



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra


Swiss Agency for Development
and Cooperation SDC



International
Labour
Organization

Good practices and provisions in multilateral and bilateral labour agreements and memoranda of understanding





Good practices and provisions in multilateral and bilateral labour agreements and memoranda of understanding

by

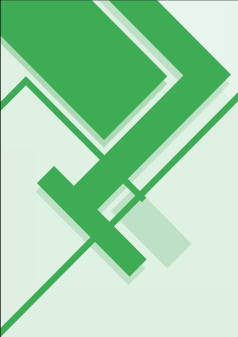
Piyasiri Wickramasekara

Global Migration Policy Associates (GMPA)
Hon. Research Associate, School of Social and
Political Sciences, University of Sydney, Australia
(former Senior Migration Specialist, ILO)

Assisted by

L.K. Ruhunage

Consultant on Labour Migration
(former Additional General Manager,
Sri Lanka Bureau of Foreign Employment (SLBFE))



Copyright © International Labour Organization 2018

First published 2018

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

English edition

ISBN: 978-92-2-131702-9 (print); 978-92-2-131703-6 (web pdf)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

Information on ILO publications and digital products can be found at: www.ilo.org/publns.

Printed in Bangladesh

Preface

Memoranda of understanding (MoUs) and bilateral agreements (BLAs) are key instruments of labour migration governance, and when drawn in line with international labour standards, they can be an important tool in making migration a positive experience for all concerned.

These instruments become even more critical in a global environment of crisis migration, as well as global and regional discussions on safe, regular, and orderly migration. While initiatives at the national level in Bangladesh aim to upgrade the skills of workers, the fact is that larger numbers of workers migrating from Bangladesh are low-skilled, which necessitates strong policy and legislative frameworks to prevent abuse and protect workers, especially women and vulnerable workers.

Regarding labour migration, the Government of Bangladesh has been strong in its commitment to develop and maintain good bilateral relationships with certain countries in the Middle East and East Asia through MoUs and BLAs. However, in order to continue strengthening these agreements and to better align efforts to its international commitments, the Ministry of Expatriates Welfare and Overseas Employment of the Government of Bangladesh, with support from the Swiss Agency for Development and Cooperation (SDC) and in close collaboration with the International Labour Organization (ILO) Bangladesh through its “Application of Migration Policy for Decent Work of Migrant Workers” project, developed this research for identifying good practices and provisions in MoUs and labour agreements. This research aims to review examples of good practice in labour migration agreements with strong labour standards, especially their monitoring needs, structures, and resource needs. In addition, the research aims to showcase the capacity for such agreements and MoUs to meet the labour migration aims of the Government of Bangladesh, and to provide recommendations to the Government concerning such agreements. This research was developed through discussions with officials from the Government of Bangladesh, employers’ representatives, workers’ representatives, and recruitment agency representatives over a period of six months in 2017.

While the document was prepared for the Government of Bangladesh, it will be useful for any government to develop MoUs and bilateral agreements.



Beate K. Elsaesser
Director of Cooperation
Swiss Agency for
Development and Cooperation



Tuomo Poutiainen
Country Director
International Labour Organization
Bangladesh



Dr Nomita Halder, ndc
Secretary
Ministry of Expatriates’ Welfare and
Overseas Employment
Government of Bangladesh

Table of contents

Preface	III
Table of contents	V
Abbreviations and acronyms	VI
1. Introduction	1
2. Objectives of the study	2
3. Methodology	2
3.1 Definitions and concepts	2
3.2 Scope of the research report on good practices	4
3.3 Good practice criteria adopted for the study	4
3.4 Methodology of information gathering	6
3.5 Sources of good practices	7
3.6 Transfer and replication of good practices	8
4. Selected good practices – Regional economic communities and free movement and labour mobility	9
4.1 Regional economic communities in different regions	9
4.2 Regional cooperation in labour migration in Asia	10
4.2.1 Association of Southeast Asian Nations (ASEAN)	10
4.2.2 South Asian Association for Regional Cooperation (SAARC)	11
4.3 Regional consultative processes in Asia	13
4.3.1 The Colombo Process	13
4.3.2 The Abu Dhabi Dialogue.	14
5. Selected good practices and provisions from bilateral migration agreements and MOUs	16
5.1 Governance of labour migration	16
5.1.1 Evidence of normative foundations and respect for migrant workers' rights (based on international instruments)	16
5.1.2 Exchange of relevant information between country of origin and country of destination	18
5.1.3 Transparency: Clear objectives, sharing of information with relevant stakeholders, and dissemination	21
5.1.4 Defining clear responsibilities between parties	22
5.1.5 Concrete implementing, monitoring, evaluation procedures	23
5.1.6 Fair recruitment principles: Regulation of recruitment and reduction of recruitment and migration costs	30
5.1.7 Social dialogue and consultative processes	35
5.2 Protection and empowerment of migrant workers	36
5.2.1 Provision of relevant information and assistance to migrant workers, potential migrants and their families	36
5.2.2 Specific reference to equal treatment and non-discrimination of migrant workers	39
5.2.3 Address gender issues and concerns of vulnerable migrant workers, particularly those not covered by labour laws in destination countries	42
5.2.4 Concrete and enforceable provisions relating to employment contracts, working conditions, and wage protection	45

5.2.5 Provision for supervision of working and living conditions	49
5.2.6 Prohibition of confiscation of travel and identity documents	50
5.2.7 Social protection and health-care benefits for migrant workers	52
5.2.8 Trade union rights and access to support mechanisms from civil society	53
5.2.9 Incorporation of concrete mechanisms for complaints and dispute resolution procedures, and access to justice	55
5.3 Migration and development linkages	57
5.3.1 Human resource development and skills improvement	57
5.3.2 Recognition of skills and qualifications and competencies in destination country, and on return in the origin country	60
5.3.3 Facilitation of transfer of savings and remittances at low cost	61
5.3.4 Return, reintegration and circulation	62
6. Conclusion and the way forward within the context of Bangladesh	66
6.1 Conclusions	66
6.2 Recommendations	68
Bibliography	75
Appendices	79
Appendix I Table of bilateral labour agreements and memoranda of understanding referred to in the study	79
Appendix II Table summarizing provisions of Bangladesh model contracts of employment annexed to the MOU with Malaysia (2016) and the BLAs with Saudi Arabia (2015) and Qatar (2008)	86
Appendix III Table of India's social security agreements with other countries	88
Appendix IV Table of the Philippines' social security agreements with other countries	89
Appendix V Chapter on migration and development from the Agreement on cooperation in the field of immigration between the Republic of Mali and the Kingdom of Spain, 2007	90
List of tables and boxes	
Table 1 Good practice criteria selected for the study	5
Table 2 Advancement of intraregional migration and mobility regimes pursued by regional economic communities (as of October 2016)	10
Table 3 Profile of the Colombo Process and the Abu Dhabi Dialogue	15
Table 4 Critical success outcomes: Inter-Agency Understanding between New Zealand & Kiribati, 2011)	29
Box 1 Agreement on domestic worker recruitment between the Ministry of Labour of The Kingdom of Saudi Arabia and the Department of Labour and Employment of the Republic of the Philippines	32
Box 2 Equality of treatment in the Nepal–Jordan General Agreement, 2017	40
Box 3 Bangladesh–Malaysia MOU (2012), Contract of Employment (Appendix B) – References to passport retention	51
Box 4 COD training of migrant workers prior to departure: The example of Italy and Sri Lanka	58
Table 5 Incidence of good practices	67

Abbreviations and acronyms

AFML	ASEAN Forum on Migrant Labour
ASEAN	Association of Southeast Asian Nations
BLA	bilateral labour agreement
BMET	Bureau of Manpower, Employment and Training [Bangladesh]
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women, 1979
COD	country of destination
COO	country of origin
DOLE	Department of Overseas Labor and Employment [Philippines]
EPS	Employment Permit System [Republic of Korea]
EU	European Union
GCC	Gulf Cooperation Council
GEFONT	General Federation of Nepalese Trade Unions
GFMD	Global Forum on Migration and Development
G-to-G mechanism	Government-to-Government Mechanism of employing workers through state agencies of both parties.
G-to-G Plus mechanism	State recruitment (G-to-G) combined with private recruitment mechanisms.
IAU	Inter-agency understanding [New Zealand agreements with Pacific Islands for employment of seasonal workers]
ICRMW	International Convention on the Protection of All Migrant Workers and Members of their Families, 1990
ILO	International Labour Organization
IOM	International Organization for Migration
MOA	Memorandum of Agreement
MEWOE	Ministry of Expatriate Welfare and Overseas Employment [Bangladesh]
MOU	Memorandum of Understanding
MRA	Mutual recognition arrangement
OSH	Occupational safety and health
OWWA	Overseas Workers' Welfare Agency [Philippines]
POEA	Philippines Overseas Employment Administration
POLO	Philippines Overseas Labor Office
PRC	Professional Regulation Commission [Philippines]

RSE	Recognised Employer Scheme (of New Zealand for employment of seasonal workers from pacific Islands)
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
TESDA	Technical Education and Skills Development Authority [Philippines]
TORs	Terms of reference
WEWB	Wage Earners' Welfare Board, Ministry of Expatriates' Welfare and Overseas Employment, Government of Bangladesh

1. Introduction

Bilateral agreements have become increasingly popular as a tool for governance of labour migration and protection of migrant workers, especially in Asia. This development may partly reflect the difficulty in achieving multilateral agreements in the field of labour migration. This being the case, bilateral labour agreements (BLAs) and memoranda of understanding (MOUs) may often be the only available option for countries of origin. International Labour Organization (ILO) instruments have long recognized the value of BLAs as a good practice in the governance of labour migration flows between countries, and in contributing to the protection of migrant workers (ILO, 1949; 2006; 2016a). In recent years, the ILO has recognized the role of BLAs for well-regulated and fair migration between member States and has worked to assist member State governments and social partners to increase their positive outcomes (ILO, 2013; 2014c; 2017a; 2017d). The conclusions of the ILO Tripartite Meeting on Migration in 2013 called upon the ILO to “create a repository of agreements and good practices on bilateral and other international cooperation on labour migration” (ILO, 2013, p. 5). The present report attempts to contribute towards the elaboration of good practices observed in bilateral agreements across regions.

Bangladesh – a major country of origin in South Asia – has succeeded in entering into agreements with a number destination countries and territories: Hong Kong (China), Iraq, Jordan, Libya, Kuwait, Malaysia, Oman, Qatar, the Republic of Korea, and the United Arab Emirates. The Bangladesh Overseas Employment and Migrants Act 2013 recognized the role of bilateral agreements, and defined their objectives in article 25. A follow up technical cooperation project by the ILO supported by the Swiss Agency for Development and Cooperation called “The Application of Migration Policy for Decent Work for Migrant Workers”, has given priority to the Government’s interest in MOUs and BLAs in its Output 1.2: “Bangladeshi officials are able to apply International Labour Standards principles and good practices in labour migration in MOUs and Bilateral Agreements.”

It is important, therefore, to document good practices in regional and bilateral arrangements that can feed into the design and implementation of more effective agreements. This report first discusses methodology and definitions. Next it highlights some good practices in regional arrangements. The main section of the report discusses good practices in various bilateral agreements across the globe, under the categories of governance, protection and empowerment of migrant workers, and reaping the development benefits of migration. The final section highlights conclusions and makes some recommendations.

2. Objectives of the study

The objectives of this study are as follows:

- a. Identify good practices for bilateral arrangements (agreements and MOUs) on labour migration with a special focus on effective protection and implementation;
- b. Review the relevance of these good practices and their transferability to the situation of Bangladesh; and
- c. Make recommendations on improvements to bilateral agreements based on the analysis.

3. Methodology

This methodology chapter deals with definitions, criteria of good practices, methods of information gathering, sources of good practices, and transfer good practices.

3.1 Definitions and concepts

This section presents the definitions and overarching concepts related to key terms.

Bilateral labour agreements (BLAs) – A format characterized by agreements that describe in detail the specific responsibilities of, and actions to be taken by each of the parties, with the view to the accomplishment of their goals. BLAs create legally binding rights and obligations (United Nations, 2012b).

Memorandum of Understanding (MOU) – A format that is used where the parties have agreements on general principles of cooperation. An MOU will describe broad concepts of mutual understanding, goals, and plans shared by the parties. They are usually non-binding instruments.

BLAs are, therefore, more specific and action-oriented than MOUs, and they are legally binding. An MOU is a softer, non-binding option providing a broad framework to address common concerns (United Nations, 2012b).

The focus of the report is on bilateral arrangements between States, and therefore, it does not deal with bilateral arrangements between private actors. Other forms of inter-State bilateral arrangements can be found:

- **Memorandum of Agreement (MOA)** – The Philippines prefers to use the format of a memorandum of agreement, which is very similar to a BLA. An example is the MOA between the Philippines and Bahrain on Health Services Cooperation.¹ Qatar has also used MOAs with Sri Lanka, among others, but in actual practice, the outcomes have not been very different from an MOU (Wickramasekara, 2015a).
- **Framework agreements** – broad bilateral cooperation instruments covering a wide range of migration-related matters, including labour migration as well as irregular migration, readmission, and the nexus between migration and development. They have been concluded by Spain and France with several West and North African countries. The recent agreements of South Africa with other southern African countries (e.g., Lesotho, Namibia, Tanzania, and Zimbabwe) fall into this type, and contain statements of mutual cooperation without specifically referring to migration flows (Bamu, 2014; Monterisi, 2014).
- **Inter-agency understanding (IAU)** – The agreements between New Zealand and Pacific Islands States for employment of seasonal workers are labelled as IAUs – but they are similar to MOUs.

¹ This MOA was never implemented.

- **Protocol (additional or optional)** – An instrument entered into by the same parties and which amends, supplements, or clarifies a previous agreement. Qatar was one of the pioneers in signing bilateral agreements back in the early 1980s, and revised many of them through the use of protocols in the 2000s (Wickramasekara, 2015a).

Good practices

For this concept there are several terms used interchangeably in the literature: “good practices”, “promising practices”, “effective practices”, “emerging practices”, and “best practices”. However, the term “good practices” is preferable to other terms. “Best practice” would imply that one has reviewed information on the entire domain of practices to select the best ones. Similarly, it is not possible to show that a practice is “effective” without solid evidence. The ILO’s Evaluation Division has highlighted the term “emerging good practices” (ILO-EVAL, 2014, p. 6), which is defined as: “any successful working practice or strategy, whether fully or in part, that has produced consistent, successful results and measurable impact”. The selection of a good practice would depend on the criteria used. The ILO good practices database uses a defined set of criteria to identify good practices in labour migration (Wickramasekara, 2016a). They cannot, however, be directly applied to the current exercise, which has a much narrower focus of identifying good practices and provisions in bilateral agreements and MOUs on labour migration. Innovativeness, effectiveness in addressing identified issues, sustainability, and the possibility of replication are important criteria in identifying good practices.

The sharing of good practices has become popular in many. Innovativeness, effectiveness in addressing identified issues, sustainability, and the possibility of replication are important criteria in identifying good practices. fields, including that of labour migration. For example, a major objective of the Global Forum on Migration and Development (GFMD) is: “To exchange good practices and experiences, which can be duplicated or adapted in other circumstances, in order to maximize the development benefits of migration and migration flows” (GFMD, n.d. a). Several reasons underlie this reliance on good practices. First, it is an easy option that may not require major changes in existing laws and procedures. Second, drawing upon practices which have proved effective in similar contexts is more efficient than trying to “reinvent the wheel”. Third, it also may indicate a preference for non-binding and informal practices over binding Conventions and standards in the labour migration field

In this report, good practices have been defined as provisions in BLAs and MOUs that are consistent with – and contributing to – the three major objectives of migration policy and bilateral labour agreements: (a) good governance; (b) protection and empowerment of workers; and (c) development benefits from migration.² For example, if a practice violates migrant rights spelled out in international instruments, it can hardly be accepted as a good practice. It is important to note that few practices may satisfy all the criteria listed. Moreover, not all criteria might be applicable to each practice in question. In general, a combination of three or more important criteria can be used for labelling a practice as good. Given its overriding importance, “protection and empowerment of migrant workers’ rights” is considered an essential condition for selecting a “good practice”.

It should also be noted that good practices or provisions can neither replace nor serve as a substitute for ratification of and compliance with binding international Conventions on migrant workers, which are normative foundations for ensuring and enforcing good governance and effective protection of migrant workers legally.

² The principles and guidelines in the ILO Multilateral Framework on Labour Migration use three objectives that focus on these three themes (Wickramasekara, 2014).

3.2 Scope of the research report on good practices

The task at hand was to conduct research on good practices in regional and bilateral MOUs and agreements, including but not confined to: (a) standards for agreements with strong labour standards; and (b) monitoring needs, structures, resources, and capacity for the agreements and MOUs.

There are hardly any regional agreements or MOUs on migration in the Asian region. There are such agreements in Europe, Latin America and the Caribbean, and Africa relating to regional economic communities. The Association of Southeast Asian Nations (ASEAN, 2007) has issued a declaration on the protection of migrant workers, while the SAARC (2014) had only a reference to migration in the Kathmandu Declaration produced at the SAARC Summit of 2014. SAARC has subsequently come up with a Plan of Action on Labour Migration (SAARC, 2016a). Thus, in the absence of regional migration agreements, the main focus has to be on BLAs and MOUs.

The purpose of this review is to support improvements in policies relating to bilateral agreements and MOUs through specific recommendations to the Government of Bangladesh.

There are a number of other good practices to be considered relating to governance, protection, and development objectives of bilateral agreements. For more, see a 2015 ILO review of BLAs and MOUs on low skilled workers that examined the incidence of 18 good practices in agreements across the globe (Wickramasekara, 2015a).

3.3 Good practice criteria adopted for the study

The good practices criteria proposed here have drawn upon the ILO Model Agreement, the good criteria used in the 2015 ILO global review of BLAs (Wickramasekara, 2015a) and the assessment report of of bilateral agreements (see Wickramasekara, 2018). Table 1 lists the criteria used in identifying good practices.

Table 1. Good practice criteria selected for the study

Good practice no.	Good practice criterion
Governance	
5.1.1	Evidence of normative foundations and respect for migrant workers' rights (based on international instruments)
5.1.2	Exchange of relevant information between country of origin and country of destination
5.1.3	Transparency: Clear objectives, sharing of information with concerned stakeholders and dissemination
5.1.4	Defining clear responsibilities between parties
5.1.5	Concrete implementation, monitoring, and evaluation procedures
5.1.6	Fair recruitment principles: Regulation of recruitment and reduction of recruitment and migration costs
5.1.7	Social dialogue and consultative processes
Protection	
5.2.1	Provision of relevant information and assistance to migrant workers, potential migrants and their families
5.2.2	Specific reference to equal treatment and non-discrimination of migrant workers
5.2.3	Address gender concerns and the concerns of vulnerable migrant workers, particularly those not covered by labour laws in destination countries
5.2.4	Concrete and enforceable provisions relating to employment contracts, working conditions, and wage protection measures
5.2.5	Provision for supervision of working and living conditions
5.2.6	Prohibition of confiscation of travel and identity documents
5.2.7	Social protection and health-care benefits for migrant workers
5.2.8	Trade union rights and access to support mechanisms from civil society
5.2.9	Incorporation of concrete mechanisms for complaints and dispute resolution procedures, and access to justice
Development	
5.3.1	Human resource development and skills improvement
5.3.2	Recognition of skills and qualifications and competencies in the destination country, and on return in the origin country
5.3.3	Facilitation of transfer of savings and remittances at low cost
5.3.4	Return, reintegration, and circulation
Source: Compiled by author	

3.4 Methodology of information gathering

The study adopted a number of methods in identifying good practices based on the above criteria.

Consultation of international instruments

International instruments provide a solid foundation to define criteria for selecting good practices. The ILO-KNOMAD project on the global review of bilateral labour agreements and MOUs developed a set of criteria for assessment of agreements drawing upon international instruments and additional research (Wickramasekara, 2018).

Mapping and reviewing content of a database of BLAs and MOUs

This review was carried out for the purpose of identifying agreements with good practices based on the criteria developed. The review drew upon agreements collected for the ILO-KNOMAD study partly listed in the ILO database on BLAs and MOUs (ILO, 2017b). The present review of good practices assembled more agreements with full texts, bringing the total number close to 200. These agreements were searched using appropriate terms derived from assessment criteria for locating references to good practices. Some agreements were in French, Italian, and Spanish, which were into English translated using web tools.

Consultation of extensive secondary materials and web searches

The report also consulted previous work by the Organisation for Economic Co-operation and Development (OECD, 2004), the World Bank (Saez, 2013), the Global Forum on Migration and Development (GFMD, 2008), the International Organization for Migration (IOM, 2016), the ILO, and other research on bilateral agreements.

The ILO has carried out several pioneering reviews of bilateral labour agreements in different regions and countries, which have produced a wealth of information, including:

- 2006 Review of the bilateral agreements and MOUs in labour migration in Asia". This presentation at the Japan Institute for Labour Policy and Training (JIPLT) workshop on International Migration and Labour Market in Asia, Tokyo, 2006, represented the first rights-based approach to analysis of bilateral labour agreements (Wickramasekara, 2006).
- *Inter-state cooperation on labour migration: Lessons learned from MOUs between Thailand and neighbouring countries* (Vasuprasat, 2008).
- *Southern African Development Community (SADC) migration instruments in light of ILO and United Nations (UN) principles on labour migration* (Bamu, 2014). This study found only a limited number of good practices based on adherence to principles in ILO and UN migration instruments.
- *A report on the MOUs and agreements on labour migration between Bangladesh, and countries of destination, carried out by the former ILO-SDC project, Dhaka* (ILO, 2014a). This pioneering report reviewed eight bilateral agreements and MOUs concluded by the Government of Bangladesh. It used two sets of criteria to assess comprehensiveness and protection provisions of these agreements.
- *Study on bilateral labour, establishment and social security agreements in North Africa* (Center for Migration and Refugee Studies, 2016). This study reviewed agreements of Egypt, Morocco, and Tunisia with destination countries. It drew upon the approach used in the 2015 ILO global review.
- *Bilateral agreements and memoranda of understanding on migration of low skilled workers: A Review* (Wickramasekara, 2015a). This 2015 report was the first comprehensive review on

the issue based on a global analysis of agreements in different world regions. It formed part of the work under the ILO-KNOMAD Thematic Working Group 3 on Low Skilled Migration. This review identified good practices relating to bilateral labour arrangements between countries on the basis of full text analysis of 146 agreements. Regional research covering Asia, Africa, Europe, and the Americas was supplemented by 15 case studies.

- *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (ILO, 2015b). This study was a detailed review of the Thailand MOUs with Cambodia, the Lao People's Democratic Republic, and Myanmar, and highlighted several weak features of the Thailand system.
- *Review of the Government-to-Government (G-to-G) Mechanism for the Employment of Bangladeshi Workers in the Malaysian Plantation Sector* (Wickramasekara, 2015b). This was the first systematic review of the Government-Government arrangement between Bangladesh and Malaysia for employment of Bangladeshi workers in the oil palm plantation sector. While acknowledging its good practices, the review found that it fell below expectations in the numbers of workers hired and their protection in the workplace.

Discussions with key informants and stakeholders

The research team met with relevant government officials, social partners, recruitment agencies, NGOs, and representatives of international organizations during its field visit to Dhaka in May 2017. These discussions helped gather information on what the constituents considered as good practices. A major issue highlighted by non-governmental stakeholders was the need for greater transparency in the development of agreements and their implementation, and sharing of related information. There was also widespread concern on the abuse and exploitation of migrant workers overseas and whether bilateral instruments were adequate to address these matters.

The Team Member carried out interviews with relevant officials in the government of Sri Lanka. The author had gathered information from key informants on issues of concern in his previous work (Wickramasekara, 2012; 2015a).

3.5 Sources of good practices

There are several sources of good practices on labour migration in general, which also contain practices relevant to bilateral and regional agreements. These include the following:

- International instruments – International Conventions and Recommendations represent good practices based on extensive negotiations and international practices. Most of the articles of these agreements are based on proven principles and practices. Many countries have used them in the revision of their national laws, even when they have not ratified the specific Conventions.
- The ILO Multilateral Framework on Labour Migration (ILO, 2006) – Part II has a compendium of 132 good practices arranged according to the principles and guidelines of the Multilateral Framework. Some of them may no longer be relevant due to various changes since 2006.
- The ILO good practices database “Labour migration policies and programmes”.

This online database is regularly updating the relevant Multilateral Framework on Labour Migration good practices and adding new ones. It covers labour migration with a focus on several themes: evidence-based policy making; fair recruitment; migration and development; policy coherence; protection; ratification campaigns and implementation; regional labour mobility; social integration and inclusion; and, strengthening workers' and employers' organizations. The database is searchable by country, region, sector and theme, and consists of 136 practices as of mid-November 2017 (ILO, 2017c).

- The ILO studies referred to in section 3.4 above.
- Database of BLAs and MOUs used for the present study as mentioned above. The full text database of about 200 agreements provides an important source of good practice provisions based on the criteria adopted. It is the main source utilized for the present report. The list of BLAs and MOUs specifically referred to in the report is provided in Appendix I.
- GFMD's 2008 *Compendium of good practice policy elements in bilateral temporary labour arrangements*. This was prepared by an inter-agency group for the second meeting of the GFMD in Manilain 2008. It has listed brief references to good practices in several regions.
- GFMD's "Migration and development (M&D) policy and practice database" (GFMD, 2017). This database lists 909 migration and development policies and practices as of mid-September 2017. Though it should be noted that the practices span a range of issues that extend beyond migration and development. The creators of the database have clearly mentioned that the selection of entries is not based on any judgement on "good", "best", or "bad" practice. It is based on information provided on a voluntary basis by interested parties (mainly governments, and others such as GFMD observers, civil society, and private sector stakeholders). The selection is not an objective one since governments also have the option to screen and approve of information concerning their own policies, projects, and programmes before these are displayed in the database. It is also explained that the profile of practices could include both successful ones and those offering lessons to others.

3.6 Transfer and replication of good practices

The objective of a compilation of good practices is to consider their possible replication or transferability to other relevant contexts. For example, Bangladesh may review them with a view to possible adoption of relevant practices.

An important consideration is whether the good practices across countries with different governance systems can be easily replicated. Most countries in the Global North may have better governance, strong market institutions, and labour protection systems based on long democratic traditions (e.g., France, Italy, and Spain) when compared to some countries in the Global South, such as in the Middle East.

The 2017 International Labour Conference report on labour migration highlighted this issue:

While South–South labour migration has the potential to yield positive benefits for migrant workers and their families, the social and economic costs will remain high, and development benefits low, without much stronger labour laws and social protection systems, as well as functional labour market intermediation mechanisms (ILO, 2017a,p. 46).

This analysis may not apply to South–South agreements between Latin American countries (especially those of Argentina), as they seem to be based on principles of mutual respect for migrant rights and reciprocity.

Middle Eastern countries, especially the Gulf Cooperation Council (GCC) countries, do not have the same strong good governance systems, which affects the performance of bilateral agreements. Asian South–South agreements may often therefore, have some inherent weaknesses.

There is also limited information available regarding the actual working of good practices identified from the review of bilateral agreement texts. This research is based primarily on secondary research, and there was no provision for study of actual implementation at the field level. There are, however, a number of studies by the ILO and others that have looked at the implementation of the agreements as well. There is also documented evidence of the actual situation of labour migration governance and migrant worker protection in major destination countries of the Middle East and Asia (Malaysia, the Republic of Korea, Thailand) where bilateral agreements have been in operation. These findings have been used in the present study where relevant.

4. Selected good practices – Regional economic communities and free movement and labour mobility

4.1 Regional economic communities in different regions

Free movement of persons has long been recognized as a key pillar of economic integration and development in regional economic integration processes. It facilitates mobility of available skills and labour to promote investment and economic development by drawing on diverse labour resources present in the member States of regional economic communities (Taran, 2015).

