

National Human Rights Commission – Bangladesh (NHRCB)

Replies to the issues raised in CMW /C/BGD/Q/1

Presented at the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

March 2017

Introduction

The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (hereafter “CMW” or “the Convention”) is the most comprehensive, migrant-specific instrument for the protection of migrant workers and their family members. Thirteen years after the adoption of this Convention, Bangladesh ratified it on 24 August 2011.¹ The ratification of CMW was a success story of the advocacy efforts of NHRC – Bangladesh. Several consultations and discussions were held by NHRCB with multiple stake holders including the Ministry of Foreign Affairs to encourage the government of Bangladesh to ratify the Convention². The initial report was due since December 2012 and same was submitted by the State party on 28 December, 2015.

This report is prepared and submitted by NHRC³ – Bangladesh, seeks to reply selected issues raised by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families. The replies are formulated based on several consultations and discussions held with stake holders including government agencies, civil society organizations and intergovernmental agencies.

Responses to the issues below are sequenced as per the list of issues raised by the Committee.

General Information- Issues 1 - 3

In Bangladesh, the domestic legal regime and policies applicable to international labour migration consists of the following;

- ✓ The Constitution of the People’s Republic of Bangladesh,
- ✓ The Overseas Employment and Migrants Act 2013,
- ✓ The Wage Earners’ Welfare Fund Rules 2002⁴,
- ✓ The Emigration Rules 2002⁵,

¹ The Cabinet consented to the ratification of the Convention without reservation on 12 April 2011. The ratification was formally communicated to the United Nations on 24 August 2011.

² <http://archive.thedailystar.net/law/2011/02/03/event.htm>

³ Established under the National Human Rights Commission Act No 53 of 2009. The Commission would like to draw the attention of the Committee on Migrant workers on the official title of the Commission ; which reads as National Human Rights Commission , Bangladesh as per the law No.53 of 2009.

⁴ The Wage Earners' Welfare Board (WEWB) was established in 1990, with the Bureau of Manpower, Employment and Training (BMET) to extend welfare services to the migrant workers.

⁵ The Emigration Rules was framed in 2002 pursuant to section 19 of the Emigration Ordinance 1982 which provides for appointment of a Registrar articulating the powers and duties for the overseeing the recruiting agent. It also provides for appointment of labour attache in the Bangladesh Mission abroad articulating its duties.

- ✓ The Recruiting Agents' License and Conduct Rules 2002⁶ and
- ✓ Expatriates' Welfare and Overseas Employment Policy 2016

The Constitution of Bangladesh predates the CMW. Nevertheless, the basic human rights of migrant workers and members of their families have been directly or indirectly recognized in the Constitution. The preamble to the Constitution firmly declares that the aim of the State is to establish a society “free from exploitation”, based on the rule of law and underpinned by the respect for “**fundamental human rights and freedoms**”⁷.

The Overseas Employment and Migrants Act (2013)⁸; (OEM Act) models CMW, emphasizing in its preamble, that it is “expedient and necessary to promote opportunities for overseas employment and establish a safe and fair system of labour migration, to ensure rights and welfare of migrant workers and members of their families”. Per the International Labour Organization, this is the first-ever law on labour migration passed by the Parliament of Bangladesh and one that derives principles from the International Labour Standards and the UN Conventions and recommendations.⁹

As part of the Act: (1) all workers migrating from Bangladesh, including domestic workers, are recognised as workers and are guaranteed basic labour rights- the principle of equality and non-discrimination is the basic feature of the Act; (2) they have the right to legal remedy; (3) they can access labour courts, mobile courts, and other courts; and (4) the Bureau of Manpower, Employment and Training (BMET) and labour attachés in destination countries are recognised as key rights custodians.

NHRCB observes, the OEM Act is currently implemented through three sets of Rules¹⁰ which were formulated under its predecessor ordinance; a law which currently stands repealed. Furthermore, the bylaws were framed prior to Bangladesh ratifying CMW. As such, these bylaws need to be reviewed and replaced to follow CMW. The Commission also understands, that the formulation of new rules is in progress and would urge the Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) to follow an inclusive process in formulating these Rules.

