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Bangladeshi migrant workers

RESPONSIBLE
RECRUITMENT

RESPONSIBLE
RETURN





Multi-Stakeholder Roundtable - Bangladeshi Migrant Workers in the Apparel Sector: Responsible Recruitment, Responsible Return

Ruposhi Bangla Hotel, Dhaka, June 28-29, 2011

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Bangladeshi Migrant Workers in the Apparel Sector:

Responsible Recruitment, Responsible Return

Background

Safe and sustainable labour migration is a key driver of economic development in both sending and receiving countries. Ensuring the protection of migrant workers' human rights is becoming an increasingly important issue for a number of global industries, as well as for home and host governments.

Remittances from Bangladeshi migrant workers constitute the country's biggest foreign export earner, representing 13% of GDP (\$10.7 billion in 2010). They are, however, vulnerable to exploitation and lack of protection at all stages of the migration cycle - recruitment, employment, and, as recent events in Libya have demonstrated, returning home. Strengthening good practice in the recruitment processes for hiring Bangladeshi workers could improve worker protection, prevent value erosion of their remittances due to excessive levels of debt, strengthen labour broker-employer relations and reduce the risk to reputation and operational efficiency for brands and their suppliers sourcing labour from Bangladesh.

On 28-29 June 2011, the Institute for Human Rights and Business (IHRB) and the Refugee and Migratory Movements Research Unit, Dhaka University (RMMRU) convened a roundtable in Dhaka to explore the responsibilities of companies and governments in raising standards of migrant worker protection in supply chains. The meeting was the third in a series of roundtables¹ convened by IHRB, on this subject, bringing together in a key sending country apparel brands, suppliers, recruitment agents, government and civil society to discuss options for collective and sustainable approaches to strengthening migrant worker protection during the recruitment phase in

¹ London, March 2010, co-convened with ETI and IBLF and Mauritius, January 2011. More information available at: http://www.ihrb.org/pdf/Business_and_Migration_Roundtable_1_Strengthening_Migrant_Worker_Protection_In_Company_Supply_Chains_Report.pdf and http://www.ihrb.org/pdf/IHRB_Business_and_Migration_Roundtable_2_Report_Mauritius_2011.pdf

Bangladesh, as well as responsibilities of companies to ensure safe return of workers, including in times of crisis. The meeting was held under the Chatham House Rule. This report summarises key points raised during the roundtable. Organisations mentioned in the report have granted their permission to be cited.

Participants

Government bodies: Bangladesh Ministry of Expatriates Welfare and Overseas Employment; Bangladesh Bureau of Manpower, Employment and Training (BMET); Department for International Development (UK), Embassy of the Netherlands; ILO; IOM; UNHCR.

Civil Society organisations: American Centre for International Labor Solidarity; Amnesty International; Awaj Foundation; Business and Human Rights Resource Centre; Bangladesh National Council of Textile Garments and Leather Workers; Bangladesh Legal Aid and Services Trust (BLAST); BOMSA. BRAC; Ethical Trading Initiative; Fair Labor Association; International Textile Garment and Leather Workers Federation; International Trade Union Confederation; Monitoring Sustainability of Globalisation; Verité; WARBE – DF.

Recruitment industry: Bangladesh Association of International Recruiting Agencies (BAIRA); CIETT – International Confederation of Private Employment Agencies; Ahmed and Company; Greenland Overseas; ManpowerGroup.

Apparel industry: Arcadia Group; Asda George/Walmart; CMT; Gap; Inditex; Levis; Marks and Spencer; Next; Nike; Primark; Tesco.

Objectives of the roundtable

- To build greater awareness of the risks migrants face in the recruitment process
- To enhance understanding of the importance of responsible recruitment practices and identify areas for possible collective action to raise standards
- To explore how far a company's human rights due diligence should extend into the recruitment phase
- To discuss what responsibilities an employer or retailer has to facilitate the safe return of migrant workers at times of crisis
- To share lessons of good practice
- To consider options for multi-stakeholder action which promote migration with dignity

Day One: Responsible recruitment

The Bangladesh context

- Migration is critical to the economy of Bangladesh. Remittances in 2010 were \$10.7 billion, 3 times higher than ODA and 11 times higher than FDI, and contribute 13% of GDP.
- To date, 7.6m Bangladeshi workers have sought employment overseas. 60% of current Bangladeshi migrants overseas are women and this trend is increasing. Most of these are recruited by private recruitment agencies.
- BMET is responsible for the whole migration process, including management of the process and ensuring the welfare of migrant workers. There are around 800 formal recruitment agencies in Bangladesh, but a large number of migrant workers receive work permits through unofficial channels and migrate without the knowledge of/clearance by BMET. These 'undocumented' workers are particularly vulnerable to exploitation.
- There are many protocols/processes on labour migration, e.g. the Colombo Process, the Global Forum on Migration and Development but the problem lies in their non-binding status. As a major sending country, Bangladesh needs to develop frameworks or agreements that are binding on both home and host governments and employers to improve protection of Bangladeshi workers overseas.

A perspective from the global recruitment industry: *ManpowerGroup*:

Bangladesh's record on trafficking and forced labour in the latest US State Dept. report on 'Trafficking in Persons' is poor and standards must improve to meet international obligations and to remain competitive in a global market.²

There is a responsibility on all recruitment agencies to take part (through their national associations) in the global industry federation CIETT, and meet global standards on recruitment practices. CIETT is aiming to increase its Asia membership of recruitment associations significantly over the next few years. This offers a significant opportunity for BAIRA to work towards international standards of recruitment practices.

