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Protection of Migrant Workers: A Comparative Analysis of Legal Frameworks and Regulatory Enforcement in Bangladesh, the Philippines, and Vietnam

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ABSTRACT

Foreign remittance coming from migrant workers each year is contributing significantly to the national economy in Bangladesh. However, migrant workers suffer from exploitation, recruitment fraud, and systemic neglect due to structural weaknesses and enforcement mechanisms in the legal frameworks. The objective of this study is to identify the regulatory gaps, examine the reasons behind persistent enforcement failures in Bangladesh and figure a way out. In doing so, this study explores structural solutions using a comparative study of the legal frameworks of Bangladesh, the Philippines and Vietnam. This study follows a doctrinal and functional comparative methodology in evaluating the statutory laws, regulatory rules, and institutional practices of the three jurisdictions. The methodology focuses on how legal mechanisms function in practice rather than merely summarizing their textual provisions. Findings show that the lack of regulation regarding informal intermediaries (*dalals*), the absence of mandatory private financial guarantees, and non-binding grievance redress systems are the major enforcement gaps in Bangladesh. In contrast, the Philippines enforces strict joint and several liability and mandatory commercial insurance. Vietnam ensures structural corporate escrow deposits and strict contractual verification. The study suggests transferable reforms for Bangladesh including the formal digitization of sub-agents, the introduction of mandatory commercial insurance, escrow security accounts, and speedy labor migration tribunals in order to ensure better enforcement mechanism.

KEYWORDS: Migrant workers, Labour Rights, Employment, Legal framework, Regulatory enforcement

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1. **INTRODUCTION:**

Overseas employment serves as a primary engine of macroeconomic stability, foreign exchange reserves, as well as poverty reduction for developing countries like Bangladesh. However, systemic operational risks, including recruitment fraud, deceptive practices, excessive fees, contract substitution, and wage theft, are prevalent in the international labour recruitment pipeline. Furthermore, prospective low-skilled migrants are often plunged into severe debt bondage before departure due to the involvement of multi-tiered, unregulated intermediaries.

The International Labour Organisation (ILO) emphasises that workers ought not to bear any recruitment fees or related costs, positioning fair recruitment as an indispensable part of human rights protection by acknowledging the above mentioned constant vulnerabilities.[1] Due to the prevalence of deceptive job proposals, hefty migration costs, and informal rural sub-agents (*dalals*) a huge number of prospective workers fight to secure foreign employment through formal channels in Bangladesh. These sub-agents conduct verbal negotiations and collect cash payments but do not issue official receipts or written agreements and operate outside formal regulatory oversight. Therefore, the workers returning on account of any fraud or breach of contract abroad are left without documented evidence, preventing them from establishing agency liability or securing legal remedies.[2] High recruitment costs and malpractices persist in Bangladesh as per the recent ILO assessments which underscore an urgent need for the strict enforcement of fair recruitment principles.[3]

Bangladesh's legal regime, the Overseas Employment and Migrants Act, 2013 (OEMA 2013), the Overseas Employment Migration Management Rules 2025, the following legislative amendments address these vulnerabilities.[4] This statutory architecture establishes processes for

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[1] International Labour Organisation (ILO), *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs* (ILO 2019) 8-12.

[2] Kamran Siddiqui, 'Deceived Overseas Fortune Seekers Face Hurdle to Get Remedies' *The Business Standard* (Dhaka, 14 January 2024) <https://www.tbsnews.net/bangladesh/migration/deceived-overseas-fortune-seekers-face-hurdle-get-remedies-774514> accessed 18 June 2026; see also Tasneem Siddiqui, *International Labour Migration from Bangladesh: A Decent Work Perspective* (Working Paper No 66, ILO Policy Integration Department 2005) 18.

[3] ILO, 'Migrant Worker Recruitment Malpractices Persist in Bangladesh as Government Strives for Fairness, Accountability' (ILO News, 28 September 2025) <https://www.ilo.org/resource/news/migrant-worker-recruitment-malpractices-persist-bangladesh-government> accessed 18 June 2026.

[4] Overseas Employment and Migrants Act 2013 (Act No XLVIII of 2013) (Bangladesh), ss 19, 31-37; see also Overseas Employment and Migrants (Amendment) Act 2023 (Bangladesh) (amending Act No XLVIII of 2013 to recognise recruitment of sub-agents); Sub-Agent Registration and Conduct Rules 2025 and Amendment Rules 2026 (Bangladesh)).

agency licensing, migration clearances, and administrative dispute resolution. However, the existence of these rights on paper raises a critical question: are these legal securities functionally enforceable if infringements take place?

A constant enforcement gap is severely exhibited between law and reality in recruitment practice. Rural job seekers depend almost exclusively on informal sub-agents (*dalals*). Informal recruitment inherently lacks strict paper trails, leveraging contract substitution or job failure. Against this vice, the non-binding administrative mediation under Section 41 of OEMA 2013 fails to provide swift financial recovery, as an administrative measure.[5]

This research examines the comparative legal regimes of two peer labour-sending Asian nations, the Philippines and Vietnam. These two countries historically faced similar recruitment challenges but established proactive, market-backed statutory devices to evaluate how Bangladesh can overcome this structural failure.

The Philippines introduced specialised institution-building, culminating in the establishment of the Department of Migrant Workers (DMW) to tackle the prevalent illegal recruitment and contract substitution.[6] Section 6 of Republic Act No. 8042 criminalises illegal recruitment, fee overcharging, and unauthorised contract substitution as an offence amounting to economic sabotage.[7]Moreover, Republic Act No. 10022 introduced Section 37-A, mandating agency-paid obligatory commercial insurance along with fast-track dispute adjudication by the National Labor Relations Commission (NLRC) to guarantee financial recovery without prolonged court trials.[8]

On the contrary, Vietnam introduced Law on Vietnamese Workers Working Abroad under

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[5] Overseas Employment and Migrants Act 2013 (Bangladesh), s 41; Siddiqui, 'Deceived Overseas Fortune Seekers' (n 4); MB Mubde and A Karim, *The Hidden Costs of Migration: Evaluating the Bangladesh-Malaysia Corridor* (Winrock International and JDR3 2022) 3; Sanjana Prachee Rahman, 'From "Act" to "Action": Protecting Migrant Workers Through the Overseas Employment and Migrants Act' *The Business Standard* (Dhaka, 23 September 2023) <https://www.tbsnews.net/features/panorama/act-action-protecting-migrant-workers-through-overseas-employment-and-migrants-act> accessed 18 June 2026.