Per section 20¹¹ of the **Emigration Rules, 2002**, Wage Earners' Welfare Board (WEWB) operates a fund¹² to assist migrant workers and their family members. The fund is expected to-

⁶ The Recruiting Agents' License and Conduct Rules was framed in 2002 pursuant to section 19 of the Emigration Ordinance 1982. It articulates the conduct of the recruiting agents. However, it lacks the rights-based approach i.e. not articulates the duties and functions of the recruiting agents.

⁷ Protecting Migrant workers from Bangladesh – A Study of legal compliance with Migrant Workers' Rights pg. 88

⁸ The Overseas Employment and Migrants Act, repealed the Emigration Ordinance 1982. The Act provides the following definitions: (1) "migration" means the departure of a citizen from Bangladesh for employment in a trade or profession in any foreign country; (2) "migrant" means any citizen of Bangladesh who has migrated to a foreign country for overseas employment in any work or profession and is staying in that country; (3) "migrant worker" or "worker" means any citizen of Bangladesh who, for wages- (a) is in the planning process to migrate for work or is departing to any foreign country for work; (b) is employed in a trade or profession in any foreign country; or (c) has returned to Bangladesh at the end of the tenure of employment or without having completed the tenure of employment in a trade or profession from a foreign country.

⁹ Extracted from ILO Bangladesh website: http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=110

¹⁰ These Rules were framed in pursuance of the now repealed Emigration Ordinance 1982, section 19. The effect of these Rules has, however, been saved by the OEM Act 2013, section 49 (2).

¹¹ Section 20 provides that: Each Emigrant shall deposit in the Welfare Fund for the welfare of the Emigrants, such amount of money, as may be fixed by the Government, through publication in the Gazette.

¹² The fund operated by the Board of Director and receives funds from; welfare fees received from migrant workers, 10% surcharge collected from consular services in overseas missions, Fees from attestation of demand letters/visas, rent received from Probashi Kalyan Bhaban and interest received from investment of different financial institutions.

- ✓ Provide pre-departure briefing regarding laws, culture, language etc. of concerned country to migrant workers;
- ✓ Provide immigration assistance to the migrant workers at Expatriate Welfare Desk at the airport
- ✓ Provide legal aid to migrant workers;
- ✓ Aid stranded expatriate workers to the country;
- ✓ Provide financial assistance to ailing and injured expatriate workers;
- ✓ Provide financial assistance for burial and repatriation of deceased migrant workers;
- ✓ Provide death compensation at 300,000-taka financial aid to the family of the deceased migrant workers;
- ✓ Scholarship to the children of the migrant workers.

Under this fund a total number of 15,420 deceased migrant workers were compensated during the period of 2012 – 2017 (Feb). During this period an average of 55% of the fund under the Wage Earners' Welfare Board was used to provide grants to the family of deceased migrant workers. The remaining funds were used to provide various other services including legal advice and counselling to victimized migrant workers. While appreciating efforts undertaken by WEWB, the Commission notes that undocumented migrant workers should also be covered under these Rules.

NHRCB welcomes the adoption of **Expatriates' Welfare and Oversees Employment Policy 2016**; to ensure good governance and efficient administration relating to migrant workers' welfare. The policy takes a human-right based approach and follows the CMW. Further, the policy specifically focusses on safe migration of female workers¹³. It provides for an increase of female staff at the labour wings¹⁴ of foreign missions, provide training and capacity building for staff on protection and safety of female migrant workers, monitoring of workplaces and required legal, counselling, health and financial advice to the female migrant workers. The Commission is pleased to note progressive intentions and would urge authorities to implement these policy guidelines in its letter and spirit.

Further, efforts are underway to draft the **Expatriates' Welfare Board law 2017**¹⁵ and NHRCB observes that the draft law attempts to address several lacunas including implementation gaps under the Wage Earners' Welfare Fund Rules 2002. The draft law provides for an establishment of a pre-departure briefing centre and a welfare desk at the airport to assist migrant workers during departure and arrival, to conduct welfare activities for the migrant workers through Bangladesh foreign missions in the destination countries, to bring back sick, injured and physically disabled migrant workers to Bangladesh and ensure their proper treatment etc.