A number of regional integration processes worldwide involving some 120 countries now include or are negotiating free or facilitated circulation regimes. They display extreme diversity in size and hierarchy (ILO, 2017a). These include:

- Europe: European Union (EU) – the original European Economic Community (EEC) created in 1958 was renamed the European Union in 1993, and now comprises 28 European countries.
- Latin America and the Caribbean: CAN (Andean Community); Andean Pact; CARICOM (Caribbean Community); MERCOSUR (*Mercado Común del Sur*–Southern Common Market); CICA (Central American Integration System); and UNASUR (Union of South American Nations).
- Africa: AMU (Arab Maghreb Union); CEMAC/ECCAS (Central African Republic); COMESA (Common Market for Eastern and Southern Africa); CEN-SAD (Community of Sahel-Saharan States); EAC (East African Community); ECOWAS (Economic Community of West African States); Intergovernmental Authority on Development (IGAD); and Southern African Development Community (SADC).
- Gulf Countries: the Gulf Cooperation Council (GCC) comprising Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE).
- Asia: ASEAN (Association of Southeast Asian Nations); and SAARC (South Asian Association for Regional Cooperation).

These regional entities have adopted “a variety of governance models range from free movement, implying the gradual lifting of all barriers to movement, residence and establishment; facilitation of movement for specific categories of workers; mere visa reciprocity agreements or regular exchange of information; or protection of the subregion’s workers in destination countries outside the region” (ILO, 2017a, p. 47). Table 2 reproduces information from the International Labour Conference report on labour migration (ILO, 2017a) showing these models.

The European Union provides the best example of economic integration with provision for free movement and mobility of labour with instruments for governance and protection of workers. It has been an engine of development and integration for most EU Member States. It is the most comprehensive regional integration system, providing for free movement of workers within the EU, wherein EU citizens enjoy the principle of equal treatment and employment rights with nationals when they move across borders for employment and establishment. These rights extend to family unification as well. The EU enlargement has transformed it from a 15-country union to one of 28 countries. Transitional arrangements apply to the free movement of workers from some of the new accession States.

For African countries, intra-regional mobility and associated benefits represent a vital livelihood strategy for many migrants and their families. There is still limited progress in free circulation and labour mobility regimes due to lack of harmonization of domestic laws with regional economic community guidelines.

Labour migration is not the primary objective of most regional economic communities, and in most cases, these regional communities were established long after spontaneous migratory movements had taken place (ILO, 2017a). Nevertheless, in striving for closer integration, they need to address freemovement establishment rights and labour mobility.

Table 2. Advancement of intraregional migration and mobility regimes pursued by regional economic communities (as of October 2016)

Type of intraregional migration and mobility regime pursued	Relevant regional economic communities		
	Enforced and functional	Ongoing development	Principles adopted
Free movement based on gradual lifting of all barriers to movement, and establishment, residence,	EU, MERCOSUR	ECOWAS, EAC	AU, COMESA, CAN, ECCAS, IGAD, UNASUR
Facilitation of movement for specific categories of workers and exchange of information	–	ASEAN, GCC	SADC, CARICOM
Visa reciprocity for short-term mobility and exchange of information	–	APEC	CEN-SAD, AMU
Protection of workers from the regional economic community in employment outside that community	–	–	SAARC

Note: – = nil.
Source: ILO, 2017a, table 4.1

4.2 Regional cooperation in labour migration in Asia

Asia has two regional economic communities: the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). ASEAN has integrated migration into its agenda well.

4.2.1 Association of Southeast Asian Nations (ASEAN)

ASEAN was created 9 August 1967, and the ASEAN Economic Community, representing an advanced stage of economic integration, was established in 2015.

There is significant intra-ASEAN migration, including from Cambodia, the Lao People's Democratic Republic, and Myanmar into Thailand; from Indonesia, the Philippines, and Viet Nam into Malaysia; and from Malaysia, the Philippines, and other ASEAN nations into Singapore and Brunei Darussalam.

The adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers in January 2007 was a milestone on collaboration at the ASEAN level on migrant worker and migration issues (ASEAN, 2007). What is also important through this Declaration is ASEAN's commitment to "promote decent, humane, productive, dignified and remunerative employment for migrant workers". The ASEAN Declaration calls on origin and destination countries to promote the full potential and dignity of migrant workers; cooperate to resolve cases of migrant workers who become undocumented due to no fault of their own; and take into account the fundamental rights of migrant workers and their families already residing in the destination country. The Declaration outlines a number of obligations of destination and origin countries, and also the contributions of migrant workers to the society and economy of both countries of origin and destination. Most important is the proposal within the Declaration to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers.

While implementation of the Declaration represents a work in progress, the respective obligations of origin and destination States provide a good framework for action. ASEAN has also instituted a tripartite (plus civil society organizations) forum that provides a platform to gauge implementation of the Declaration and to share good practices – the ASEAN Forum on Migrant Labour (AFML). This effort has been supported by the ILO from the inception. The AFML has held ten annual meetings as of March 2018. The main contentious issues at the AFMLs have been the nature of the proposed ASEAN instrument (i.e., binding or non-binding) and the treatment of workers in irregular status (Salim, 2017).

It is encouraging that ASEAN leaders signed the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers at the 31st ASEAN Summit held in Manila during 10 to 14 November 2017, as a follow up to the ASEAN Declaration on migrant workers (ASEAN Secretariat, 2017). However, it is a nonbinding agreement where many of the provisions are subject to national laws and regulations in individual ASEAN Member States.

4.2.1.1 ASEAN Economic Community and skilled mobility

A significant milestone of ASEAN has been the establishment of the ASEAN Economic Community at the end of 2015, which seeks to “transform ASEAN into a region with free movement of goods, services, investment, skilled labour, and freer flow of capital” (ASEAN, 2008, p. 5).

The ASEAN Economic Community has a clear goal of promoting skilled labour mobility, and has put in place mutual recognition arrangements (MRAs) for six occupational sectors and frameworks for two other sectors.³ Temporary movement of business visitors, investors, intracompany transferees, and those trading in goods and services has been facilitated by the ASEAN Agreement on the Movement of Natural Persons and other investment treaties.

But there are still many barriers to skilled labour mobility within ASEAN. Restrictive labour policies, protectionist frameworks, outdated immigration and visa systems, and bureaucracy in member countries have impeded progress. “Workers covered by existing MRAs represent only 1.5 percent of the region’s workforce, and 87 percent of intra-ASEAN migrant workers are unskilled, many of whom are irregular and not governed by formal agreements” (Koty, 2016).

4.2.2 South Asian Association for Regional Cooperation (SAARC)

The South Asian Association for Regional Cooperation (SAARC), covering Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka, was established in 1985. Thus, it has a much shorter history than ASEAN. Subregional conflicts within SAARC are also more serious than in ASEAN. There is no recognized regional labour market with legally recognized movements of labour in South Asia, with all countries sending workers primarily to the Gulf region. No country has declared itself as an immigration or destination country, although India and Pakistan host considerable populations resulting from informal movements. The only free movement and labour mobility is between India and Nepal under the Indo-Nepal Treaty of Peace and Friendship, 1950.

Labour migration has not been on the SAARC agenda for a long time. Member States did manage to adopt the SAARC Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution in 2002. In view of the shared concerns and common issues facing SAARC member countries in the field of labour migration governance, protection of workers, and development benefits of migration, it is important for SAARC to play a more active role.

³ Engineering, Nursing, Architecture, Medicine, Dentistry, Tourism, Surveying (framework), Accountancy (framework)

The 18th SAARC Summit in 2014 for the first time included a commitment on migration as point 21 among its 36 commitments as follows: “They [SAARC Heads of State] also agreed to collaborate and cooperate on safe, orderly and responsible management of labour migration from South Asia to ensure safety, security and wellbeing of their migrant workers in the destination countries outside the region” (SAARC, 2014, p. 5). This statement lacks any specific reference to the GCC countries which account for the bulk of South Asian migration, and it is not explicit on a longer-term approach or vision on migration. The statement is also silent on the large number of informal migrant workers within the SAARC region.

In an encouraging follow up development, SAARC members adopted the SAARC Plan of Action on Labour Migration during the Kathmandu Consultative Workshop on SAARC Plan of Action for Cooperation on Matters Related to Migration (3–4 May 2016). The objectives of the Plan of Action (SAARC, 2016a) are:

- (a) set up an institutional mechanism at the regional level that would facilitate collaboration and cooperation on management of key labour migration issues;
- (b) facilitate the development of a “SAARC Declaration on Labour Migration”;
- (c) identify priority thematic areas for regional cooperation on labour migration; and
- (d) facilitate information exchange and knowledge building on labour migration.

The Plan of Action recommended the establishment of a technical committee to develop the SAARC Declaration on Labour Migration, and a ministerial forum to deal with migration issues (SAARC, 2016b). These measures indicate that SAARC is serious about promoting an agenda on migration. The proposed declaration can draw upon the good practice of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.⁴

The Programme of Action related to the Plan consists of seven areas:

- 1) development of a framework for skills qualification;
- 2) strengthen pre-departure preparation of migrant workers;
- 3) formulation of standard employment contract and minimum wages;
- 4) establishment of a mechanism for information exchange and knowledge building;
- 5) ensuring fair and ethical recruitment;
- 6) maximizing the developmental potentials of migration; and
- 7) improvement in the justice mechanisms, support services, welfare, and protection (SAARC, 2016a).

These areas represent important issues with which the ILO and regional consultative processes in Asia (the Colombo Process and the Abu Dhabi Dialogue) are also concerned. The focus on fair and ethical recruitment, a standard employment contract, and minimum wages are important interventions. SAARC also plans to set up a regional level directive/mechanism to support migrant domestic workers from the region. What is missing is any mechanism to coordinate with the two regional processes that support several similar interventions (skill certification, pre-departure orientation modules, and recruitment reform).

⁴ The author had recommended in 2011 that SAARC should also issue a declaration on the promotion and protection of migrant workers modelled on the ASEAN Declaration (Wickramasekara, 2011)

4.3 Regional consultative processes in Asia

Regional consultative processes on migration are informal consultations among governments that take place outside of formal institutional structures, often with the support of the IOM. There are three such active consultative processes in the region that involve primarily governments:

- The Colombo Process – a forum of labour-sending countries in South and South-East Asia;
- the Abu Dhabi Dialogue– which covers both countries of origin in the Colombo Process and destination countries in the GCC; and
- the Bali Process – which focuses on security issues of smuggling, trafficking in persons, and related transnational crimes.

This research will only concentrate on the first two, which are concerned with labour migration.

4.3.1 The Colombo Process

The Colombo Process, which began in 2003 at the initiative of Sri Lanka and Indonesia with the secretariat support of the IOM and in collaboration with the ILO, represents an effort at policy coordination, information exchange, and engaging with destination countries on mutual concerns by countries of origin. Unlike other regional consultative processes, the Colombo Process focuses only on labour migration. Several ministerial consultations have been held by host countries: Sri Lanka (2003); Philippines (2004); Indonesia (2005); Bangladesh (2011); and Sri Lanka once again (2016). The current chair is Nepal.

There are 12 member States and eight observer countries of the Colombo Process. According to the Colombo Process website, its aim is to provide a forum for Asian labour-sending countries to:

- Share experiences, lessons learned and best practices on overseas employment
- Consult on issues faced by overseas workers, labour sending and receiving states, and propose practical solutions for the wellbeing of overseas workers
- Optimize development benefits from organized overseas employment and enhance dialogue with countries of destination
- Review and monitor the implementation of recommendations and identify further steps for action (Colombo Process, n.d.)

Its means of action are regular senior officials' meetings, ministerial consultations, and pilot projects on selected issues. The IOM is acting as the Secretariat for the Colombo Process, and influencing its agenda through support to the chairing governments.

The Colombo Process Road Map, agreed upon in 2013, consists of five thematic areas of work:

- 1) skills and qualification recognition processes including transnational accreditation and monitoring;
- 2) foster ethical recruitment practices (including promoting standard employment contracts);
- 3) effective pre-departure orientation and empowerment, with an additional focus on migration and health;
- 4) promote cheaper, faster, and safer transfer of remittances; and
- 5) enhancing capacities of the Colombo Process participating countries to track labour market trends.

The latest 2016 Ministerial Declaration decided to continue focus in the same areas, and appointed thematic working groups for each (Colombo Process, 2016).

All these areas are highly relevant to issues covered by bilateral labour agreements and MOUs, and can guide relevant provisions in agreements.

The Colombo Process has some inherent limitations as an origin country only initiative. Unless destination countries agree to its proposals, progress can be limited. Moreover, it has been beset by sustainability issues relating to funding of operations. The large gaps of time between ministerial consultations following the 2005 meeting are a cause for concern.

4.3.2 The Abu Dhabi Dialogue.

The Abu Dhabi Dialogue was launched in 2008 at the initiative of the United Arab Emirates involving other GCC countries.

The Abu Dhabi Dialogue includes both Asian origin countries and GCC countries of destination, and consequently carries more weight than the origin country-only Colombo Process. The 2014 Kuwait Declaration of the Third Ministerial Consultation of the Abu Dhabi Dialogue pledged to "work together to prevent and sanction exploitative recruitment practices that place workers at great risk and undermine their fundamental rights" (Abu Dhabi Dialogue, 2014, p. 2). An encouraging development is the joint action taken on themes such as recruitment, skills recognition, and delivering comprehensive information and orientation to migrant workers. The 2017 Colombo Declaration (Abu Dhabi Dialogue, 2017) identified labour recruitment, skilling, skill certification and mutual recognition, and use of technology to facilitate labour mobility as focus areas for the next two years.

Yet the dominant GCC interests in the Abu Dhabi Dialogue, particularly those of the United Arab Emirates, seem to constrain the adoption of more concrete measures to put these declared good intentions into practice. While both the Abu Dhabi Dialogue and the Colombo Process do provide a much needed regional/interregional platform for dialogue and sharing of experiences among governments in a major labour migration corridor, their real impact on the policies of countries and the lives of migrant workers appears to be limited so far.

Table 3 provides basic information on the two processes.

Table 3. Profile of the Colombo Process and the Abu Dhabi Dialogue

	Colombo Process	Abu Dhabi Dialogue
Start year	2003	2008
Initial lead role	Sri Lanka	United Arab Emirates
Current chair	Nepal	Sri Lanka
Secretariat	International Organization for Migration (IOM)	Past, current & next Chair
Members	Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Viet Nam	Countries of origin: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, and Viet Nam Destination countries: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates
Ministerial meetings	Colombo, 2 Apr. 2003; Manila, 24 Sep. 2004; Bali, 21 Sep. 2005; Dhaka, 21 Apr. 2011; Colombo 25 Aug. 2016	Abu Dhabi, 21–22 Jan. 2008; Manila, 19 Apr 2012; Kuwait, 27 Nov. 2014; Colombo, 24 Jan. 2017
Important documents	The Dhaka Declaration, 2011; Colombo Process Ministerial Declaration, 2016	The Abu Dhabi Declaration 2008; Abu Dhabi Framework for Cooperation, April 2012; Manila Communique, April 2012; The Kuwait Declaration, November, 2014; The Colombo Declaration, 2017

Source: Compiled by the author

It is important for Bangladesh and other origin countries to use both forums to develop minimum standards and templates for bilateral agreements and MOUs.

5. Selected good practices and provisions from bilateral migration agreements and MOUs

The good practices and provisions delineated in this chapter are structured under the themes of governance, protection, and development, as mentioned above. The format in which these good practices will be presented is as follows: (a) first, the rationale or justification of each good practice will be briefly explained; and (b) this will be followed by citations of good practices from different agreements; and, finally a few remarks will be made on their relevance to Bangladesh. Page numbers are not provided in citations of text from agreements because they are mostly drawn from web pages.

5.1 Governance of labour migration

5.1.1 Evidence of normative foundations and respect for migrant workers' rights (based on international instruments)

5.1.1.1 Rationale

International instruments constitute a solid normative foundation for drawing up bilateral labour agreements (Wickramasekara, 2015a; ILO, 2017a). These cover UN universal human rights instruments, core ILO Conventions, migrant worker specific instruments, and all other labour standards. These have been explained in a separate complementary report on assessment criteria (Wickramasekara, 2018). The reference to instruments highlights the respect of the two signatory parties for international norms on good migration governance and protection of migrant workers. Some agreements refer to instruments that have been ratified by both parties. There are also international or regional instruments and frameworks related to migration and migrant workers that can be cited as relevant. The subsequent text of the agreements also can be based on the instruments as relevant.

5.1.1.2 Examples of good practice

- *The agreements signed by Argentina represent a very good example of normative foundations.*
 - i. Agreement on migration between the Argentine Republic and the Republic of Peru, 12 August 1998

It is noteworthy that this South–South bilateral agreement makes reference to major international and regional human rights treaties:

The Argentine Republic and the Republic of Peru, hereinafter referred to as the Parties, Taking into account instruments for the protection of human rights Human rights adopted by the United Nations Organization and the Organization of American States, in particular the Universal Declaration of Human Rights of December 10, 1948, the International Covenant on Human Rights Civil and Political Rights of December 16, 1966, the International Covenant on Economic, Social and Cultural Rights of December 16, 1966, the Declaration American Convention on the Rights and Duties of Man of May 2, 1948, and the American Convention on Human Rights of November 22, 1969.

- ii. Migration Agreement Between the Republic of Argentina and Ukraine

The Preamble text in this agreement is more forceful in referring to ILO international labour standards and guaranteeing free mobility and rights of lawfully admitted persons:

Argentina and Ukraine, hereinafter referred to as “the Parties”, With a desire to further strengthen bilateral relations and in particular to encourage and facilitate migration flows between the Parties, Considering the instruments for the protection of human rights adopted within the United Nations, particularly the Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966, Considering the international standards issued by the International Labour Organization, Noting that any person who is lawfully in the territory of the Parties have the right to freely choose their place of residence, enter, move and leave the national territory in accordance with the legislation of the Parties; their human rights and fundamental freedoms are protected and that their ethnic and religious choices that favour the development of his personality are guaranteed by democratic states.

■ *Nepal–Jordan General Agreement, 2017*

The above agreement is the first Asian MOU to the author's knowledge that makes explicit reference to international instruments in its Preamble.

Recognizing the international commitments of both parties on human rights and labour rights, in particular the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International instruments on the rights and welfare of labour (p.1).

This agreement also highlights respect for the rights and welfare of migrant workers several times throughout the text, with the Preamble adding: "Determined to respect, promote and realize the rights of workers and improve their working conditions" (p.1). Article 1 reiterates these rights and pledges to "promote international labour standards of rights at work, encourage decent work opportunities, enhance social protection and strengthen dialogue on work-related issues" (article 1(e)).

■ *Colombia–Peru Framework Agreement, 2012*

This agreement refers to the rights recognized by the international instruments ratified by both Parties. Since both Colombia (in 1995) and Peru (in 2005) have ratified the International Convention on the Rights of Migrant Workers and the Members of Their Families, 1990 (ICRMW), it is a good foundation for migration governance and rights protection:

Encouraged by the objective that Colombian workers who arrive in Peru and the Peruvian workers who arrive in Colombia effectively enjoy the rights recognized by the international instruments to which both States are parties

■ *Colombia–Spain Agreement, 2001*

The agreement between Spain and Colombia refers to national legislations and international instruments ratified. Spain has ratified ILO Migration for Employment Convention (Revised), 1949, (No. 97), but Colombia has ratified neither this Convention nor the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143):

Motivated by the objective that Colombian workers arriving in Spain should effectively enjoy the rights recognized in the international instruments to which both States are party; ... Conscious of the need to respect the rights, obligations and guarantees set forth in their national legislations and in the international agreements to which they are parties.

Another good feature of this agreement is the recognition of the benefits of migration to both parties:

Convinced that migration is a social phenomenon that is enriching for their peoples and one that can contribute to economic and social development, promote cultural diversity and facilitate the transfer of technology.

■ *The agreements of Egypt with Southern European countries*

Egypt's agreements with Greece and Italy also refer to migrant rights under international law. For instance, article 8 of the Egypt–Italy agreement of 2005 reads as follows: "The Contracting Parties agree on the respect of all international treaties concerning migrant workers ratified by both Contracting Parties" (cited in Center for Migration and Refugee Studies, 2016).

Reference to international instruments is also available in Tunisia's cooperation agreement on migration with Switzerland, where ensuring the implementation of international legal instruments on the rights of migrant workers is articulated as a major objective of the agreement (Center for Migration and Refugee Studies, 2016).

■ *Sri Lanka–Italy MOU, 2005.*

This agreement clarifies that it is "in compliance with the principles of the international provisions concerning the rights of migrants and the fundamental rights of workers".

■ *New Zealand Recognised Seasonal Employer (RSE) Inter-Agency Understandings (IAU) with Pacific Islands for employment of seasonal workers in New Zealand horticulture*

Although these IAUs do not refer directly to international instruments, they are based on a number of principles that cut across some of the good practice criteria, such as transparency, equity, development, and cooperation. The following principles are mentioned in each IAU:

4.1. The facilitative arrangements must be designed and implemented consistent with the following principles:

- equity of access and opportunity;
- transparency of process and decision making;
- accountability;
- development focused;
- mitigation of risk; and
- inter-agency understanding.

5.1.1.3 Relevance for Bangladesh

The title of Bangladesh's Migrants and Overseas Employment Act, 2013, highlights that one of the objectives in developing it was to make "provisions in conformity with the International Convention on the Rights of Migrant Workers and the Members of Their Families 1990 and other international labour and human rights conventions and treaties ratified by the People's Republic of Bangladesh" (p. 1). Bangladesh has ratified all UN human rights treaties, including CEDAW and the ICRMW.

None of the destination countries that currently have bilateral agreements with Bangladesh have ratified the ICRMW, but they have ratified several universal human rights instruments and ILO core Conventions. Bangladesh should negotiate to refer to commonly ratified Conventions, especially CEDAW and ILO core Conventions, or at least make a general statement such as: "The two parties agree to respect all international treaties concerning or relevant to migrant workers ratified by both Contracting Parties". The recent Nepal–Jordan General Agreement is a good practice example that can be followed by Bangladesh.

5.1.2 Exchange of relevant information between country of origin and country of destination

5.1.2.1 Rationale

This good practice refers to exchange of information between the country of origin (COO) and the country of destination (COD) on a regular basis. Article 1 of the 1949 Model Agreement contains detailed provisions relating to this exchange of information:

- a) legislative and administrative provisions relating to entry, employment, and residence of migrants and of their families (COD) and information relating to emigration (COO);
- b) the number, the categories, and the occupational qualifications of the migrants desired (COD) and available (COO);
- c) the conditions of life and work for the migrants relating to remuneration, housing, and living conditions; and
- d) social security laws and their applicability to migrant workers.

The information should also cover arrangements for protection of those not usually covered by labour laws, such as workers in agriculture and domestic work.

Another important issue is the avoidance of misleading propaganda by recruitment agencies or subagents relating to emigration and immigration possibilities and working and living conditions abroad. This is a good practice specifically mentioned in ILO Convention No. 97, the ILO Migration for Employment Recommendation (Revised), 1949 (No. 86), and the ILO Model Agreement. The two parties can include a sub-article to this effect.

5.1.2.2 Examples of good practice

- *Memorandum of Understanding Between the Italian Ministry of Labour and Social Policies and the Egyptian Ministry of Manpower and Migration Concerning the Implementation of the Agreement on Cooperation on Bilateral Labour Migration signed on 28 November 2005*

This agreement on bilateral labour cooperation is accompanied by an MOU and an Implementing Protocol. The main MOU consists of 15 articles, some of which make reference to the implementing protocol for details. It calls upon the competent authorities of both contracting parties to work together to regulate migrant labour flows in accordance with the demand and supply of their labour markets and encourages the regular exchange of information between them (Center for Migration and Refugee Studies, 2016).

The MOU provides for the establishment of a Local Coordinating Office to support activities related to the matching of labour demand and supply; to foster the exchange of information on the situation of both labour markets between the contracting parties; and to facilitate the relationships between the two parties.

- *Bilateral agreements of Qatar*

The Government of Qatar has used a standard text on information sharing in its agreements with various countries. Article 2 of the Bangladesh–Qatar Additional Protocol of 2008 is typical:

The Parties shall review from time to time, through the Joint Committee referred to in Article (16) of the Agreement, the possible employment opportunities in the State of Qatar, including the general information regarding development plans in the State of Qatar, projected employment opportunities thereunder for particular labour categories or skills, the expected duration of these employment opportunities, the availability of the desire of Bangladesh citizens to make use of them.

- *Memorandum of Understanding in the areas of labour and occupational training between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Bahrain.*

Article 13 of this MOU refers to the exchange of manpower and occupational training:

1. To exchange data, information and statistics related to the labour market; exchange of expertise, research, programmes and studies related to integrating young men and women in the labour market; exchange of visits by officials and experts with a view to exploring the capabilities and resources of either Party, and how to benefit there from:
2. To co-operate in the area of occupational training especially in the training: plans, methods, studies and research and skill level measurement systems and the methods of the implementation thereof in accordance with needs of the labour market in both countries; to seek to recruit skilled technical employees in all, fields' and benefit from training institutes in both countries.

The MOU covers broad areas of exchange of information, and also has specific references to cooperation in the training field. It is also one of the few such agreements to refer to women workers.

- *New Zealand Inter-Agency Understandings (IAUs) with Fiji, Papua New Guinea, Samoa, and Tonga*

Among all the agreements surveyed for this study, these IAUs are the only ones to contain a provision on avoidance of misleading propaganda. For instance the Vanuatu–New Zealand IAU states: “The Participants will act promptly to correct any false or misleading information about the RSE [Recognised Employer Scheme] Policy” (p.4).

■ *Philippines–Manitoba (Canada) MOU, 2010*

The destination province undertakes responsibility for provision of information to the origin country government on living and working conditions under this MOU. They are best placed to provide reliable information on same:

ART. 7a: LIM [The Department of Labour and Immigration of the Government of Manitoba, Canada] will provide the DOLE specific orientation Information that highlights the attributes of living and working in Manitoba including information on workers' rights and benefits under provincial legislation.

● *Bangladesh–United Arab Emirates MOU, 2011.*

Article 10 of this MOU makes provision for assistance in IT database system improvement, among others:

With a view to rendering better service, the two parties agree to exchange information on skill, technical know-how and training and share their experiences. The UAE will provide Bangladesh with necessary assistance including IT data base system in this respect.

■ *Bangladesh–Jordan MOU, 2008*

Cooperation here extends to development of human resources and regulation of recruitment and employment services, going beyond simple exchange of information.

The areas of cooperation under article 1 are: (a) regulation of the recruitment and employment service; (b) exchange of information and ongoing studies; and (c) cooperation in the development of human and technical resources that can be mutually agreed upon.

■ *India–Denmark MOU, 2009*

This agreement also defines broad areas of cooperation, with article 2 identifying areas of specific cooperation, including information exchange:

This Memorandum of understanding shall apply to cooperation between the two countries concerning the following branches of labour and employment within their national objectives and the relevant laws as may be applicable:

- (i) Labour market expansion;
- (ii) Employment facilitation;
- (iii) Organised entry and orderly migration;
- (iv) Exchange of information and cooperation in introducing best practices for mutual benefit.

■ *Peru–Argentina agreement, 1998*

This is one of the few agreements that recognizes the shared responsibility between parties:

Recognizing the shared responsibility of both Governments for the adoption of measures to organize and guide migratory flows between the Parties, so that they operate effectively as a means of integration between the two countries,

5.1.2.3 Relevance for Bangladesh

This good practice is already observed in most Bangladesh agreements. It is important to assess to what extent data and information require updating or need to be exchanged on a continuing basis. Bangladesh can prepare a template of information available and information required that can be taken up at JC meetings.

5.1.3 Transparency: Clear objectives, sharing of information with relevant stakeholders, and dissemination

5.1.3.1 Rationale

The first major step in transparency is to make the text of agreements publicly accessible. It is most important to adequately brief the major stakeholders in migration – workers, employers, recruitment agencies, and NGOs concerned with migrant worker welfare – on the provisions of agreements; how they affect them, their rights, and their obligations; and on the follow up to be undertaken. For the sake of transparency, it is important for the country of origin to make the text of all agreements translated and easily accessible on websites, and also to disseminate them to their migrant workers and employers in destination countries. The pre-departure training programmes should explain and highlight how workers can benefit from the agreements with the countries they migrate to. A dissemination plan should be included as part of the agreement.

At the same time, the destination country also should disseminate the agreements, especially to the employers of migrant workers. However, there is no evidence of the dissemination of labour migration agreements in major destinations such as the GCC countries and Malaysia. An exception is Thailand's MOUs with neighbouring countries, which are available in the public domain.