[6] Department of Migrant Workers Act 2021, Republic Act No 11641 (Philippines), ss 2, 6.

[7] Migrant Workers and Overseas Filipinos Act 1995, Republic Act No 8042 (Philippines), s 6.

[8] Republic Act No 10022 (2010) (Philippines) (amending RA 8042 to mandate agency-paid compulsory insurance under Section 37-A); Graziano Battistella and Maruja MB Asis, *Protecting Filipino Transnational Domestic Workers: Government Regulations and Their Outcomes* (Philippine Institute for Development Studies Discussion Paper Series No 2011-12, 2011).

Contract 2020 (Law No 69/2020/QH14) to tackle informal broker fees alongside agency defaults. The law requires the pre-registration of state-approved master Labour Supply Contracts, by which it expressly proscribes unaccredited local sub-agents and reduces contract substitution.[9] Moreover, the service enterprises are to maintain liquidatable corporate bank escrow accounts so that the state can draw upon them directly to provide damages to the defrauded workers immediately under Articles 24 and 25.[10]

The Philippines and Vietnam were selected for making a comparative study because of structural, socioeconomic, and functional grounds. These states are the major labor-exporting states in Asia which provide primarily low-skilled labor with overlapping destinations like the Middle East and East Asia. The objective of this comparison is to evaluate how specific statutory rules perform functionally to protect workers and identify the best practices.

To fulfil the objective of this research this study addresses three principal research questions: i) To what extent do the legal frameworks of Bangladesh, the Philippines, and Vietnam protect migrant workers from recruitment exploitation? ii) What significant enforcement gaps persist in Bangladesh and the reasons behind ? iii) Do the regulatory and institutional mechanisms in the Philippines and Vietnam provide any viable legal lessons for Bangladesh?

The recruitment crisis in Bangladesh requires transforming the traditional system toward proactive statutory mechanisms. Examining the peer mechanisms is a prudent way of contextualizing a viable roadmap to bridge the gap between formal legal rules and functional protection for Bangladeshi migrant workers.

2. LITERATURE REVIEW

The literature on labour migration from Bangladesh has examined migrant workers from a number of economic, social, and labour-rights perspectives. However, comparatively less attention has been given to a functional comparative analysis of the legal mechanisms through which countries of origin regulate recruitment.

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[9] Law on Vietnamese Workers Working Abroad under Contract 2020 (Law No 69/2020/QH14) (Vietnam), arts 7(5), (7), (8), (9), 17(3)(a), 19-20, 21(2), 22, 23, 26(2)(c); ILO, *Assessment of the Legal Framework Governing Labour Migration in Viet Nam* (ILO Country Office for Viet Nam 2018) 15-19.
[9] Law No 69/2020/QH14 (Vietnam), arts 24-25.
[10] ibid.

2.1 Labour Migration, Remittances, and Development in Bangladesh

Siddiqui's foundational study examines the development of short-term international labour migration from Bangladesh from a decent-work perspective, identifying the tension between the economic benefits of migration and the protection of labour rights.[11] The study is particularly relevant because it approaches migration from a decent-work perspective . Nath and Khawaja, [12] as well as Liton and others,[13] explore the relationship between overseas employment and remittance inflows, demonstrating the economic significance of migration. Islam examines migration within the context of the Overseas Employment Policy.[14] These studies establish the economic importance of overseas employment and provide an important background for understanding why migrant-worker protection is significant for Bangladesh. Chowdhury and Chakraborty highlight the impact of external shocks, such as COVID-19, on migrant vulnerability.[15] Karim similarly examines the relationship between overseas employment and the Sustainable Development Goals.[16] While these studies establish the economic importance of overseas employment, their primary emphasis rests on development rather than a systematic comparative assessment of legal protection mechanisms.

2.2 Recruitment Practices and Vulnerability of Bangladeshi Migrant Workers

A second body of literature focuses directly on the recruitment process. Abrar and Billah outline the structural challenges of labour recruitment in Bangladesh.[17] The specific problem of informal intermediaries is addressed by Siddiqui and Abrar in their work on dalals, arguing for greater transparency in recruitment.[18] This scholarship is rigorous since it acknowledges that the official appointment procedure cannot be intelligible without examining the unauthorized

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[11] Tasneem Siddiqui, *International Labour Migration from Bangladesh* (n 4).
[12] Hiranya K Nath and A Mamun Khawaja, 'Workers' Migration and Remittances in Bangladesh' (2010) 27(1) Journal of Business Strategies 29.
[13] Muhammad Rabiul Islam Liton and others, 'Overseas Employment and Remittance: Exploring the Nexus in the Context of Bangladesh' (2017) 17(1) Global Journal of Management and Business Research 24.
[14] Md Nurul Islam, *Migration from Bangladesh and the Overseas Employment Policy* (Bureau of Manpower, Employment and Training 2010).
[15] Mamta B Chowdhury and Minakshi Chakraborty, 'The Impact of COVID-19 on the Migrant Workers and Remittances Flow to Bangladesh' (2021) 28(1) South Asian Survey 38.
[16] Mohammad Rezaul Karim, 'Interplay of Overseas Employment of Bangladesh and Sustainable Development Goals: An Introspective Analysis' (2021) 29(2) Bangladesh Journal of Public Administration 260.
[17] CR Abrar and M Motasim Billah, 'Challenges of Labour Recruitment for Overseas Employment: The Bangladesh Experience' in S Irudaya Rajan (ed), *South Asia Migration Report 2017: Recruitment, Remittances and Reintegration* (Routledge 2016) 165.
[18] Tasneem Siddiqui and CR Abrar, *Making Dalals Visible: Towards Transparency in Recruitment* (RMMRU 2019).

actors working outside of it.