The Commission understand that **the Immigration Bill and the Export Processing Zone Labour Bill (referred to as the Labour Bill in the list of issues)** are submitted to the Parliament and awaiting approval. The Labour Bill once enacted, will replace the Export Processing Zone (EPZ) Workers' Welfare and Industrial Relations Act, 2010, and will allow the Workers' Welfare Associations (WWA) in factories located

¹³ The policy identifies challenges for women migrant workers who take jobs in unregulated low-skilled sectors, such as domestic work etc. This should be addressed and diversified work should be identified for them. Further, the major challenge the female migrant workers face is lack of information relating to jobs and migration. The policy has proposed a set of guidelines for the improvement of the situation of the female migrant workers, amongst others, to adopt a plan of action through a participatory approach and for better improvement allocate more gender sensitive budget.

¹⁴ Section 2.3.10: to increase financial and human resources leading to the establishment of 'Labour Welfare Resource Centre' and thus strengthening the roles and functions of the Labour Wings of the Foreign Missions abroad.

¹⁵ <http://www.probashi.gov.bd> posted 11 January 2017em

in EPZs to work as trade unions; giving meaning to the rights of association guaranteed under the Constitution.

NHRCB notes with appreciation the efforts by the Ministry of Labour and Employment in adopting the **Domestic Workers Protection and Welfare Policy on 4 January, 2016**. This policy is a paradigm shift, which provides a framework to ensure the protection and welfare of the domestic workers. The policy defines 'domestic work' and 'domestic workers'. The definition of 'domestic worker' include part time or full time workers who by oral or written agreement engages in domestic/household work. It ensures protection and welfare of the domestic workers, provides for the minimum wages, timely payment, define the age of the domestic workers, the terms and conditions of the contract, working hour, rest, leisure and holiday. Further, the policy provides for the treatment, remedies for accidental injury, freedom to practice own religion and measures for addressing violence against the domestic workers. While strengthening the domestic polices it is also vital that the country remains aligned with international standards. Bangladesh has yet to ratify the Domestic Workers Convention (2011), Migration for Employment Convention (1949) and Migrant Workers (Supplementary Provisions) Convention (1975). Thus, it is the Commission's view that Bangladesh should consider ratifying the Domestic Workers Convention 2011 (No. 189) and other conventions and subsequently enact legislation to translate international obligations to the domestic legal context.

Despite many efforts to create a comprehensive legal and policy framework, implementation of these laws, policies and Rules remains a challenge. While appreciating ongoing efforts, the Commission would like to emphasize the need to translate laws and policies into actions. A well-grounded action plan with milestones and smart indicators must be in place to monitor progress made under these policies and laws. Further, it is of utmost importance that the government continue to retain this subject as one of its national priorities and allocate more resources to ensure the rights of migrants are protected.

The Commission notes the importance of effective implementation of the National Skills Development Policy¹⁶, 2013. While appreciating key achievements under the policy the Commission would like to place emphasis on several gaps and challenges identified in a recent report¹⁷ related to this policy. As per the report better coordination among institutions, gaps between the actual labour market and courses offered and inconsistent training quality need closer attention and the Commission would urge relevant authorities to take necessary action to address these gaps.

The Commission encourages the government to continue bilateral discussion with the government of Myanmar to seek durable solutions and repatriate undocumented Myanmar Nationals. Further, the Commission recommends that the international community continue to pursue Myanmar government to create a safe and peaceful environment to Rohingya communities.

Bangladesh has thus far made no declaration under Articles 76 & 77 of CMW. Given that many countries employing Bangladeshi migrant workers are non-signatories to CMW and the availability of multiple domestic redress forums to Bangladeshi migrant workers, the Commission is keen to analyse the pragmatic application of Articles 76 and 77. Thus, the Commission would recommend that an analysis be conducted to guide the State to take appropriate next steps based on evidence.

¹⁶ The government in 2013 approved and adopted the National Skills Development Policy with the objective of improving employability of citizens locally and overseas.