Another major gap is the non-availability of information on the implementation and follow up of the agreements in the form of additional protocols, joint committee minutes, and related amendments. Although government parties may consider these items as being confidential, it is important to convince them that dissemination does indeed help improve both the implementation and follow up of bilateral agreements, benefitting all parties in the final analysis.

5.1.3.2 Examples of good practice

- *The MOU between Italy and Egypt concerning the implementation of the agreement on cooperation on bilateral labour migration*

This MOU provides a good example of how States can ensure visibility of their agreements. Article 13 of the MOU states “the Contracting Parties undertake to disseminate, on their national territory, the provisions of the present Memorandum.” (Center for Migration and Refugee Studies, 2016)

- *The Philippines' agreements and MOUs*

Philippines represents a good model in placing copies of most agreements and MOUs in the public domain, which they do via the Philippine Overseas Employment Administration (POEA) website.⁵

- *India bilateral agreements and MOUs*

Like the Philippines, India has placed all bilateral agreements relating to migration and social security on the Ministry of External Affairs website.⁶

⁵ See <http://www.poea.gov.ph/laborinfo/bLB.html> [accessed 20 July 2017]. The list provided here is not comprehensive.

⁶ See <http://www.mea.gov.in/dialogues-agreements.htm> [accessed 20 July 2017]. One important MOU missing is the revised 2011 MOU between India and the United Arab Emirates.

Another good practice of India is to be transparent about the broad principles that have been built into the MOUs, such as the following from the Ministry of External Affairs' Media Center website:

- Declaration of mutual intent to enhance employment opportunities and for bilateral cooperation in protection and welfare of workers.
 - The host country to take measures for protection and welfare of the workers in unorganized sector.
 - Statement of the broad procedure that the foreign employer shall follow to recruit Indian workers.
 - The recruitment and terms of employment to be in conformity of the laws of both the countries
 - A Joint Working Group to be constituted to ensure implementation of the MOU and to meet regularly to find solutions to bilateral labour problems (Ministry of External Affairs, 2016a).
- *One good practice is to mention the main pieces of legislation applicable to the implementation of the agreement.*

The Philippines–Manitoba (Canada) MOU specifies the respective applicable laws of the two parties.

■ *New Zealand RSEIAUs*

These IAUs attempt to increase awareness of RSE policy and also make the bilateral IAU documents publicly available:

The Participants will make efforts to increase awareness and understanding of the RSE Policy in Tonga and in New Zealand.

The Participants agree that the Inter-Agency Understanding document and Schedules will be made publicly available on the Department's website (www.dol.govt.nz). Information contained in this Understanding can be shared with RSEs.

■ *Colombia–Spain agreement, 2001*

Article 17 of this agreement refers to “Facilitating the dissemination in both countries of timely information about the contents of the Agreement”.

5.1.3.3 Relevance for Bangladesh

As the above examples show, it is a demonstrated good practice to create awareness of – and share copies of – the agreements entered into.

The Ministry of Expatriate Welfare and Overseas Employment (MEWOE) has tentatively indicated its willingness to share the summaries of agreements on its website, and the Project Team has prepared these summaries at the request of the ILO. This needs to be followed up by the concerned division.

5.1.4 Defining clear responsibilities between parties

5.1.4.1 Rationale

The concerned stakeholders are the two State parties, employers in the COD, recruitment agencies in both countries, migrant workers, and relevant civil society organizations. Agreements need to identify the primary parties responsible for implementation. While the central government has overall authority, the line ministry responsible for migration for employment (usually labour ministries or a dedicated ministry such as the MEWOE in Bangladesh or the Ministry of Foreign Employment in Sri Lanka) would normally sign the agreement. The two parties to the agreement may be designated as the first party and the second party.

This is a good practice because it facilitates accountability and smooth implementation. Assignment of specific responsibility is an important aspect for proper monitoring and evaluation.

5.1.4.2 Examples of good practice

- *The domestic worker agreements of Saudi Arabia with Asian origin countries (Bangladesh, India, the Philippines, and Sri Lanka).*

These agreements clearly define respective responsibilities of the two parties in several articles of the agreement.

- *Philippines–Manitoba (Canada) MOU, 2010*

A good feature of this MOU is the mention of other responsible agencies. It states that the Philippines Department of Labor and Employment (DOLE) is the lead agency but responsibility would include its associated agencies: the POEA, the Overseas Workers' Welfare Agency (OWWA), the Technical Education and Skills Development Authority (TESDA), and the Professional Regulation Commission (PRC), as appropriate.

- *Malaysian MOUs*

A good example for this status (though not with regard to content) can be observed in Malaysian MOUs with Bangladesh and India. The Bangladesh agreement contains a separate appendix C, which lists in detail the specific responsibilities of the employer, the workers, the Government of Malaysia, and the Government of Bangladesh. It also contains detailed terms of reference for the Joint Working Group.

- *Bangladesh–Republic of Korea MOU, 2012*

This MOU represents a government-to-government (G-to-G) recruitment arrangement. It clarifies the specific division of responsibilities among the various agencies involved and their respective operational roles within the MOU.

- *Sri Lanka–Italy agreement, 2011*

Article 1 of this agreement on “Competent Authorities” defines clearly the competent authorities responsible for enforcement of the agreement in both countries.

5.1.4.3 Relevance to Bangladesh

Bangladesh is following good practice already in this area, as seen from its MOUs with Malaysia, the Republic of Korea, and Saudi Arabia. What is important is to review the working of these demarcated responsibilities in joint committee consultations with the countries.

5.1.5 Concrete implementing, monitoring, evaluation procedures

5.1.5.1 Rationale

An integral part of any agreement is the establishment of a joint committee to monitor and implement the agreement. The most common practice in this regard is to establish a committee with a combination of officials from the two signatory parties under labels such as “Joint Commission”, “Joint Committee”, “Joint Working Committee”, “Joint Technical and Committee”, “Joint Common Committee”, “Working Committee”, and “Bilateral Working Group”, etc. The committees consist of senior officials from both parties, and the agreements should mention the functions of the committees and the frequency of meetings in general. Given that most agreements are poorly implemented, it is very important to build in concrete implementing, monitoring, and evaluation procedures.

The two State parties of the agreement are encouraged to set up a monitoring system built into the agreement. Benchmark information on critical variables such as numbers of migrant workers, profiles of migrants, complaints statistics, systems of recruitment, OSH information, and the wage situation –all disaggregated on the basis of gender –can be jointly collected for both the origin and destination country on a pilot basis, at least. A system of relevant indicators for impact assessment needs to be developed.

Monitoring is a continuous process, while evaluation can be periodic. A mid-term evaluation and a final evaluation before renewal should be provided for. Independent evaluation with a view to identifying needed revisions should be made mandatory before any renewal. The current practice of automatic renewal should be done away with, because it encourages complacency and lack of follow up. Even the Nepal–Jordan General Agreement of 2017, which contains a number of good features, has opted for automatic renewal (article 19(2)). Joint funding of the evaluation is preferable. If not feasible, the origin country should undertake it.

The good practices here can be several:

- 1) mentioning a time frame for the establishment of the joint committee;
- 2) specifying the composition of the committee;
- 3) clear timelines: frequency of meetings, validity, renewals, and extensions;
- 4) elaboration of functions, terms of reference, and implementing guidelines;
- 5) designation of focal points at embassy/consular level;
- 6) provision for appointment of subcommittees, or technical working groups;
- 7) provision for mutually agreed protocols and amendments to the agreement;
- 8) consultative processes involving social partners and other stakeholders;
- 9) publicity for the agreement contents and joint committees;
- 10) spelling out cost-sharing arrangements/resource mobilization for working of joint committees, monitoring, and evaluation;
- 11) provision for evaluation of agreements and programmes for collection of needed data; and
- 12) capacity building of government staff and other stakeholders for effective follow up;

In the absence of examples of provisions relating to some of the above good practices, only selected good practices are listed below.

5.1.5.2 Examples of good practice

- *Creation of coordinating oversight body for BLAs: DOLE Committee on Bilateral Agreements, Philippines*

The Philippines has created the Department of Labour and Employment (DOLE) Committee on Bilateral Agreement Matters in line with the DOLE's "package of reforms" to provide greater protection to overseas Filipino workers, particularly through the implementation of Republic Act 10022 and its implementing rules and regulations.

The committee is headed by the DOLE undersecretary for employment and the administrator of the POEA serves as committee vice-chairman. Other members consist of heads of the DOLE's concerned agencies and offices: specifically the OWWA, TESDA, the PRC, the Institute for Labour Studies, the Bureau of Local Employment, the International Labour Affairs Bureau, and the DOLE Legal Service shall constitute its membership.

The committee is expected to provide guidelines and rules of engagement in the negotiation, and to recommend to the DOLE secretary the composition of the negotiating team. Other general functions of the committee are to: (a) review and assess existing bilateral agreements/arrangements; (b) monitor/evaluate the implementation of BLAs; (c) coordinate with relevant agencies pertinent to proposals for BLAs; and (d) recommend amendments/termination of BLAs whenever necessary.

This is a good example that can be followed by other origin countries such as Bangladesh. It is however, an internal committee of DOLE, and does not include representatives of other concerned government ministries, or social partners and civil society.

■ *Disseminating the agreement (see section 5.1.3 for more)*

One good practice is found in the Romania–Spain agreement (2002), where one of the functions of the joint coordination committee is “disseminating the appropriate information on the contents of the Agreement in both States”. A similar provision is found in the Colombia–Spain agreement, 2001.

However, some Asian countries (Bangladesh, China, Malaysia, Pakistan, Viet Nam) treat the texts of agreements as confidential and do not share them. Since there are hardly any confidential statements or provisions in MOUs, which are broad frameworks only, this practice is not justified.

■ *Timeframe for establishment of the joint committee (JC)*

The important provision is the mention of a timeframe for the establishment of the JC, which is absent from many agreements. One good example is the 2012 Philippines–Lebanon MOU where article VII reads: “Both Parties agree to establish a Joint Working Group within three (3) months after the signing of this Memorandum of Understanding”. Article 18(1) states: “A Joint Committee, constituting at the Joint Secretary level comprising of three representatives from each side shall be established within three months of entry into force of this agreement”.

A similar provision is found in the 2017 Nepal-Jordan General Agreement.

Article 12 of the India–Denmark MOU reads: “Both states agree to constitute within 3 months of the signing of this memorandum of understanding a Joint Working Group with 2–3 members from each side to be nominated through diplomatic channels.”

■ *Frequency of meetings*

The most common provision in bilateral agreements related to labour migration is the holding of meetings annually, alternately in the COO and the COD. But some agreements may qualify this provision by saying that meetings should be held “as needed” (Sri Lanka–Italy agreement) or “as deemed necessary” (Philippines–Lebanon MOU), which is not a good practice.

While there is not much concrete information on the status of JCs, in some cases the JCs seem to work well. One example is the bilateral agreement between Sri Lanka and Qatar which has convened three meetings of the Joint Committee in 2009, 2011 and 2012 (Ruhunage, 2014). A concrete achievement of these meetings was the withdrawal of the need for Qatar-bound Sri Lankan migrant workers to acquire a compulsory police clearance certificate. This relaxing of restrictions was made at the request of the Sri Lanka delegation at the JC (Ruhunage, 2014).

The 2015–16 annual report of India’s Ministry of External Affairs (p. 212) states:

Regular meetings of JWG enable review and resolution of labour issues arising from time to time. The 3rd JWG with Qatar was held from 17-18 August 2015. The 2nd JWG with Bahrain was held during 15-16 April 2015. The 2nd JWG with Kingdom of Saudi Arabia was held during 12-13 October 2015

The India–Bahrain MOU was signed in 2009, and the stated frequency was at least once in six months, alternately in India and Bahrain. The Qatar MOU was signed in 2007 with a stated meeting frequency of once a year. This would imply that the agreement provisions had not been respected with regard to the Bahrain and Qatar agreements, whereas the situation was as expected for the Saudi Arabia agreement signed in 2014.

The Philippines Centre for Migrant Advocacy (CMA) also noted the low frequency of JC meetings of certain countries with the Philippines (CMA, 2010).

The 2011 Protocol amending the 2006 MOU between Indonesia and Malaysia on domestic workers refers to six Joint Working Group meetings between 2006 and August 2010 (Wickramasekara, 2015a), which seems to be a good record.

The Bangladesh–Malaysia MOU (2012) called for two meetings of the Joint Working Group per year, but the actual frequency was lower.

■ *Composition of the committee spelled out in the agreement*

Many agreements simply mention the number of officials from each side without providing details. There is more accountability when the specific ministries/agencies are mentioned in the agreement.

A good practice in this regard is reflected in the Peru–Argentina agreement, where the composition of the joint committee from the two countries has been spelled out:

The Argentine Republic shall appoint to the Commission one representative of the Ministry of Foreign Affairs, International Trade and Worship, one representative of the Ministry of Labour and Social Security, one representative of the Sub secretariat for Population and one representative of the National Immigration Department in its capacity as executing agency. The Republic of Peru shall appoint to the Commission two representatives of the Ministry of Foreign Affairs, one representative of the Ministry of Labour and Social Security and one representative of the Department of Immigration (article 22).

The Argentina–Ukraine agreement has a similar provision specifying the composition of the committee drawn from different ministries.

The Guinea-Bissau–Spain framework agreement (2008) identifies the competent authorities for implementation of the agreement:

The Republic of Guinea Bissau designates the Ministry of Internal Administration, Foreign Affairs, International Cooperation and Communities, the Ministry of Public Function and Labor, and Spain designates the Ministry of Labor and Social Affairs, the Ministry of the Interior and the Ministry of Foreign Affairs and of Cooperation as the respective competent authorities for the implementation of this Agreement and for any other matter related thereto (article 13).

■ *Elaboration of functions and tasks*

The most common format is to list the functions in the agreement text. Article 6 of the Bangladesh–Saudi Arabia domestic worker agreement on the Joint Technical Committee is an example of this approach:

- a) Periodic review, assessment and monitoring of the implementation of this Agreement;
- b) Conduct consultative meetings in Saudi Arabia and Bangladesh alternately on a date and place mutually agreed by both Parties;
- c) Make necessary recommendations, to resolve disputes arising from the implementation and the interpretation of the provisions of this Agreement; and
- d) Make necessary recommendations to alter, amend, and substitute, if required to any provisions of the Standard Employment Contract.

A more elaborate listing of functions is provided by the India–Denmark MOU, 2009:

- a) Study employment opportunities and suggest means for enhancing cooperation between states
- b) Interpret the provisions of the memorandum of understanding and oversee its implementation
- c) Create guidance material on rights and duties of employers and workers in order to minimize labour disputes and create information material about the existing system and create information material about the existing system for dispute settlement
- d) Suggest amendments to the memorandum of understanding for better achievement of its objectives
- e) Recommend measures to prevent misuse of visit visas by unscrupulous employers and recruiting agencies
- f) Recommend initiatives to address any issues that might arise in the context of this Memorandum of Understanding.

Only the Bangladesh–Malaysia MOUs of 2012 and 2016 provide detailed terms of reference with regard to the Joint Working Group in an annex.

The Quebec (Canada)–France agreement on occupational mobility and the integration of migrants (2010) is a North–North agreement. It is one of the few agreements with a built in evaluation function and refers directly to the monitoring of the flow of beneficiaries under the agreement.

The Standing Committee (Joint Commission) is responsible for: a) the proper implementation of this Agreement and periodically monitor its implementation; b) the evaluation of the results of the provisions specified in this Agreement; c) the observation of the flow of beneficiaries of the Agreement between the territories of both Parties; and the development of appropriate tools to do so; d) the formulation of appropriate proposals to improve the effects monitoring the work of the Working Group on migration and integration of migrants.

■ *Implementing protocols or immigration instructions, or guidance materials*

Another good practice is to attach an implementing protocol to the main agreement, which facilitates effective implementation.

The New Zealand RSE IAUs contain a separate annex on RSE Immigration Instructions, which explain the process in detail (e.g. IAUs with Fiji, Kiribati, and Nauru). The 2013 IAU between New Zealand and Papua New Guinea also contains a separate schedule containing detailed instructions.

The India–Denmark MOU mentions the following function of the JC:

Create guidance material on rights and duties of employers and workers in order to minimize labour disputes and create information material about the existing system and create information material about the existing system for dispute settlement.

■ *Provision for appointment of subcommittees, or technical working groups*

Colombia–Spain agreement, article 17(d) mentions: “Defining its rules of operation, including the creation of ad hoc committees to regulate specific aspects of the Agreement”.

■ *Provision for mutually agreed protocols and amendments to the agreement*

Given that MOUs are framework agreements of a broad nature, it is important to develop specific protocols or annexes for concrete measures for implementation (Wickramasekara, 2012).

The Philippines–Lebanon MOU (2012) provides a good practice in this regard in its article VIII:

The Parties may decide to formulate and conclude specific protocols or adopt other documents that will regulate and implement specific areas of labor cooperation under Article I of this Memorandum of Understanding, with such documents to be considered as annexes to and integral parts of this Memorandum of Understanding, to be concluded on the basis of mutual agreement or by an exchange of letters through diplomatic channels and shall take effect as determined by the Parties.

See also the Bangladesh–Jordan MOU (2012), article 7:

Each party whenever need arises may develop or attach or incorporate documents for the organization and implementation of certain specific areas of cooperation as well as labor to regulate the recruitment and employment of certain categories of workers, under the present MOU. These documents should be arranged in alphabetical order as annexes and to be considered as integral parts of the MOU. The two parties will notify each other of that on the basis of mutual agreement, or they will exchange messages through the diplomatic channels.

■ *Consultative processes involving social partners and other stakeholders (see also section 5.1.7)*

It is also important to include representatives from workers, employers, and civil society where possible in these deliberations in consultation with countries of destination. This kind of consultation is mostly absent in Asian MOUs. The Philippines–Germany nurse hiring agreement presents an example of good practice in this regard. Although this was not foreseen in the agreement, following negotiations with the two governments, trade unions from both countries (PS Link and ver.di) have been invited to become members of the Joint Committee and to monitor the implementation of the bilateral agreements (Help the Children in Distress, undated).

The New Zealand RSE IAUs involve employers from the beginning, and workers can join trade unions without any restrictions while employed in New Zealand. There is, however, no evidence of social dialogue in formulation or follow up of IAUs.

■ *Designation of focal points at the embassy/consular level*

A good practice from the Philippines–Manitoba (Canada) MOU is the designation of the Philippines Overseas Labor Office (POLO) for monitoring the MOU to protect Philippine workers:

The Participants intend to allow the Philippine Overseas Labor Office concerned in Canada to monitor Workers recruited under this MOU with the view to ensuring the protection and welfare of Workers under the existing laws and regulations in Canada and the Province of Manitoba”.

Article 18(3) of the 2017 Nepal–Jordan General Agreement (2017) states that each party “shall designate a national contact point for labour matters to facilitate communication between the Parties”.

■ *Provision for systematic monitoring and evaluation*

The Philippines–Saudi Arabia domestic worker agreement (2013) refers to “periodic review, assessment and monitoring of the implementation of this Agreement” as being among the tasks of the JC. There is no information on how this is to be done.

The Peru–Argentina agreement refers to the following function of the JC, among others: “To evaluate annually the results achieved by this Agreement, such evaluation to be taken into account in considering the possibility of renewing the Agreement.”

The Sri Lanka–Italy MOU (2009) refers in article 18 to regular evaluation of the agreement as one function of the JC.

Article 14 of the Sri Lanka–Bahrain MOU (2008) refers to evaluation:

The two Parties agreed to set up a joint technical committee to be entrusted with formulating the agreed co-operation programmes and follow up the implementation and the evaluation thereof and solve all problems arising from the implementation of this Memorandum. The Committee shall hold meetings at least once a year, or whenever there is a need, alternately in the capitals of the two countries.

There is, however, no evidence to show that such evaluation has been carried out.

Article 3 of the Bulgaria–France agreement (1994) also mentions: “The Contracting Parties shall establish a Joint Committee to draw up the annual programme of cooperation, including follow-up and evaluation of the activities carried out under this Agreement.”

- *In new migration programmes under government-to-government agreements, the coordination and follow up between the two parties can be quite extensive.*

The New Zealand RSE presents a good practice in this regard with systematic monitoring and evaluation and related information collection with the support of the States parties. Indicators of success for both parties are incorporated in the agreement (see table 4). Independent evaluation was initially carried out by the World Bank (Gibson and McKenzie, 2014). But independent evaluations of this sort can be expensive and difficult to sustain (Winters, 2016).

Another good practice related to the New Zealand RSE is the stipulation that any information collected from workers about their participation in the RSE Policy will be voluntary, and the data will be used only for statistical or research purposes.

Table 4. Critical success outcomes: Inter-Agency Understanding between New Zealand and Kiribati, 2011)

New Zealand Department of Labour	Kiribati Ministry of Labour and Human Resource Development
<p>Article 5.1 The Department enters into this Understanding with a view to achieving the following outcomes, notably:</p> <ul style="list-style-type: none"> ■ Achieving objectives of the RSE Policy ■ Avoiding over staying and exploitation of workers; displacement of New Zealand's workforce, and suppression of wage growth in the horticulture and viticulture industries ■ Securing at least 50% of the available places under the RSE Policy, over the first five years, from eligible Forum Island Countries. To help achieve this goal specific Forum Island Countries will be assisted to establish facilitative arrangements, and ■ Contributing to the development objectives in the Pacific by fostering sustainable economic development and regional integration under the RSE Policy. 	<p>Article 4.2.1 The Ministry enters into this Understanding with a view to achieving the following outcomes, notably:</p> <ul style="list-style-type: none"> ■ Kiribati secures a fair portion of seasonal work opportunities under the scheme ■ Kiribati workers are able to generate savings and relevant experience which may contribute to the development of Kiribati ■ Kiribati cooperates effectively with New Zealand to maintain the integrity of the arrangements implemented, and ■ The cost of transport does not act as a barrier for Kiribati nationals to access opportunities under the RSE Policy.

The Ukraine–Portugal Agreement on temporary migration of Ukrainian citizens (2003) also provided a robust evaluation structure, mainly because external agencies such as the European Commission, the World Bank, and the IOM were additional partners. In addition to monitoring the performance of participants in the programme, the World Bank undertook a study of a control group of 50 Ukrainians who were not migrants to serve as a basis of comparison (Simeone, 2014). However, the agreement was limited in providing jobs to only 50 workers, and also was not renewed with the onset of the economic crisis.

- *Cost sharing*

Article 15 of the Guinea-Bissau–Spain agreement (2008) states:

The Contracting Parties shall finance the activities provided for in this Agreement with the resources allocated in their respective regular budgets and in accordance with the provisions of national legislation, without prejudice to the collaboration of the Contracting Parties for participation in the European Union's financial programs and of any international organizations.

Likewise, the Bulgaria–France agreement (1994) addresses cost sharing in article 4 as follows:

Unless the Contracting Parties provide otherwise, the sending State shall defray the travel costs of its nationals and the receiving State shall defray the living expenses and the costs of the relevant visits, training and contacts.

The financial resources required for the implementation of this Agreement shall be provided by the Contracting Parties from their existing budgetary appropriations and in conformity with the procedures current in each country.

5.1.5.3 Relevance for Bangladesh

Bangladesh can adapt several of the above good practices without much effort or cost. An inter-ministerial BLA committee could be formed. Another option is to establish an internal committee consisting of important agencies under the MOEWOE, as done in the Philippines. A dedicated focal point in the MEWOE should also be considered. A repository should be established for the deposit of all original agreements as well as the minutes of JC meetings. Designation of a focal point at the consular level should also be considered.

The ILO's 2014 review of Bangladesh MOUs developed model terms of reference (TORs) and a standard agenda for JCs (ILO, 2014a), which can serve to make JCs more effective. Given that implementation of bilateral agreements is the most important problem in some cases, it is important to prepare an implementation plan or implementing protocol for agreements in consultation with the other party.

Information and data gathering should be made more systematic. There is already timely information available on the outflow of workers and remittance data, but there is scope for collecting additional information. For systematic monitoring and evaluation, more attention to data gathering is important, including collection of baseline data and the situation and trends following the signing of the agreement. There should be a regular exchange of information, including:

- labour market information;
- migratory flows and their profiles disaggregated by gender;
- recruitment channels and their relative importance;
- undocumented numbers and repatriations/deportations;
- migration and recruitment costs;
- wage trends by occupations;
- conditions of work; living conditions;
- complaints and redress;
- remittances received;
- number of returnees and their profiles; and
- patterns of reintegration.

5.1.6 Fair recruitment principles: Regulation of recruitment and reduction of recruitment and migration costs

5.1.6.1 Rationale

Recruitment issues have emerged as one of the most important factors in labour migration, with major efforts underway at the international level to ensure fair recruitment. The ILO has recently adopted the General principles and operational guidelines for fair recruitment (GPOGFR) (ILO, 2016b). One indicator of Sustainable Development Agenda Goal 10 – reducing inequality within and among countries – is the recruitment cost borne by employee as proportion of yearly income earned at country of destination (IAEG-SDGs, 2017). The objective is to reduce this ratio significantly so that workers benefit from labour migration. The ILO has also launched a Fair Recruitment Initiative (ILO, 2015a). The general principle in ILO instruments is that “no recruitment fees or related costs should

be charged to, or otherwise borne by workers or jobseekers” (ILO, 2016b, p. 3). However, laws in most countries, including those of Bangladesh, allow for the charging of recruitment fees subject to ceilings. The agreement should define the roles of both the COO and COD in this respect. It should clarify who are authorised to undertake recruitment and placement activities (e.g., registered private employment agencies and public employment services of both parties). The agreement can state that joint action, such as joint verification, will be taken to minimize recruitment malpractices and minimize recruitment costs, and that costs of recruitment and placement should not be borne by migrants.

The agreement text can state that international and national standards and guidelines relating to recruitment would be respected, including: ILO Model Agreement, Article 6; the ILO Private Employment Agencies Convention, 1997 (No. 181); and especially the GPOGFR (ILO, 2016b). The GPOGFR states that governments should ensure that bilateral and/or multilateral agreements on labour migration include mechanisms for oversight of the recruitment of migrant workers that are consistent with internationally recognized human rights, including fundamental principles and rights at work, and other relevant international labour standards. The 2017 Colombo Declaration of the Abu Dhabi Dialogue, adopted by member States, pledged to promote “lawful, fair and transparent labour recruitment practices” and take into account the ILO GPOGFR in developing and implementing joint responses to non-compliance, in accordance with the national laws of member States (Abu Dhabi Dialogue, 2017).⁷

Another good practice is mentioning specifically that the employer has to pay the direct costs of recruitment and placement of workers.

References to ethical or fair recruitment can also be made in agreement text.

Current G-to-G agreements add more operational details about organization and placement (e.g., the Employment Permit System MOUs of the Republic of Korea), spelling out language tests, the responsibilities of various actors involved, detailed selection procedures, recruitment fees, among others.

Given the observed tendency for women migrants to be widely exposed to recruitment malpractices and resultant trafficking, it is important to take into account their specific vulnerability in designing these processes. Article 15 of the ILO Domestic Workers Convention, 2011 (No. 189) has a number of provisions for protecting migrant domestic workers from abusive practices of private employment agencies.

5.1.6.2 Examples of good practice

While previous Asian MOUs had hardly any reference to recruitment, this is slowly changing.

■ *Nepal–Jordan General Agreement, 2017*

This agreement has several specific provisions related to the regulation of recruitment. First, article 3 asserts the obligations of both parties to regulate, monitor, and enforce action on recruitment agencies. Article 3(a) marks an important commitment: “Control and regulate costs related to recruitment and employment in both countries”. Second, the agreement controls recruitment fees by making employers liable for costs of visas, travel expenses, insurance, medical expenses, and other procedures related to the recruitment of workers. Article 10 dealing with the recruitment process refers to a commitment to adopt “legal measures to assure a smooth, fair, transparent and legal recruitment process”.

⁷ The reference in the Colombo Declaration however, did not provide the correct title of the ILO document (General principles and operational guidelines for fair recruitment); the Declaration instead refers to it as the “Principles and Guidelines on Fair Recruitment”.