Farbenblum contends that migrant-worker work appointment need more than official regulation, offering a governance framework accommodating enforceable legal rights, actual implementing institutions, as well as meaningful involvement on the basis of a broader rights-based backdrop.[19] Recently, this is further validated by the ILO reports which demonstrate that recruitment fees and associated costs works as a major impediment to migrant-worker protection universally as well as in Bangladesh specifically.[20]

2.3 Legal and Institutional Protection of Migrant Workers

The existing literature shows that legal safeguards rely on both legislation and enforcement as well as their interaction. The Philippine framework provides an example of a highly specialized institutional approach under the Migrant Workers and Overseas Filipinos Act of 1995.[21] In Vietnam, the revision of the Law on Vietnamese Workers Working Abroad under Contract 2020 (Law No 69/2020/QH14) sought to strengthen fair recruitment.[22] However, recent scholarship by Nguyen cautions that Vietnam's framework is not free from implementation difficulties, identifying ongoing challenges in regulating intermediaries in the Vietnam-Japan migration corridor.[23] Bangladesh has enacted the Overseas Employment and Migrants Act 2013 and subsequent rules to regulate overseas employment. The existing literature, however, indicates that the presence of legal regulation does not necessarily eliminate recruitment fraud and exploitation.

The Philippine framework provides an important comparative reference in this regard. The Migrant Workers and Overseas Filipinos Act of 1995 established a policy of protecting the rights and welfare of Filipino migrant workers and created mechanisms for regulating recruitment.[24] The Philippine framework also developed specialised institutional arrangements, leading to the creation of the Department of Migrant Workers (DMW). The Philippine legal

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[19] Bassina Farbenblum, 'Governance of Migrant Worker Recruitment: A Rights-Based Framework for Countries of Origin' (2017) 7(1) Asian Journal of International Law 152.

[20] ILO, *Global Study on Recruitment Fees and Related Costs* (2nd edn, ILO 2024).

[21] Migrant Workers and Overseas Filipinos Act 1995, Republic Act No 8042 (Philippines).

[22] ILO, *Revision of the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14* (UN Migration Network 2021).

[23] Thu Thuy Nguyen, 'Governance of Low-Skilled Labour Migration: Rethinking the Potential of Private International Law for the Promotion of Decent Work for Migrant Workers' (2025) 21(3) Journal of Private International Law 471.

[24] Migrant Workers and Overseas Filipinos Act 1995, Republic Act No 8042 (Philippines).

framework therefore provides an example of a more specialised institutional approach to overseas employment governance.

The literature and legal materials concerning Vietnam provide another useful comparative perspective. Vietnam's Law on Vietnamese Workers Working Abroad under Contract 2020 (Law No 69/2020/QH14) replaced its earlier 2006 framework and introduced a revised legal structure concerning deployment enterprises, contracts, financial obligations, and support mechanisms.[25] The ILO's assessment indicates that the development of the 2020 law sought to fundamentally strengthen rights-based labour migration governance and fair recruitment.[26]

Recent scholarship also suggests that Vietnam's framework should not be viewed as free from implementation difficulties. Recent comparative work by Nguyen on low-skilled labour migration between Vietnam and Japan highlights continuing difficulties in regulating intermediaries and employers throughout the migration process.[27] These studies are relevant because they caution against treating the existence of a detailed statutory framework as equivalent to effective protection in practice.

2.4 From Descriptive Legal Comparison to Functional Analysis

The literature reviewed above provides substantial information about the economic importance of migration, recruitment problems, and the legal frameworks of individual countries. However, the existing scholarship tends to examine these issues separately. Studies concerning Bangladesh primarily focus on migration trends, remittances, and *dalals*, while comparative legal materials concerning the Philippines and Vietnam generally focus on their respective domestic regulatory structures.

The present research hence addresses the literature from a separate perspective. It not only asks whether the statutory provisions of Bangladesh, the Philippines, and Vietnam are similar, but also what *legal function* specific mechanisms perform. Moreover, it enquires about the achievement of those functions. For instance, recruitment licensing may work as a device of accountability; traceability mechanisms may depend on the regulation of intermediaries;

[25] Law on Vietnamese Workers Working Abroad under Contract 2020 (Law No 69/2020/QH14) (Vietnam).
[26] ILO, *Revision of the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14* (n 24).
[27] Nguyen (n 25).

criminal punishments may work as deterrence; financial guarantees may amount to a mechanism for compliance as well as compensation; besides, foreign labour institutions can function as a device for assistance plus grievance redress.

Albeit statutory provisions of these countries are similar, they procure separate levels of protection in praxis and hence this functional perspective is pivotal. By contrast, a similar protective function may be performed by different legal mechanisms. Therefore a comparative analysis must examine both the law and practice i.e. institutional arrangement, mechanisms for enforcement, as well as practical conditions under which the law operates.

2.5 Research Gap

Three different salient gaps are found in the existing literature. The first one is based on the single, functional analytical framework of Bangladesh, the Philippines, and Vietnam, little comparative legal research has been done indicating a geographical gap. Second, there is an analytical gap: existing studies often describe statutory provisions without evaluating why the existence of statutory safeguards fails to result in effective protection. Third, there is a transferability gap: there is insufficient analysis of which foreign mechanisms could realistically be adapted to Bangladesh given its unique socio-economic context. This study seeks to address these gaps.