¹⁷ National skills development in Bangladesh 2015 , page 2 (http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_445255.pdf)

General Information- Issue 4

NHRC is pleased to note that the MoEWOE maintains a well updated website¹⁸, *inter alia*, number of migrant workers and remittance by migrant workers. The Commission while commending such best practices, would take this opportunity to point out possible improvements to enhance accountability. An important information perhaps lacking is the funds collected from migrants under the Wage Earners' Welfare Fund and how these funds have been disbursed in a manner beneficial to the migrant workers. Media in Bangladesh has in several instances reported that, despite the considerable amount of funds collected from the migrants by MoEWOE, it spends very little on them.¹⁹ Thus the Commission would urge MoEWOE and relevant authorities to scale up their budget allocations spent on migrants and their family members and carry detailed data (i.e. disaggregated by sex, demographics, type of accidents/deaths etc.) in their public domains allowing better accountability and in line with the provisions of the law on Right to Information²⁰. Further, the Commission would like to suggest that the present ex-gratia payment made to victimized migrant workers or to the family members of the deceased migrant workers be replaced by a compensation scheme to be administered in accordance with the principles of fairness and non-discrimination.

As per the National Human Rights Commission Act 2009, key functions of the Commission include, raising awareness, provide human rights education and training, research, policy advocacy, monitoring and investigation of human rights violations. NHRCB has a dedicated Thematic Committee on migrant workers and has been functioning as an effective bridge between the State and CSOs, frequently implementing joint programs through this platform.²¹ NHRC conducted a research titled, *Protecting Migrant Workers from Bangladesh: A Study of Legal Compliance with Migrant Workers Rights (2012)* with a view to assess the compliance level in terms of laws, policies and practices with CMW. The study recommended concrete ways and means to more effectively achieve the standards of the Convention. NHRCB has conducted many awareness sessions on human rights including on the protection and rights of the migrant workers to various groups including public, students, law enforcement agencies, human rights defenders, government officials, CSOs and journalists²².

As per its mandate the Commission, under section 12 (l) can inquire into complaints related to the violation or imminent / probable violation of human rights and resolve concerned issues through mediation and conciliation. Further section 12(r) mandates the Commission to provide legal assistance to the aggrieved person or any other person on behalf of the aggrieved person to lodge a complaint before the Commission.

NHRCB to ensure better outreach of its services, will establish six more regional offices (one per division) in addition to the two regional offices currently functioning in Rangamati and Khulna²³ and will be introducing legal aid services to victims of human rights in all these regional offices. Further, NHRCB has identified human trafficking, safe migration, discrimination and abuse of migrant workers as pressing

¹⁸ (<http://probashi.portal.gov.bd/>)

¹⁹ <http://www.thedailystar.net:8080/city/little-spent-migrants-1370935>

²⁰ The Right to Information Act was enacted in 2009.

²¹ NHRCB thematic committees were created to provide a platform for multiple stake holders including CSOs to engage in the human rights sector.

²² Please refer page 7

²³ Rangamati is a district in south-eastern Bangladesh and part of the Chittagong division. The total population is 5,08,182 per 2001 census of which tribal 52% and non-tribal 48%. And Khulna is the third largest city in Bangladesh, located in south-western Bangladesh. As of the 2011 census, the population of the district was 2,318,527.

human rights issue and outlined key strategies to address it.²⁴ The Thematic Committee on Migrant Worker's Rights will also be undertaking further research particularly focused on female migrant workers to identify strategic avenues for NHRC to engage with its peers in countries hosting Bangladeshi migrants.

NHRC is a relatively new institution. Nevertheless, the Commission has been making efforts to address human rights violations including complaints made by migrant workers. At present all complaints are handled by its Complaint and Inquiry Department; which is expected to gradually expand enhancing its scope and outreach in all divisions in Bangladesh.

General Information- Issue 5

There is a general lack of authentic data in most sectors in the country. Unfortunately, the sector on migrant workers is not an exception. Improvements must be made to capture data at source and identify clear alternative sources to verify collected data.