Recommendations to the Government of Bangladesh for raising migration standards:

- Sign all relevant international conventions on protection of migrant workers and anti-trafficking;
- Enact all current anti-trafficking legislation;
- Determine correct standards for labour migration;
- Sign bilateral migration treaties with all of their top 13 receiving countries;
- Ensure effective regulation of the recruitment industry through BAIRA;
- Ensure certification of all BAIRA members and recruiters;
- Ban all charges associated with recruitment for migrant workers such as travel and training charges; all charges associated with labour migration should be borne by recruiters;
- Ban confiscation of migrant worker passports, visas and other travel documents;
- Better enforce existing migration legislation;
- Hold corrupt government officials hindering this process to account and prosecute.

² <http://www.state.gov/g/tip/rls/tiprpt/2011/>

Safe migration: the human rights framework

The recent adoption of UN Guiding Principles (June 2011) for the implementation of the 'Protect, Respect, Remedy' framework on business and human rights delineates state duties and corporate responsibilities regarding human rights.³ Under the 'State Duty to Protect,' the Guiding Principles recommend that governments should provide greater clarity of expectations and consistency of rules for business in relation to human rights.

The 'Corporate Responsibility to Respect' principles provide a blueprint for companies on how to know and show that they are respecting human rights. The 'Access to Remedy' principles focus on ensuring that where people are harmed by business activities, there is both adequate accountability and effective redress, judicial and non-judicial."

The Guiding Principles are considered 'soft' law but governments will likely increasingly introduce legislation to make aspects of the UN framework legally binding. The framework can be used in bilateral treaties and MoUs between countries with regard to migrant labour, for example.

While many important initiatives are underway regarding migrant worker protection, these are not connected, so there is a lack of scale and limited impact. A common set of standards would provide a global reference point and could be built into contracts, monitoring, bilateral agreements, industry standards and regulation. IHRB has developed a 3D model for Safe Migration, based on Dignity of the individual, Decency of work and Due diligence of process.

10 draft principles underpin this circular model from responsible recruitment to safe return (See Appendix 2). These will form the basis of the 'Dhaka Principles for Migration with Dignity', which will be taken forward for multi-stakeholder consultation.

³ <http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples>

Risks and challenges in the recruitment process

Driven in most cases by poverty, migrant workers view the prospect of higher wages overseas as outweighing the risks of exploitation by unscrupulous labour brokers or employers.

Verité has conducted extensive research into migrant worker broker practices. The labour broker system facilitates a situation where workers subsidise the cost of labour migration, not the employers. Job seekers pay on average ten times more to secure a job than an employer would to secure the same worker. Charges borne by migrants include recruitment & selection (commitment/reservation fees; placement fees; direct costs); on-site conditions (deductions, runaway insurance, other deductions); return/reintegration.

Fees create debt bondage. Before workers even arrive in the factory they are bonded by fees they have paid and the commitments they have to brokers. As the worker progresses through the recruitment cycle they often face mounting debt so when they finally arrive at the factory for work, they will do anything not be sent home.

The 'bait' and the 'switch' situation explains the link between debt and how workers are constrained in choices and movements once they get to the workplace.⁴

The Bait: the offer of wages higher than those available locally encourages workers into debt via exorbitant fees and high interest rates. This becomes a tool for coercion and manipulation of the worker; deception - hidden fees, deposits, fraudulent visas and travel documents, absence of an official job order are among the abuses migrant workers suffer.

The Switch: contract substitution - once in the host country, terms of employment and living conditions change, curtailed freedom of movement, e.g. passport retention, control of bank accounts, vulnerability to harassment, abuse, threats of

⁴ <http://www.verite.org/node/695>

deportation, forced savings and deposits, wages lower than promised are all common problems faced by workers. Some migrants have to work up to 6 - 24 months before their debt is cleared and they start earning for themselves and remitting to families.

Other factors that facilitate worker exploitation by brokers and increase vulnerability to debt bondage include:

- receiving country government policies/practices: primacy of immigration policy, corruption and collusion with brokers.
- sending country governments: poor ability to negotiate with receiving countries for better worker protection.
- recruitment brokers: low entry and exit barriers to trade as a labour broker, poor/no regulation, low penalties for malpractice and lack of enforcement
- employers: sub-contracted recruitment and, in some cases, sub-contracted on-site management of foreign workers, but have no visibility or control over the process.
- workers: lack of information, poverty, unemployment, low levels of education/illiteracy.

Discussion points:

- The situation of bonded labour (and in some cases forced or trafficked labour), creates risks for employers, including worker dissatisfaction and unrest, runaway workers, litigation, public censure, stakeholder action and dissatisfied customers. Transparency in recruitment is paramount. How much do brands know about how their workers are recruited? What due diligence has informed the choice of labour broker?
- BAIRA needs support in developing the right processes and practices. CIETT and ManpowerGroup can be a partner in this endeavour.
- Better regulation of the recruitment industry means more revenue available for development. \$12 billion remittances p.a. could grow if recruitment practices were cleaned up in Bangladesh and less money was lost in debt servicing and more invested back into the local economy.
- The Fair Labor Association has developed with MOEWOE, BMET and BOESL a model contract

between the Government of Bangladesh and recruitment agencies. (To be piloted in September 2011 and will be available for sharing at that time.)

- The government must, as a matter of urgency, ban recruitment agencies from charging fees. This is done in Europe and can happen in Bangladesh.
- Corporate codes of conduct can also drive out the practice of charging worker fees. Recruitment should be zero cost for workers.
- Penalties for non-compliance by rogue brokers is essential.
- A shift is needed in the status and perception of migrant workers from victims to workers with rights.

The reality on the ground: Bangladeshi migrant workers in Malaysia

Bonded labour is prevalent among the 700,000 Bangladeshi workers in Malaysia (c300,000 of whom are undocumented). On average, Bangladeshi workers are paying \$3,500 for a job in Malaysia, far in excess of other country workers for the same job.