This study seeks to address these gaps by undertaking a doctrinal and functional comparative analysis of Bangladesh, the Philippines and Vietnam. It reorganizes the comparison around four functional themes: (i) regulation and accountability of recruitment agencies and intermediaries; (ii) enforcement mechanisms, illegal recruitment and penal sanctions; (iii) financial security, welfare and compensation; and (iv) contractual protection, grievance redress and overseas assistance. The study then examines why statutory protection in Bangladesh does not always translate into effective protection and identifies selected mechanisms from the Philippines and Vietnam that may be adapted to Bangladesh.

The study is not showcasing which country's law is better than the others. It strives to demonstrate why a specific legal mechanism functions and what the implementation challenges are, if any. By sorting this out this study attempt to explore the best practices that should be adopted to make migrant worker protection stronger in Bangladesh. To do this research shifts from a descriptive comparison of legal provisions to a functional and reform oriented

comparative analysis.

3. METHODOLOGY

The methodology employed in this research is doctrinal and comparative. The doctrinal portion analyses pertinent laws, rules, regulations, as well as institutional processes governing overseas employment. The initial legal materials encompass the Overseas Employment and Migrants Act 2013 of Bangladesh, Republic Act No 8042 and its amendments of the Philippine legal framework, and Vietnam's Law No 69/2020/QH14.

Instead of applying a mere textual comparison of statutory provisions, the study applies a functional comparative approach. It evaluates how legal mechanisms work to safeguard migrant workers as well as how their success is impacted by their respective institutional contexts.

The comparison is framed around four functional themes: (i) recruitment agencies and intermediaries' regulation and accountability; (ii) enforcement processes, illegal recruitment, as well as penal sanctions; (iii) financial safeguards, welfare, along with compensation; and (iv) contractual safeguards, redressal of grievances, and overseas assistance. The research then determines regulatory weaknesses along with comparative strengths to suggest sustainable reforms for Bangladesh.

4. COMPARATIVE FRAMEWORK

A. Regulation & Accountability of Recruitment Agencies and Middlemen

Bangladesh

The Overseas Employment and Migrants Act 2013 (OEMA 2013) primarily governs migration intermediaries in Bangladesh.[28] This law is supplemented by the Overseas Employment and Migrant Workers (Recruiting Agent's Licence and Conduct) Rules 2025[29]. It is required to obtain a formal license from the government fulfilling the terms and conditions mentioned

[28] Overseas Employment and Migrants Act 2013 (Bangladesh), preamble & ch iii.

[29] Overseas Employment and Migrants (Recruiting Agent License and Sub-Agent Registration and Conduct) Rules 2025 (Bangladesh), SRO No 23-Law/2025 (Bangladesh Gazette Extra, 14 January 2025).

there, provide financial solvency confirmation, and deposit a mandatory security amount of BDT 35,00,000 to operate private recruitment agencies.[30] Recruiting agents and their authorized representatives have to bear shared responsibility as per the Rules of 2025.[31] The continued operation of informal sub-agents (*dalals*) outside the purview of the 2013 Act and 2023 Amendment Act remains a critical regulatory challenge, albeit the statutory framework now formally recognises intermediaries. In practice, most of the licensed agencies rely heavily on an unregulated, informal network of rural middlemen to recruit workers and collect fees without issuing official receipts while operating not in their central urban based hubs.[32] Unfortunately the Overseas Employment and Migrants Act 2013 and 2023 Amendment Act do not mandate a comprehensive registration or tracking system for the informal sub-agents (those who work without being officially appointed as sub-agents). This results in a legal void. When any fraudulent activities happen to the migrant workers by the action of these informal middlemen , the recruiting agencies have a tendency to try to avoid the responsibility.[33] In these situations the prospective workers have little to no scope of seeking administrative remedies .

Philippines

The Philippine regulatory framework addresses recruitment accountability in a unique way. It ensures strict corporate ownership and comprehensive liability. Governed originally by the Labor Code of the Philippines and modernized under Republic Act No 8042 (as amended by RA 10022 and RA 11641)[34], the system limits recruitment licensing exclusively to Filipino citizens or corporate entities with at least 75% Filipino ownership.[35] Travel agencies and airline sales entities are explicitly barred from engaging in recruitment.[36]

To enforce corporate accountability and eliminate middleman evasion, Philippine law establishes the doctrine of joint and several liability. The licensed private recruitment agency

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[30] Overseas Employment and Migrants Act 2013 (Bangladesh), ss 10-12; Rules 2025 (n 31), r 3 and sch 1; Recruiting Agent License and Sub-Agent Registration and Conduct (Amendment) Rules 2025 (Bangladesh), SRO No 04-Law/2026 (Bangladesh Gazette Extra, 2026), r 3.

[31] ibid r 2.

[32] ILO, *Promoting Fair Recruitment Practices in Bangladesh: Analysis of the Legal and Regulatory Framework Governing Recruitment Sub-Agents* (ILO Country Office for Bangladesh 2020).

[33] ibid.

[34] Republic Act No 8042 (Philippines), as amended by Republic Act No 10022 and Republic Act No 11641.

[35] Labor Code of the Philippines (Presidential Decree No 442, as amended), art 27.

[36] ibid art 26.

is held jointly and severally liable with the foreign employer for any claims, wage theft, or violations arising from the contract.[37] The placement of fees and substantial capital reserves to ensure financial recovery for aggrieved workers is a strict requirement of the laws of the Philippines.[38]

Vietnam

In Vietnam, provisions relating to direct state supervision, stringent capitalization, and statutory worker-guarantee mechanisms are available to ensure accountability.[39] Besides ensuring accountability there is also a requirement for licensing. Licensing is now issued by the Ministry of Home Affairs (MOHA), into which MOLISA was merged on 1 March 2025, through its Department of Overseas Labour (DOLAB).[40] Licensed enterprises must provide specialized training before departure and they need to ensure money deposit in a bank account with limited access and transactions.[41] This training can help with capacity building and increase confidence in potential workers.