The Commission is concerned about the undocumented and irregular Bangladeshi migrants living overseas. Often such persons are subjected to harassments and face human rights violations. Irregularities connected with the work permits and visas are among the key reasons for persons being detained. Unfortunately, there is no data source to verify exactly how many migrant workers are currently under detention. In the past NHRCB has received intimations from family-members of migrant worker's detained /imprisonment abroad. In such instances the Commission has communicated with relevant authorities in the country of employment and has found ways to assist victims. Despite NHRCB's success in resolving such issues there is still a need to formalize these channels, further strengthen communications and remedies made more effective. Further, the Commission would urge Bangladeshi missions overseas to play a proactive role in assisting such persons and provide needed guidance to regularize their stay overseas if they are willing to continue.

Per Bangladesh Planning Commission 33,000 registered Rohingya refugees of 1991-92 inflow are living in two camps in Cox's Bazar. But an additional 300,000 to 500,000 undocumented Rohingya's are staying in southeastern districts of the country²⁵. It is also reported that about 70,000 Rohingya's have entered Bangladesh since October 2016²⁶. The Commission noted during its stakeholder discussion held in Cox's Bazar on the 24- 26th Feb 2017, that the Foreigners Act 1946²⁷ was not strictly applied to Rohingya Refugees living in Bangladeshi territory. Therefore, the Rohingya's are not arrested and detained unless there is a breach of peace or a crime committed.

The Commission acknowledges that the migrant workers are vulnerable and is at a risk to be exposed to HIV AIDS. The Commission in the past has advocated to irradiate the stigma attached to the HIV – AIDS and has been taking part in advocacy campaigns.

NHRCB notes, **chapter III-Sections 9-18 of the OEM Act**, prescribes for licencing, eligibility for licence, duration and renewal of licence, suspension and cancellation of licence, duties of the recruiting agent, transfer of licence & change of address, forfeiture etc. However, as mentioned before it is vital that the

²⁴ <http://www.nhrc.org.bd/site/page/3fcc73df-2d0f-42d0-9eb3-5ace76e9f314/Strategic-Plan>

²⁵ <https://www.dropbox.com/s/of5em15ca40021j/Migration%20Trend%20Analysis%202016.pdf?dl=0>

²⁶ www.bbc.com/news/world-39218105 (Interview with Yanghee Lee – UN Special Rapporteur for Human Rights in Myanmar)

²⁷ Section 3. (1) The Government may by order make provision, either generally or with respect to all foreigners or with respect to any foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into Bangladesh or their departure therefrom or their presence or continued presence therein.

new Rules under this Act is formulated and due attention be paid to address issues concerning migration management, recruitment regulation and registration of the jobseekers. As of now there are 1080 registered recruiting agents in Bangladesh.²⁸ 35 % of the complaints received at NHRCB, from migrant workers related to frauds committed by recruiting agencies. Thus, the Commission strongly recommends to fully and effectively implement all safeguards provided in the OEM Act to ensure that recruitment agencies are streamlined and are held accountable.

In 2016, Bangladesh received a total of US\$13.6 billion as remittances. As per the MoEWOE website, statistics of Employment and Remittance²⁹ are as follows;

Year	Oversees Employment	Remittance (Million Dollars)
Up to 2017	166472	1945.64
2016	757731	13,609.77
2015	555881	15270.99
2014	425684	14942.57
2013	409253	13832.13

General Information- Issues 6 and 7

NHRCB has conducted many awareness sessions on human rights including on CMW to various groups. The awareness programmes from 2010 - to date has reached all 64 districts of Bangladesh. Examples include awareness through folk songs reaching out to more than 100,000 persons; TV spots, video documentaries, SMS messages and the NHRC website reaching out to millions of Bangladeshis from all walks of life and through campaigns and awareness programmes reaching out to 15,000 people. Special programmes were held targeting students benefiting 800 students. Training of trainers for 204 Human Rights Defenders representing all communities including minorities were conducted, creating a network human rights monitoring focal points across the country. Several justice sector stakeholders including 160 legal professionals, law enforcing officers (1600), judges (60), journalists (50) were trained. A total number of 10 schools were covered and 2200 students and 97 teachers were trained. Further 60 courtyard sessions on human rights were conducted and village clusters representatives and community facilitators have also been oriented. Around 50 participants from government officials, NGOs and members and staff of NHRC have been trained on Reporting to UN Treaty Bodies.

