private organizations"; and "enhance the economic participation rate of women from 29 percent to at least 40 percent by 2021".⁸³
- Use of the media and other educational programmes to change stereotypical notions about women's roles in society.
- MoEWOE policies on female migration to teach specialized skills and rights awareness to migrant women.
- Passage of the Human Trafficking Deterrence and Suppression Act prohibiting and punishing all forms of human trafficking
- A National Plan of Action for Combating Human Trafficking for 2012-2014 providing for implementation of the new anti-trafficking law; raising awareness about trafficking of women and children; and improving oversight of the migrant labour recruitment process.
- A government-run shelter for Bangladeshi women fleeing abusive employers in Saudi Arabia.
- The Bangladesh Labour Law of 2006 that prohibits discrimination against women; requires that workers are given one day of rest per week; limits the number of hours worked per week to 48 unless overtime is paid at a rate of double the employees wage; and provides for 16 weeks of maternity leave.
- Emigration Ordinance 1982, which provides for the appointment of agents in foreign countries for the purpose of safeguarding the interest of emigrants, regulates licensing of recruitment agencies, and lays out: provisions for redress, including the forfeiture of security deposit for misconduct by recruitment agencies, which may be paid to an affected person; penalties for fraudulently inducing to emigrate; and the establishment of Special Courts consisting of the Chairman of a Labour Court.
- Bilateral labour agreements with Qatar, UAE, Oman, Republic of Korea, Libya, Kuwait, Malaysia and the Maldives, and similar agreements with Bahrain, Italy and Jordan currently under negotiation.
- Resource centres supported by the Government and UN Women that provide comprehensive information, resources and training to aspiring migrant women and conduct rehabilitation programmes for women returning from work abroad.
- Training of labour attachés of embassies and government officials in receiving countries to

83 Bangladesh, Planning Commission, General Economics Division, *Outline Perspective Plan of Bangladesh, 2010-2021* (Dhaka, 2010) p.7. Available from: www.un-bd.org/docs/Final_Draft_OPP_June_2010.pdf

ensure they are sensitive to the needs of migrant women.

- Wage Earners' Welfare Fund that provides financial assistance to women and men migrant workers facing difficulties overseas.
- Special programmes to encourage remittances through official channels, and enhance the contribution to national economic development, including a new bank dedicated to providing services for migrant workers by improving access to soft loans, improving processes for transferring remittances, improving loans after return and increasing the number of pre-departure training centres.⁸⁴
- Nine government-run homes for women and children victims of violence, including trafficking, as well as a "one-stop crisis centre" for women and children in the Dhaka general hospital. These centres, in cooperation with NGOs, provide legal, medical, and psychiatric services.
- The cancellation of licences and closure of some recruiting agencies found to have engaged in fraudulent recruitment practices that potentially facilitated human trafficking.

According to the Institute for Human Rights and Business, "while many important initiatives regarding migrant worker protection are underway, these are not connected, so there is a lack of scale and limited impact."⁸⁵ As a consequence, women migrant workers continue to suffer from exploitation and abuse at all stages of the process including during recruitment, at work in receiving countries, and upon return to Bangladesh. Exorbitant recruitment fees, false information, lack of pre-departure training, unsuitable job skill matching, unsafe work conditions, passport retention, sexual harassment and threats of violence, and limited access to redress mechanisms are just some of the violations of human rights experienced by Bangladeshi women migrant workers.⁸⁶ Thus, despite many positive developments, much more must be done to better protect the rights of Bangladeshi women who chose to migrate for work.

G. RECOMMENDATIONS

- Withdraw remaining reservations to CEDAW
- Sign all relevant international conventions on protection of migrant workers and anti-trafficking
- Ensure enforcement of the newly enacted laws against domestic violence
- Extend the application of the guarantees of equal rights between women and men to the private sphere in the Constitution, and amend or repeal discriminatory laws related to marriage, divorce, nationality, guardianship and custodial rights so that they fully comply with obligations under the CEDAW.
- Amplify efforts to challenge stereotypical attitudes that lead to gender divisions of labour, and diversify employment opportunities for women, including opportunities for working overseas.
- Enact a comprehensive gender-sensitive migration policy that ensures that pre-departure orientations, embassy and consular services and reintegration programmes are

⁸⁴ Institute for Human Rights and Business, *Bangladeshi Migrant Workers*, p. 13.

⁸⁵ *Ibid.*, p. 2.

⁸⁶ *Ibid.*

- prepared to address the specific experiences of migrant women.
- Better enforce laws related to prosecution of traffickers; put in place systematic procedures to identify trafficking victims among vulnerable populations; stop penalizing trafficking victims for crimes committed as a result of being trafficked; implement gender-sensitive training for judiciary, police, border guards, and social workers so that they can better identify and assist victims of trafficking.
 - Increase penalties for forced labour offences and ensure better implementation and enforcement of laws related to forced labour.
 - Ensure debt bondage is addressed by all stakeholders, including the private sector; require that all migration charges are borne by employers.
 - Amend the Bangladeshi Labour Law to cover domestic workers and those working in the informal sector; repeal discriminatory provisions limiting women from working at night, from running dangerous machines and from working underwater or underground.
 - Increase oversight of recruitment agencies to ensure they respect the human rights of women and prosecute those found in violation of the law; ensure agencies do not charge exorbitant fees, do not confiscate passports, and do not misrepresent conditions of work overseas.
 - Ensure adequate pre-departure training for women migrants that includes information about: legal rights and entitlements in countries of employment; procedures for invoking formal and informal redress mechanisms; processes by which to obtain information about employers; cultural conditions in countries of destination; stress management, first aid and emergency measures; including emergency telephone numbers of home embassy and services; information about safety in transit, including airport and airline orientations; and information on general and reproductive health, including HIV/AIDS prevention.
 - Continue to implement programmes that create safe, legal and inexpensive channels for remittances for women migrant workers.
 - Increase the minimum wage to provide workers with a decent living.
 - Remove discriminatory provisions prohibiting women under 25 from migrating abroad for domestic work.
 - Conclude bilateral agreements with all countries receiving Bangladeshi migrant labourers and ensure agreements promote respect for the rights of women migrant workers.
 - Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid; and provide for legal reviews of work contracts to ensure they are valid and protect women's rights on a basis of equality with men.
 - Ensure protocols are in place for safe repatriation of migrant workers in emergency situations.
 - Improve systems for reintegrating and rehabilitating returned women migrant workers, including comprehensive socio-economic, psychological and legal services.
 - Apply a multi-stakeholder approach to improve the protection of migrant workers' rights that involves trade unions, recruitment agents, governments, multinationals, employers, and civil society organizations.
 - Adopt a model contract between the Government and recruitment agencies.
 - Continue to train and supervise Bangladeshi diplomatic and consular staff to ensure that they fulfill their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid, and shelter when needed.

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