The legal inclusion of state owned non-profit organizations with commercial enterprises in the Vietnamese system is quite unique.[42] Vietnamese law utilizes a mandatory deposit and guarantor mechanism that requires licensed agencies to maintain direct physical orientation infrastructure.[43] Through this the system can bypass reliance on informal brokers which ensures a strong grip by the government on governance.

Critical Comparative Analysis and Reform Pathways

The Philippines and Vietnam maintain direct legal control over recruitment intermediaries. On

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[37] Republic Act No 8042 (Philippines), s 10; *ATCI Overseas Corporation v Echin* GR No 178551 (SC Philippines, 11 October 2010).

[38] Republic Act No 8042 (Philippines), ss 6(a), 10, 37-A; Labor Code of the Philippines, arts 28, 31-32.

[39] Law No 69/2020/QH14 (Vietnam), arts 8(1), 10(1)(a), (b), 12(2), 16(2), (3), 20(1), 24-25, 55-59, 66-71.

[40] ibid arts 7(5), 8(1), 10(1), 11, 12(2), 70(2); see also art 9. Before 1 March 2025, the Ministry of Labour, Invalids and Social Affairs (MOLISA) administered licensing via DOLAB (Decision No 398/QD-BLDTBXH). From 1 March 2025, Vietnam's Ministry of Labour, Invalids and Social Affairs (MOLISA) was merged with the Ministry of Home Affairs (MOHA), with the resulting ministry retaining the name Ministry of Home Affairs. Decree No 25/2025/ND-CP took effect on that date and transferred responsibility for labour and Vietnamese workers abroad to MOHA and following institutional restructuring, this regulatory authority was transferred to the Ministry of Home Affairs (MOHA) under Decision No 119/QD-BNV, with DOLAB retaining its administrative function.

[41] ibid arts 9(4), 10(1)(b),10(1)(dd), 24(1), 25(2), 26(2)(d).

[42] ibid arts 2(3), 5(1), 42-43, 49, 72.

[43] ibid arts 10(1)(b), (d), 10(1)(dd), 17(2)(d), 24-25, 55, 56, 58, 59, 65.

the other hand the legal architecture of Bangladesh exhibits a structural enforcement disconnection. Bangladesh imposes licensing conditions on main agencies. Unfortunately this structural way fails to actively monitor the rural supply chain where recruitment actually occurs. By holding the urban agency fully liable in the Philippines for all pee-departure representations via joint and several liability, middleman frauds are neutralized.[44] Vietnam bypasses broker dependency by requiring agencies to maintain direct orientation infrastructure and financial guarantees.

B. Enforcement Mechanisms and Penal Sanctions

Bangladesh

The Overseas Employment and Migrants Act 2013 establishes its own enforcement mechanism applicable to Bangladesh. The mechanism is structurally constrained. It treats most recruitment offenses as statutory misdemeanors subject to summary trials. The Act penalizes unlawful recruitment, unauthorized advertising, or unlawful means of document collection, recruitment activities after cancellation of license, illegal recruiting branch office running and working as unregistered sub-agents which may amount from 1 to 7 years of imprisonment and fines ranging between BDT 50,000 to 5,00,000.[45] The maximum penalty under the enactment is for the *actus reus* of arranging departures through unauthorized ports which may amount to 10 years of rigorous imprisonment and minimum fine of BDT 5,00,000.[46] Section 40 authorises the incorporation of the sections 32, 33A, 35, 35A into the schedule of the Mobile Courts Act 2009 which would ensure prompt action by Executive Magistrates.[47] Unfortunately the terminology 'illegal recruitment of several migrant workers' was not defined or described as an economic sabotage. Fraud complaints are processed through ordinary criminal courts or executive mobile courts in the absence of provisions for special evidentiary rules or speedy tribunals. This framework is thus not in the capacity to order comprehensive restitution. Unlicensed middleman networks may as a result operate with relative impunity as ordinary criminal prosecutions are rarely completed within the statutory time frame. This results in a never to delayed justice to the potential remittance sending migrant workers.

[44] Republic Act No 8042 (Philippines), ss 6, 10.; Labor Code of the Philippines, art 29.
[45] Overseas Employment and Migrants Act 2013 (Bangladesh), ss 31-35A.
[46] ibid s 34.
[47] ibid s 40; Mobile Courts Act 2009 (Act No 59 of 2009) (Bangladesh).

Philippines

The Philippines enforces labor migration regulations through Republic Act 8042 which tries to establish a comparatively strict anti-illegal recruitment regime. Section 6 of the Act broadly defines illegal recruitment as any recruitment or fee collection activity conducted by non-licensees, as well as specific prohibited acts committed by licensed agencies.[48]

Philippine law regards severe recruitment fraud as the category of Economic Sabotage which is quite unique. As per the law any illegal recruitment committed by a syndicate (three or more persons collaborating) or on a large scale (committed against three or more persons) constitutes economic sabotage.[49] Under the Act, simple illegal recruitment may amount to imprisonment of 12 to 20 years while illegal recruitment constituting economic sabotage carries non-bailable life imprisonment and heavy fines.[50]

Vietnam

Vietnam has strict regulatory enforcement through an administrative compliance framework backed by state-monitored licensing conditions. The Law on Vietnamese Workers Working Abroad under Contract 2020 (Law No 69/2020/QH14) under article 7 explicitly prohibits unlicensed operations, license-lending, and the charging of unauthorized broker fees.[51]

Regular judicial trials are available in the legal framework. However the legal enforcement system mostly emphasizes immediate administrative revocation, monetary sanctions, and asset liquidation. If any type of engagement in deceitful recruitment is found by any enterprise then the scope of immediate license revocation by MOLISA which is now MOHA is available.[52] In case of severe non compliance by the agencies, provisions for the compulsory liquidation of bank deposits are available in order to direct reimbursement to victimized workers.[53]

Critical Comparative Analysis and Reform Pathways

The statutory enforcement mechanism in Bangladesh heavily relies on conventional criminal