The ANNI³⁰ report on the Performance and Establishment of National Human Rights Institutions in Asia has raised concerns about fast depleting space for CSOs and HRDs to engage in mainstream human rights work. Thus, the report is urging National Human Rights Institutions to provide more opportunities and platforms for CSOs and HRDs to engage and to continue propagating and promoting human rights.

²⁸ Add source <http://www.bmet.gov.bd/BMET/raHomeAction>

²⁹ <http://www.bmet.gov.bd/BMET/statisticalDataAction#>

³⁰ The Asian Forum for Human Rights and Development (FORUM-ASIA), as the Secretariat of the Asian NGO Network on National Human Rights Institutions (ANNI)

To address this issues NHRC has thematic committees³¹ linked with the communities and public at large mandated to promote human rights. Currently there are 10 such platforms under several thematic areas³². The Committees consist of civil society organizations, human rights activists, state institutions, academicians, development agencies and intergovernmental agencies. These committees are chaired by NHRCB commissioners, allowing space to own and promote work carried out by these Committees using the Commission's platform. The committees meet on a regularly basis and are responsible for coordination, promotion and foster cooperation among the participating agencies. Based on a well-structured annual work plan, it will undertake joints events, fact finding missions and research. The priority areas of engagement are identified based on the accepted recommendations of the Universal Period Review, concluding recommendations of the treaty bodies, the 7th five-year plan(2016- 2020) and contemporary/emerging issues in the sector.

General Information- Issue 8

Most recruitments of migrant workers are conducted through private recruitment agents or through individual efforts of the aspirant migrants. By law the licensed recruiting agencies are subjected to supervision and monitoring of the state agencies through the licensing system. As per the study done by NHRCB³³, only a few well- established recruiting agents have direct contact with the foreign employers concerned and the other agents are working as de facto sub agents of the established recruiting agents. Most of the medium sized and small recruiting agents are not able to arrange work permits on their own. They purchase work permits at a higher cost, either from private individuals or from agents of employers who come to Dhaka with work permits to sell. Moreover, many of these recruiting agents do not practice ethical business; they only work to gain a profit. In the premise, there is a high risk of aspirant migrants being subjected to fraud by private recruiting agents.

The OEM Act provided clear guidance on this matter;

Section 21 of the OEM Act 2013 provides for the Cost of Migration: 'The Government may, by an Order, prescribe the ceiling of the cost of migration to be charged for recruitment and overseas employment'. However, so far a circular/notice prescribing the ceiling has not been issued.

Section 22 of the OEM Act 2013 articulates the Employment contract i.e. (1) The recruitment agent shall cause to be concluded an employment contract between the recruited worker and the employer, in which stipulations concerning the worker's wages, accommodation facilities, duration of employment, compensation amount in the event of death or injury, cost of emigration to and return from the foreign country, and so on shall be stated. (2) For the contract mentioned in the Subsection (1), the recruitment agent shall be deemed to be a representative of the overseas employer, and about liabilities arising from the contract, the said recruitment agent and the employer shall be liable jointly and severally. (3) The recruitment agent shall submit a copy of the contract concluded under the Subsection (1) to the Bureau and to the Bangladesh Mission in the concerned foreign country.

³¹ The Thematic Committees were established on 8th August 2016 at the 41st Commission meeting

³² Committee on Women's Rights, Committee on CHT Affairs, Committee on Dalits, Hijra and other Excluded Minorities, Committee on Business and Human Rights and CSR (Corporate Social Responsibility), Committee on Person with Disability and Autism, Committee on Migrant Worker's Rights, Committee for Protection of Religious and Ethnic Minorities & Non-citizen's rights, Committee for Child Rights, Child Labour and Anti Trafficking and Migration, Committee on Economic, Social, Cultural, Civil and Political Rights and Committee on Elderly People's Rights

³³ Protecting Migrant workers from Bangladesh – A Study of legal compliance with Migrant Workers' Rights- 2012

Thus, the Commission urge that Section 22 of the OEM Act 2013 be effectively used and ensure the recruitment agents are made liable in matters concerning breach of employment contract, including in respect of wages, disability compensation, repatriation and death.