Bangladeshi recruitment agencies have set up partnerships with outsourcing companies in Malaysia which drive costs up further still for workers. Abuses by outsourcing agencies include retention of passports, deductions from salaries of hidden fees, control of bank accounts and remittance processes.

The practices of outsourcing agencies in Malaysia fall well beneath any international standards of responsible recruitment. Action needed to improve protection includes the following:

- (i) MoUs between sending and receiving governments need to be transparent and enforced.
- (ii) Regional and international bodies need to join together to place pressure on government.
- (iii) Brands need to enforce codes of conduct with suppliers.

Challenges for the recruitment industry in Bangladesh

- Both self-regulation and government regulation is required, coupled with well-resourced enforcement mechanisms.
- World's best practice: (i) Sending countries: Vietnam (for placing a ban on recruitment agencies and taking over responsibility for recruitment themselves); Mongolia, Indonesia and the Philippines have also recently enacted good legislation - if it can be enforced. (ii) Receiving countries: Mongolia and Mexico have some of the best legislation and enforcement.
- Remittances create over \$11 billion p.a. for Bangladesh so in economic terms this revenue stream needs to be protected.
- Bangladeshi recruitment agencies need to look at their business model, to improve standards and, in so doing, become more commercial and competitive.
- Criminal activity is a serious challenge. When regulation is strengthened, criminal activities go underground. More legislation means stronger enforcement is needed to catch the criminals.
- Corruption within regulatory authorities must be policed and enforced. Corrupt officials must be prosecuted.
- Capacity building with trade unions in receiving countries is important.
- More attention and support needs to be given to returnees' social and economic reintegration.
- Changes seen in the so-called "Arab Spring" offer a unique opportunity for Bangladesh to negotiate decent MoUs with Middle Eastern countries based on internationally acceptable standards of migration.

Brands and suppliers - are they doing enough?

Managing the risk of recruitment - Bangladesh compared to other sending countries: CMT

The Mauritius-based apparel manufacturer, CMT has identified a number of problems/risks in recruiting migrant labour from Bangladesh including: employers not being directly involved in the recruitment process; lack of transparency in the labour

recruitment chain - agents/sub-agents extract huge fees from workers; upfront payment by agents incur heavy interest; workers given inaccurate information about their salaries; no pre-departure orientation; unsuitable job-skills matching; unclear employment contracts - workers do not know the terms and conditions of the employment contracts; illiterate workers 'sign' employment contracts which are not in their local language; workers see the contracts only when they arrive in the host country.

CMT has developed the following policies to manage the risks:

1. *Policy on migrant labour*: in line with ILO conventions and seeking to have a positive impact on migrant workers through integrity, dialogue, transparency.
2. *Recruitment process & fees*: direct recruitment with contracts signed in the home country by workers in their language. Externally observed interviews and explanations about terms and conditions and that no agency fees to be paid by workers. Cross-checking after arrival to ensure understanding and compliance. Fully transparent process.
3. *Proper and transparent employment contracts* to be approved by brands and trade unions, and formally vetted by Ministry of Labour.
4. *Induction*
5. *Training of migrant workers*: need for free access to trade unions
6. *Worker- management dialogue*
7. *End of contract procedures*: full return costs paid by CMT, and all outstanding salary, overtime etc. paid.

Brands and suppliers need to make more progress on proactive supply chain management with better attention paid to issues unique to migrant workers, and enhanced engagement with key stakeholders, will enhance migrant workers' rights while creating business benefits. Brands and sending and receiving governments should require all migrant labour employers to have recruitment procedures in line with ILO conventions.

Brands working with suppliers on mitigating risk and extending due diligence

Next's due diligence with regard to recruitment practices has revealed the following problems: bogus agents with forged paperwork; use of intimidation tactics by recruitment agents; easy for brokers to get registration due to a lack of government regulation; widespread use of sub-sub levels of agents and brokers down to village level with fees at each stage. Workers' perceptions: migration labour pays well but that it is hard to find a reliable agent; widespread mistrust amongst migrant workers of agents but they believe they have no choice but to use them. Workers have reported having to stay in holding centres used by brokers for up to 3 months with no freedom of movement, being charged unaffordable fees by agents who then disappear.

Steps taken by *Next*: (i) visiting recruitment agencies in workers' home countries; (ii) supporting suppliers to manage supply chains and implementation of policies, guidelines and benchmarking. The benchmark procedures for employment are in line with the ILO conventions (97 - The Migration of Employment Convention (Revised) of 1949 and 143 - The Migrant Workers (Supplementary Provisions) Convention of 1975).

In moving forward, the challenge of achieving responsible recruitment needs to be shared by all stakeholders (governments, NGOs, suppliers, agents, retailers/brands, trade unions). Collaborative action for better regulation is essential.

Promoting more responsible recruitment practices - the need for a common set of principles on safe migration?

Arcadia Group sees a need for a common set of principles on safe labour migration to protect vulnerable workers. In response to areas of concern regarding migrant labour recruitment and employment practices, *Arcadia* and *Next* developed Migrant Worker Guidelines, with input from key stakeholders. These cover 7 key areas: (i) Recruitment Agency, (ii) Recruitment, (iii)

Employment Contract, (iv) During Employment: Policies, (v) During Employment: Wages and benefits, (vi) During Employment: Dialogue with Migrant Workers, (vii) On Contract Completion.

Working with suppliers, a number of measures have been taken to address challenges: (i) workers no longer pay for flights; (ii) recruitment agency fees are paid by factories; (iii) the introduction of an orientation presentation for workers and the production of employee guidebooks; (iv) 'Right to Organise Guarantee'; (v) monitoring of the Asia Floor Wage in Mauritius.