[48] Republic Act No 8042 (Philippines), s 6; Labor Code of the Philippines, art 38.
[49] Republic Act No 8042 (Philippines), s 6 (m).; Labor Code of the Philippines, art 38(b).
[50] Republic Act No 8042 (Philippines), s 7(a)-(b); *People v Chowdury* GR Nos 129577-80 (SC Philippines, 15 February 2000).
[51] Law No 69/2020/QH14 (Vietnam), art 7(5), (7), (8), (9).
[52] ibid arts 7(1), (7), 16(2)(a), (d), 16(3), 27(a).
[53] ibid arts 24(1), (3), 24(2), 25(4), 27(2), 29(3)(b).

procedure and mobile courts to penalize infractions. Apart from that, alternative specialized statutory remedial actions to address organized recruitment networks are limited. The Philippines tried to check predatory syndicates by regarding large scale fraud as economic sabotage.[54] On the other hand Vietnam achieves immediate deterrence through administrative license revocation and direct financial deposit liquidation.[55] These types of scopes are narrowly available in the legal framework of Bangladesh.

C. Financial Security, Welfare, and Compensation

Bangladesh

The legal framework regulating financial safeguards for Bangladeshi migrant workers depends initially on state-run mechanisms, unlike stringent private enterprise liability. The financial security is arranged for migrant workers by ss 22, 27, 29, and 30 of OEMA 2013 and the Wage Earners' Welfare Board Act 2018.[56] Basic social support, transport assistance for deceased bodies, death gratuities, and emergency medical aid, etc., are provided by this fund.[57]

However, provisions like compulsory corporate financial guarantee mechanisms or comprehensive private insurance coverage are absent in Bangladesh's statutory system, which showcases a critical structural omission. The government welfare fund is directly contributed to the prospective migrant workers. However, there is no statutory mechanism that mandates recruitment agencies to produce third-party insurance policies. If workers encounter wage theft or unredressed workplace injuries, they can get a meagre or substantial financial redress after the accident and like events happen, which is less than full legal indemnification or may be full one based on migrant worker capacity to enforce the terms of the employment contract.[58]

Philippines

The financial protection architecture of the Philippines is dual-layered. All migrant workers hired by an agency of the Philippines are lawfully entitled to have obligatory insurance coverage at zero cost pursuant to Section 37-A of RA 8042 (inserted by RA 10022). This

[54] Republic Act No 8042 (Philippines), ss 6, 7(b), 12; Labor Code of the Philippines, art 38(b).
[55] Law No 69/2020/QH14 (Vietnam), arts 16(2), (3), 24(1), (2), 25(3), 27(1), (2).
[56] Overseas Employment and Migrants Act 2013 (Bangladesh), ss 22, 27,29,30; Wage Earners' Welfare Board Act 2018 (Bangladesh).
[57] Wage Earners' Welfare Board Act 2018 (Bangladesh), ss 7-9.
[58] ibid s 8; Overseas Employment and Migrants Act 2013 (Bangladesh), ss 22, 27, 29, 30.

obligatory insurance gives hefty financial guarantees, encompassing a subsistence allowance during active employment litigation, direct coverage for repatriation costs, US$7,500 for permanent disablement, and US$15,000 for accidental death.[59] In addition to private compulsory insurance, workers are covered by the Overseas Workers Welfare Administration (OWWA) Fund, financed via a mandatory fee paid by employers/agencies, ensuring continuous state and market-backed indemnification.[60]

Vietnam

Vietnam secures migrant worker compensation through a hybrid system combining mandatory corporate escrow deposits and state support funds. Under Law No 69/2020/QH14, financial security relies on a statutory escrow deposit scheme.[61] Licensed deployment enterprises must maintain a permanent monetary deposit in a designated bank account. If an enterprise defaults on its obligations such as failing to pay worker wages or delaying repatriation, MOLISA which is now MOHA is authorized to draw directly from this escrow deposit to indemnify workers.[62] This is complemented by the state-managed Overseas Employment Support Fund.[63]

Critical Comparative Analysis and Reform Pathways

While Bangladesh relies on a centralized state fund financed primarily by migrant worker fees, it lacks mandatory private market insurance mechanisms. The Philippines transfers financial risks off the state onto private insurance providers and recruitment agencies via mandatory, no-fault insurance policies. Vietnam ensures immediate compensation liquidity through compulsory bank escrow accounts that can be liquidated without protracted civil litigation.

D. Contracts, Grievance Redress, and Overseas Protection

Bangladesh

Under Section 22 of OEMA 2013, a written employment contract between the migrant worker and foreign employer is mandatory prior to departure.[64] Chapter VI mandates the establishment of Labour Welfare Wings in foreign diplomatic missions, and Section 41 establishes an

[59] Republic Act No 8042 (Philippines), s 37-A(a)-(e), as inserted by Republic Act No 10022.
[60] ibid ss 15, 21, 24, 25, 37-A; OWWA Omnibus Policies 2016 (Philippines).
[61] Law No 69/2020/QH14 (Vietnam), arts 24-25, 36(2), 66, 67(1), 68.
[62] ibid arts 10(1)(b), 24(1), (2), 26(2)(dd), (g), (h), 27(2), 29(3)(b).
[63] ibid arts 6(1)(e), 6(2)(i), 7(17), 51(1)(c), 51(2)(dd), 26(2)(i), 66(1)-(3), 67(1)-(4), 68, 71(6).
[64] Overseas Employment and Migrants Act 2013 (Bangladesh), s 22.

administrative grievance mechanism permitting workers to submit formal complaints to the government.[65]

Albeit rural workers most of the time sign standard contracts in Bangladesh, upon arrival in host states, they are compelled into low-wage, non-obligatory contracts. Moreover, the grievance-resolving mechanism in section 41 gives neither procedural timelines nor a fast-track arbitration rule.[66]

Labour Welfare Wings have some shortcomings, such as a severe lack of staff. Moreover, there is a lack of diplomatic enforcement capacity in foreign jurisdictions. They offer limited legal aid, compelling migrant workers into protracted civil suits or coerced settlements.