■ *India–United Arab Emirates MOU, 2011*

Article 5 provides a useful precedent:

The two parties agree to strengthen their respective regulations of private employment agencies to enforce fair and transparent recruitment practices in their respective jurisdiction and compliance of all actors in the process of recruiting Indian workers for employment in the UAE with the rule of law.

There is no information on how this has been implemented.

■ *Saudi Arabia domestic worker agreements with Asian countries*

These agreements make reference to ethical recruitment, reduction of migration costs, and prohibiting levying of fees on workers. Box 1 highlights important features relating to recruitment from one of these domestic worker agreements.

Box 1

Agreement on domestic worker recruitment between the Ministry of Labour of The Kingdom of Saudi Arabia and the Department of Labour and Employment of the Republic of the Philippines

Article 3: Areas of cooperation

The Parties shall:

1. Work towards a mutually acceptable recruitment and deployment system for Filipino domestic workers for employment in the Kingdom of Saudi Arabia, pursuant to the applicable laws, rules and regulations.
2. Adopt a standard employment contract for domestic workers, the text of which shall have been accepted by the competent authorities of the two countries, which shall be binding among the contracting parties (Employer, Domestic Worker, Saudi Recruitment Office and Philippine Recruitment Agency).
3. Ensure the recruitment, domestic workers through recruitment offices, companies or agencies that practice ethical recruitment and are licensed by their respective governments;
4. Regulate or endeavour to control recruitment costs in both countries.
5. *Ensure that recruitment offices, companies or agencies of both countries and the employer shall not charge or deduct from the salary of the domestic worker any cost attendant to his/her recruitment and deployment or impose any kind of unauthorized salary deductions.*
6. Grant to the contractual parties the right of recourse to competent authorities in case of contractual dispute, in accordance with applicable laws¹ rules and. Regulations;
7. Take legal measures against the recruitment offices, companies or agencies for any violation of applicable laws, rules and regulations; and
8. Resolve any issue arising from the implementation and enforcement of any provision of this agreement.

■ *Non-levy of recruitment or placement fees on migrant workers*

Article 5 of the Philippines–Saudi Arabia domestic worker agreement highlighted in box 1 prohibits the charging of recruitment and placement fees to domestic service workers.

Under article 4 of the Sri Lanka–Qatar 2008 protocol: “The licensed recruitment Agents who recruit workers from Sri Lanka for employment in the State of Qatar are prohibited from receiving any sum of money from the workers by way of recruitment fees or expenses.”

The Philippines–Manitoba (Canada) MOU (2010) also contains a provision of zero fees for workers, citing relevant legislation:

The Participants intend that Employers will cover the costs related to hiring of Workers. Employers and Sending Agencies must not request, charge or receive, directly or indirectly, any payment from a person seeking employment in Manitoba, which contravenes The Employment Standards Code and/or The Employment Services Act (article 6).

Likewise, the Egypt–Italy MOU (2005) stipulates in article 5 that Egyptian candidates will not bear any cost during the selection phase. Article 6 also stipulates that the candidates will not bear any cost for the training courses.

German agreements with East European countries (Albania, Bulgaria, Latvia, and Romania) specify that “No charges or fees shall be levied for job placement”.

With regard to recruitment fees, the Philippines–Germany health worker agreement (2013) allows only the charging of US\$50 from the prospective employee as a required contribution under Philippines law to the Foreign Employer Guarantee Fund. All other administrative expenses are to be met by the respective competent authorities.

The China–Australia MOU intends to prevent recruitment agents from collecting high fees from Chinese migrants who wish to work in Australia. As an incentive, Chinese recruitment agencies that hire migrants without charging a fee are listed on the websites of the Australian Department of Immigration and Citizenship and the Chinese Ministry of Commerce (WorkPermit.Com, 2007). The author was not able to trace any evidence pertaining to this practice.

Under the tripartite recruitment arrangement between Canada with Colombia, Honduras, Mauritius, and the IOM, no recruitment fees are charged from the worker (GFMD, 2008).

The MOU between the Philippines and British Columbia, Canada (2008) stipulates that “the participants intend that employers shall pay the costs related to hiring of workers. Employers and sending agencies must not request charges or receive directly or indirectly any payment from a person seeking employment in British Columbia”. This is typical of other MOUs between the Philippines and Canadian provinces (e.g., Alberta, Manitoba, and Saskatchewan).

■ *Alternative recruitment methods*

Recruitment through G-to-G pathways

Government-to-government MOU agreements have been developed by the Republic of Korea under its Employment Permit System (EPS) with a view to bypassing private recruitment agencies, given their record on various malpractices. MOUs have been signed with 15 origin countries based on similar guidelines. A similar case is the G-to-G MOU between Malaysia and Bangladesh for the employment of Bangladeshi workers in the plantation sector of Malaysia (Wickramasekara, 2015b).

While these G-to-G MOUs have not eliminated recruitment or placement costs, they have led to dramatic reductions in such costs, and therefore, total costs of migration. This is especially the case with the EPS system of the Republic of Korea where the average cost paid by a worker has been reduced from US\$3,509 under the trainee system in 2002 to US\$927 under the EPS system in 2011, partly because of higher transparency (Kyung, 2014). Since the average wage under the EPS is close to US\$1,000 per month, this cost would represent a month’s wage, which does not place a heavy burden on the worker. Likewise, the Bangladesh–Malaysia G-to-G MOU (2012) has brought down the cost of recruitment from 250–300,000 taka (BDT) to about BDT45,000 per person⁸ (Wickramasekara, 2015b).

⁸ In US dollars this means a reduction of total migration cost from US\$3,200–3,900 to about US\$580 per person after the MOU.

However, the 2016 Bangladesh–Malaysia MOU described as a G-to-G Plus mechanism, in that it also provides a role for private employment agencies, is leading to higher migration costs.⁹

Recruitment through designated recruitment companies

An example can be found in article 5 of the China–Qatar agreement (2008):

1. The Ministry of Commerce of the People's Republic of China provides the Ministry of Labor and Social Affairs of the State of Qatar and the Embassy of the State of Qatar in Beijing with a list of Chinese companies. Employers use Chinese workers through Chinese companies listed.
2. The Embassy of the State of Qatar in the People's Republic of China shall issue visas only to workers sent by companies listed on the list of Chinese companies processed by the Ministry of Commerce.

The Saudi Arabia domestic worker agreement with the Philippines also initially provided for recruitment only through mega recruitment companies.

■ *New Zealand RSE IAU surveys*

New Zealand's IAU agreements are unique in providing for random surveys to assess the operation of recruitment systems. The Tonga IAU is typical of this provision: "Article 10.2 – The Participants will in particular cooperate to conduct random surveys of stakeholders to assess efficiency and transparency of recruitment procedures".

■ *Complaints centres tied to EPS recruitment*

Paragraph 20(3) of the Nepal–Republic of Korea MOU on the Employment Permit Scheme (2007) proposes that Nepal's Ministry of Labour and Transport Management (MOLTM) operate a complaints centre to settle recruitment malpractices: "The MOLTM shall take active efforts to eliminate malpractices in the process of sending workers such as operating a complaint center where malpractices can be reported".

A similar provision applies to the Bangladesh MOU with the Republic of Korea: "The Sides will make efforts to ensure the transparency and efficiency of the sending and receiving process. In an effort to enhance transparency, the Sides may establish a complaint centre where malpractices can be reported."

5.1.6.3 Relevance to Bangladesh

Despite various attempts at regulation, recruitment malpractices continue to be major issues in origin countries of South Asia. While these call for measures beyond the agreements, the latter should emphasise joint action for controlling malpractice in migration corridors. The Saudi Arabia agreements provide some good practice in this respect.

The major enforcement gap is on high fees charged to workers – amounts that are well above the ceilings fixed by MEWOE and the Bureau of Manpower, Employment, and Training (BMET). Some countries in the GCC – Qatar and United Arab Emirates, for example – prohibit the charging of fees from migrant workers. Yet Bangladesh has allowed fees to be charged from migrant workers heading to these destinations. There are hardly any penalties on agencies that charge excessive fees (Bhuyan, 2017).

Joint verification of contracts is another feature which should be included in all agreements.

⁹ The migration cost for Malaysia has now been fixed at BDT160,000. <http://www.newagebd.net/article/21342/index.php>

It would be good if Bangladesh can negotiate for Government-to-Government recruitment schemes, including for some categories for workers, with selected destination countries. This is a proven way of addressing high recruitment costs, as seen with the Korean EPS system and the 2012 Malaysia MOU.

5.1.7 Social dialogue and consultative processes

5.1.7.1 Rationale

While the ultimate responsibility for migration policies and inter-State cooperation lies with government, these policies and practices are likely to be more effective when based upon social dialogue involving social partners and broader civil society (ILO, 2010a). Reference has been made above to ILO Multilateral Framework on Labour Migration, principles 6 and 7 of which stress the role of social dialogue. Cholewinski (2014, p. 16) points out:

The key actors in the real economy, namely employers' and workers' organizations, need to be involved in the negotiation and implementation of BLMAs, which would make them more effective, for example by being more responsive to real labour market needs and improving protection of migrant workers.

Employers – both public and private – hire workers, and trade unions are concerned with the welfare of workers. Employers' organizations play a useful role in promoting skills recognition of foreign workers. Consultation with employers helps in matching labour market needs with migrant supply; ensures better compliance with national labour laws in the treatment of migrant workers; and minimizes the need to resort to workers with irregular status. Support of workers' organizations is essential for effective protection of both migrant and native workers and for the prevention of conflicts within the working population. Workers' organizations also monitor workplace practices and organize both foreign and local workers.

At the same time, it is important to recognize the role of civil society organizations who offer support services to migrants, especially to vulnerable groups such as those who are trafficked and/or in irregular status. NGOs are quite active in the Republic of Korea in supporting migrant workers. In origin countries, employers' and workers' organizations usually play a major advocacy role in promoting appropriate policies and structures for regulating emigration. Employers impart skills to workers that help in securing foreign jobs. Trade unions support good governance in migration to ensure better protection to workers. Both unions and NGOs play a key role in mobilizing and organizing migrant workers to better articulate and defend their rights and dignity.

5.1.7.2 Examples of good practices

The mapping review did not find any provisions for consultation with social partners or civil society groups in the drafting, negotiation, implementation, or review of agreements (Wickramasekara, 2015a). No agreement reviewed for this study provided for this in their texts, and secondary sources are needed to establish actual practice. According to the Philippines' Centre for Migrant Advocacy, while the POEA holds consultative meetings with relevant stakeholders to gather input and recommendations in preparation for the negotiation with the government of the destination country, there is no participation in this process from civil society organizations (CMA, 2010).

■ *Philippines–Germany nurse hiring agreement (2013).*

This agreement presents a good practice in this space. Although this was not foreseen in the agreement, following negotiations with the two governments, trade unions from both countries (PS Link and ver.di) have been invited to become members of the Joint Committee and to monitor the implementation of the bilateral agreements (Help for Children in Distress, undated). It is the first time that trade unions from both parties have been accorded oversight work in a BLA (PSI, 2017).

“As part of the Joint Monitoring Committee, PSLINK in the Philippines and Ver.di in Germany – both affiliated to PSI – are involved in monitoring the implementation of the agreement through social dialogue, direct engagement and periodic visits in both Germany and in the Philippines. The Joint Monitoring Committee visits the workplaces and interacts with the deployed workers” (Gencianos and Public Services International, 2017)

■ *Papua New Guinea–New Zealand RSE IAU, 2013*

These agreements carry the following provision: “Workers may bring any concerns arising from the conduct of their RSE to the attention of their team leader (where one exists), employer, union representative, Honorary Consul, and/or the Ministry staff.”

Again this reflects dispute resolution procedures rather than social dialogue, but what is important is the reference to the major stakeholders in the agreements.

A study on North Africa BLAs stated that the Egypt–Italy agreement of 2005 was “an example of an agreement that encourages social dialogue between State actors, employers, labour unions, and institutions to promote activities of selection and training for migrant workers. As such, this agreement is the only examined one that includes a provision on such matter” (Center for Migration and Refugee Studies, 2016, p. 25). However, the author found no such provision in either the agreement or the implementing protocol, except that Italian employers were to be engaged in worker selection processes.

5.1.7.3 Relevance for Bangladesh

The 2014 ILO review of Bangladesh BLAs and MOUs highlighted the importance of this issue for Bangladesh.

Joining efforts between labour ministries or the ministries responsible for labour migration, and employers and workers’ organizations in negotiating MOUs on labour migration contributes to bringing into the discussion real labour market needs as expressed by the different categories concerned, identifying institutional responsibilities and addressing specific considerations important for migrant workers.

The participation of all beneficiaries also enhances the capacity of governments to oversee the enforcement of labour and migration laws and regulations, including in a gender responsive manner. Finally, an inclusive social dialogue at national and bilateral level enables social partners, both at origin and destination, to contribute to national labour migration policies and to the protection of the rights of women and men migrant workers.

The Government of Bangladesh, therefore, is requested to consider sharing the bilateral MOUs and Agreements with the relevant workers’ and employers’ organizations and engage them in constructive dialogue on the formulation, implementation, evaluation and review of existing and future MOUs and Agreements on labour migration (ILO, 2014a, p. 7).

This review also strongly supports involvement with all stakeholders in processes relating to bilateral agreements. As a first step, the MOEWOE can form an advisory committee on labour migration drawing from government officials, social partners, and civil society which can also discuss bilateral agreements.

5.2 Protection and empowerment of migrant workers

5.2.1 Provision of relevant information and assistance to migrant workers, potential migrants and their families

5.2.1.1 Rationale

International instruments have recognized this to be a priority need for migrant workers who are moving to another country where they are not nationals. They are in a vulnerable position as non-citizens in the country of destination where origin country laws do not apply.

The ILO Migration for Employment Convention (Revised), 1949 (No. 97) highlights the obligation of ratifying governments to provide a free service to assist migrants with employment, and provide migrant workers with accurate information:

Article 2: Each Member for which this Convention is in force undertakes to maintain, or satisfy itself that there is maintained, an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information.

Article 3: (1). Each Member for which this Convention is in force undertakes that it will, so far as national laws and regulations permit, take all appropriate steps against misleading propaganda relating to emigration and immigration

The ILO Model Agreement, Article 8 elaborates on this matter by highlighting the shared responsibility of the COO and the COD:

The migrant accepted ... shall receive, in a language that he understands, all information he may still require as to the nature of the work for which he has been engaged, the region of employment, the undertaking to which he is assigned, travel arrangements and the conditions of life and work including health and related matters in the country and region to which he is going...On arrival in the country of destination, migrants and the members of their families shall receive all the documents which they need for their work, their residence and their settlement in the country, as well as information, instruction and advice regarding conditions of life and work, and any other assistance that they may need to adapt themselves to the conditions in the country of immigration (ILO, 1949).

The ILO recruitment principles and guidelines state: “Workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment” (ILO, 2016, p.8).

CEDAW General Recommendation 26 reads:

Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers’ awareness of potential exploitation ... targeted to women who are prospective migrant workers through an effective outreach programme and held in decentralized training venues so that they are accessible to women (CEDAW, 2008, p. 9).

5.2.1.2 Examples of good practice

While some of the Asian agreements mention exchange of information between the parties, the agreements generally expect the origin country to provide information to migrant workers. In practice as well, it is mostly the origin countries that have adopted concrete measures to give effect to this requirement in the form of pre-departure orientation programmes conducted by the government, employment agencies, or civil society, and through simple guides on destination countries’ applicable laws and customs. It is very important to provide gender-specific information to migrant workers, especially female migrant domestic workers. Except in dedicated domestic worker agreements, this is largely absent. Potential migrants need to make an informed choice on migration for employment. Since families of migrants are involved in migration decisions, they also need access to reliable information on migration.

In this respect an important regional initiative is the *Regional guide for the modules of the pre-departure orientation (PDO)* being promoted by the Abu Dhabi Dialogue. The Abu Dhabi Dialogue and the IOM (2017) have identified nine modules for pre-departure orientation and seven modules for post-arrival orientation.¹⁰ Since these have been endorsed by both Asian origin and Gulf destination countries, new or revised agreements can refer to them.

¹⁰ The nine pre-departure modules consist of the following: 1. Understanding the work environment culture and living conditions in destination countries; 2. Awareness of rights and obligations of the worker as per the employment contract and laws of countries of the countries of destination; 3. Planning and preparation of families left behind; 4. Awareness of human rights and gender dimensions of migration; 5. Remedies in cases of distress and crises situations; 6. Staying healthy while working abroad; 7. Management of earnings and remittances; 8. Travel and security reminders; and 9. Reintegration of migrant workers.

■ *Informing migrants of applicable laws*

Under the Moldova–Italy agreement (2011), a good practice is the provision that all Moldovan candidates are “informed on the laws governing residence in Italy” prior to departure (article 11, protocol).

There is no evidence of such information provision on laws to migrant workers in Asian origin countries, or to employers in destination countries in the reviewed agreements.

■ *Qatar bilateral agreements*

These agreements contain a provision to provide relevant information so that workers can make an informed decision about migrating.

Article 4 of the Morocco–Qatar Agreement regulating the Employment of Moroccan Workers in the State of Qatar stipulates that requests for Moroccan workers made by Qatari employers must include all pertinent information necessary to enable the worker to make an informed decision about the employment offer. This includes working conditions, wages, end of service rewards, among others.

Similarly, Article 4 of the Gambia–Qatar agreement, 2010 makes the following provision:

Recruitment applications shall state the required qualifications, experience and specialization, the probable duration of contract, detailed conditions of employment, especially the wages, end of service gratuity, probationary period and facilities regarding transportation and accommodation as well as all basic information that may enable the workers to decide on signing the employment contract.

■ *Republic of Korea MOUs*

These MOUs contain a provision requiring sending agencies to explain the contract contents to the worker before the worker makes a decision to sign it, which is a very good practice.

Article 8(2) of the 2009 Philippines–Republic of Korea MOU states:

The POEA will upon receipt of the labor contract offered by the employer from the HRD Korea review the terms and conditions, and if the same are compliant with the minimum standards. Explain it to the jobseeker so that he/she can fully understand it and decide whether or not to accept the offer based on his/her own free will.

Similar provisions are found in most MOUs signed under EPS, including agreements with Indonesia (2010) and Bangladesh (2012).

■ *Ukraine–Argentina agreement, 1999*

Article 8: Persons wishing to immigrate to the territory of a Party have the right to receive, at any time, accurate and free information that will be provided by the offices of the national migration and consular services of the host country on:

- a) the text and content of this Agreement; [cross reference to section 5.1.3 of this report]
- b) the rights and obligations that immigrants have in the receiving country, according to the laws of that country;
- c) the conditions for paid work, the possibility of study or vocational training, and housing conditions in the receiving country.

■ *Colombia–Spain agreement, 2001*

Article 2. Before commencing their travel, workers shall receive the information needed to travel to their place of destination and all information concerning their conditions of stay, employment, accommodation, wages, rights, duties and employment guarantees.

■ *Poland–France agreement, 1992*

Chapter II: Procedures Relating to the Recruitment of Workers

1. The Contracting Parties undertake to adopt all necessary measures to inform the candidates about living and working conditions in the country of employment.

5.2.1.3 Relevance to Bangladesh

Information provision for migrant workers is a recognized right in the Migrants and Overseas Employment Act, 2013, of Bangladesh. Article 25(2c) of that Act refers to “assurance of the migrant workers’ right to information”. Article 26 of the Act elaborates on the right to information: “Migrant workers shall have the right to be informed about the migration process, employment contract or the terms and conditions of the work overseas, and the right to know about their rights as per the law before his departure.”

Therefore, this good practice is highly relevant to Bangladesh, and should figure prominently in agreements. In practice, many male and female migrant workers fall prey to unscrupulous recruitment agencies and end up in exploitative situations without getting the jobs promised. Women workers may not get required gender-sensitive information.

Apart from the agreements, this needs urgent attention of the Government.

5.2.2 Specific reference to equal treatment and non-discrimination of migrant workers

5.2.2.1 Rationale

The principles of equality of treatment and non-discrimination are key features of international instruments concerning migration, as reflected in two core ILO Conventions – the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Article 17 of the Model Agreement spells out in detail the elements to be included: Such equality of treatment shall apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within the territory of immigration. Migrant workers should enjoy equality of treatment in respect of wages and working and living conditions, social security, and trade union rights on par with national workers in the destination country.

In practice, temporary migrant workers rarely enjoy equality of treatment with national workers. There is disparate treatment between workers from different countries and according to gender in many of the destination countries for Asian workers as reflected in the wages offered.

5.2.2.2 Examples of good practice

Only a few agreements specifically include a separate article on equality of treatment. In many cases, the employment contract section mentions that the same labour laws apply to migrant workers.

■ *Nepal–Jordan General Agreement, 2017*

Article 14 of this agreement deals specifically with “Equality of Treatment” (see box2). This elaboration of equality treatment on par with nationals is unique for an Asian bilateral labour migration agreement.

Box 2

Equality of treatment in the Nepal–Jordan General Agreement, 2017

Article 14: Equality of Treatment

1. The competent authority of GOJ shall grant to Nepali migrant workers with respect to employment in which they are eligible to engage treatment no less favorable than that applicable to its own nationals in virtue of the provisions of the Jordanian Labour Law.
2. Such equality of treatment shall apply under the Jordanian Labor Law, without discrimination in respect of nationality, race, religion or sex, to Nepali workers lawfully within the territory of the Hashemite Kingdom of Jordan, in accordance with the applicable Jordanian laws and regulations in respect of the following matters:
 - a. Respect and promote rights, dignity and religious belief;
 - b. Provide decent working conditions including proper clothing, clean place/habitation and healthy work environment;
 - c. Remuneration, including hours of work, weekly rest days, overtime payments, holidays with pay and other regulations concerning employment;
 - d. Admission to training institution for vocational and technical training.

Source: General Agreement In the Field of Manpower Between the Government of the Hashemite Kingdom of Jordan and The Government of Nepal (2017)

The reference to vocational and technical training in article 14(2d) is also an important feature (box 3), although it is not clear whether the worker is sponsored by the employer.

The standard employment contract for general workers under this agreement states in its article 1 on “Non-Discrimination”: “An employer shall not discriminate between a worker and other workers on the basis of race, color, gender, religion or political opinion, nationality or social origin, subject to Article 13/b of this contract”.

■ *North African agreements*

The Egypt–Italy MOU, article 7 stipulates that: “migrant workers enjoy the same rights and the same protection accorded to workers who are nationals of the receiving state, including social security, in accordance with the regulations of the receiving states.”

Article 8 of the 1963 Morocco–France agreement states: “Moroccan workers enjoy in French territory the same treatment as French workers regarding hygiene conditions, security, housing, wages, paid leave and unemployment.”

■ *Agreement between Poland and France on seasonal workers, 1992*

It is interesting that this agreement provides the same treatment to seasonal workers as received by national workers. Article 2 highlights equal rights as well as obligations: “Polish workers shall enjoy in French territory, the same rights, in particular with respect to remuneration and conditions of employment, shall be subject to the same obligations as French workers employed under the same conditions.”

■ *Sri Lanka–Italy agreement, 2011*

Article 5 (Protection of Rights) states:

Any national of the contracting parties legally working and residing within the territory of the other party, shall receive equal treatment and full equality of rights as compared to the workers of the host country, in particular as regards work conditions, social protection, social rights and the respect of the fundamental rights of workers contemplated under the national regulations in force.

■ *Thai MOUs with neighbouring countries*

These MOUs contain an article on non-discrimination with regard to wages and other benefits. For example, article XVIII of the Myanmar–Thailand MOU(2003) reads: “Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.”

■ *Philippines–Germany nurse hiring agreement, 2013*

Respecting international standards, this bilateral Agreement specifies working conditions for Filipino health professionals that are of equal status of those experienced by German workers. It contains the following provision on working conditions: “Filipino health professionals may not be employed in the Federal Republic of Germany under working conditions less favourable than those for comparable German workers.”

■ *Bangladesh–Libya agreement, 2008*

Article VII reads: “The employee shall enjoy all rights and privileges enjoyed by the employees of the host country in accordance with the labour laws in force in the host country”.

■ *Philippines–Bahrain health worker agreement, 2007¹¹*

Article 2 on the rights of workers is more forceful than most:

Human resources for health shall be provided equal employment opportunity in terms of pay and other employment conditions; access to training, education and other career development opportunities and resources; the right to due process in cases of violation of the employment contract... Human resources for health recruited from the Philippines shall enjoy the same rights and responsibilities as provided for by relevant ILO conventions.

■ *Brazil–Portugal agreement, 2003*

Article 8 states: “Workers employed under this Agreement shall enjoy the same rights and shall be subject to the same employment obligations applicable to workers who are nationals of the receiving State. They shall also be entitled to the same protection in the implementation of workplace sanitation and occupational safety laws”. The agreement refers specifically to occupational safety, which is missing in many agreements.

■ *Peru–Argentina agreement*

The principle of reciprocity is reflected in article 8: “The Parties shall inform each other of their respective national immigration regulations, as well as any subsequent amendments thereto, and shall grant citizens of the other country equal treatment with their own nationals, on a basis of absolute reciprocity, in their respective territories.”

¹¹ This agreement covers skilled workers. Moreover, it was never implemented.

The Bolivia–Argentina agreement (1998) repeats this same article.

■ *Guinea-Bissau–Spain agreement, 2008*

This agreement contains a strong anti-discrimination clause. Unofficial translation:

The Contracting Parties shall, in accordance with their respective regulations, take appropriate measures for the elimination of any act which directly or indirectly leads to a distinction, exclusion, restriction or preference against a national of the other Contracting Party in their respective territories. Territories, based on race, colour, sex, descent or ethnic origin, religious beliefs and practices, and whose purpose or effect is to limit or destroy the recognition or exercise on an equal basis of human rights and the political, economic, social or cultural field.

■ Extension of rights to family members

Bolivia–Argentina additional protocol, 2000

The additional protocol to the migration agreement between Argentina and Bolivia (1998) extends all rights (to a temporary residence permit) to spouses, children, and parents of the principal applicant.

Italy's agreements with Albania and Tunisia

The agreements permit family unification only where the principal migrant has a residence permit of one year or more. Then family members also enjoy the right to work in Italy (OSCE, 2009).

5.2.2.3 Relevance to Bangladesh

Bangladesh's Expatriate Welfare and Overseas Employment Policy, 2016, clearly highlights the importance of the equality principle:

Provisions of equal treatment in pay for men and women workers and other equality of labour rights, and safe working conditions will be ensured while signing bilateral agreements (BLAs) and MOUs. In this context, examples of countries that taken sufficient measures for rights of the female workers will be referred regularly (MEWOE, 2016, para. 2.4.6).

To meet these conditions, Bangladesh may need to do research on discriminatory treatment of migrant workers in CODs and bring it up in bilateral negotiations. This applies to wages and remuneration for the same job by different nationalities. Is there evidence that female and male workers of Bangladesh receive lower wages and inferior working conditions than nationals of other countries for equal work in any destination countries? The image of Bangladesh workers associated with low wages should be done away with if such a viewpoint currently exists in a COD. Bangladesh should negotiate to include an article on equal treatment in the agreement text.

5.2.3 Address gender issues and concerns of vulnerable migrant workers, particularly those not covered by labour laws in destination countries

5.2.3.1 Rationale

“In order for BLAs/MOUs to achieve their aim of promoting ‘fair migration’ for regulated and orderly cross-border movement of workers and protecting the human rights of all migrants, they must incorporate a gender perspective and give particular attention to the groups of vulnerable migrant workers including MDWs [migrant domestic workers]”. (ILO, 2016c, p. 3). Parties can draw upon general human rights and migrant worker instruments, CEDAW General Recommendation 26, ILO Convention No.189, and Committee of the Protection of the Rights of all Migrant Workers and Members of Their Families General Comment 1 in providing protection for women workers.

Women migrant workers can benefit from two types of protections: a) general protective measures for all migrant workers; and b) gender-specific provisions, especially those targeting vulnerable workers such as migrant domestic workers. The ILO and the OSCE have provided some guidelines for protection of women migrant workers in formulating provisions in bilateral agreements (ILO, 2016c; OSCE, 2009).

In general there are few agreements that address gender issues.