Collaboration provides the greatest opportunity to influence change. Issuing the guidelines was not enough. *Arcadia* has worked with suppliers on developing an action plan. Both visible (e.g. lack of privacy in dormitories) and invisible (e.g. harassment in the workplace) concerns had to be identified and addressed. *Arcadia* needed to convince suppliers that paying recruitment agency fees is a business expense. In summary, to protect vulnerable workers, a common set of principles is required to underpin the following:

- Suppliers should recruit directly or identify reputable agents and audit annually.
- Workers, having been assessed for suitability for the job, should accept employment terms before they leave their home country and again on arrival to ensure no discrepancies.
- Retailers should encourage best practice in their supply chain.

Discussion points

- Right to unionise requires more work – more representation from a number of different unions is required and workers need to understand from their induction that they are free to join the union of their choice.
- A multi-stakeholder approach to tackling these systemic challenges is essential if there is to be any lasting impact on worker protection.
- Mapping the labour supply chain, and better understanding the socio-economic context from which migrants are recruited is essential for employers and retailers.

Capacity-building measures to promote responsible recruitment

1. Raising the bar: guidelines and toolkit: *Verité*

The Verité toolkit, 'Help Wanted', available on-line (<http://www.verite.org/helpwanted>), is an interactive site providing a framework for action for brands, suppliers, governments, advocates, investors, auditors, multi-stakeholder groups. It offers tools, guidance, and approaches to support the responsible recruitment and hiring of migrant workers. It includes assessment and benchmarking tools.

Examples of tools offered include sample codes of conduct provisions, ways to improve codes of conduct and policies, ways to screen labour brokers, ways to manage labour brokers and to monitor their ethical recruitment and hiring practises, how to conduct interviews with labour brokers and with migrant workers, establishing effective grievance mechanisms and protection for whistle-blowers.

2. Forging alliances in the recruitment industry - lessons from India: *ManpowerGroup*

The recruitment industry in India is beset by similar problems to those in other sending countries. Contract labour is growing far more rapidly than other forms of employment but legal protection is problematic and workers lack a common voice to fight for their rights.

For the past three years *ManpowerGroup* has been working to get the key players together to form the Indian Staffing Federation (ISF), which comprises over 50% of staffing and income in the sector. The purpose of ISF is to enhance long-term growth and continue to contribute positively to the economy.

ISF conducts rigorous due diligence on applications for membership. CIETT, of which ISF is a recent member, adds important incentives to improve practices. An enabling environment that fosters positive regulatory measures is key. There are lessons for Bangladesh – it is possible to come together in a cohesive manner to share knowledge, good practice, and build market share. A common set of principles

or code of conduct underpins working together for the improvement of the recruitment industry and, fundamentally, the workers.

3. The role of unions – building links between sending and receiving countries to strengthen protection of migrants

International Textile Garment and Leather Workers Federation

The union movement in Bangladesh is very fragmented. ITGLWF, the global union for the textile, garment and leather industries, has worked hard to bring its Bangladeshi affiliates together under one umbrella called the Bangladesh National Council of Textile, Garment and Leather Workers (BNC). This is a significant achievement as it enables organised workers in Bangladesh to speak with one voice.

Migrant workers are some of the most precarious in the world and in times of economic downturn, they are the first to lose their jobs. They face a multiplicity of exploitation: abuse, poverty, poor wages and a lack of rights. They also face exploitation as foreigners. Migrant workers are generally regarded as having low status in receiving countries, socially, with government and with other workers. There have been some successes in terms of trade union policies and issues.

However, the garment sector is seeing a race to the bottom in terms of wages. It is essential that brands pay a sufficient price to suppliers to ensure that they fully comply with all standards required in the code of conduct. Internal migrants are vulnerable to exploitation also.

The key role for unions in receiving countries is to organise migrant workers. Unions are needed to demand equal pay and equal rights for migrant workers as those experienced by indigenous workers. The right to unionise guarantee needs to be put into practice. Unions have an important role in government bilateral and multilateral agreements, ensuring international labour standards are

incorporated. There is scope for unions to represent workers from sending and receiving countries.

International Trade Union Confederation

The ITUC is an international umbrella for the national trade union centres across the globe. ITUC agrees on no worker fees and freedom of association and on promoting binding regulation and standards. There is a common interest in regulating the sector better. In Hong Kong, an affiliated migrant worker union is about to start a project mapping recruitment agency practices. ITUC has developed partnerships between trade unions, workers and governments in receiving countries, e.g. in Malaysia there is a migrant help centre which assists migrant workers who are facing problems. More of these centres are needed. In India, ITUC have a partnership with Bahrain and may look at involving Bangladesh in similar sending-receiving country partnerships in the future. It is essential for migrant rights organisations, NGOs and international organisations to work together to ensure migrants' rights are protected.

What next?

Questions for small group discussion:

1. What are the key areas for multi-stakeholder action around responsible recruitment?'
2. Is there a need for a common set of principles on Migration with Dignity?

Question 1 responses

- All brands should have migrant worker guidelines. They should agree on consequences if these guidelines are breached.
- Guidelines should specify equal rights and equal pay for migrants and local workers.
- Brands should map risks in labour supply chain and seek means to ensure sub-brokers are aligned to codes of conduct.
- Grievance mechanisms should be established for workers
- The message should be clearly sent to sending and receiving countries and governments of zero tolerance on fees. This must be built into bilateral

agreements as well as corporate contracts and codes of conduct.

- Advocacy with sending and receiving govts. to sign bilateral agreements making protection of migrants' rights legally binding.
- Communication with migrant workers should be in a language they understand.

Question 2 responses

- There is a need for overarching principles for responsible recruitment and employment of migrant labour.
- The principles need to be accompanied by a strategy for enforcement.
- A set of principles on responsible recruitment may be preferred as a first step.

Call to action – the need for leadership and scale

David Arkless of ManpowerGroup provided a compelling overview of urgent action that is required by the Government of Bangladesh to raise standards of recruitment to protect migrants' rights and meet international expectations and obligations of good practice.