Philippines

A robust statutory regime regulates not only employment contracts but also grievance resolution in the Philippines. Contractual safeguards are engineered by the state by verifying the obligatory Standard Employment Contracts (SECs). If there is any unilateral contract substitution, it is termed illegal recruitment and economic sabotage.[67]

There are specialised administrative frameworks for grievance redress. The statutory mandates warrant a strict 90-day timeframe within which the National Labor Relations Commission (NLRC)'s specialised Labour Arbiters, not the ordinary courts, directly adjudicate contract breaches and money claims resulting in binding judgments.[68] Furthermore, immediate on-site legal aid and foreign trial defence funding are provided by Migrant Workers Offices (MWO) and a statutory Legal Assistance Fund (LAF).[69]

Vietnam

Prior to recruitment, removing downstream contract substitution, licensed enterprises are required to sign official Labour Supply Contracts with overseas employers and get them

[65] ibid ch VI and s 41.
[66] ibid.
[67] Republic Act No 8042 (Philippines), ss 6, 6(i), 7(b), 10, 23(b.1); Labor Code of the Philippines, arts 21(c), 34(i), 38(b).
[68] Republic Act No 8042 (Philippines), s 10; Labor Code of the Philippines (Presidential Decree No 442, as amended), art 224 [formerly art 217].
[69] Republic Act No 8042 (Philippines), ss 19, 24, 25, 26.

registered outright with MOLISA, which is now MOHA, as per Law No 69/2020/QH14, which showcases contractual integrity.[70]

If there is any contract dispute in host countries, the enterprises are bound to deploy active representative offices or accredited managers to resolve the dispute, indicating overseas protection of the migrants.[71]

Critical Comparative Analysis and Reform Pathways

Bangladesh depends on an administrative model which does not provide the workers with fast-track legal relief in case contracts are breached overseas. Specialised labour arbitration as well as state-funded overseas defence of the Philippines ensures swift restitution for the migrant. By contrast, Vietnam, before sending workers abroad, requires the deploying enterprise to register master contracts and maintain on-site management capacity.

5. WHY BANGLADESH'S ENFORCEMENT GAP PERSISTS

The unwavering legal enforcement gap regulating the relevant migration in Bangladesh emanates from both structural statutory lacunas as well as institutional capacity limitations:

a. **Regulatory Capture and Institutional Governance:** The Ministry of Expatriates' Welfare and Overseas Employment along with the Bureau of Manpower, Employment and Training (BMET) encounter severe resource limitations. Regulatory oversight is often compromised by the syndicates of recruitment agencies having economic and political influence, ushering in lax enforcement of licensing standards.
b. **Unofficial Intermediary Networks:** The huge majority of rural would be migrants depend on local unofficial sub-agents. They historically work outside the purview of the law, creating a void where contract substitution, wage deception and fraud thrive.
c. **Meagre Legal Remedies:** Section 41 of OEMA 2013 does not provide a fast-track statutory arbitration tribunal. Instead it gives an administrative grievance mechanism which is non-binding, has non-obligatory procedural deadlines and where allegations stall in bureaucratic procrastination.
d. **Lack of Obligatory Corporate Guarantees:** Unlike statutory systems that mandate

[70] Law No 69/2020/QH14 (Vietnam), arts 18(1), 19(1)-(2), 20(1), (3), 21(2), 23(2)(c), 26(2)(c).
[71] ibid arts 19(2)(q), (r), 26(2)(e), (g), 71(5), 72(1)-(3).

compulsory private insurance paid by agencies or statutory escrow bank accounts, Bangladesh banks relies heavily on the state-run, worker-funded Wage Earners' Welfare Board (WEWB), which means workers are to bear the primary economic brunt of failed migrations.

e. **Incommensurate Bilateral Labor Agreements:** Signing Memorandums of Understanding (MoUs) with host countries are asymmetric in nature. They are non-obligatory political instruments in lieu of lawfully enforceable treaties, that leaves Bangladeshi diplomatic missions scant legal recourse if alien employers breach contract terms.

6. TRANSFERABLE LEGAL REFORMS FOR BANGLADESH

Bangladesh can adapt functional devices from the Philippines and Vietnam by adopting the following aimed reforms of the law and policy to fill in the void of the structural loopholes in the OEMA 2013, which may usher it to international best practices.

a. Digital Sub-Agent Registration and Formalisation

The BMET should establish an obligatory digital registry to ensure biometric verification and binding registration for all rural sub-agents, linking them directly to an underlying licensed agency. This suggestion builds on the latest *Overseas Employment and Migrants (Amendment) Act 2023* as well as the *Sub-Agent Registration and Conduct Rules 2025*, to ensure that middlemen are strictly supervised by the government.[72]

b. Statutory joint and several liability

Insert express joint and several liability clauses into OEMA 2013, making Bangladeshi underlying recruitment agencies lawfully and economically liable for misrepresentations, other cognate acts and financial transactions run by their local sub-agents as well as foreign principals.

c. Codification of Economic Sabotage

OEMA 2013 should officially incorporate the criminal offence of "Illegal Recruitment," rendering recruitment fraud performed by a syndicate or against several victims as "Economic Sabotage," ushering in a non-bailable offence leading to severe prison terms.