5.2.3.2 Examples of good practice

Though some bilateral instruments directly address procedures related to recruitment of women as domestic workers (BLAs of Saudi Arabia with Bangladesh, India, the Philippines, and Sri Lanka; the Indonesia–Jordan Agreement, 2009; and the Indonesia–Malaysia MOU, 2006), it is very rare to find a general accord that refers to gender concerns.

■ *Nepal–Jordan General Agreement, 2017*

This agreement is an exception in this regard, as one of the objectives of the agreement is to “create mutual understanding between two governments to protect the rights of all workers, with special consideration to the specific vulnerabilities of female migrant workers” (article 1(c)). Another unique feature is article 15 on the “Protection of Female Workers”. This article provides for:

- addressing specific vulnerabilities of female workers and their protection;
- prohibition of conditions of forced labour, unlawful holding of passports, and restriction of movement and communication with their families and the embassy/consulate;
- provision of mechanisms to justice;
- provision of appropriate privacy to female workers, including a separate room; and
- provision of all necessary medical care by the employer.

■ *Ukraine–Argentina agreement, (2001)* Article 7 refers to protection from discrimination based on gender and other attributes:

Immigrants and members of their families who are in the territory of the Parties shall enjoy the protection of the State against all acts of violence, intimidation or other forms of discrimination based on race, colour, position or political beliefs, and other religious, gender, ethnic and social origin, language or other characteristics.

■ *Thai MOUs with neighbouring countries*

As noted in section 5.2.2.2, Thai MOUs with Cambodia, the Lao People’s Democratic Republic, and Myanmar provide a non-discrimination clause that includes women migrant workers. For example article XVIII of the Cambodia–Thai MOU states:

“Workers of both parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.”

■ *Mauritania–Spain agreement, 2007*

This agreement has an anti discrimination clause that includes race, sex, sexual orientation, civil status, religion, affiliation, origin and social condition (OSCE, 2009).

■ *Poland–France agreement, 1992*

This agreement has a reference to maternity insurance coverage for Polish seasonal workers employed in France.

■ *Provision for equal access of females to employment programme*

The tripartite recruitment arrangement between Canada with Colombia, Honduras, Mauritius, and the IOM stipulates that women are equal to men regarding employment, so as to be hired and work at the plant (GFMD, 2008, p.11).

■ *Dedicated agreements for domestic workers introduced by Saudi Arabia and Malaysia*

The Saudi Arabia agreements are much better than Malaysian agreements in terms of content and rights accorded to domestic workers. Given that domestic workers may not be covered by labour laws in most destination countries (Jordan is an exception), it is important to attach model employment contracts addressing issues of concern, such as equality of treatment, wage protection, rest periods, leave days, hours of work, privacy, right to communication, complaints mechanisms, and prohibitions of passport confiscation in line with international instruments, including ILO Convention No. 189. The Saudi Arabia agreements do include a model contract that is consistent with some international norms. Provision must be made for multilingual hotlines accessible by domestic workers. The Saudi Arabia agreement proposes the establishment of a mechanism that shall provide 24-hour assistance to domestic workers.

These agreements, however, are difficult to implement in the absence of adequate national legislation and protective frameworks for women migrant workers in destination countries. Standard employment contracts are no substitute for coverage under labour law and other legal protection frameworks.

■ *Sri Lanka–Bahrain MOU, 2008*

This agreement contains one reference to women with regard to information exchange: “To exchange data, information and statistics related to the labour market; exchange expertise, research, programmes, and studies related to integrating young men and women in the labour market”.

■ *Albania–Qatar agreement, 2014*

Article 3(2) of this agreement refers to women workers: “If the employer of Qatar wishes to employ a working woman from the Republic of Albania with special characteristics, he shall specify this in his application to the Ministry of Labor and Social Affairs of the State of Qatar.”

■ *Mali–Spain agreement, 2007*

Article 5 of this agreement contains a passing reference to women migrants:

Each Contracting Party shall continue its efforts to facilitate, within the framework of existing legislation, the issuance of multiple-stay visas to nationals of the other Contracting Party in cases where the visa applicant is a managerial or male researchers or scientists, university professors, prestigious artists or intellectuals, high-level professional sportsmen and women who actively participate in economic, social, scientific, university, cultural and sports relations between the two countries.

■ *Quebec (Canada)–France agreement, 2010*

There is a reference in this agreement to “integration of immigrant women and elderly”.

5.2.3.3 Relevance to Bangladesh

In view of the fact that Bangladeshi women are migrating in increasing numbers and accounting for a growing proportion of total migration, it is important that provisions be made in agreements to reflect gender concerns. This is especially important where they are not covered by labour laws.¹²

The total reported outflow of female workers rose from 27,706 in 2010 to 118,088 in 2016. The most important destination countries for Bangladeshi women workers in 2016 were: Saudi Arabia (58 per cent), Jordan (19 per cent), Oman (11 per cent), Qatar (4.6 per cent) and the United Arab Emirates (4.4 per cent).

It is important to make specific references to protection of women migrant workers in agreement texts. For example, the popular phrase “protect the rights of both workers and employers” can be modified to “protect the rights of female and male migrant workers and employers”.

One option to address the concerns of domestic workers is to forge dedicated agreements like the domestic worker agreement Bangladesh has signed with Saudi Arabia.

The issue of women’s migration should be incorporated in the joint committee terms of reference and agendas.

Bangladesh should also carry out a feasibility study with the ILO of the prospects for ratification of the Domestic Workers Convention, 2011 (No. 189).

5.2.4 Concrete and enforceable provisions relating to employment contracts, working conditions, and wage protection

5.2.4.1 Rationale

The employment contract plays a central part in a bilateral agreement because it defines the returns to employment (wages and other remuneration), and conditions of work for migrant workers. ILO Model Agreement Article 22 provides detailed guidelines on the formulation of an employment contract. For domestic workers, Article 7 of Convention No. 189 lists detailed provisions. Wage protection is critical, since most complaints relate to non-payment, deferred payment, discriminatory wages, unlawful deductions, non-payment of overtime, and non-issue of receipts. The BSR Good practice guide on global migration also provides valuable guidance to employers and business on all aspects of the employment contracts (BSR, 2010).

The following can be considered important good practices regarding employment contracts:

- 1) making a copy of the contract in understandable language available to the worker before departure;
- 2) explaining the employment contract to the worker before they take up employment;
- 3) standard employment contracts (especially in sectors to which Bangladesh sends workers);
- 4) elaboration of the scope of the contract (in the absence of an attached standard contract);
- 5) wage protection measures;
- 6) reference to applicable laws;
- 7) specification of working and living conditions;
- 8) access to complaints mechanisms and dispute resolution procedures);

¹² All data from the BMET website: <http://www.bmet.gov.bd/BMET/statisticalDataAction> [Accessed 10 September 2017].

- 9) non-retention of travel and identity documents;
- 10) duration of contract, and conditions for renewal and premature termination; and
- 11) provisions for return and repatriation.

The standard text found in most MOUs is that the employment contract will be negotiated between the employer and the worker in line with the labour law of the destination country. There is, however, no guarantee that the particular labour laws of host countries are consistent with the minimum standards laid down in international instruments.

The agreement or contract must clarify the conditions for renewal of the employment contract at the end of the initial contract period by mutual consent. The new contract must allow for salary/wage increments based on the period of service.

5.2.4.2 Examples of good practice

■ *Contract coverage*

The Philippines–Germany agreement on hiring nurses (2013) provides a good example of what should be typical contract contents:

The contract covers the aspect of equal standard of wages with German employees, details of overtime payments, payment for night work, payment for working on weekly holidays and public holidays, working hours, accommodation and amenities with amount of charges that employee has to pay, condition on meals where employee has to bear the cost, leave entitlement, status of cost of return journey, settlement of disputes under the labour law of Germany, etc.

Article 4 of the Gambia–Qatar agreement (2010) reads:

Recruitment applications shall state the required qualifications, experience and specialization, the probable duration of contract, detailed conditions of employment, especially the wages, end of service gratuity, probationary period and facilities regarding transportation and accommodation as well as all basic information that may enable the workers to decide on signing the employment contract.

The same provision appears in the 1981 Tunisia–Qatar agreement.

■ *Measures to deter contract substitution*

In view of the common malpractice of contract substitution, it is important to establish a system of joint verification of contracts by authorities of the COO and COD.

For instance, the 2011 India–United Arab Emirates MOU (article 7) states:

The terms and conditions of employment of manpower in the UAE shall be defined by an individual labour contract between the worker and the employer. This contract shall clearly state the rights and obligations of the two sides in conformity with the UAE Labour laws and authenticated by the UAE Ministry of Labour. The terms and conditions of employment shall not vary from those contained in the original application except for alterations that are favourable to the worker.

Article 5(5) of the Philippines–Saudi Arabia domestic worker agreement (2013) states: “Perform, through the Philippine Embassy/Consulate General, verification of all employment contracts submitted by the Saudi recruitment office, company or agency for the hiring of Filipino domestic workers.”

Article 10 of the India–Denmark mobility partnership MOU (2009) deals with the issue of contract substitution:

Both states to this memorandum of understanding shall strive to ensure that the terms of the contract are not altered and the contract is not substituted by the employer or his authorized recruiting agent to the detriment of the worker after the recruitment is made. The contract shall be made in the English language and in Danish if either of the parties to the contract so request.

Under article 14 of the 2008 China–Qatar Agreement regulating the Employment of Chinese Workers in the State of Qatar, the Chinese Embassy must certify employment contracts concluded in Qatar and the Qatari Embassy must certify contracts concluded in China.

The Bangladesh–Iraq MOU, 2013, refers to endorsement by both parties:

The terms and conditions of recruitment of workers in Bangladesh and Iraq will be identified as individual worker in the employment contract duly signed by the worker and the employer. This contract will be clarify the rights and duties of both parties and will be in accordance with the laws and regulations being implemented in Bangladesh and Iraq which will be endorsed by the concerned ministries of both countries and their embassies (article 6).

■ *Information and explanation of the contract of employment to workers.*

It is also important to add that migrant workers be “informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner” (ILO Convention No. 189, Article 7).

The Bangladesh–Republic of Korea MOU (2012) reads in paragraph 8.2: “The sending agency will explain the content of the labour contract to each worker so that he/she can fully understand it and decide whether or not to sign the labour contract of his/her own free will”.

In the Philippines–Saskatchewan (Canada) MOU (2006), the DOLE requires sending agencies to conduct a mandatory orientation for workers on the contents of the employment contract or written offer of employment sent by the employer to the workers to ensure that workers have a clear understanding of the terms of employment. The contract should be made available in a language that the worker understands.

■ *Non-confiscation of travel and identity documents.*

This provision is found in the standard employment contract in Saudi Arabia agreements on domestic workers (see section 5.2.6.2).

■ *Reference to applicable laws*

The Philippines–Manitoba (Canada) MOU (2010) in article 7(b) dealing with offers of employment and labour contracts clarifies the applicable laws:

The DOLE will require the Sending Agencies to provide the Workers with a copy of the employment contract or written offer of employment. This employment contract will comply with The Employment Standards Code, The Employment Services Act and any terms and conditions set by the Government of the Province of Manitoba and the Department of Labour of Employment of the Republic of the Philippines applicable to the recruitment of temporary foreign workers to Manitoba.

■ *Model or standard contracts of employment*

To ensure a level playing field between workers in the same economic activity, it is important to attach a standard model contract to the agreements as an annex.

The main agreement should state that it is integral that the contract be monitored for effective implementation, especially by the country of destination (e.g., Saudi Arabia domestic worker agreement). The individual contract of employment for migrants shall be based on the model contract drawn up by the parties for the principal branches of economic activity. These model

contracts can go into details of wages, working and living conditions, rights, and provisions for transport. As mentioned above, confiscation of travel and identity documents of the worker should be prohibited. Examples agreements containing model contracts include the domestic worker agreements of Saudi Arabia with Bangladesh, India, the Philippines, and Sri Lanka. Qatar has used standard employment contracts in its bilateral agreements from the beginning.

More recently the Nepal–Jordan General Agreement, 2017, has adopted two standard employment contracts – one for general workers and one for domestic workers. The domestic worker contract mentions a minimum monthly salary of US\$300 and stipulates that the minimum salary will be increased by a minimum of 10 per cent at every renewal of the contract after two years.

Appendix II shows a comparison of standard contracts employed by Saudi Arabia for domestic workers; by Malaysia for general workers; and by Qatar for general workers. The Saudi Arabia agreement scores better on a number of provisions relating to worker rights.

■ *Provision to change employment under abusive conditions*

Sri Lanka's MOUs with Jordan, Libya, and the United Arab Emirates allow, in cases of delayed payment of three months or more, for the worker to change their place of work without the agreement of the employer.

For instance, Article 5(2) of the United Arab Emirates MOU reads: "In case of delaying of salary for three months, the worker has the right in accordance with the prevailing regulations to change his place of work without agreement from his employer."

It is important find out how many workers availed themselves of this provision, and whether the MOU made a difference.

■ *Use of labour inspection to improve workplace protection*

Only a few agreements examined in this study contained a reference to labour inspection, but none of the inspection regimes mentioned was for supervision of working or living conditions. Argentina's agreements with Peru and Bolivia were on the use of labour inspection services for "uncovering and penalizing illegal employment or immigrants", which is not a good practice according to the ILO Committee of Experts.

The Peru–Argentina agreement does, however, contain one positive reference in article 16: "Any inspection mechanisms which the two Parties put into effect by mutual consent may be developed with the technical support of international organizations specialized in that area or other cooperation bodies." While it is not clear, this could be interpreted to mean labour inspection.

5.2.4.3 Relevance for Bangladesh

Bangladesh could introduce the good practice found in Korean MOUs to all agreements: Explanation of the employment contract to the worker to enable them to make an informed decision.

Bangladesh could develop standard employment contracts (especially in sectors to which Bangladesh sends workers). It could also elaborate the minimum requirements of an employment contract based on international norms and good practice (in the absence of an attached standard contract). A model employment contract should be developed and negotiated for attachment to various agreements.

Wage protection measures (payment of wages into a bank account, timely payment, payment for overtime at standard rates, no deductions from wages) could also be inserted in the agreements or standard employment contracts.

The provision for non-retention of travel and identity documents should be included either in the main text or attached standard employment contracts.

A commitment on the part of the destination country to commit more resources to labour inspection is important to realise several good practices, including good practice No. 5.2.5 immediately below.

5.2.5 Provision for supervision of working and living conditions

5.2.5.1 Rationale

The responsibility for supervision of working and living conditions of migrant workers lies with the competent authorities of the COD, according to Article 15 of the ILO Model Agreement. It also calls for cooperation between the origin and destination country authorities for this purpose with regard to temporary migrant workers. The COD must guarantee an adequate labour inspection system for carrying out this supervision, especially with the entry into force of agreements. It would be important to insert text to this effect in agreements. The consular officials of the COO should be allowed access to visit workplaces and places of accommodation to assess existing working and living conditions.

The laws should include mechanisms for monitoring the workplace conditions of migrant women, especially in the kinds of jobs where they dominate, as recommended in CEDAW General Recommendation 26 (CEDAW Committee, 2008). Regarding domestic workers, Article 6 of Convention No. 189 states: “Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.”

The Bangladesh Migrants and Overseas Employment Act, 2013, places importance on “protection of labour and other human rights of Bangladeshi migrant workers in the concerned country, and assuring conditions at work are compatible with the international standards” (article 25(b)).

5.2.5.2 Examples of good practice

While requirements related to providing information on working and living conditions seem to be a common feature in many agreements, there are only a few agreements that deal with supervision of working and living conditions.

■ *Nepal–Jordan General Agreement, 2017*

This agreement has a separate article on supervision of living and working conditions. It is interesting that it provides that officials of the Nepalese diplomatic mission are authorized to visit workplaces and living quarters, with necessary approvals from the Jordanian Government.

■ *Peru–Argentina agreement, 1998*

There are two relevant articles in this agreement. Both refer to cooperation with international organizations, which implies respect for international standards pertaining to these areas.

Article 15. The Parties undertake to develop an information programme for potential immigrants on the objective living conditions in the territory of the host country. To that end, both Parties shall seek the cooperation of international bodies specialized in that area or other cooperation bodies.

However, as can be seen, this article only provides for the development of an information programme. The second article does address inspection, but it is unclear from the article what the purpose of these inspection mechanisms is supposed to be:

Article 16. Any inspection mechanisms which the two Parties put into effect by mutual consent may be developed with the technical support of international organizations specialized in that area or other cooperation bodies.

■ *Sri Lanka–Qatar 2008 protocol: Model employment contract*

Section 6 on “Accommodation and Daily Living” refers to hygienic accommodation. It also highlights the obligation of the COD to provide potable water:

A. The First Party undertakes to provide appropriate free single-worker accommodation for the Second Party and supply the same with electric power, beds and toilettes in accordance with health conditions.

B. The First Party shall provide the Second Party with cold potable water.

■ *Sri Lanka–Saudi Arabia domestic worker agreement, 2014*

The standard contract of employment contained within this agreement states: “The employer shall provide the DW [domestic worker] suitable and sanitary living quarters as well adequate food or equivalent monetary allowance”. Respect for privacy is also important for female domestic workers.

■ *Mexico–Canada Seasonal Agricultural Workers Programme (SAWP), 2013*

This agreement provides a good elaboration of accommodation and meals provision:

The EMPLOYER agrees to: 1. Provide suitable accommodation to the WORKER, without cost. Such accommodation must meet with the annual approval of the appropriate government authority responsible for health and living conditions in the province/territory where the WORKER is employed. In the absence of such authority, accommodation must meet with the approval of the GOVERNMENT AGENT; 2. Provide reasonable and proper meals for the WORKER and, where the WORKER prepares his own meals, to furnish cooking utensils, fuel, and facilities without cost to the WORKER and to provide a minimum of thirty (30) minutes for meal breaks.

5.2.5.3 Relevance for Bangladesh

There are hardly any references to working and living conditions, or to occupational safety and health, in Bangladesh’s agreements. Some reference to minimum standards in these areas could be made in the agreement text.

Since better workplace protection following the signing of an agreement depends on improved labour inspection systems, it would be good if a reference can be made to that as an obligation for the COD (see also good practice No. 5.2.4).

Embassy/consular officials may be empowered to visit dormitories to inspect living conditions.

5.2.6 Prohibition of confiscation of travel and identity documents¹³

5.2.6.1 Rationale

A major cause of restrictions on freedom of movement and forced labour practices is the practice of retention of workers’ travel and identity documents by employers or private employment agencies.

The ILO General principles and guidelines on fair recruitment contain two references to this practice:

Under “General Principles”, paragraph 11 reads: “Freedom of workers to move within a country or to leave a country should be respected. Workers’ identity documents and contracts should not be confiscated, destroyed or retained.”

Under “Responsibilities of enterprises and public employment services”, paragraph 18 reads: “Enterprises and public employment services should not retain passports, contracts or other identity documents of workers.”

¹³ The search term used to examine the agreements database for this section was “passport”.

5.2.6.2 Examples of good practice

■ *Saudi Arabia domestic worker agreements*

The Sri Lanka–Saudi Arabia domestic worker agreement (2014), in the “Special provisions” section of the standard employment contract, contains the following reference: “The passport and work permit (iqama) of the DW shall remain in his/her possession.”

The same provision is found under “General provisions” of the employment contract within the Bangladesh–Saudi Arabia domestic worker agreement (2015).

■ *Bangladesh–Malaysia MOU, 2012*

Article 19 of the template for the “Contract of Employment” within this agreement refers to passport retention (see box3). While article 19.1 is acceptable, 19.2 and 19.3 are more complicated with regard to enforcement. An employer could potentially force workers to sign a written consent enabling the employer to keep the worker’s passport. There is also no provision in the agreement for enforcement of these passport provisions. Moreover, it is important to refer to travel and identity documents and the work permit, rather than only to the passport.

Box 3

Bangladesh–Malaysia MOU (2012), Contract of Employment (Appendix B) – References to passport retention

19. Safekeeping of the Passport

19.1 The Employer shall not keep the passport of the Worker in his custody.

19.2. Notwithstanding paragraph (a), the Employer may be allowed to hold the passport for safekeeping if a written consent has been given by the Worker and the Worker may at any time withdraw his consent for such safe keeping.

19.3 In the event that a dispute arises on the possession of the passport, where the Worker has earlier consented to the safekeeping of the Worker’s passport by the Employer, the Employer shall immediately return the passport of the Worker.

Source: Memorandum of Understanding on the employment of workers between the Government of Malaysia and the Government of the Republic of Bangladesh, 2012, Appendix B, article 19

■ *Mali–Spain agreement, 2007*

Article 8 refers to joint action for the following: “mutual technical support in order to ensure the security of their national identity documents”.

5.2.6.3 Relevance to Bangladesh

It is important for Bangladesh and other origin countries to insert a provision in the main agreement text or in the standard employment contract about prohibition of the retention of travel and identity documents and work permits. At present only the Saudi Arabia and Malaysia MOUs contain a reference to passport retention. Legally admitted migrant workers can be arrested when they cannot produce their work permit, as experiences in Malaysia show (Reuters, 2017).

5.2.7 Social protection and health-care benefits for migrant workers

5.2.7.1 Rationale

The ILO Model Agreement recommends in Article 21 that the two parties shall determine in a separate bilateral agreement the methods of applying a system of social security. Labour and social security legislation in Asian and Middle East destination countries usually exclude temporary migrant workers from comprehensive social security coverage (Panhuys, Kazi-Aoul, & Binette, 2017).

As a minimum, male and female migrant workers need to be provided with workplace insurance and health-care coverage by the employers. These should be clearly mentioned in the employment contract.

5.2.7.2 Examples of good practice

■ *Philippines–Lebanon MOU, 2012*

This agreement mentions “the provision of an insurance coverage for the worker in accordance with the existing laws and regulations in the receiving country”.

However, the text should clarify whether it is the employer who will arrange this insurance in Lebanon.

■ *The Philippines–Germany agreement on nurse hiring (2013)*

This agreement states in its social security section: “Filipino health professionals are subject to compulsory insurance in the German social security system (health and long-term care insurance, pension, accident and unemployment insurance)”. A bilateral social security agreement has also been signed between the Philippines and Germany. This agreement features the following: equality of treatment; export of benefits; maintenance of rights; applicable legislation; and administrative assistance.

■ *Separate social security agreements.*

India and the Philippines have been able to sign social security agreements with a number of developed countries where they have a sizeable diaspora (Van Panhuys, Kazi-Aoul, and Binette, 2017). This conforms to the ILO Model Agreement prescription that countries should enter into separate bilateral social security agreements.

Asian and Gulf destination countries with large populations of temporary migrant workers from Asia have been reluctant to sign any social security agreements (Van Panhuys, Kazi-Aoul, and Binette, 2017).

Appendices III and IV show the bilateral social security agreements signed by India and the Philippines, each accounting for 18 agreements. This is an impressive record. As noted, no Gulf or Asian country receiving large temporary labour flows has signed any agreement with either country.

■ *India–Denmark MOU, 2009*

Article 1. The workers shall enjoy full rights and privileges accorded to any worker in Denmark in accordance with the provisions of the labour and social security laws of that country and as set out in Article 1.3.

■ *Sri Lanka–Bahrain MOU, 2008*

Article 12. The Bahraini employer should provide health and accident insurance coverage for the benefit of Sri Lankan employees as per regulations of National Organization of Insurance in Kingdom of Bahrain.

■ *Sri Lanka–Jordan MOU, 2006*

This is one of the few Asian MOUs that refers to social security coverage:

Article 7. The guest workers shall enjoy fully the rights and privileges accorded to the workers by the hosting country, in accordance with the provisions of the labour and social security laws in the same hosting country.

5.2.7.3 Relevance for Bangladesh

Bangladesh has a sizeable settled diaspora in Australia, Canada, the United Kingdom, and the United States, among others. Yet Bangladesh has not signed any social security agreements with these countries (Van Panhuys, Kazi-Aoul, and Binette, 2017). It is important to follow the good practice examples of India and the Philippines in trying to forge social security agreements with those countries. It may not be possible to do so in the temporary migration, worker-driven systems in the GCC, Malaysia, or Singapore.

But the minimum standards of social protection to cover workplace accidents, health, and medical benefits should be assured in all agreements

5.2.8 Trade union rights and access to support mechanisms from civil society

5.2.8.1 Rationale

This good practice refers to the right of migrant workers to join local trade unions and/or migrant associations, which is a basic right of workers. The ILO Multilateral Framework on Labour Migration Guideline 2.6 calls for the promotion of “bilateral and multilateral agreements between workers’ organizations in origin and destination countries providing for the exchange of information and transfer of membership” (ILO, 2006, p.8).

Trade union cooperation for migrant protection is important for several reasons:

- a) addressing widespread exploitation of migrant workers in destination countries;
- b) reaching out to workers excluded from the coverage of labour law (e.g., domestic workers); and
- c) addressing problems faced by low-skilled workers, in particular, in lodging complaints or accessing redress.

Most migrant workers lack information about their rights and obligations.

The role that unions can take in destination countries is constrained by restrictions on the formation of trade unions or support for freedom of association principles in some of those countries (such as Saudi Arabia and United Arab Emirates). In the GCC region, only Bahrain, Kuwait, and Oman have legalized trade unions. In Malaysia and Thailand, migrants can join unions, although there are many obstacles in practice.

In the absence of effective organizations of migrant workers, workers need access to support organizations such as NGOs concerned with migrant welfare, including human rights institutions, diaspora organizations, or religious-based organizations, all of which can provide support. This is particularly important for women migrant workers, who often suffer multiple discrimination as migrant workers and as women in destination countries.

COO and COD trade unions and NGOs can network to support to migrant workers. Bilateral agreements can contain provisions to facilitate the functioning of such organizations and facilitate migrant worker access to them within the law of the State parties.

5.2.8.2 Examples of good practice

The BLA database search found no concrete provisions except in the case of the Nepal–Jordan agreement’s standard employment contract for general workers, and the New Zealand IAUs.

■ *Nepal–Jordan General Agreement, 2017*

The standard employment contract for Nepalese workers (annex I of the agreement)¹⁴ contains the following provisions in article 13:

Trade Unions and Collective Bargaining:

- a. Any worker who wishes to affiliate a registered Trade Union of their sector in Jordan shall be allowed in accordance with the Jordanian laws.
- b. The employer shall:
 1. Respect the worker’s right to freedom of association and collective bargaining as stipulated in the Jordan Labour Law, and its amendment, including the right to join a Trade Union in Jordan without harassment, interference or retaliation.
 2. If the worker is member of a Trade Union of their sector in Jordan, the employer shall provide the Union with the name of the worker and his/her passport number in the first month of every year for the whole duration of the employment relationship.

The standard employment contract also refers to the “collective agreement” of concerned trade unions with regard to wages, other remuneration, other benefits, and dispute settlement.

The agreement’s standard employment contract for Nepalese domestic workers, however, does not refer to the right to join trade unions.

■ *Inter-Agency Understanding between New Zealand, and Fiji in support of New Zealand’s Recognised Seasonal Employer [RSE] Immigration Instructions*

This and other IAUs of New Zealand provide for RSE workers to join trade unions:

Fijian RSE Workers will enjoy the full protection of New Zealand employment and workplace legislation, in particular legislation concerning safe conditions of work and the payment of minimum wage rates will apply. Fijian RSE Workers are eligible to join unions in accordance with those laws.

■ *Bilateral agreements between trade unions in origin and destination countries*

Given the significant gaps in the protection of migrant workers in destination countries, it is important to establish partnerships among trade unions, civil society organizations, and other non-State actors. In 2008, the International Trade Union Confederation, with the support of the ILO, developed a model bilateral agreement between trade unions of COOs and CODs. This model has been used as a template for agreements (ILO-ACTRAV, 2008).

Model bilateral agreements between trade unions in Sri Lanka and trade unions in Bahrain, Jordan, and Kuwait for the protection of Sri Lankan migrant workers, May 2009

These agreements follow a rights-based approach and aim to protect Sri Lankan migrant workers in the three destination countries through union action aimed at granting Sri Lankan migrant workers “the full panoply of labour rights included in internationally recognized standards”. However, these agreements now seem to be defunct due to an absence of follow-up action.