Despite the prevailing laws having effective control over the recruiting agents; implementation of the law and practice are not without gaps. To make safe migration possible the recruiting agents needs to be monitored closely and strictly following the law. Based on the findings of the study conducted by the Commission, it is recommended that a rating or grading system for recruitment agents be put in place. This will bring two-fold results – aspirant migrants will have an option to choose responsible retirement agents, and the recruitment agents will feel encouraged and motivated to adopt good practices. Further, it should be made obligatory to recruitment agents to communicate with the clients their duties and remedies for breach of such duties at the very beginning of their communication. This will increase transparency in the whole process.

Part II of the Convention issues related to Articles 7 and 83

Since its inception the Commission has received a total number of 34 complaints from migrant workers and a total number 5 complaint related to matters concerning human trafficking. Of which as indicated below 33.3% complaints under both categories are made by females.

Of the total complaints submitted under both categories 22 (56%) of complaints have been resolved.

Category of Complaints received by NHRC	2016	2015	2014	2013	2012	2011	2010
Complaints from Migrant Workers	8 (Female – 2)	15 (Female – 4)	4 (Female – 1)	-	4 (Female – 1)	3 (Female – 2)	
Human Trafficking	1	3 (Female – 2)	-	-	1 (Female – 1)	-	

Part III of the Convention issues related to Articles 8-25, 29 and 33

The legal prohibitions concerning child labour apply to all children under the Labour Act 2006. To date, NHRC has not received a single complaint pertaining to child labour related to migrant children. As per sections 34-44, appointment of children in the formal sectors of employment such as factories, industries, commercial organizations, communication and transportation industries are prohibited. Notwithstanding the Constitutional stipulations, the NHRCB recognizes that child labour is a reality in Bangladesh. The Commission is also conscious of the fact that children coming from the poorest households are more likely to be engaged in the labour force and drop out of school than children in households with the higher

levels of per capita expenditure.³⁴ The Commission has repeatedly emphasized the need to end the endemic practice of child labour³⁵ and remains concerned that Bangladesh has not ratified the ILO Minimum Age Convention No. 138.³⁶ Thus, the Commission recommends that the State should ratify the ILO Minimum Age Convention No. 138 as per the Committee's recommendation in its previous concluding observations. Implementation of 'minimum age' will be a clear threshold to eradicate child labour in the country.

Sections 23-24 of the OEM Act 2013 deal with the establishment of the Labour Welfare Wings and articulates the duties of this Wing. However, adequate information and details on the extent of services provided by these labour wings, such as the list of migrant workers receiving legal assistance, counseling and services related to visas and passports should be made available to the public. NHRCB recommends that an annual report be prepared as mentioned in the law and be made available in the public domain indicating details of actions and steps taken by the Bangladesh Missions/Embassies overseas.

Part VI of the Convention Issue related to Articles 64 ,67 and 68

NHRC notes that the initial report of Bangladesh carries a list of agreements, protocols, memorandums of understanding and other bi-lateral arrangements between Bangladesh and countries of destination of Bangladeshi migrant workers. However, more detail information should be placed in the website of the Ministry of Expatriates' and Oversees Employment and such information if required by any individual/organisations should be provided. The Commission recommends that bilateral negotiations are carried out to ensure a win-win situation with specific focus on protecting migrant workers.

In Conclusion

NHRCB would reiterate its commitment to continue advocating for the promotion and protection of human rights of migrant workers and their families. Despite challenges the Commission will continue to strive in creating a culture of respect in line with the spirit of the Convention on Migrant Workers in Bangladesh and beyond.

³⁴ Page 24 para 58: **JAMAKON Report to the UN Committee on the Rights of the Child:** <http://www.nhrc.org.bd/site/page/c2196b50-52df-44ca-8922-b4d959960bcc/Study-Reports>

³⁵ Page 25 para: 62 **JAMAKON Report to the UN Committee on the Rights of the Child:** <http://www.nhrc.org.bd/site/page/c2196b50-52df-44ca-8922-b4d959960bcc/Study-Reports>

³⁶ Page 25 para 63 **JAMAKON Report to the UN Committee on the Rights of the Child:** <http://www.nhrc.org.bd/site/page/c2196b50-52df-44ca-8922-b4d959960bcc/Study-Reports>