- The recruitment industry is so important to Bangladesh that it should be highly regulated to ensure it meets international standards and remains competitive. If it does not 'clean up its act', market forces mean that international recruitment agencies will move in, offering no worker fee recruitment in line with international best practice.
- Better enforcement of existing rules and regulations is required. Corrupt officials must be prosecuted.
- The onus is on the Bangladesh government to sign all anti-trafficking law and bilateral agreements with the top 13 receiving countries.
- Legislation is needed to ban the charging of worker fees by recruitment agencies.
- Confiscation of passports by brokers, by host governments or employers must be banned. This needs to be in binding agreements in bilateral agreements.
- In the absence of a global framework of protection for people moving across borders, it is all the more important for sending countries to

join together and advocate collectively for better policy and enforcement of the protection of rights of vulnerable migrant workers, in particular women.

Other calls to action:

- Grievance mechanisms should be in place for migrants pre-departure and overseas.
- Key issues raised at the meeting must be driven forward through the Colombo Process with pressure from government and civil society.
- A multi-stakeholder approach is needed to improve the protection of migrant workers' rights, involving trade unions, recruitment agents, government, multinationals, employers, and civil society organisations.
- The apparel industry is just a starting point. Need to consider domestic and construction workers who are also extremely vulnerable.
- The 'Dhaka Principles on Migration with Dignity' should be applicable to all sectors.

Day Two: Responsible Return

The cycle of safe migration: from responsible recruitment to safe return. How far does the responsibility of the employer extend, including in times of crisis?

The gender perspective: particular vulnerabilities of women migrants.

- A 20% rise in Bangladeshi women seeking work overseas in 2010 - indication of women increasingly exercising their right to choose but they need additional legal protection.
- Recent case of serial sexual abuse of Bangladeshi women in a factory in Jordan highlighted dysfunctions in the legal systems of both host and home countries. Where are the grievance mechanisms and access to remedies? This legal protection is a responsibility both for employers and the state.
- Legislation has its limits. The formal legal process might not always be the most appropriate. There is a pressing need to link in with civil society organisations and its strong networks within and between countries, and to look at tripartite mechanisms with employer, government and civil society organisations. Trade unions may have a role here too, as with the ITUC project linking unions in Bangladesh and Jordan.

The case of Libya: *UNHCR and IOM*

The situation in Libya is still evolving. There were 70,000 Bangladeshis in Libya before the conflict. From Feb-June 2011, 36,560 Bangladeshis have been repatriated by UNHCR and IOM and they are still trickling back. No-one knows how many are still trapped there.

None of the migrants wanted to leave Libya as they had invested a great deal of money in securing their jobs. Many had not been paid for a long time, could not secure flights, had limited food and, once they reached the border could not get out. Many had had their passports confiscated by their employers and most were returning to immense debt. Bangladeshi

women for the most part could not get out. Two possible reasons: (i) because they were skilled (most were nurses) and Libya needed them; (ii) they were being sexually abused.

Violations committed by employers included: confiscation of travel documents; back pay withheld; abandonment. Those working for small companies and domestic workers were the most vulnerable. In future, more responsibility must be placed on employers and governments.

The Government of Bangladesh needs much better data on how many migrant workers are in a given country at a given time to share with UNHCR and others in times of crisis repatriation. The return of Bangladeshi migrant workers from Libya was too slow.

Returnees want a 'shock absorber'/assistance to repay their loans and redeployment abroad as opposed to Bangladesh. Modest soft loans have been made available to returnees via the government and BRAC, and in some cases, redeployment has been possible.

The Libyan crisis provides numerous lessons for the future. Contingency funds are needed for situations of crisis, particularly for flight arrangements. Rapid co-ordination amongst government, the international community and private sector is essential to ensure as a quick a response as possible and fast tracking of donor funding. The situation has also demonstrated that it is essential that enough consulate staff be stationed at troubled spots in countries with high number of migrants. Promotion of safe migration is also important to ensure migrants have their travel documents in times of crisis.

Discussion points

- The outcomes of Libya prove that government and business need to provide better ways to deal with migrant worker protection. This points again to the fact that common principles on migration with dignity are needed.
- How many employers had repatriation clauses in their worker contracts? This should be explored, and considered for future inclusion in the 'Dhaka Principles'. If business is importing workers, they have responsibility for their safe return too.

- Mauritius has introduced legislation, requiring employers to deposit a bank bond with the government per migrant worker to guarantee their return, e.g. in case of bankruptcy.
- Did employers who had operations in other countries in the Middle East explore options for redeployment of migrants being evacuated from Libya?
- Migrant workers should have triple protection – from home & host governments and employer.
- Enhanced due diligence by brands sourcing from potential conflict zones is paramount. What provisions have employers made for repatriation if necessary? Are salaries and overtime paid regularly? Do workers retain their own travel documents?
- Clearly there is a protection gap. How much of this gap is to be borne by the business community? There is a changing face of protection, the notion that we need to work together. Business leaders can place pressure on government to regulate properly and on employer organisations to act properly.
- Recruitment practices in Bangladesh directly impact on return, particularly the excessive debt issue and where brokers retain travel documentation. Practices must be cleaned up if Bangladeshi workers are to be afforded proper protection at all times, but especially at times of crisis.

The role of businesses in protecting workers in a conflict situation: IHRB

Under the provisions of international refugee law, the primary obligation to secure the rights of foreigners, including migrant labourers, rests with the home and the host state. But a state in the middle of an armed conflict may not be willing or able to offer protection to its own citizens. While the home state has responsibilities, it does not always have the resources to assist its citizens abroad. Large businesses have often acted on their own and provided assistance to their workers and contractors, e.g. BP, Daewoo and two others repatriated migrant workers from Libya. Small businesses have often failed to do so.