Nepal trade union agreements with destination countries

The General Federation of Nepalese Trade Unions (GEFONT) has long been cooperating with destination country unions for the protection of Nepalese migrant workers. GEFONT has signed

¹⁴ Full title is: A standard Employment contract for Nepali Workers Employed in the Hashemite Kingdom of Jordan Under Article 8(1) of the General Agreement in the Field of Manpower between the Government of Nepal and the Government of in the Hashemite Kingdom of Jordan

agreements with two GCC country trade unions as well as trade unions in Hong Kong (China), Malaysia, and the Republic of Korea. MOUs signed in 2011 between GEFONT and the General Federation of Bahrain Trade Unions and the Kuwait Trade Union Federation have been the basis for information sharing between relevant trade unions and the formation of worker support groups in Kuwait. One innovative approach is the building of support groups in destination countries with the help of unions in those countries (Wickramasekara and Sharma, 2017).

Trade union cooperation in the Mekong subregion

Through ILO support, a number of initiatives have been undertaken in the Mekong subregion involving Cambodia, the Lao People's Democratic Republic, and Viet Nam as well as the destination countries of Malaysia and Thailand (ILO, 2014a). The Malaysian Trades Union Congress has been proactive in this area; for instance, it has initiated informal exchanges and cooperation with the Viet Nam General Confederation of Labour, including an action plan (ILO, 2014).

5.2.8.3 Relevance for Bangladesh

Bangladesh policy-makers should promote union membership for migrant workers both at home and overseas in countries where unions are legal. Policy-makers should strive for including a specific clause to this effect in agreements.

There is scope for Bangladesh trade unions and NGOs to establish bilateral agreements and MOUs for protection of their workers in destination countries.

5.2.9 Incorporation of concrete mechanisms for complaints and dispute resolution procedures, and access to justice

5.2.9.1 Rationale

This good practice covers settlement of disputes between employers and workers, and access to justice and effective remedies for workers. Many agreements also refer to dispute settlement on the interpretation or implementation of the agreement, which is a different issue.¹⁵

The ILO General principles on fair recruitment state in Item 13: "Workers, irrespective of their presence or legal status in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred" (ILO, 2016b).

Clear guidelines on complaint and settlement mechanisms are needed and should go beyond the generic "amicable settlement" phrases found in most agreements. Recourse to judicial means in the destination country is a difficult option for low-skilled migrant workers because of legal costs and language problems. Support by consular services is essential for gaining access to interpretation and legal services, labour courts, and judicial services as needed. A separate annex or protocol may be developed for detailed provisions.

5.2.9.2 Examples of good practice

All agreements have a section on dispute settlement or resolution. The general position is provision of "amicable settlements" between the two parties, failing which access to judicial means is allowed. For example, the article 13.2 of the Sri Lanka–Qatar agreement (2008) reads:

¹⁵ Most agreements carry a section on this matter. Provision is generally made to settle these disputes through joint committees.

In case of a dispute between the employer and the worker arising from the employment contract, the complaint shall be lodged with the competent authority of the Ministry of Labour and Social Affairs for amicable settlement. If an amicable settlement is not reached, the dispute shall be referred to the competent judicial authorities in the State of Qatar.

The standard contract found in the Bangladesh–Saudi Arabia domestic worker agreement (2015) states in article 7: “In case of dispute between the employer and the DW [domestic worker] the two contracting parties may refer the dispute to the appropriate Saudi authorities for conciliation and/or resolution”. This is vague because the “appropriate authorities” are not mentioned. Some agreements may specify the applicable language version of the agreement that will be definitive in case of disputes (e.g., India–United Arab Emirates MOU, 2001; India–Bahrain MOU, 2009).

■ *Nepal–Bahrain MOU, 2009*

This MOU follows standard practice, and makes clear which law is applicable:

All disputes arising from the implementation of a contract signed by a Nepalese Recruitment Agencies and a Bahraini employer shall be settled in an amicable manner. If such settlement is not reached, the parties may agree upon an internal arbitration of referring the matter to a competent court in accordance with the laws and regulations applicable in the Kingdom of Bahrain. All disputes arising from the implementation of a contract signed between a Bahraini employer and a Nepalese employee shall be settled in accordance with procedures set forth in the Labour Law for the Private Sector in the Kingdom of Bahrain.

■ *India–Denmark MOU, 2009*

One of the tasks of the joint committee for this agreement is to produce information material about the existing system for dispute settlement in order to help prevent labour disputes.

■ *New Zealand RSE IAUs*

The New Zealand IAU agreements have adopted an innovative method for dispute resolution as shown by in section on pastoral care in the Kiribati–New Zealand IAU:

Workers may bring any concerns arising from the conduct of their RSE [recognised seasonal employer] to the attention of their team leader (where one exists), employer, union representative, Honorary Consul, and/or the Department staff. The Manager, RSE may investigate any issues unable to be resolved by other parties. The Ministry should inform, in a timely manner, the Department of any complaints received or issues raised. The Department should inform, in a timely manner, the Ministry of any complaints received.

■ *Philippines–Alberta (Canada) MOU and the Philippines–British Columbia (Canada) MOU – Implementing guidelines*

These guidelines contain detailed information about dispute resolution:

The Provincial Employment Standards Act provides standards for complaints and dispute resolution. The Province encourages employees and employers to solve problems without immediate government intervention. If an employee is unable to resolve a dispute with an employer, an employee may make a complaint to the Province. Although some matters are resolved through investigation, most are resolved through a process of education, mediation and/or adjudication.

The agreements also provide for workers to be supplied information on provincial employment standards and workplace safety requirements prior to arrival in the province, including contact information for inquiries and complaints.

5.2.9.3 Relevance for Bangladesh

It is important for Bangladesh to negotiate for concrete complaints and dispute resolution mechanisms in all MOUs/agreements. Since access to the judiciary in destination countries is generally difficult for migrant workers, the embassy/consulate must develop procedures to assist them. A provision can be added to the agreement to that effect.

Workers have to be educated on relevant laws. It is important to mention the applicable laws in the agreements and to include training on these laws in pre-departure trainings.

Bangladesh should monitor the nature of complaints and profile them before and after the signing of agreements. This can be used as an indicator of the impact of the agreement in practice.

5.3 Migration and development linkages

The contribution of labour migration to home country development has received increasing attention in the past two decades. Origin countries benefit from the expansion of employment opportunities, migrant remittances, return migration, contribution to human resource development, and diaspora contributions. Principle 15 of the ILO Multilateral Framework on Labour Migration is the first ILO instrument to recognize this contribution: “The contribution of labour migration to employment, economic growth, development and the alleviation of poverty should be recognized and maximized for the benefit of both origin and destination countries” (ILO, 2006, p.29).

A number of agreements – especially North–South agreements originating from Europe and the New Zealand RSE agreements – have included contribution to the development of origin countries as an important objective. The agreements refer to several ways through which development can be promoted: the expansion of labour mobility opportunities; ethical recruitment and mitigation of brain drain; return and reintegration; supporting diaspora engagement and initiatives; and remittance facilitation; and skills training provided to returnees” (Wickramasekara, 2015a, p. 23).

North–South agreements such as those of France, Italy, and Spain with developing economies in Africa, Eastern Europe, and Latin America normally contain provisions for development contributions. In South–South agreements such an acknowledgement is rare because they focus mainly on mobilisation of labour flows across borders. The South–South Latin American agreements, the Korean EPS MOUs, and the New Zealand RSE agreements in Asia are probably exceptions. For instance the Peru–Argentina agreement (1998) states in the preamble: “Convinced of the need to create an appropriate legal framework for migrant workers from both countries, who contribute to the productive development of their economies and the social and cultural enrichment of their societies”. Likewise, the Bolivia–Argentina agreement preamble marks a commitment to mutual development: “Reaffirming their determination to promote a development policy that will help to generate jobs and better living conditions for their citizens.”

One of the five principles in New Zealand’s IAUs with Pacific Island economies is that the agreement is “development-focussed”. A critical success outcome of these agreements is that of “contributing to the development objectives in the Pacific by fostering economic growth and regional integration under the RSE Policy”. New Zealand enters into these IAUs on the understanding that “workers are able to generate savings and relevant experience which may contribute to the development” of their country of origin.¹⁶

5.3.1 Human resource development and skills improvement

5.3.1.1 Rationale

Provisions in agreements can promote human resource development (HRD) in two ways: 1) by requiring origin countries to train workers for specific skills demanded by the COD; and 2) by the COD provide training in specific areas such as OSH. There are general skills (e.g., language skills) as well as vocational skills to be acquired.

¹⁶ All direct quotes from this paragraph are from the Vanuatu–New Zealand IAU, which is representative of New Zealand IAUs in general.

5.3.1.2 Examples of good practice

Italy has a record of providing training to potential migrant workers in their own countries before migration. The training is also provided free of cost (see box 4 for example). An example of how this is accounted for in agreements can be found in article 12 on “Training courses” from the Sri Lanka–Italy agreement, 2011:

Box 4

COD training of migrant workers prior to departure: The example of Italy and Sri Lanka

The pre-departure training of prospective migrant workers by authorized Italian-certified bodies is built into the Sri Lanka–Italy labour migration agreement, 2011. Article 12 on “Training courses” offers the following text:

The Contracting Parties, in compliance with their national legislation, will promote the linguistic and vocational training of candidate migrant workers, in order to meet the requirement of the labour Market for qualified professional profiles.

The linguistic training will be organized by Italian officially authorized centres to attest the linguistic competences of candidates according to European standards.

The vocational training will be organized by Italian certified training bodies and Authorized Bodies.

Linguistic and vocational training courses started in Sri Lanka can be completed in Italy.

Candidates from Sri Lanka will not bear any cost.

Source: Agreement on bilateral cooperation on labour migration between the Government of the Italian Republic and the Government of the Democratic Socialist Republic of Sri Lanka, 2011.

- *Bahrain MOUs in the areas of labour and occupational training with some origin countries (e.g., Nepal, Sri Lanka).*

These MOUs specifically focus on cooperation in occupational training and the exchange of labour market information. The objective is to match skills with the needs of the labour market. There is no evidence however, of any follow up with regard to occupational training.

- *India–Denmark MOU, 2009*

This MOU promotes cooperation in vocational training and certification on a reciprocal basis with a view to engaging skilled persons in both countries:

Both states agree to cooperate in the fields of vocational training, standardize testing and certification especially training programs, methodology, studies and research, systems of measuring skill- level, and their methods of application in accordance with the requirements of the job market in both countries aimed at enhancing labour productivity. The Governments also agree to cooperate in mutually sourcing technically skilled personnel and benefiting from the training facilities available in both countries (article 13).

- *Moldova–Italy agreement, 2011*

Article 5 of this agreement supports job matching with skills gained: “The Contracting Parties shall encourage candidate migrant workers to attend vocational training and Italian language courses organized on the Moldovan territory, with a particular focus on employability in Italian companies or self-employment.”

- *Philippines MOUs with Canadian provinces (Alberta, British Columbia, Manitoba, Saskatchewan)*

These MOUs are proactive with regard to human resource development in the country of origin (i.e., the Philippines).

- The Saskatchewan MOU (2006) refers to a mechanism for the mutual development of human resources.
- Article 17 of the Alberta MOU (2008) states that both parties will explore projects to sustain and promote human resource development in the Philippines, and Alberta will support education and training of Filipino youth to enhance the reintegration of returning overseas Filipino workers. Annex A on “Priorities for Collaboration and Cooperation” calls for partnerships between Albertan and Filipino institutions to train nurses in the Philippines to Alberta-recognized standards
- Under the British Columbia MOU, the provincial Ministry of Economic Development will encourage support and assistance to the Philippines to improve the education and training of Filipino youth and to enhance the reintegration of returning overseas Filipino workers along the lines of programs and policy directions established by the Government of the Philippines.

■ *Fiji–New Zealand IAU, 2014*

The IAU states that the selection of eligible employers will consider whether the employer has made a substantial investment in establishing formal training opportunities or recruitment processes with workers or communities within the COO, in this case Fiji. This provides incentives for New Zealand companies to engage in HRD in origin countries.

■ *Sri Lanka–Kuwait MOU, 2002*

Article 1 reads: “To strengthen co-operation in the field of labour and employment and manpower development”.

■ *Sri Lanka–Seychelles MOU, 2012*

The purpose of this MOU between education ministries is to supply Sri Lankan teachers for development of human resources in the Republic of Seychelles.

■ *Philippines–Bahrain MOA, 2007*

The general objectives of the agreement are: a) Create alliances between the Philippines and Bahrain’s recognized healthcare and educational institutions to produce sustainable international education, training, and professional/technical development programs that will increase the supply and improve the quality of competent human resources for health; b) Provide reintegration for the human resources for health who shall return to their home country; and c) Develop mechanisms for sustainability of human resources for health.

This MOA is a good agreement for developing human resources, but there is no indication that it has been implemented.

5.3.1.3 Relevance for Bangladesh

Skills upgrading is one of the aims of the Bangladesh national development strategy. Where possible Bangladesh should include provisions for cooperation in matching skills and required training in agreements.

For instance, Bangladesh can negotiate with the Republic of Korea for some support toward local training for selected workers.

While article 1 of the Bangladesh–Jordan MOU refers to cooperation in the development of human and technical resources that can be mutually agreed upon, the text of the MOU contains nothing that relates to collaborative activities in human resource development. Bangladesh can negotiate for this type of collaboration to be included in future agreements.

5.3.2 Recognition of skills and qualifications and competencies in destination country, and on return in the origin country

5.3.2.1 Rationale

Recognition of skills and qualifications across borders facilitates jobs and skills matching, leading to better labour market outcomes. Lack of skills recognition in destination countries leads to triple losses: to the origin country, which loses valuable human resources; to the destination country, which does not effectively utilize skills of migrant workers; and to the migrant workers themselves, who suffer deskilling and end up in exploitative work for low wages. The issue is more important for mobility of skilled workers, who suffer brain waste in destination countries. For example, some university graduates from the Philippines migrate to other countries as domestic workers to avail themselves of migration opportunities.

While the majority of workers from Bangladesh and other Asian countries who migrate as temporary workers are low-skilled, there are also skilled and semi-skilled workers, such as professionals, nurses, and technicians, who are looking to go overseas for work.

5.3.2.2 Examples of good practice

■ *Ukraine–Argentina agreement, 1999*

There is a section in this agreement (chapter IV) devoted to recognition of qualifications. Article 15 reads: “The Parties undertake to promote the mutual recognition of diplomas and transcripts. The institutions of the Parties shall consider the possibility of drafting a convention on the recognition of diplomas and certificates of study at all levels.”

Argentina has repeated this same provision in its agreement with Peru (1998).

■ *Quebec (Canada)–France agreement, 2010*

Article 7 of this North–North agreement refers to mechanisms for recognition of degrees, diplomas, skills, and qualifications, including in the context of arrangements on mutual recognition of professional qualifications.

■ *Philippines–Manitoba (Canada) MOU, 2010*

This MOU calls for ensuring “the needs of Employers for Workers with the appropriate skills are met through training and credential recognition activities”. The MOU contains an annex on qualification recognition which states:

The Participants will support initiatives and co-operate with each other and the appropriate educational and credential issuing authorities to establish training and education programs in the Philippines that meet the requirements and standards necessary for entry into specific occupations in Manitoba and that will improve the education and training opportunities in the Philippines.

■ *The Colombo Process and the Abu Dhabi Dialogue– the two regional consultative processes operational in Asia*

Both processes have identified skills recognition to be a priority area for regional cooperation. The Colombo Ministerial Declaration of the Abu Dhabi Dialogue on 24 January 2017 pledged to “Cooperate bilaterally and explore multilateral cooperation in aligning our respective qualification standards” and to “facilitate the certification of skills and up-skilling and document and mutually recognize the skills of departing workers, those acquired in the place of work and the accumulated skills of returnees” (Abu Dhabi Dialogue, 2017, p. 2).

5.3.2.3 Relevance for Bangladesh

This best practice is more important for skilled worker migration. Most Bangladesh MOUs are for migration of low-skilled workers.

Some MOUs call for mutual support in developing training and recognition of skills. Bangladesh should monitor how these are working. Given the priority given to skills recognition in regional consultative processes as noted above, it would be appropriate to negotiate for skills recognition clauses in new agreements.

5.3.3 Facilitation of transfer of savings and remittances at low cost

5.3.3.1 Rationale

Remittances are the most tangible benefit of labour migration. In view of their development and poverty alleviation potential, one of the targets (10c) of Goal 10 of United Nations Sustainable Development Goals (on reducing inequality within and between countries) is: “by 2030, reduce to less than 3% the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5%” (IAEG-SDG, 2017: p.14).

A large part of the volume of remittances to Asia comes from GCC and other Middle Eastern countries. Unlike in the era of strict foreign exchange controls, a number of agreements contain a provision for facilitation of transfer of savings and remittances. The standard provision with regard to remittances is that workers are free to remit their savings in accordance with laws and regulations of the destination country.

Some agreements, particularly in Europe and the Americas do not make a reference to remittance facilitation, but this may simply mean the absence of restrictions on remittance transfers. Whether agreements have made a difference to remittance flows is an issue which cannot be addressed from an analysis of the content of MOUs/BLAs.

5.3.3.1 Examples of good practice

■ *Sri Lanka–Italy agreement, 2011*

This is one of the few agreements to go beyond the standard remittance provision, advocating a more proactive approach: “The Italian Party agrees to disseminate information on the national remittances system, with the aim of aiding migrant workers in the choice of the most advantageous way.”

There is no information on how this has worked in practice. In any case, only a small number of workers were able to migrate under the scheme.

■ *Spain’s agreements with Guinea-Bissau and Mali*

These agreements elaborate on optimising the development impact of remittances. From the Guinea-Bissau–Spain agreement, 2008:

Actions aimed at improving the impact of remittances on the development of the communities to which they are directed. With the latter aim, the Contracting Parties undertake to cooperate with the financial institutions of the two countries in order to reduce transaction costs and to adapt the financial system to the reception and productive investment of remittances through promotion of popular savings and credit entities that can provide their services in an accessible manner, both geographically and economically.

The Mali–Spain agreement (2007) has similar provisions.

■ *Dedicated bilateral agreements on remittances*

Philippines has signed dedicated bilateral agreements on remittances with Japan and the USA. It was not possible to obtain copies or access additional information on these agreements.

- *Bilateral agreement on remittances between the Philippines and Japan*

The governments of the Philippines and Japan have signed a bilateral agreement aimed at facilitating remittances transfers and improving access to financial institutions, as cited in the GFMD Policy and Practice database. It is a unique type of agreement that focuses on remittances (GFMD, n.d.(b)).

- *MOU between the Philippines and the United States on reducing remittance costs*

The Philippines has also signed an MOU with the United States on remittances:

The Philippines' Department of Finance has entered into bilateral negotiations with the US Treasury Department with the intent of reducing remittance costs. The means by which cost reduction is to be achieved is through the granting of rights to local banks to form agreements with their counterparts in the US, thereby enhancing access to the formal transfer systems and at the same time ensuring compliance with regulations concerning financial flows. A Memorandum of Understanding has been signed for the purpose (GFMD, n.d.(c)).

Again there are no operational details of the working of the agreement.

5.3.2.3 Relevance for Bangladesh.

Most MOUs provide for transfer of remittances. But it is good if it can be made proactive, recognising the shared responsibility of both parties. Like the Italian agreement with Sri Lanka, it may be possible for workers to obtain advice on the pros and cons of different remittances systems from the destination country. This can also be done unilaterally by the COO or the COD.

A clause can be added to sharing and exchanging information on the costs of different remittance transfer providers.

Bangladesh may also consider bilateral agreements on remittances where transfer costs are very high, modelling it on the Philippines MOUs on remittances with Japan and the United States.

5.3.4 Return, reintegration and circulation

5.3.4.1 Rationale

Most Asian labour migration involves only temporary work contracts of two to three years' duration for low-skilled occupations, generally in the Middle East and other Asian destination countries. There are some schemes for seasonal work, such as those in Europe, New Zealand, and Canada. There is also some circular migration in the sense of repeated migrations following one contract by the same worker. Most agreements relate to a temporary migration cycle. Therefore, special attention is needed for return and reintegration in order to optimize the benefits from migration.

However, most GCC bilateral MOUs refer to return as part of what they describe as the "end of the temporary contractual migration cycle", thereby emphasising the temporary nature of the migration process. There is no concern in these agreements about the development aspects for migrant workers and countries of origin. It is standard practice that the employer pays the return expenses of the worker, except under some specified conditions. These conditions relate to the voluntary departure of the worker before the end of the contract and situations in which the worker violates the contract. Failure of the medical test in the Republic of Korea also leads to forfeit of the return ticket from the employer.

5.3.4.2 Examples of good practice

■ *Promotion of circular migration*

Circular migration, or repeat migration, has recently been projected as a “triple win” situation bringing benefits to migrant workers, the country of origin, and the country of destination. However, the triple win argument rests on flimsy foundations according to a detailed review (Wickramasekara, 2011). The Korean EPS is also projected as a successful circular migration model wherein workers can return even after a full two terms of service (4 years and 10 months). This circular migration is beneficial to the employer, who can continue to employ an experienced worker, and to the worker, who gets continuous employment and wages. While this obviously benefits individual migrant workers, the number of workers benefitting from the scheme is reduced because the same workers get additional migration opportunities (Wickramasekara, 2016b).

- *Albania–Italy agreement, 2008*

This agreement recognizes circular migration to be a practice within the framework of the MOU and states:

The Italian Party will implement circular migration programmes in collaboration with the Authorized Bodies and certified training Bodies. In compliance with the national legislation in force, the Italian Party, convinced of the importance of seasonal employment for the promotion of circular migration paths and in consideration of the effective situation of the labour market, will positively consider the inclusion of Albanian among the countries benefiting from seasonal labour quotas.

- *Sri Lanka–Italy agreement, 2011*

A similar provision to the Albania–Italy agreement is found in article 15 on “Circular Migration” in this agreement:

The Italian Party recognises the importance of the improvement of professional insertion and return paths and will support joint initiatives of circular migration addressed to legally resident Sri Lanka nationals...The Italian Party will implement circular migration programs in collaboration with the Authorized Bodies and certified training bodies.

- *Guinea-Bissau–Spain agreement, 2008*

This agreement also refers to “actions aimed at the training of migrants as agents of development in their regions of origin, supporting entrepreneurship and the potential in these areas for circular and temporary migration”.

■ *Reintegration support to returning migrant workers*

A number of agreements have focused on reintegration support to returning migrant workers. This is to be achieved through remittance facilitation; skills training oriented to needs in the country of origin; and also funding for enterprise development upon return. The Italian agreements with Egypt and Moldova, and the French agreement with Tunisia are examples.

- *The Republic of Korea “Happy Return Programme” under EPS MOUs.*

The Republic of Korea supports a return programme as part of its Employment Permit System to discourage overstaying. Returnees receive vocational skills in the Republic of Korea unrelated to their current work, and they are also given training upon return to their countries of origin so that they can join Korean firms or others. Unlike many other temporary migration programmes in Asia and the Middle East, the Korean EPS has integrated return into the EPS policy framework. This is a good practice because most Asian agreements/MOUs with GCC countries only refer to return after termination of contracts; early repatriation for violation of contract terms; or early repatriation for being a threat to public security (Wickramasekara, 2016a; 2016b). There are several good features of the Happy Return Programme:

- a) It recognizes that successful reintegration is a shared responsibility between the origin country and the Korean EPS.
- b) The training in the Republic of Korea covers vocational skills, pre-return recruitment services, and administrative support, such as insurance claims.
- c) Support towards insertion into jobs back in the home country is provided through job matching and job fairs. Workers are also given customized training upon return to their countries of origin so that they can join Korean firms or others. Lectures are also given by returnees who have settled down successfully

- *Fiji–New Zealand IAU, 2014*

The IAU stipulates that “Fijian RSE Workers, upon returning to Fiji will have access to support information, capacity building training and assistance to start up small micro-business under the Fijian Government’s Foreign Employment Service.”

- *Colombia–Spain agreement, 2001*

Article 12 of chapter V deals with voluntary return of migrant workers to Colombia, and proposes a number of measures for their reintegration:

- a) development of projects to provide occupational training for migrants, and to recognize professional experience obtained in Spain;
- b) efforts to establish small- and medium-sized enterprises by return migrants;
- c) creation of binational enterprises that bring together employers and workers; and
- d) promoting the training of human resources and the transfer of technology.

■ *Promotion of diaspora support for country of origin development*

- *Guinea-Bissau–Spain agreement, 2008*

The agreement states: “Articulation of the diaspora resident in Spain, facilitating their link with the communities of origin, and supporting their capacity to develop productive and social development initiatives in the Republic of Guinea Bissau.”

- *Mali–Spain agreement, 2007*

This agreement has an elaborate section (chapter V) on migration and development wherein Spain has pledged to support Mali in line with its foreign aid policy (see Appendix V for the relevant chapter text from this agreement):

Conscious that the migration phenomenon is related, among other factors, to the lack of socio-economic expectations in the areas of origin, Spain and Spanish society will make efforts to contribute to the development of Mali, using bilateral and multilateral mechanisms to provision of the Contracting Parties, and encouraging the activities of the diasporas, in line with what is foreseen in the Master Plan of Spanish Cooperation.

The agreement also has an identical provision on the role of the diasporas.

- *Moldova–Italy agreement, 2011*

Article 7 of this agreement on “Integration: contains the following provisions:

The Contracting Parties recognize the role that the Moldovan community can play both in promoting the integration of newcomers and planning development initiatives in the country of origin.

With this aim, the Italian Party is committed to enhance the role of Moldovan community in Italy through the direct involvement of Moldovan associations based in Italy.

The Moldovan Party is committed to foster the involvement of the above mentioned associations, including through awareness-raising campaigns and programmes addressing Moldovan institutions responsible for maintaining links with Moldovan citizens abroad.

5.3.4.3 Relevance for Bangladesh

Most of the good examples on development-related initiatives come from South–North agreements. In Asian agreements, commitment to reintegration support is mostly absent.

Bangladesh could negotiate for incorporation of return and reintegration provisions in agreements. It is also important to require that workers do not need the permission of an employer to leave at the end of the employment contract or to change employment due to abusive conditions, such as non-payment of wages or bad working conditions. This is especially important in GCC destinations where the sponsorship (or kafala) system ties workers to the sponsor, and requires the sponsor’s specific permission to leave, even at the end of the contract.

The Republic of Korea MOUs have some developmental support, and Bangladesh should coordinate with the Republic of Korea to promote the Happy Return Programme.

6. Conclusion and the way forward within the context of Bangladesh

6.1 Conclusions

Bilateral agreements and MOUs reflect the principle of shared responsibility on labour migration between origin and destination countries. The agreements supplement regional and multilateral efforts in the area of labour migration and mobility, and signal the growing cooperation between these groups of countries. The challenge is to make them more effective to ensure benefits for all parties, including migrant workers. The agreements provide a firm foundation for origin and destination countries to build upon over time through additional protocols and amendments as needed.

The above review has highlighted the availability of many good practices and provisions relating to governance of labour migration, protection and empowerment of migrant workers, and the development benefits of migration across different regions. Table 5 indicates a quick qualitative summary of the incidences of good practices and provisions. A more comprehensive assessment was carried out for the ILO-KNOMAD review of BLAs in 2015 (Wickramasekara, 2015a).

Out of the 20 good practices highlighted in this report, only four are very commonly applied in the bilateral labour migration agreements/MOUs reviewed. Of these four good practices in the high-incidence group, only two deal with governance, and only one deals with the protection of migrant workers. Six good practices are found in the medium incidence group. A full half of the good practices examined in this report (n=10) have low incidence in labour migration agreements, with most of these belonging to the protection group.

As already noted, provisions relating to gender and social dialogue are conspicuous by their absence. While there is wide recognition that recruitment is a critical issue in the governance of migration flows, there are only a few agreements that deal with the issue. The Nepal–Jordan 2017 General Agreement contains important practices relating to both gender concerns and recruitment.

North–South agreements have greater development focus while the South–South agreements of Asia mostly focus on the governance of labour flows. In the Latin American region, South–South agreements carry broader objectives than labour movements only. There are hardly any agreements with development objectives among Asian South–South agreements – though New Zealand’s IAUs with Pacific island economies are a notable exception. The Korean EPS also provides for some development benefits through the Happy Return Programme.