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[72] see (n 6).

d. **Summary License Revocation as well as Asset Liquidation**

To bypass the lengthy criminal trial and to compensate the defrauded workers directly, the BMET should be granted administrative authority so that it can immediately freeze agency assets and liquidate their security deposit.

e. **Mandatory Commercial Insurance Framework**

Section 37-A of the Philippine *Republic Act No. 8042* can be followed to usher in an obligatory, agency-paid commercial insurance requirement for all departing migrant workers. It can be accommodated through the amendment of the Migrant Workers' Insurance Policy 2019[73]. This offers the workers insurance at zero cost, covering emergency repatriation, medical evacuation, permanent disability, and accidental or natural death by obliging the licensed recruitment agencies to make third-party insurance policies. By this way, it shifts the primary financial risk away from the state welfare fund (WEWB) onto the commercial insurance market.

f. **Financial Guarantees through Agency Escrow Accounts**

Based on Articles 24 and 25 of Vietnam's *Law No 69/2020/QH14* Bangladesh can amend the present recruiting agent license rules to liquidate an agency's escrow account' to immediately satisfy unpaid worker wage claims, emergency repatriation costs, or contract failure damages by granting the BMET statutory authority without awaiting civil court trials.[74]

g. **Fast-Track Labor Migration Arbitration Tribunal**

To replace non-obligatory administrative complaint mechanisms with a specialised, fast-track statutory arbitration body, Bangladesh can reform Section 41 of OEMA 2013 to adopt and adapt the Philippine National Labor Relations Commission (NLRC) model.[75] By eliminating bureaucratic delays, this speedy mechanism prevents uncompensated informal settlements of wage claims, breach of contract suits, and illegal recruitment complaints while it establishes a specialized, fast-track statutory arbitration body that provides binding procedural deadlines requiring a strict 60 to 90 day trial window within which the above mentioned issues are to be adjudicated.

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[73] Ministry of Expatriates' Welfare and Overseas Employment, 'Official Circular/Memorandum No 49.00.0000.201.00.009.16.1192' (8 December 2019) (issued following Memorandum No 1098 of 25 November 2019).

[74] See n (11).

[75] Modelled on Republic Act No 8042 (Philippines), s 10, and Labor Code of the Philippines (Presidential Decree No 442, as amended), art 224 [formerly art 217].

h. **Anti-Substitution Safeguards by digital Master-Contract Verification**

To mandate pre-recruitment digital registration of master Labor Supply Contracts, Bangladesh can amend Chapter V of OEMA 2013 by adopting and adapting Articles 13 to 20 of Vietnam's *Law No 69/2020/QH14*. Before any local recruitment, the enterprise or agency will need primary foreign supply agreements to be registered and verified on a centralized BMET portal. If, upon departure or arrival of the worker, there is a subsequent deviation or contract substitution presented, it must be categorised as a strict liability offense rendering immediate license cancellation.

i. **Legal Defense Support by Statutory On-Site Corporate Representation**

To mandate on-site corporate accountability and establish a statutory Legal Assistance Fund (LAF), Chapter VI of OEMA 2013 may be amended, taking lessons from the Philippine and Vietnamese frameworks.[76] To handle employer disputes on-site the recruitment agencies who deploy a benchmark number of workers in overseas countries are required to deploy acknowledged representative officers. Furthermore, for Bangladeshi migrants facing judicial proceedings abroad, dedicated funds within the WEWB may be earmarked to facilitate hiring foreign legal counsel, post-court bail, and provide translation services.

7. CONCLUSION

The comparative legal analysis throughout the study identifies the pros and cons of Bangladesh's migrant-worker protection regime. The recruitment governance, penal enforcement, financial security, and contractual dispute resolution system remain fundamentally administrative, post-facto, and reactive. The Bureau of Manpower, Employment and Training (BMET) and the Wage Earners' Welfare Board (WEWB) disproportionately allocate the operational, legal, and financial burdens of migration failure onto the workers. This study shows that the law enforcement gap is not merely a consequence of administrative resource deficits. The root of this problem originates from permitting unregulated rural intermediaries (*dalals*) to operate in a legal void. Besides the absence of mandatory corporate financial guarantees and relatively non binding administrative grievance procedures make the

[76] Republic Act No 8042 (Philippines), ss 19, 24-28; Law No 69/2020/QH14 (Vietnam), arts 19(2)(p)-(r), 26(2)(e), (g), 67(1)(a)-(dd), 71(5).

enforcement mechanism a little weak. In contrast to Bangladesh's system, the Philippines and Vietnam regulatory regimes provide two distinct models which this study believes are effective in safeguarding legal protection. Those systems empowered the state authority to enforce commercial accountability and institutionalize stronger migrant worker protection.

Transferring legal and financial liability away from the shoulders of the state or the migrant to commercial recruitment actors is a unique and effective arrangement which may be highlighted from the Philippine Model. Besides enforcing strict joint and several liability between local placement agencies and foreign principals is an addition to the efficacy of the system. Apart from that classifying syndicated and large-scale recruitment fraud as economic sabotage punishable upto life imprisonment, mandating agency-paid private insurance works as deterrence to detrimental activities to these workers. Specially by establishing specialized speedy labor arbitration tribunals (NLRC), the Philippine system guarantees direct and enforceable financial restitution. Preventative statutory controls and corporate liquidity are an important feature of the Vietnamese model. Mandatory corporate escrow deposits , pre-recruitment registration of master labor supply contracts, and on site enterprise representation in host jurisdictions are effectively curtailing middleman contract substitution. This system secures immediate financial reserves for worker indemnification without requiring prolonged civil litigation.

To fulfill the existing gaps in the statutory system aligning with international fair-recruitment standards, Bangladesh can become more just to the migrant workers . It needs to formulate a legislative policy shifting from passive administrative facilitation toward proactive statutory accountability. The Overseas Employment and Migrants Act 2013, the 2025 Amendment Act and 2026 amendment Licensing Rules need futher amendment to include provisions for formal registration and licensing of sub-agents, regard syndicated recruitment fraud as economic sabotage, institute dynamic corporate escrow accounts, mandate commercial insurance by the agencies, and establish dedicated speedy labor migration tribunals. This pragmatic and legal roadmap is necessary for more effective governance. Through adopting these comparative best practices into the domestic legal order, Bangladesh’s framework may transform from a symbolic safety net into an enforceable system of structural defense in securing justice, ensuring financial safety, and providing dignity for its overseas workforce.