The collapse of law and order, the widespread nature of violence, the absence of governance, the prevalence of chaos, and the erosion of authority, are

all common features of a conflict zone. Operating in such an environment poses significant risks and enormous dilemmas for companies. The risks range from what happens to the company, its staff, and its property, as well as the risks its presence and activities pose to the civilians in the area. And dilemmas range from what the company can do and should do, to what it must do. The notion of who and what a company is responsible for is tested severely. Under human rights law, migrants have a right to leave the host country and return home.

What should companies do?

1. Evaluate responsibilities: the company has no obligation to evacuate locals – staff or dependents – but it **ought** to evacuate both to safety when lives are at risk. If it cannot do so for legal or practical reasons, it should at least ensure that the UN, the ICRC, and the third country's authorities are alerted.
2. Evacuate migrant workers and other expatriates because they have responsibility towards those employees that they have brought in to the country.
3. Assist local nationals, including bringing them to neutral zones, like camps for refugees or internally displaced people where possible. In cases of ethnic conflict, for example, the company should liaise closely with the UN and the ICRC as they have the mandate for protecting civilians in conflict.
4. Inform and liaise with embassies.
5. Negotiate with appropriate authorities for safe passage. Companies have a moral obligation to do whatever they can to negotiate the safety of its employees with the local actors – particularly if they have leverage.
6. Develop a corporate culture that protects human rights based on a human rights framework (UN Guiding Principles).

The state duty to protect - good practice lessons from the Philippines?

The state has a duty to protect human rights. The system in the Philippines is not perfect but significant steps have been taken to protect 'our new heroes', as Filipino migrant workers are called, as well as the remittance revenue stream critical to the economy:

- Migrant Workers Act, which addresses over-charging and criminalises illegal recruitment.
- Anti-Trafficking legislation. This law is being used by NGOs and agencies. Government is training prosecutors in its effective implementation.
- Philippines Overseas Employment Authority (POEA) which issues and withdraws licenses of recruitment agencies.
- Overseas Workers Welfare Agency Fund – mandatory insurance paid by the worker into the fund. Used in the repatriation of 4,000 Filipinos from Libya for example.
- Welfare officers are placed in embassies of key receiving countries. They also provide due diligence on employers.
- Repatriation and reintegration programmes which provide cash loans to assist returnees.
- Bilateral agreements and MoUs signed with receiving countries.
- Anti-trafficking committees/task forces established with govt. budget (which include unions) to bring trafficking cases. The government has also mandated preferential treatment for trafficking cases to the Department of Justice.

Summing up and recommendations for next steps

RMMRU: Establishing an overarching set of “Dhaka Principles for Migration with Dignity” was unanimously acknowledged at the meeting as an important common reference point for all stakeholders engaged in strengthening migrant worker protection. These principles will need to take account of a number of important recommendations emerging from these roundtable discussions:

Governments:

- Enforcement of regulation of the recruitment industry in Bangladesh is weak and penalties for malpractice by recruitment agencies are too low to deter rogues. The government must take steps to improve this as a matter of urgency.
- The ‘Arab Spring’ has created an opportunity for the Government of Bangladesh to press for bilateral labour agreements with several Middle Eastern countries. These must include binding commitments on worker protection.
- There is a need to move beyond voluntary arrangements that govern labour migration – there must be binding agreements for protecting migrant rights built into the Colombo Process as well as bilateral agreements between sending and receiving countries.
- The experience of the Philippines offers very instructive lessons for Bangladesh on steps taken by the government to strengthen protection of migrant workers.

Companies:

- The UN Guiding Principles on Business and Human Rights are rooted in due diligence. If there is bonded labour, forced or trafficked labour in the supply chain, not knowing is no longer an excuse for a brand or an employer. Companies must develop systems to improve their due diligence.
- Companies should adopt migrant labour policies/guidelines, which reflect their responsibilities towards migrant workers from responsible recruitment through to safe return.
- Debt bondage in the supply chain is a critical issue, which needs to be addressed by all stakeholders. All labour migration charges should be borne by

employers in receiving countries, not by the worker.

- Brands and suppliers must map their labour supply chains as far as possible to better understand socio-economic context and risks to the workers.
- A clause on repatriation in emergency situations needs to be built into employment contracts. Companies should undertake scenario planning for migrant worker safe repatriation in potentially volatile contexts.
- Workers have subsidized the low cost of products through their cheap labour. Brands need to pay more to suppliers to rectify this inequity.

Civil society:

- Trade unions have a key role to play in this agenda, and links between unions in sending and receiving countries should be strengthened.
- Advocacy for improved regulation, bilateral agreements and corporate codes of conduct protecting migrant workers' rights must be ongoing.
- More work needs to be done in the areas of reintegration and rehabilitation of returnees – we need to focus our research and policy work in these areas.
- More research is needed on the situation of undocumented workers.
- Many similar issues regarding protection pertain to internal migrants and international migrants. Lessons need to be shared here.

Concluding remarks: Ministry of Expatriate Welfare and Overseas Employment

- 13% GDP contributed by migrant worker remittances is an engine for growth and development. Migrants are Bangladesh's 'real heroes'.
- Government of Bangladesh has recently signed the UN Convention on the Rights of Migrant Workers and their Families and it is essential now to implement that.
- Declarations within the Colombo Process need to be legally binding to ensure recommendations are actually implemented. Pressure is needed on

the international community also to sign and abide by migrant UN conventions.

- The Government of Bangladesh is taking steps to improve the migration process for workers. These include a new bank dedicated to providing services for migrant workers - access to soft loans, easier remittance transfer access to loans after return - and a number of pre-departure training centres.
- To progress collaboratively towards IHRB's 3D Model of Migration with Dignity - Dignity of the individual; Decency of work; Due diligence of process will be a huge achievement.