Table 5. Incidence of good practices and provisions in bilateral agreements

Incidence	GP No.	Good practice
High	5.1.2	Exchange of information between COO and COD;
	5.1.5	Concrete implementation and monitoring procedures;
	5.2.9	Complaints and dispute resolution mechanisms;
	5.3.3	Facilitation of transfer of savings and remittances at low cost
Medium	5.1.3	Transparency, sharing & dissemination of information;
	5.1.4	Clear responsibilities between Parties;
	5.2.1	Provision of relevant information and assistance to migrant workers;
	5.2.4	Employment contracts and working conditions;
	5.2.7	Social protection and health care benefits;
	5.3.4	Return, reintegration and circulation
Low	5.1.1	Normative foundations and respect for migrant rights;
	5.1.6	Fair recruitment principles;
	5.1.7	Social dialogue and consultative processes;
	5.2.2	Equal treatment of migrant workers, non-discrimination;
	5.2.3	Address concerns of gender and vulnerable workers;
	5.2.5	Supervision of housing and living conditions;
	5.2.6	Prohibition of retention of travel and identity documents;
	5.2.8	Trade union rights and access to support mechanisms from civil society;
	5.3.1	Human resource development;
	5.3.2	Skills recognition in COD and COO

Source: Based on search of BLA and MOU database.

It is also clear that the content of most agreements are influenced by the country of destination. This is probably why the agreements of multiple origin countries with a particular destination country all look very similar. For example, the structure and form of all agreements involving Qatar are very similar, regardless of the country of origin party.

The previous discussion dealt mostly with good practice provisions within the text of the negotiated agreements, at times supplemented by empirical evidence. It is important to recognize that some of the good intentions expressed in these agreement provisions may not be found in practice for several reasons.

First, some agreements may not have taken off at all. For example, there is no evidence that the Philippines–Bahrain agreement on cooperation in health services and the India–Denmark MOU on labour mobility partnership were implemented at all. Yet both had very good provisions regarding issues of concern. It is too early to assess how the good features of the Nepal–Jordan General Agreement signed on 18 October 2017 will turn out. Some agreements may be publicity oriented, with no serious intent to implement them on the part of either the origin country or the destination country. Others may be defunct due to political changes. For instance, the Libyan bilateral MOUs may have little operational value at the moment given the current turbulent political situation in the country.

At the same time, the development focus in North–South agreements may not obtain in practice, according to some research studies. Findings on the development impact of North–South labour migration agreements in the African context have been found to be mixed (Adepoju, van Noorloos, and Zoomers, 2010; Monterisi, 2014; Panizzon, 2013).

The issue of replicability raised in section 3.6 is also important. One can question whether good practices found in countries with different governance regimes are readily transferable. In North–South agreements, destination countries tend to have a good governance regime, strong labour market institutions, and strong labour standards. These can compensate for many gaps in bilateral labour agreements. The governance regimes in the Middle East, particularly the Gulf Cooperation Council countries, represent a markedly different scenario. The rigid sponsorship or kafala system found in these countries would prove an obstacle to realizing the good features found in agreements. This would make protection of migrant rights and access to remedies more difficult in those contexts. It is well documented that access to justice for migrant workers is also difficult in Malaysia and Singapore – popular destinations for Bangladeshi workers.

For example, good practices found in the Philippines–Germany BLA may not be easy to replicate by Asian origin countries in their agreements with the GCC or Asian destination countries. First, the Philippines–Germany BLA is a North–South agreement for a specific category of professional workers (i.e., nurses). Second, it is backed by strong political will on the part of the two governments involved to make it a success. Third, the scale of the programme is quite small compared to the large numbers of low-skilled workers attempting migration to the GCC and Asian destinations.

The recent Nepal–Jordan general agreement in the field of manpower has a number of unique and innovative features with regard to migrant rights, which demonstrate that origin countries are able to negotiate for good provisions with destination countries. It would be important to monitor this agreement to assess how these good provisions translate into actual implementation.

6.2 Recommendations

These recommendations are mainly for Bangladesh, but they may have some relevance to other origin countries as well.

A. Strengthening and improving institutions and structures

A1. Institutional framework

- Bangladesh should establish an inter-ministerial committee on bilateral agreements on labour migration. Since several ministries (MEWOE, Ministry of Foreign Affairs, Ministry of Labour, among others) and agencies (e.g., BMET, the Wage Earners Welfare Board) are involved, this would facilitate coordination and the forging of common positions.
- Formation of a Steering or Advisory Committee on bilateral agreements on labour migration consisting of a broader range of actors, in addition to government members. In addition to the above ministries and agencies, it could include: social partners, private employment agencies (e.g., the Bangladesh Association of International Recruiting Agencies), and civil society. It can be convened by the responsible ministry, MEWOE.

This committee will address the issue of lack of consultation with major stakeholders. It should be an advisory body providing guidance to the Government on their specific concerns and those of migrant workers. Whenever a new agreement is negotiated, the MEWOE can convene a meeting of the committee to seek advice.

- Develop a focal unit on bilateral migration agreements within the MEWOE. This unit should be responsible for all matters concerned with agreements, and also act as the central repository of all agreements, minutes, and records of joint committees and other material on agreements. Given regular transfers of concerned officials, the Unit can serve as an information centre for all agreements and follow up.
- focal point in each consulate to follow up on bilateral agreements. This may already exist with labour attachés assigned to the Labour and Welfare Wings fulfilling such a role.

A2. Revitalize joint committees and arrange meetings as stipulated in the MOUs.

The joint committees are the most important mechanism for implementation of and follow up on MOUs, and their revitalization should be of the highest priority. It is important to include representatives from workers, employers, and civil society where possible in these deliberations, in consultation with countries of destination.

To make joint committees more effective in monitoring and implementing agreements, the following steps need to be considered:

- Follow detailed TORs: Review and improve TORs and agendas for joint committees as proposed in the 2014 ILO review of Bangladesh agreements.
- Time limit for establishment of joint committees: A deadline for the formation of joint committees – say, within three months of an agreement coming into force – should be included in the agreement.
- Decide the composition of the joint committee in advance, allowing for gender representation.
- Nominate focal points for the agreement in both countries, and include consular officials in the follow up and working groups.
- Strictly adhere to the frequency of meetings laid down in the agreements, and set aside resources for organization and participation in such meetings.
- Include evaluation as one of the functions of joint committees.
- Allow participation of social partners and civil society and specialists, with due representation of women as needed, in joint committees or technical working groups.

A3. Streamlining monitoring and evaluation procedures

Given that implementation and follow up are some of the weakest areas in bilateral agreements, it is important to institute appropriate procedures for same. A separate article on monitoring and evaluation and mobilisation of resources needed for same should be incorporated in the agreement. Independent evaluation should be made mandatory before any renewal, with a view to identifying needed revisions. The current practice of automatic renewal should be done away with because it encourages complacency and lack of follow up.

The two State parties to the agreement are encouraged to set up a monitoring system built into the agreement. Benchmark information on critical variables such as numbers going abroad; level of irregular migration, if any; share of female migrants; patterns of complaints by migrant workers; systems of recruitment; migration and recruitment costs; OSH information; wage information; and remittance flows can be collected for both the origin and destination country on a pilot basis at least. A system of relevant indicators for assessment of impact needs to be developed.

A technical working group may be appointed for the purpose drawing from different ministries and agencies. Its functions would be the following:

- Identify monitoring and evaluation needs, and prepare frameworks for monitoring, rapid assessment, and periodic evaluation of agreements.
- Identify data needs and institute a data collection system for monitoring and evaluation of agreements.
- Advise the Bilateral Agreements Committee on an implementation programme for monitoring and evaluation reports. For joint evaluations, the proposals need to be cleared by the joint committee.

A4. Negotiating for concrete implementing measures to supplement the MOUs.

While treating MOUs and BLAs as a broad framework, it is critical to supplement them by negotiating for the introduction of concrete or practical measures and mechanisms in several areas (Wickramasekara, 2012; 2015a). This may be done by the joint committee or by working groups appointed by the joint committees as separate agreements or annexes:

- provisions on the sharing of resources needed to implement the agreement, including periodic meetings, data collection exercises, special studies, and evaluations;
- a procedure for monitoring of work contracts and inspection of workplace compliance following the signing of agreements; and
- introduction of a concrete complaints procedure and redress mechanism accessible by low-skilled workers spread in different parts of the destination country or working in private households, through which workers can lodge their complaints without fear of retaliation or intimidation. The current standard phrase of “amicable settlement” has very little practical relevance for the average migrant worker. In case of recourse to judicial action, there should be provision for the consular officials to be informed and to provide legal support.

B. Improving the instruments

B1. Promote binding bilateral labour agreements

Given the limited success of bilateral MOUs, Bangladesh should opt for the negotiation of binding bilateral labour agreements wherever possible for effective governance and protection objectives. They are preferable to non-binding MOUs, which are just indicative frameworks.

B2. Revise existing MOUs that are non-operational and dated.

Bangladesh should review and find out which agreements are non-operational, and which are not serving priority objectives. The context in which some MOUs were drafted may have changed markedly over time. Bangladesh should renegotiate these agreements in the light of current priorities and changed economic, social, legal, and political contexts. New laws have been introduced both at home and also in destination countries. Several GCC countries have introduced new domestic worker laws, including Kuwait, Qatar, and the United Arab Emirates. These have to be reviewed in the process of revising old agreements or designing new ones. This option is also important if the prospects for agreements with new destination countries are not high.

B3. Promote Government-to-Government agreements based on State-led recruitment processes

Government-to-Government MOUs have shown improvement over private sector-led recruitment processes in reducing migration and recruitment costs and promoting transparency. This is a major

lesson of the Korean EPS and the Malaysia G-to-G mechanism of 2012. There is also a case for exploring wider recruitment options. The Government of Bangladesh should therefore, explore the possibilities for launching agreements, based on the G-to-G mechanism, at least for some categories of workers or sectors. The Bangladesh–Malaysia 2012 MOU, for example, was for employment in the plantation sector in Malaysia.

B4. Strengthening agreements based on international norms and instruments

One cannot over emphasize the importance of drawing upon the normative framework provided by United Nations universal human rights instruments, ILO core Conventions, the three international migrant worker Conventions (UN and ILO), and other international labour standards. There are good practices in this respect from a number of agreements originating in Europe and Latin America. The preamble of agreements could make specific reference to such instruments and key principles, including those of equality of treatment and non-discrimination as a minimum. These instruments, including the ILO Multilateral Framework on Labour Migration, can provide a broad human and labour rights framework of reference in developing MOUs. Asian agreements can obviously be improved in the light of good international practice.

This obviously calls for the ratification of relevant international Conventions by both countries of origin and destination, and revision of national laws along those lines, as well as their enforcement. This is because good practices in agreements are no substitute for ratification of binding international instruments, and modifying national legislation and enforcement mechanisms in accordance. These Conventions can protect migrant workers more effectively in both origin and destination countries.

While Bangladesh has ratified the ICRMW, no destination country in the Gulf States, Jordan, Malaysia (except the state of Sabah), or Singapore have ratified any international migrant worker Conventions. The ILO Migration for Employment Convention (Revised), 1949 (No. 97) applies to Hong Kong (China) because the United Kingdom ratified it in 1952.

But all destination countries have ratified important universal human rights Conventions – particularly CEDAW – as well as some ILO core Conventions. References can be made to those Conventions ratified by both parties in the preamble of agreements.

The emergence of new domestic worker bilateral agreements also highlights the importance of ratification of the Domestic Workers Convention, 2011 (No.189) by both origin and destination countries. In the light of the spirit of the Convention, a crucial step for both groups of countries is to bring domestic work within the purview of national labour laws. Bangladesh could seek ILO assistance to review the feasibility of ratification of Convention No.189 in view of the growing number of domestic workers migrating for overseas employment.

B5. Develop model templates of bilateral instruments

- Develop a model agreement template drawing upon the core elements report, the assessment guide, and the current report, which are based on international instruments and good practices, including the ILO Model Agreement (1949). This can be used as a template in negotiations with destination countries. The availability of such a template would pre-empt negotiating on a draft provided by the destination country.
- Develop standard employment contracts for major categories of occupations, which can serve as a template in negotiating bilateral agreements. A model employment contract should be part of the agreement, and should cover detailed rights such as wage protection, access to OSH training, hours of work, non-retention of travel and identity documents, social protection provisions, trade union rights, mechanisms for complaints, change of employment under abusive conditions, and freedom to leave at the end of the contract without permission from the employer.

B6. Ensuring gender concerns in BLAs and MOUs

Even in agreements covering all workers, there is a need to refer to the specific problems faced by women migrant workers in relation to sexual harassment, night work, and maternity protection. The ILO brief on gender sensitivity in labour migration related agreements and MOUs and the OSCE guide on gender sensitive migration policies propose two types of provisions to benefit female migrant workers:

- a) general good practices that have a positive impact on women, such as protective provisions in sectors not covered by national labour laws (agriculture, domestic work); and
- b) gender-specific provisions (gender impact assessments; gender-specific, non-discrimination and rights-based clauses to promote gender equality), the inclusion of gender advisers with expertise on migration at all stages, and gender sensitivity training for all staff involved (ILO, 2016c; OSCE, 2009).

The Nepal–Jordan General Agreement, 2017, is one of the few agreements to address gender concerns. It contains both general protections and specific protections, including a standard employment contract.

C. Establish social security agreements with developed countries with sizeable diaspora populations

International instruments have recommended separate social security agreements with countries that host significant numbers of nationals of origin countries. This is not possible in regard to temporary worker migration as seen in the GCC States, which have abolished comprehensive social security for expatriate workers. Bangladesh, however, has a sizeable settled diaspora in Australia, Canada, the United Kingdom, the United States, and other developed countries. It can draw upon the good practice examples of India and the Philippines in trying to forge social security agreements with those countries. Appendices III and IV show that both India and the Philippines have signed 18 bilateral social security agreements each.

D. Cross-cutting measures

D1. Transparency: Dissemination of agreements

It is most important to brief the major stakeholders in migration – workers, employers, recruitment agencies, and NGOs concerned with migrant worker welfare – on the provisions of MOUs, how they affect them, and on the follow up to be undertaken. For the sake of transparency, the text of all MOUs and agreements should be translated into local languages, and made easily accessible on websites. They should be disseminated to migrant workers before departure, and to their employers in destination countries, so that they are aware of their rights and obligations under the agreements.

For example, the Malaysia MOU signed with Bangladesh in 2016 has a detailed appendix on the respective responsibilities of employers (Appendix C(A)), workers (Appendix C(B)), and the Bangladesh recruitment agency (Appendix C(C)). Unless these parties are briefed on these responsibilities, the MOU cannot function effectively. This issue should be raised clearly in the bilateral negotiations, and agreement should be reached on dissemination because MOUs usually do not contain sensitive information, given that they are broad frameworks.

It is suggested that MEWOE at least hold a national consultation on BLAs and MOUs with major stakeholders (government partners, social partners, civil society, recruitment agency associations, migrant worker associations, and media) to explain their policies, principles, and practices, and to solicit suggestions for improvement. The Government authorities can distribute informal summaries of agreements at these consultations.

It is also recommended that each agreement be accompanied by a dissemination plan.

D2. Improving the capacity of government officials involved in BLAs and MOUs

The tasks and functions outlined here would obviously strain the capacity of the government officials who are in charge. Therefore, it is important to have a systematic capacity-building programme. The ILO carried out a training programme for different stakeholders in 2014 following the ILO review of Bangladesh agreements.

Such training needs to be broad-based, and not simply confined to bilateral agreements only. Subject areas can cover global migration issues and their relevance to Bangladesh; trends and the role of Bangladeshi migration; migration policies in Bangladesh; legislative environments at home and in destination countries; international norms; good practices in agreements; negotiating skills; and monitoring and evaluation skills, among others. The author has developed a set of training materials on BLAs and MOUs for capacity building of constituents under the Decent Work for Migrant Workers Project in Bangladesh for this purpose.

D3. Improving the information base on migration and MOUs

The present review has brought out serious gaps in information on BLAs and MOUs and their operation. Benchmark data on the situation prior to the agreement are needed, especially if the purpose of the agreement is to launch new migration flows. Criteria for assessment of the agreements, and monitoring and impact evaluation indicators should be agreed in advance so that data collection can be geared to those areas. This has resource implications that need to be addressed. Special attention needs to be paid to collection of data on recruitment and migration costs, remittance transaction costs, migrant wages, conditions of work, and worker complaints. Close cooperation between COO and COD will be needed for this purpose.

While the BMET publishes up to date statistics on registered outflows of male and female migrant workers and remittances, their publication format on the webpage as images or pictures makes it cumbersome to use. Statistics should be provided as PDF or Excel files for easy extraction and use.

It is important to translate the ILO Multilateral Framework on Labour Migration, the ILO *General principles and operational guidelines for fair recruitment*, the ICRMW, and other important documents into Bengali for wide dissemination (if not already done).

E. Regional and multilateral processes

It is to be anticipated that there are many trade-offs in bilateral negotiations, even on core issues, as the Asian experience has shown. It is, therefore, important to use multilateral and regional forums in openly discussing these mutually beneficial improvements to agreements. Bilateral labour agreements and MOUs are best developed within regional and multilateral frameworks because they may help avoid unequal power relations as well as unhealthy competition among origin countries (Cholewinski, 2014). Sections 4.2 and 4.3 above highlighted regional economic communities and regional consultative processes in Asia: ASEAN, SAARC, the Colombo Process, and Abu Dhabi Dialogue. The recent SAARC Action Plan on Migration is a promising initiative in this direction. It is important to take up the issue of bilateral labour agreements and MOUs at these forums and evolve a consensus on a model agreement framework, standard employment contracts, fair recruitment guidelines, and incorporation of gender issues and social dialogue, among others, to be adopted by countries in the region.

Bibliography

Abu Dhabi Dialogue. 2014. *The Kuwait Declaration*, adopted by the Third Ministerial Consultation of the Abu Dhabi Dialogue, Kuwait, 27 Nov.

—. 2017. *The Colombo Declaration*, adopted by the Fourth Ministerial Consultation of the Abu Dhabi Dialogue, Colombo, 24 Jan.

Adepoju, A.; van Noorloos, F.; Zoomers, A. 2010. "Europe's migration agreements with migrant-sending countries in the Global South: A critical review", in *International Migration*, Vol. 48, No. 3, pp. 42–75.

Association of Southeast Asian Nations (ASEAN). 2007. *ASEAN Declaration on the protection and promotion of the rights of migrant workers*, 12th ASEAN Summit, Cebu, 17 Jan.

Available at: <http://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>.

—. 2008. *ASEAN Economic Community blueprint* (Jakarta).

Available at: <http://asean.org/wp-content/uploads/archive/5187-10.pdf>.

Association of Southeast Asian Nations (ASEAN) Secretariat. 2017. "ASEAN to protect and promote rights of migrant workers", in *ASEAN Secretariat News*, 19 Sep.

Available at: <http://asean.org/asean-to-protect-and-promote-rights-of-migrant-workers/>.

Bamu, P.H. 2014. *An analysis of SADC migration instruments in light of ILO and UN principles on labour migration: Final report*, report prepared for the International Labour Organization Decent Work Technical Support Team for Eastern and Southern Africa and ILO Country Office, Pretoria, unpublished.

Bhuyan, M.O.U. 2017. "Govt again sets countrywise migration costs for workers", in *New Age*, 6 Aug.

Available at: <http://www.newagebd.net/article/21342/index.php>.

Business for Social Responsibility (BSR). 2010. *Good practice guide: Global migration* (New York, Business for Social Responsibility).

Available at: <https://www.bsr.org/en/our-insights/report-view/good-practice-guide-global-migration>.

Center for Migrant Advocacy (CMA). 2010. *Bilateral labor agreements and social security agreements: Forging partnership to protect Filipino migrant workers' rights* (Quezon City).

Center for Migration and Refugee Studies. 2016. *Study on bilateral labour, establishment and social security agreements in North Africa*, report prepared for the ILO Project "Enhancing the governance of labour migration and the protection of migrant workers" rights in Tunisia, Morocco, Egypt and Libya" (IRAM), June 2016.

Cholewinski, R. 2015. "Evaluating bilateral migration agreements in light of human and labour rights", in M. Panizzon, G. Zürcher and E. Fornalé (eds): *The Palgrave handbook of international labour migration: Law and policy perspectives* (Basingstoke, Palgrave Macmillan), pp. 231–52.

Colombo Process. 2016. "*Colombo Process Ministerial Declaration*", Fifth Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin in Asia, Colombo, 25 Aug.

Available at: <https://www.colomboprocess.org/images/Adopted-CP-Declaration-25-Aug-2016.pdf>.

—. undated. "*Objectives*". Available at: <https://www.colomboprocess.org/about-the-colombo-process/objectives>.

Committee on the Elimination of Discrimination against Women (CEDAW Committee). 2008. *General Recommendation No. 26 on women migrant workers*, CEDAW/C/2009/WP.1/R, United Nations, Geneva, 5 Dec.

Available at: http://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf.

Gencianos, G.; Public Services International. 2017. "International cooperation and governance of migration on return, readmission, integration and reintegration", presentation at Third Informal Thematic Session: "International Cooperation and Governance of Migration in All its Dimensions, including at borders, on transit, entry, return, readmission, integration and reintegration", Global Compact on Migration, Geneva, 19–20 Jun.

Global Forum on Migration and Development (GFMD). 2008. *Compendium of good practice policy elements in bilateral temporary labour arrangements*, follow-up report for Global Forum on Migration and Development, Manila, 29–30 Oct.

—. 2017. *Migraton and development (M&D) policy and practice database*.

Available at: <https://gfmd.org/pfp/ppd> [29 Sep. 2017].

- no date (a). “Background and objectives”. Available at: <https://gfmd.org/process/background> [25 Sep. 2017].
 - no date (b). “Bilateral agreement between the Philippines and Japan (remittances)”. Available at: <https://gfmd.org/pfp/ppd/364>.
 - no date (c). “MoU between the Philippines and USA on reducing remittance costs”. Available at: <https://gfmd.org/pfp/ppd/458>.
- Gibson, J.; McKenzie, D. 2014. *Development through seasonal worker programs: The case of New Zealand's RSE Program* Policy Research Working Paper No. 6762 (Washington, DC, The World Bank).
- Help for Children in Distress. no date. *Health workers for all case studies: Germany* (Osnabruck, Terre des Hommes).
- Inter-Agency and Expert Group on Sustainable Development Goal Indicators (IAEG-SDGs). 2017. “Revised list of global Sustainable Development Goal indicators”, annex III, *Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators*, E/CN.3/2017/2, Statistics Commission, Economic and Social Council (New York, United Nations). Available at: <https://unstats.un.org/sdgs/indicators/Official%20Revised%20List%20of%20global%20SDG%20indicators.pdf>.
- International Labour Organization/International Labour Office (ILO). 1949. “Model agreement on temporary and permanent migration for employment, including migration of refugees and displaced persons”, Annex, ILO Migration for Employment Recommendation (Revised), 1949 (No.86).
- 2006. *The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (Geneva, International Labour Office). Available at: http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf.
 - 2013. “Conclusions”, ILO Tripartite Technical Meeting on Labour Migration, Geneva, 4–8 Nov. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/meetingdocument/wcms_232352.pdf.
 - 2014a. *A report on the MOUs and agreements on labour migration between Bangladesh, and countries of destination, namely, Hong Kong SAR PRC, Iraq, Jordan, Libya, Malaysia, Qatar, Republic of Korea and the United Arab Emirates*, report submitted to the Ministry of Expatriates Welfare and Overseas Employment [Bangladesh], unpublished and restricted.
 - 2014b. *Good practices on the role of trade unions in protecting and promoting the rights of migrant workers in Asia*—(Bangkok). Available at: http://www.ilo.org/asia/whatwedo/publications/WCMS_301215/lang--en/index.htm.
 - 2014c. *Fair migration: Setting an ILO agenda*, Report of the Director-General Report I(B), International Labour Conference, 103rd Session, June 2014 (Geneva, International Labour Office). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_242879.pdf.
 - 2015a. *Fair Recruitment Initiative: Fostering fair recruitment practices, preventing human trafficking and reducing the costs of labour migration* (Geneva, International Labour Office). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_320405.pdf.
 - 2015b. *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok). Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_356542.pdf.
 - 2016a. *Promoting fair migration: General Survey concerning the migrant workers instruments*, Report III (Partv1B), International Labour Conference, 105th Session (Geneva, International Labour Office). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_453898.pdf.
 - 2016b. *General principles and operational guidelines for fair recruitment*, adopted by the Meeting of Experts on Fair Recruitment, Geneva, 5–7 Sep. (Geneva, International Labour Office).
 - 2016c. *Gender sensitivity in labour migration-related agreements and MOUs*, Research Series, Global action programme on migrant domestic workers and their families (Geneva, International Labour Office).
 - 2017a. *Addressing governance challenges in a changing labour migration landscape, Report 6*, Office report for the General Discussion on Labour Migration, 106th International Labour Conference (Geneva, International Labour Office).

- . 2017b. "Database on Bilateral labour arrangements (BLAs) on labour migration". Available at: <http://www.ilo.org/global/topics/labour-migration/policy-areas/measuring-impact/agreements/lang--en/index.htm>
- . 2017c. "Good practices database — Labour migration policies and programmes". Available at: http://www.ilo.org/dyn/migpractice/migmmain.home?p_lang=en [10 Aug. 2017].
- ILO-EVAL. 2014. *Evaluation lessons learned and emerging good practices*, ILO Evaluation Unit, Guidance Note 3 (ILO, Geneva).
- International Organization for Migration (IOM). 2016. *Regional guidelines for the development of bilateral labour agreements (BLAs) in the Southern African Development Community (SADC)* (Geneva). Available at: https://publications.iom.int/system/files/pdf/regional_guide_bilateral_labour_agreements.pdf.
- Koty, A.C. 2016. *Labor mobility in ASEAN: Current commitments and future limitations*, ASEAN Briefing. Available at: <https://www.aseanbriefing.com/news/2016/05/13/asean-labor-mobility.html> [10 Sep. 2017].
- Kyung, K.B. 2014. "Update on the Employment Permit System", paper presented at the "Effective implementation of the Employment Permit System", ILO/Korea Multi-Country Dialogue, Bangkok, 3–4 Dec.
- Ministry of External Affairs [India]. 2016a. "Bilateral co-operation for protection and welfare of emigrants". Available at: http://www.mea.gov.in/bilateral-documents.htm?dtl/26464/Bilateral_Cooperation_For_Protection_and_Welfare_of_Emigrants.
- . 2016b. *Annual report: 2015–16* (New Delhi).
- Monterisi, S. 2014. *Africa: Comparative analysis of the mapped bilateral agreements concluded by African countries*, draft report prepared for the ILO-KNOMAD Thematic Working Group on Low Skilled Migration, International Migration Programme (Geneva).
- Organization for Economic cooperation and Development (OECD). 2004. *Migration for employment: Bilateral agreements at a crossroads* (Paris).
- Organization for Security and Co-operation in Europe (OSCE). 2009. *Guide on gender-sensitive labour migration policies* (Vienna). Available at: <http://www.osce.org/secretariat/37228?download=true>.
- Panizzon, M. 2013. "To what extent do bilateral migration agreements contribute to development in source countries?: An analysis of France's migration pacts", in Sebastian Saez (ed.): *Let workers move: Using bilateral labor agreements to increase trade in services* (Washington, DC, The World Bank), pp. 85–108.
- Public Services International (PSI). 2017. *Bilateral Agreement Between the Germany and the Philippines on the Deployment of Filipino Health Professionals to Germany: Documentation of the Triple Win Project*, unpublished draft.
- Reuters. 2017. "Thousands of migrant workers arrested in major crackdown", 6 Jul. Available at: <http://www.freemalaysiatoday.com/category/nation/2017/07/06/thousands-of-migrant-workers-arrested-in-major-crackdown/>.
- Ruhunage, L.K. 2014. *Consolidated report on assessing labour migration related bilateral agreements (BLAs), memorandum of understandings (MOUs) and other similar arrangements in the Asian region*, draft report prepared for the ILO-KNOMAD Thematic Working Group on Low Skilled Migration, International Migration Programme (Geneva, ILO).
- Saez, S. (ed.). 2013. *Let workers move: Using bilateral labor agreements to increase trade in services* (Washington, DC. The World Bank).
- Salim, T. 2017. "ASEAN shelves declaration on rights of migrant workers", in *The Jakarta Post*, 28 Apr. Available at: <http://www.thejakartapost.com/seasia/2017/04/28/asean-shelves-declaration-on-rights-of-migrant-workers.html>.
- Simeone, J. 2014. *Research report: Bilateral labor agreements in Europe and the Americas* (Geneva, ILO).
- South Asian Association for Regional Cooperation (SAARC). 2014. *The Kathmandu Declaration*, 18th Summit of the South Asian Association for Regional Cooperation, Kathmandu, 26–27 Nov. Available at: <http://www.saarc-sec.org/userfiles/Summit%20Declarations/Kathmandu-18thSummit26-27Nov2013.pdf>.
- . 2016a. "SAARC Plan of Action on Labour Migration", presentation at SAARC/IPA Workshop on Migration, Consultative Workshop on SAARC Plan of Action for Cooperation on Matters Related to Migration, Kathmandu, 3–4 May.

- . 2016b. "The report", SAARC/IPA Workshop on Migration, Consultative Workshop on SAARC Plan of Action for Cooperation on Matters Related to Migration Kathmandu, 3–4 May.
- Taran, P. 2015. *Free movement, labour mobility, regional integration and development: Keys to Africa moving in the 21st century*, Global Migration Policy Brief for the Round table on Intra-Regional Migration and Labour Mobility within Africa, Kigali, 23–25 Mar.
- Van Panhuys, C.; Kazi-Aoul, S.; Binette, G. 2017. *Migrant access to social protection under bilateral labour agreements: A review of 120 countries and nine bilateral arrangements*, ESS Working Paper No. 57 (Geneva, International Labour Office).
Available at: <http://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=54405>.
- Vasuprasat, P. 2008. *Inter-state cooperation on labour migration: Lessons learned from MOUs between Thailand and neighbouring countries* (Bangkok, ILO). -Available at:http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_106181.pdf
- Wickramasekara, P. 2006. *Labour migration in Asia: Role of bilateral agreements and MOUs*, presentation at the Japan Institute for Labour Policy and Training Workshop on International Migration and Labour Market in Asia, Tokyo, 17 Feb. Available at:http://www.jil.go.jp/foreign/event/ko_work/documents/2006sopemi/keynotereport1.pdf.
- . 2011. *Circular migration: A triple win or a dead end*, Global Union Research Network Discussions Paper No.15 (Geneva, International Labour Organization).
- . 2011. *Labour migration in South Asia: A review of issues, policies and practices*. International Migration Papers No. 108 (Geneva, International Labour Office). Available at:
http://www.ilo.org/wcmsp5/groups/public/-ed_protect/-protrav/-migrant/documents/publication/wcms_179642.pdf.
- . 2012. *Something is better than nothing: Enhancing the protection of Indian migrant workers through bilateral agreements and memoranda of understanding* (Manila, Migrant Forum in Asia).
Available at: <http://ssrn.com/abstract=2032136> or <http://dx.doi.org/10.2139/ssrn.2032136>.
- . 2014. "Protection of migrant workers in an era of globalization: The role of international instruments", in R. Banplain (ed.): *Comparative labour law and industrial relations in industrialized market economies*, 11th ed (Austin, Wolters Kluwer).
- . 2015a. *Bilateral agreements and memoranda of understanding on migration of low skilled workers: A review* (Geneva, International Labour Office). Available at:
http://www.ilo.org/global/topics/labour-migration/publications/WCMS_385582/lang-en/index.htm.
- . 2015b. *Review of the Government-to-Government (G-to-G) Mechanism for the Employment of Bangladeshi Workers in the Malaysian Plantation Sector* (Bangkok, ILO and Australian Aid).
- . 2016a. *International instruments and good practices on labour migration with relevance to the Republic of Indonesia*, report prepared for the ILO Country Office for Indonesia and Timor-Leste, unpublished.
- . 2016b. *Migration policy in the Republic of Korea and Singapore*, report prepared for a master's course on "Migration and Co-existence 2", Sophia University, Tokyo.
- . 2018. *Assessment guide for bilateral agreements and memoranda of understanding on labour migration with special focus on Bangladesh* (Dhaka, ILO).
- Wickramasekara, P.; Sharma, S. 2017. *Protection of migrant workers and prospective migrants by countries of origin: A review of selected good practices*, issues paper prepared for the South Asia Migration Governance Project, New Delhi, unpublished.
- Winters, A. 2016. *New Zealand's Recognised Seasonal Employer Scheme: An object lesson in policy making – but for whom?*, Working Paper No. 34 (Brighton, DFID Migrating Out of Poverty Project, University of Sussex). Available at: <http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=wp34-winters-2016-new-zealands-recognised-seasonal-employer-scheme.pdf&site=354>.
- WorkPermit.com. 2007. "Australia signs agreement with China over skilled workers", 6 Sep. Available at:<http://www.workpermit.com/news/australia-signs-agreement-china-over-skilled-workers-20070906>[8Aug. 2017].

Appendices

Appendix I: Table of bilateral labour agreements and memoranda of understanding referred to in the study

No.	Origin country	Destination country	Title of bilateral instrument	Year
1	Albania	Germany	Agreement concerning the employment of workers in order to improve their vocational and linguistic skills (Guest Workers Agreement)	1991
2	Albania	Italy	Agreement on Labor Migration between the Government of Italy and the Council of Ministers of Albania	2008
3	Albania	Qatar	Agreement between the Government of the State of Qatar and the Council of Ministers of the Republic of Albania on the regulation of the employment of Albanian workers from the Republic of Albania in the State of Qatar	2014
4	Bangladesh	Qatar	Agreement between the State of Qatar and Government of the People's Republic of Bangladesh concerning the organization of Bangladesh manpower employment in the State of Qatar	1988
5	Bangladesh	Jordan	Memorandum of Understanding between the People's Republic of Bangladesh/ Ministry of Expatriates Welfare and Overseas Employment and the Hashemite Kingdom of Jordan/ Ministry of Labour in the field of manpower	2008
6	Bangladesh	Libya	Memorandum of Understanding between the Government of the People's Republic of Bangladesh and the Great Socialist People's Libyan Arab Jamahiriya in the field of manpower	2008
7	Bangladesh	Jordan	Memorandum of Understanding between the People's Republic of Bangladesh/ Ministry of Expatriates' Welfare and Overseas Employment and the Hashemite Kingdom of Jordan/ Ministry of Labour in the field of manpower	2008
8	Bangladesh	United Arab Emirates	Memorandum of Understanding between the Government of the United Arab Emirates and the Government of the People's Republic of Bangladesh in the field of manpower	2011
9	Bangladesh	Malaysia	Memorandum of Understanding on the employment of workers between the Government of Malaysia and the Government of the Republic of Bangladesh	2012
10	Bangladesh	Republic of Korea	Memorandum of Understanding between the Ministry of Expatriates' Welfare and Overseas Employment of Bangladesh and the Ministry of Employment and Labor of the Republic of Korea on the sending of workers to the Republic of Korea under the Employment permit system	2012

No.	Origin country	Destination country	Title of bilateral instrument	Year
11	Bangladesh	Iraq	Memorandum of Understanding for Cooperation in the field of Manpower Between Ministry of Labor and Social Affairs of Republic of Iraq And Ministry of Expatriates' Welfare and Overseas Employment of the Peoples of Bangladesh	2013
12	Bangladesh	Saudi Arabia	Agreement on Domestic worker recruitment between the Ministry of Foreign Employment Promotion and Welfare of the People's Republic of Bangladesh and the Ministry of Labour of the Kingdom of Saudi Arabia	2015
13	Bangladesh	Malaysia	Memorandum of Understanding between the Government of Malaysia and the Government of the People's Republic of Bangladesh on the employment of workers 18-2-2016	2016
14	Bolivia	Argentina	Agreement on migration between the Argentine Republic and the Republic of Bolivia	1998
15	Bolivia	Argentina	Additional Protocol to the Migration Agreement between the Republic of Argentina and the Republic of Bolivia	2000
16	Brazil	Portugal	Agreement between the Federative Republic of Brazil and the Portuguese Republic on the reciprocal employment of nationals.	2003
17	Bulgaria	France	Agreement on cooperation in the fields of labour, employment and vocational training.	1994
18	Bulgaria	Germany	Germany Bulgaria Arrangement concerning the employment of workers in order to improve their vocational and linguistic skills (Foreign-workers Agreement).	-
19	China	Qatar	China – Qatar Agreement regulating the Employment of Chinese Workers in the State of Qatar	2008
20	Bulgaria	Australia	-	-
21	Columbia	Spain	Agreement between Spain and Colombia on management and regulation of workers migratory flows.	2001
22	Columbia	Peru	Framework Agreement for Assistance and Cooperation in Immigration Matters between Colombia and Peru	2012
23	Egypt	Italy	Agreement between the Government of the Republic of Italy and the Government of the Arabic Republic of Egypt on cooperation in the field of bilateral migratory flows for labour purposes	2005
24	Egypt	Greece	Egypt-Greece Agreements on the Strengthening the Cooperation in Relation to Employment	1981

No.	Origin country	Destination country	Title of bilateral instrument	Year
25	Fiji	New Zealand	Inter-Agency Understanding between the Ministry of Business, Innovation and Employment of New Zealand, and the Ministry of Employment, Productivity and Industrial Relations of Fiji in support of New Zealand's Recognised Seasonal Employer Immigration Instructions	2014
26	Gambia	Qatar	Agreement regulating the employment of Gambian workers in the state of Qatar	2015
27	Guinea-Bissau	Spain	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Guinea-Bissau	2014
28	India	Denmark	Memorandum of Understanding on Labour mobility partnership between the Republic of India and the Kingdom of Denmark	2009
29	India	United Arab Emirates	Memorandum of Understanding between the Government of the United Arab Emirates and the Government of India	2011
30	India	Saudi Arabia	Agreement on Labour cooperation for Domestic Service workers recruitment between the Ministry of Overseas Indian Affairs of the Republic of India, and Ministry of Labour of the Kingdom of Saudi Arabia	2014
31	Indonesia	Malaysia	Protocol amending the Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia on the recruitment and placement of Indonesian Domestic workers signed at Bali, Indonesia on 13. May 2006	2011
32	Indonesia	Malaysia	Memorandum of Understanding between Government of the Republic of Indonesia represented by Ministry of Manpower and Transmigration and Government of the Hashemite Kingdom of Jordan Represented by the Ministry of Labour on the placement and protection of Indonesian domestic workers	2009
33	Latvia	Germany	Germany-Latvia Agreement concerning the employment of workers to improve their vocational and linguistic skills (Foreign Workers Agreement). Signed at Bonn	-
34	Mali	Spain	Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Mali	2007
35	Mauritania	Spain	Agreement between the Kingdom of Spain and the Islamic Republic of Mauritania on regulation of labour migration flows between the two countries	2007
36	Mexico	Canada	Agreement for the Employment in Canada of Seasonal Agricultural Workers from Mexico	2013

No.	Origin country	Destination country	Title of bilateral instrument	Year
37	Moldova	Italy	Agreement between the Government of Italy and the Government of Moldova in the Field of Labor Migration	2011
38	Morocco	Qatar	Agreement between the Government of the Kingdom of Morocco and the Government of the State of Qatar on the regulation of the employment of Moroccan workers in the State of Qatar	1981
39	Myanmar	Thailand	Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on cooperation in the employment of workers	2003
40	Nepal	Republic of Korea	Memorandum of Understanding between the Ministry of Labor and Transport Management, Government of Nepal and the Ministry of Labor of the Republic of Korea on the Sending of Workers to the Republic of Korea under the Employment Permit System	2007
41	Nepal	Bahrain	Memorandum of Understanding in the areas of Labour and occupational training between the Government of the Nepal and the Government of the Kingdom of Bahrain	2008
42	Nepal	Jordan	General Agreement In the Field of Manpower Between the Government of the Hashemite Kingdom of Jordan and The Government of Nepal	2017
43	Papua New Guinea	New Zealand	Recognised Seasonal Employer Policy Inter-Agency Understanding Papua New Guinea	2013
44	Peru	Argentina	Agreement on migration between the Argentine Republic and the Republic of Peru	1998
45	Peru	Argentina	Additional Protocol to the Convention on Migration between the Argentina Republic and the Republic of Peru	2001
46	Philippines	Canada – Saskatchewan Province	Memorandum of understanding between the Department of Labor and Employment of the Government of the Republic of the Philippines (hereinafter referred to as the "DOLE") and Her Majesty the Queen in the Right of the Province of Saskatchewan as represented by the Minister Responsible for Immigration and the Minister of Advanced Education and Employment (hereinafter referred to as "AEE") concerning cooperation in the Fields of Labour, Employment and Human Resource Development, 2006	2006
47	Philippines	Bahrain	Memorandum of Agreement between the Government of the Republic of the Philippines and the Government of the Kingdom of Bahrain on Health Services Cooperation	2007

No.	Origin country	Destination country	Title of bilateral instrument	Year
48	Philippines	Japan	Memorandum of Understanding (MOU) Between The Philippine Overseas Employment Administration And The Japan International Corporation of Welfare Services On the Deployment and Acceptance of Filipino Candidates for "Kangoshi", Filipino Candidates for "Kaigofukushishi", Filipino "Kangoshi", and Filipino "Kaigofukushishi", 12 January 2009	2001
49	Philippines	Saudi Arabia	Agreement on Domestic worker recruitment between the Ministry of Labor of the Kingdom of Saudi Arabia and the Department of Labor and Employment of the Republic of the Philippines	2013
50	Philippines	Germany	AGREEMENT Concerning the Placement of Filipino Health Professionals in Employment Positions in the Federal Republic of Germany, 19 March 2013	2013
51	Philippines	Canada – Manitoba Province	Memorandum of understanding between the Department of Labor and Employment of the Government of the Republic of the Philippines (the "DOLE") and the Department of Labour and Immigration of the Government of Manitoba, Canada ("LIM") concerning: co-operation in human resource deployment and development	2010
52	Philippines	Lebanon	Memorandum of Understanding on Labor Cooperation between the Government of the Republic of the Philippines Represented by the Department of Labor and Employment and the Government of the Republic of Lebanon Represented by the Ministry of Labor	2012
53	Philippines	Canada – Alberta Province	Memorandum of Understanding between the Department of Labor and Employment of the Republic of the Philippines (Hereinafter referred to as the "DOLE") -and- the Ministry of Employment and Immigration of Alberta (Hereinafter referred to as "E&I") concerning cooperation in human resource deployment and 'development	2008
54	Philippines	Canada – British Columbia Province	Memorandum of understanding between the Department of Labour and Employment of the Government of the Republic of the Philippines (hereinafter referred to as "the "DOLE") and the Ministry of Economic Development of the Government of British Columbia, Canada (hereinafter referred to as "ECDV") concerning co-operation in human resource deployment and development	-
55	Poland	France	Agreement between the Government of the French Republic and the Government of the Republic of Poland on the employment in France of Polish seasonal workers	1992

No.	Origin country	Destination country	Title of bilateral instrument	Year
56	Canada – Quebec Province	France	Agreement between the Government of the French Republic and the Government of Quebec on Occupational Mobility and the Integration of Migrants	2010
57	Romania	Germany	Germany Romania Agreement concerning the employment of workers for the purpose of expanding their vocational and linguistic knowledge (Foreign Labour Agreement).	1992
58	Romania	Spain	Agreement between the Kingdom of Spain and Romania on the regulation and organisation of labour force migratory flows between both States.	2002
59	Samoa	New Zealand	Inter-Agency Understanding between the Department of Labour of New Zealand and the Ministry of Prime Minister and Cabinet of the Independent State of Samoa in support of New Zealand's Recognised Seasonal Employer Work Policy	2007
60	Sri Lanka	Jordan	Memorandum of Understanding between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Hashemite Kingdom of Jordan	2006
61	Vanuatu	New Zealand	Inter-Agency understanding between the Department of Labour of New Zealand and the Ministry of Internal Affairs of the Republic of Vanuatu in support of New Zealand's Recognised Seasonal Employer Work Policy	2009
62	Sri Lanka	United Arab Emirates	Memorandum of Understanding the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Arab Emirates	2007
63	Sri Lanka	Bahrain	Memorandum of Understanding in the areas of Labour and occupational training between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Bahrain	2008
64	Sri Lanka	Qatar	Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Qatar concerning the regulation of Sri Lankan manpower Employment in the State of Qatar	2008
65	Sri Lanka	Bahrain	Memorandum of Understanding in the areas of Labour and occupational training between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Bahrain	2008
66	Sri Lanka	Libya	Memorandum of Understanding in the field of employment between the Democratic Socialist Republic of Sri Lanka and Great Socialist People's Libyan Arab Jamahiriya	2008

No.	Origin country	Destination country	Title of bilateral instrument	Year
67	Sri Lanka	Qatar	Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Qatar concerning the regulation of Sri Lankan manpower Employment in the State of Qatar	2008
68	Sri Lanka	Italy	Agreement on bilateral cooperation on labour migration between the Government of the Italian Republic and the Government of the Democratic Socialist Republic of Sri Lanka.	2011
69	Sri Lanka	Kuwait	Memorandum of Understanding on the field of Labour Recruitment and development of manpower between the Government of Democratic Socialist Republic of Sri Lanka and the Government of the State of Kuwait	2012
70	Sri Lanka	Seychelles	Memorandum of Understanding on education and Training between the Ministry of Education of the Democratic Socialist Republic of Sri Lanka and the Ministry of Education of the Republic of Seychelles	2012
71	Sri Lanka	Saudi Arabia	Agreement on Domestic worker recruitment between the Ministry of Foreign Employment Promotion and Welfare of the Democratic Socialist Republic of Sri Lanka and the Ministry of Labour of the Kingdom of Saudi Arabia	2014
72	Tonga	New Zealand	Inter-Agency understanding between the Department of Labour of New Zealand and the Ministry of Labour, Commerce and Industries of the Kingdom of Tonga in support of New Zealand's Recognised Seasonal Employer Work Policy	2009
73	Tunisia	Qatar	Agreement regulating the employment of Tunisian workers in the State of Qatar	1981
74	Tunisia	Italy	Agreement on Seasonal Work	1999
75	Ukraine	Argentina	Migration Agreement between the Republic of Argentina and Ukraine	1981
76	Ukraine	Portugal	Agreement between the Government of the Republic of Portugal and Ukraine on the Temporary Entry of Ukrainian Citizens for the Performance of Work in Portugal	2003

Note: – = unknown

Appendix II: Table summarizing provisions of Bangladesh model contracts of employment annexed to the MOU with Malaysia (2016) and the BLAs with Saudi Arabia (2015) and Qatar (2008)

Item	Agreement		
	Bangladesh–Malaysia	Bangladesh–Saudi Arabia	Bangladesh–Qatar
1. Duration of contract	To be specified by the employer	2 years	1–2 years
2. Wage	To compile with the minimum wage rates determined by the laws of Malaysia.	In accordance with the regulations prevailing in both countries	Not specified
3. Working hours	8 hrs per day	At least 9 hrs rest per day	8 hrs per day
4. Overtime	In accordance with labour law	Not specified	In accordance with labour law
5. Rest day	1 day per week	1 day per week	1 day (Friday) per week
6. Public holidays	As per labour law	Not specified	Specified 10 days per year
7. Annual leave	As per labour law	30 days at the end of contract of two years	Not less than two weeks
8. Levy	As per gov't directives	Not applicable	Not applicable
9. Social security	Insurance coverage under Foreign Workers Compensation Scheme, and if applicable, Foreign Workers Health Insurance Scheme	As per laws and regulations of Saudi Arabia	Employer to provide medical treatment free of charge to the worker. Employer to ensure employee shall receive payable indemnity for labour accidents, disability, or death in accordance with labour law
10. Deductions	Not more than 50% of wages in a month in the event of any monetary advance	Not applicable	10% of the wages per month, in the event of a monetary advance
11. Accommodation.	Employer to provide	Employer to provide suitable sanitary living quarters	Employer to supply Free single accommodation.
12. Sick leave	As per labour law	To be allowed to rest	Under the provisions of labour law

Item	Agreement	
	Bangladesh–Malaysia	Bangladesh–Saudi Arabia
13. Air passage	Employer to provide air ticket to joining the job and on completion of contract to return home	Employer to provide air ticket to join the job and on completion of contract to return home. In the event of extension of contract , a round trip air ticket to be provided by employer.
14. Termination	Employer may terminate the contract by giving 2 months' notice. Employee also has the right to terminate the contract by giving 2 months' notice	Employer may terminate the contract by giving 30 days written advance notice. Employee may terminate the contract by giving 60 days written advance notice.
15. Extension	Extension on mutual agreement of worker and employer	Extension on mutual consent
16. Custody of travel document	Employer must not keep the passport of the worker.	Passport and work permit to be possessed by the worker
17. Complaint settlement	Not specified	To resolve complaints amicably through Labour Office, and failure to refer appropriate authorities.
18. Wage protection	Monthly wages to be made through bank account of worker, not later than seventh day of the following month	To deposit at a bank account of worker at the end of every month.
19. Language	Copies in English, Malay, and Bangla equally authentic. In case of dispute, English copy prevails.	Copies in English, Malay, and Bangla, equally authentic. In case of dispute, English copy prevails.
20. Official attestation	Not specified	Not specified
21. Special terms	Restrictions specified	Freedom of communication with embassy/ back in family
		Contract to be ratified by competent authorities of two countries
		Advance payment by employer before departure, subject to recovery by instalment

Source: compiled by L.K. Ruhunage

Appendix III: Table of India's social security agreements with other countries

No.	Country	Agreement title	Year
1	Australia	Agreement between the Republic of India and Australia on social security	2016
2	Austria	Agreement between the Republic of India and the Republic of Austria on social security	2013
3	Belgium	Social Security Agreement Between the Republic of India and the Kingdom of Belgium	2006
4	Brazil	Agreement between the Republic of India and the Federal Republic of Brazil on social security	2017
5	Canada	Agreement between the Republic of India and Canada on social security	2012
6	Czech Republic	Agreement on social security between the Republic of India and the Check Republic	2016
7	Denmark	Agreement on social security between the Republic of India and thee Kingdom of Denmark	2011
8	Finland	Agreement on social security between the Republic of India and the Republic of Finland	2012
9	France	Social Security Agreement between the republic of India and the French Republic	2008
10	Germany	Social Security Agreement between the Republic of India and the Federal Republic of Germany on social insurance (for posted workers only)	2008
11	Germany	Social Security Agreement between the Republic of India and the Federal Republic of Germany (comprehensive social security agreement)	2011
12	Hungary	Agreement on social security between the Republic of India and the Republic of Hungary	2013
13	Luxembourg	Agreement on social security between the Grand Duchy of Luxembourg and Republic of India	2009
14	Netherlands	Agreement on social security between the Republic of India and the Kingdom of the Netherlands	2008
15	Norway	Agreement on social security between the Republic of India and he Kingdom of Norway	2010
16	Norway	Agreement on social security between the Republic of India and the Kingdom of Norway	2015
17	Switzerland	Agreement on social security between the Republic of India and the Swiss Confederation	2009
18	Republic of Korea	Agreement on social security between the Republic of India and the Republic of Korea	2011

Appendix IV: Table of the Philippines' social security agreements with other countries

No.	Country	Agreement title	Year
1	Austria	Convention between the Republic of Austria and the Republic of Philippines in the field of social security	1980
2	Austria	Agreement for the implementation of the Convention between the Republic of Philippines and the Republic of Austria in the field of social security	1980
3	Austria	Supplementary Convention amending the Convention between the Republic of Austria and the Republic of Philippines in social security	2000
4	Belgium	Joint Declaration on social security – Republic of Philippines and the Kingdom of Belgium	2002
5	Canada	Supplementary Agreement to the Agreement on social security between Canada and the Republic of Philippines	1999
6	Canada	Supplementary Agreement to the Agreement on social security between the Republic of Philippines and Canada	1999
7	France	Convention on Social Security between the French Republic and the Republic of Philippines	1990
8	Israel	Agreement on social security between the Government of the Republic of Philippines and the Government of the State of Israel	2009
9	Luxemburg	Social Security Convention Entered Into Between the Republic Of Philippines and the Grand Duchy Of Luxemburg*	2015
10	Netherlands	Agreement between the Kingdom of the Netherland and the Republic of Philippines on the transfer of social insurance benefits	2001
11	Northern Ireland	Convention on social security between the Government of the Republic of Philippines and the United Kingdom and Northern Ireland	1985
12	Norway	Agreement for voluntary coverage under the Social Security Law, Medicare Act, and Employees' Compensation to Filipino employees of the Royal Norwegian Embassy	1989
13	Quebec	Understanding on social security between the Republic of Philippines and Quebec	1996
14	Quebec	Agreement entered into on social security by the Government of Quebec and the Government of the Republic of Philippines	2000
15	Republic of Korea	Agreement on social security between the Government of the Republic of Philippines and the Government of the Republic of Korea	2016
16	Spain	Social Security Agreement between the Republic of Philippines and Spain	1988
17	Switzerland	Social Security Agreement entered into between the Swiss Confederation and the Republic of Philippines*	2001
18	United Kingdom	Social Security Agreement between the United Kingdom and the Republic of Philippines	1989

Appendix V: Chapter on migration and development from the Agreement on cooperation in the field of immigration between the Republic of Mali and the Kingdom of Spain, 2007

Chapter V

Migration and development

Article 7.

1. Conscious that the migration phenomenon is related, among other factors, to the lack of socio-economic expectations in the areas of origin, Spain and Spanish society will make efforts to contribute to the development of Mali, using bilateral and multilateral mechanisms to provision of the Contracting Parties, and encouraging the activities of the diasporas, in line with what is foreseen in the Master Plan of Spanish Cooperation.
2. Within the general framework of poverty reduction, Spain will support Mali's strategies aimed at increasing the economic capacities of the most vulnerable populations, including, in particular, rooting 'aimed at generating employment and creating the right living conditions in the most impoverished areas.
3. Spain will especially support the implementation of migratory public policies to carry out an orderly and cooperative management of migratory flows. To this end, the Contracting Parties will resolutely support actions related to the strengthening of Mali's institutional capacities for the design and implementation of these public migration policies and associated migration services, which should cover in particular the following areas:
 - (a) comprehensive migration management, through policies, programs and legal rules that are consistent with each other, to improve the management of migratory flows and to ensure the protection of the rights of migrants;
 - (b) information and counselling services on legal migration channels and irregular road risks and, in particular, on the characteristics of the country of destination as regards the legal framework of immigration and emigration, the needs of the labour market, and living conditions and work in it;
 - (c) Observatories of emigration, to study their trends and impact in their regions of origin;
 - (d) adequate recruitment and training at source, such as occupational training for job placement and training in the language of the host country;
 - (e) services for the protection and integration of emigrants in transit and destination countries, as well as support for families in countries of origin;
 - (f) mechanisms for the establishment of appropriate frameworks in the national economic fabric, facilitating the reception of remittances and encouraging the creation of savings and credit institutions, including microcredits.
4. Within the framework of public policies aimed at the actions of the diaspora, Spain and Mali will promote, inter alia, the following actions:
 - a) Articulation of the diaspora resident in Spain, facilitating their link with the communities of origin, and supporting their capacity to develop productive and social development initiatives in Mali.
 - b) Actions aimed at the training of immigrants as agents of development in their regions of origin, supporting entrepreneurship and the potential of circular and temporary migration in these areas.
 - c) Actions aimed at improving the impact of remittances on the development of the communities to which they are directed. With the latter aim, the Contracting Parties undertake to cooperate with the financial institutions of the two countries in order to reduce transaction costs and to adapt the financial system to the reception and productive investment of remittances through promotion of popular savings and credit entities that can provide their services in an accessible manner, both geographically and economically.

Source: *Framework agreement of cooperation on immigration between the Kingdom of Spain and the Republic of Mali, 2007 (unofficial web translation of Spanish text).*



ILO Country Office for Bangladesh
2nd floor, Block-F, Plot 17/B&C
Sher-E-Bangla Nagar, Administrative Zone
Dhaka- 1207, Bangladesh

Published by the International Labour Organization with financial assistance from the Swiss Agency for Development and Cooperation under the “Application of Migration Policy for Decent Work of Migrant Workers” project.