IHRB will lead the multi-stakeholder consultation process to develop and identify means to embed the 'Dhaka Principles' over the next two years, in collaboration with strategic partners. Similar multi-stakeholder meetings will be held with local partners in India, Sri Lanka and Nepal in 2012, aiming for a formal launch of the 'Dhaka Principles' in Bangladesh in early 2013. All participants of the IHRB roundtable series and any other stakeholders are warmly invited to engage in this consultation process, and will be kept informed of progress. IHRB will also seek to share lessons between existing initiatives promoting responsible recruitment, identify complementary activities and recommend mechanisms to begin to achieve scale and real impact both within and beyond the apparel sector. For further information and to receive updates, please contact neill.wilkins@ihrb.org

IHRB wishes to thank strategic partners RMMRU and ManpowerGroup for their support in hosting this event.

Press coverage

There was a very well-attended press briefing after the close of the roundtable, generating significant press coverage of the meeting in both English and Bangla print and electronic outlets. To the right are selected links for reference:

<http://www.ihrb.org/news/2011/protecting-migrant-workers-op-ed-by-irene-khan.html>

<http://www.thedailystar.net/newDesign/news-details.php?nid=192135>

<http://www.thedailystar.net/newDesign/news-details.php?nid=192016>



Appendix 1

Agenda

Bangladeshi migrant workers: responsible recruitment, responsible return

Ruposhi Bangla Hotel, Dhaka, June 28-29, 2011

Day One: Responsible recruitment

9.00am **Welcomes:** *C.R Abrar, Executive Director, RMMRU, John Morrison, Executive Director, IHRB*

9.15am **Opening comments – setting the scene:**

- **Khurshed Alam Chowdhury**, Director General, Bureau of Manpower Employment and Training, Bangladesh
- **David Arkless**, President of Corporate and Government Affairs, ManpowerGroup, Vice President Elect, International Confederation of Private Employment Agencies (CIETT)

9.45am **Safe migration: the human rights framework**

- State duty to protect, corporate responsibility to respect human rights – the Ruggie framework: **John Morrison**, IHRB
- The migration cycle – the IHRB 3D approach to Safe Migration: **Frances House**, Programmes Director, IHRB

10.00am **Panel 1: The migration imperative**

- Bangladesh: the economic imperative of migration – migrating out of poverty: **C.R Abrar**, RMMRU
- The hidden costs of migration – risks and challenges in the recruitment process. Risks of forced labour and trafficking. Findings of the ‘Help Wanted’ research: **Marie Apostol**, Executive Director, Verité Southeast Asia

11.15am **Panel 2: The recruitment challenge**

Moderator: **Gowrie Ponniah**, Fair Labor Association

- Regulation and enforcement in the recruitment sector in Bangladesh: **Ali Haider Chowdhury**, Secretary General, Bangladesh Association of International Recruitment Agencies
- The reality on the ground: Bangladeshi migrant workers in Malaysia: **Pathma Krishnan**, Researcher, Monitoring Sustainability of Globalisation
- A challenge for the recruitment industry – self-regulation, govt. regulation and collaboration: **David Arkless**, ManpowerGroup

1.30pm **Panel 3: Brands and suppliers - are they doing enough?**

Moderator: **Benedetta Lacey**, Special Advisor on Corporate Accountability, Amnesty International

- Managing the risk of recruitment - Bangladesh compared to other sending countries. **Satyam Seeboruth**, Director, Quality and Compliance, CMT Mauritius
- Brands working with suppliers on mitigating risk and extending due diligence, **Vikram Pandita**, Regional Manager, Next
- Promoting more responsible recruitment practices, the need for a common set of principles on safe migration? **Derek Mackay**, Head of Supplier Management, Arcadia Group
- Mapping supply chains of labour to understand the socio-economic context of recruitment from sending countries: **Julia Kilbourne**, Apparel and Textiles Category Programme Manager, Ethical Trading Initiative

2.45pm **Panel 4: A multi-stakeholder approach to responsible recruitment in the apparel industry – what, why, how?**

Moderator: **Naved Chowdhury**, Social Development Advisor, Department for International Development Bangladesh

- The need for raising the bar: guidelines and toolkit: **Lydia Long**, Director of Programs, Verité
- The role of the recruitment industry - lessons from India: **Soumen Basu**, Executive Advisor, ManpowerGroup
- The role of unions – building links between sending and receiving countries to strengthen protection of migrants? **Steve Grinter**, Education Secretary, International Textile Garment and Leather Workers Federation
-

4.00pm **Call to action – the need for leadership, taking good practice to scale**

- Bureau of Manpower, Employment and Training, Bangladesh -**Nurul Islam**, Director
- ManpowerGroup - **David Arkless**
- IHRB – **John Morrison**

Day Two: Responsible return

9.15am **The cycle of safe migration: from responsible recruitment to safe return: how far does the responsibility of the employer extend?**

Recap and setting the scene: **Irene Khan**, Member of IHRB Advisory Board

9.30am **Migrant workers in times of crisis – risks to individuals; where is the protection?** Moderator: **Irene Khan**, IHRB

- The gender perspective: particular vulnerabilities of women migrants - **Sara Hossain**, Supreme Court Lawyer, Bangladesh
- The case of Libya: **Asif Munier**, IOM and **Arjun Jain**, UNHCR
- Where do state and corporate responsibilities meet - reflections. **Benedetta Lacey**, Amnesty International

10.30am **Concluding session: extending the reach of due diligence for safer migration – from recruitment to return**

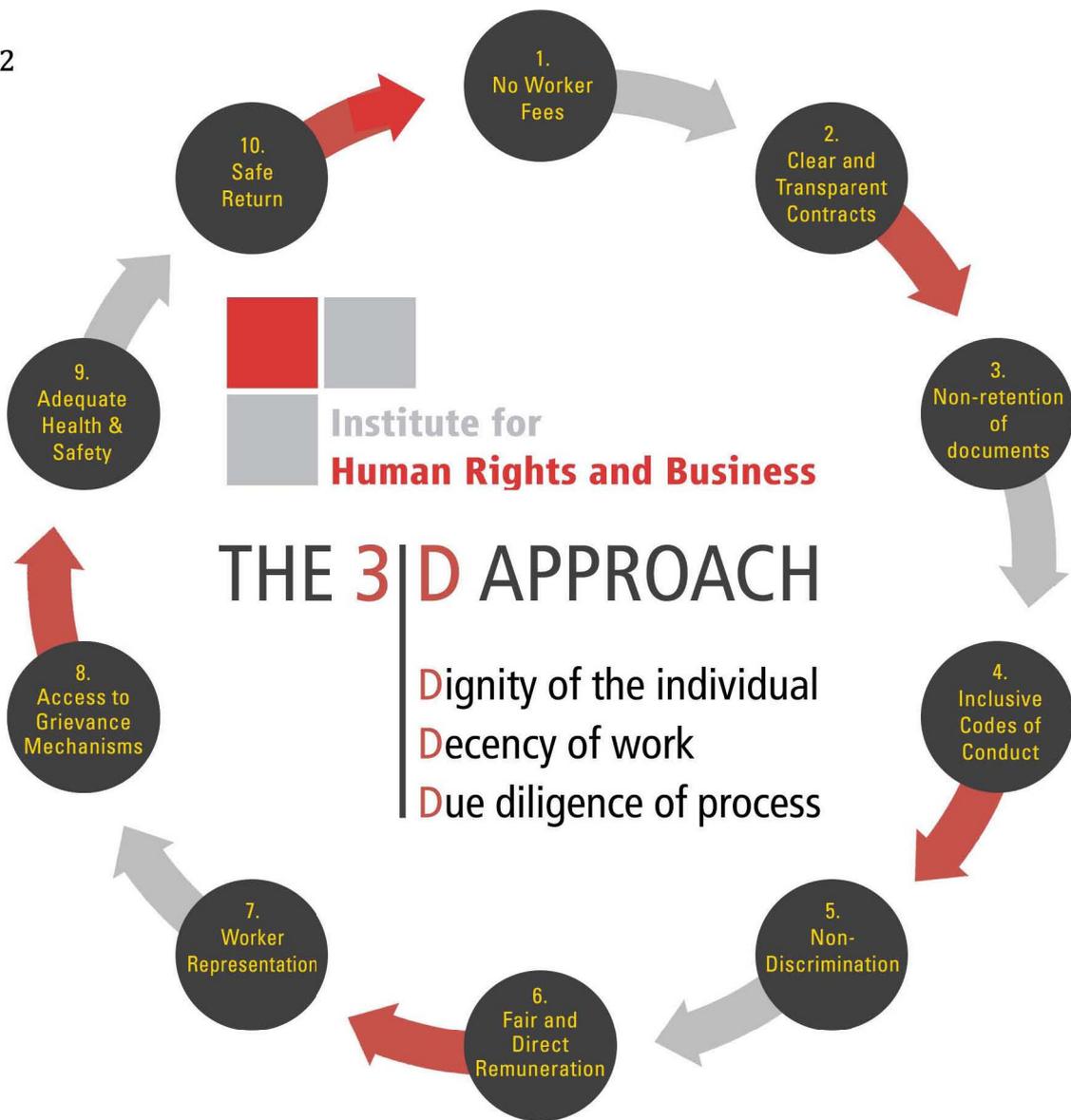
Moderator: **Miriam Otto**, Economic Affairs/Development Cooperation, Dutch Embassy, Bangladesh

- The role of businesses in protecting workers in a conflict situation: **Salil Tripathi**, Policy Director, IHRB
- The state duty to protect human rights - good practice lessons from the Philippines? **Marie Apostol**, Verité
- The corporate responsibility to respect human rights: where is the need for greater cooperation between different stakeholders? Key steps needed to embed Ruggie Principles and raise standards of protection - **John Morrison**, IHRB

Summing up and recommendations for next steps – C.R. Abrar

Address by the Chief Guest: Dr. Zafar Ahmed Khan, Secretary, Ministry for Expatriate Welfare and Overseas Employment, GoB

12.40pm **Press briefing – Dr Zafar Ahmed Khan (MOEWOE), Irene Khan (IHRB), C. R. Abrar (RMMRU), David Arkless (ManpowerGroup), John Morrison (IHRB) - followed by refreshments for the journalists**



CORE PRINCIPLES FOR RESPONSIBLE RECRUITMENT AND EMPLOYMENT OF MIGRANT LABOUR:

1. The recruitment agent or employer does not charge the migrant worker any fee or deposit.
2. Migrant worker contracts are made available in the migrant worker's language, clearly explained and signed without coercion. There is no bonded or forced labour.
3. The recruitment agent, labour intermediary or employer does not retain migrant workers' passports or other identification/travel documents.
4. Migrant workers are included in all company codes and guidelines.
5. Recruitment agencies, intermediaries and employers do not discriminate against migrant workers on the basis of ethnic group, gender, religion, sexual orientation, disability, in accordance with local labour law and international labour standards.
6. Migrant workers are remunerated fairly and directly for their labour in line with locally recruited workers remuneration and benefits.
7. Migrant workers have access to workplace representation.
8. Migrant workers have access to confidential, safe grievance mechanisms without fear of reprimand.
9. Health and safety measures shall be made available/understood in the migrants' language.
10. Employers facilitate the safe return of the migrant worker at the end of contract, with all due wages and benefits paid in full.