



**Institutional Strengthening of the Office of  
Labour Attaché:  
Research Findings from Bangladesh, India  
and Sri Lanka**

C. R. Abrar, S. Irudaya Rajan, L. K. Ruhunage & Tasneem  
Siddiqui

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Migrating out of Poverty

Arts B, University of Sussex

Falmer, Brighton BN1 9QN, United Kingdom

tel: +44 (0)1273 873535

email: [migrationrpc@sussex.ac.uk](mailto:migrationrpc@sussex.ac.uk)

web: <http://migratingoutofpoverty.dfid.gov.uk/>

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## Abstract

Although there is increased awareness of the need for effective migration governance in order to safeguard the basic rights and safety of migrant workers in destination countries, little research has focused on how such governance efforts have been mobilised to date. This working paper is based on research on labour attachés for Bangladesh, Sri Lanka and India, and investigates an important component of migration governance as labour attachés serve as the main official point of contact between migrants at destination and their country of origin. They play an important role in mediating employment-related disputes and arranging work visas for their citizens who are abroad. Research was conducted in three destination countries, with labour attachés for India interviewed in United Arab Emirates (UAE) and Qatar, labour attachés from Sri Lanka interviewed in UAE and Malaysia, and labour attachés from Bangladesh interviewed in Qatar and Malaysia. Drawing on the findings of this research, the paper highlights the growing importance of labour migration in all three countries, and assesses recruitment and training procedures adopted by Bangladesh, India and Sri Lanka with respect to labour attachés. It then turns to consider the functions of labour attachés, as defined by both national law and international convention, and examines the challenges faced by labour attaché offices in terms of providing services to migrants, including lack of capacity, limited resources and policy incoherence. The paper also provides insights into migrants' perceptions of labour attaché offices. It concludes with a set of policy recommendations aimed at improving the services that labour attachés render to migrants in destination countries.

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## List of Abbreviations

BMET	Bureau of Manpower, Employment and Training (Bangladesh)
CD	Country of destination
CO	Country of origin
EWOE	Ministry of Expatriates' Welfare and Employment (Bangladesh)
GoB	Government of Bangladesh
G2G	Government-to-government
HR	Human resources
ICBF	Indian Community Benevolent Forum (Qatar)
ICC	Indian Cultural Centre
ILO	International Labour Organisation
IOM	International Organization for Migration
LAs	Labour Attachés
MOIA	Ministry of Overseas Indian Affairs
MRP	Machine Readable Passport
SDC	Swiss Agency for Development and Cooperation
SLBFE	Sri Lanka Bureau of Foreign Employment
TTCs	Technical Training Courses
UAE	United Arab Emirates

## Summary

Labour migration has increasingly become a complex phenomenon. The capacity building of structures to govern migration both at sending and destination ends has been identified as a priority concern by participants at policy dialogues and regional meetings organised by international organizations such as the International Labour Organisation (ILO). In recent years, the Centre for Development Studies in India and the Refugee and Migratory Movements Research Unit in Bangladesh have echoed these concerns and raised the issue of inadequate capacities of the country missions and the services that they provide for migrants at destination. Though it is well recognised that many problems and violations of rights of workers take place in the countries of destination, there are only few studies that focus on governance and institutional capacities at destination.

The diplomatic missions of countries of origin, particularly offices of labour attachés (LAs), are the focal points for the provision of protection and services for migrants whilst they are abroad. There has been little research on LAs that assesses their institutional capacity. This study is an attempt to fill that gap. It is a comparative analysis of structures and functions of LAs of Bangladesh, India and Sri Lanka in three destination countries. The main objective of the research is to recommend measures for strengthening the offices of LAs of different countries of origin, for better protection of migrant workers.

The study found that there is very little difference in the assigned role and mandates of the LAs of the three study countries. The study findings emphasise the need for LAs to take on a proactive role in order to make employers and recruiters respect the rights accorded to migrant workers, including female workers. A marked difference in the recruitment methods of the three countries was also found.

The challenges faced by the LAs in rendering effective services were also identified. Physical distance in large countries such as Malaysia, lack of qualified personnel and resources, absence of laws pertaining to domestic workers in the Gulf states, the high cost of providing legal assistance, the presence of migrants with irregular and undocumented status, and the propensity of some workers to opt for industrial action that violates local laws, are some of the major challenges identified by the LAs during the study. Moreover, migrants interviewed as part of the study also pointed to a perceived lack of capacity among LAs' offices, as well as differential treatment for low-skilled migrants, and limited opening times, which made accessing the services of LAs difficult.

The issue of coordination and coherence was also highlighted. The study suggests that authorities in the ministries do not always appoint the best-qualified personnel as LAs. The LAs' performance at destination is often hampered by delays on decisions and actions by those in charge of the line agency or relevant ministry at home. In some instances, monitoring and evaluation mechanisms are weak. This working paper discusses the above findings and concludes with practical policy recommendations to address these issues.

## 1. Introduction

The growing pace of economic globalisation has led to increased movement of people across national borders. Labour migration has become a complex phenomenon, and the capacity building of structures to govern migration has been identified as a key area for attention in the Global Migration Report of 2010 (IOM 2010). From the mid-1970s, movement of workers began from South and Southeast Asia to the Gulf states on temporary contracts for various kinds of work. While these migrant workers contribute to the economies of their host countries by filling the gaps that exist in particular categories of skills, through sending remittances they also help their countries of origin. Despite their contributions, migrant workers often enjoy little social protection and are vulnerable to abuses and exploitation in their countries of destination (Abrar 2011). The ILO has termed migrant workers as the 'most vulnerable' of the international labour force (ILO 2005).

Protecting the interests of migrant workers is the primary responsibility of the countries of destination (CDs). Others, including employers, also have a duty in this regard. The countries of origin (COs) of the migrant workers have a fair share of responsibility as well. In the host country, origin country diplomats and more particularly labour attachés (LAs), perform the tasks of providing protection and assistance to the nationals of their own countries. These responsibilities are laid down in the 1961 Vienna Convention on Diplomatic Relations,<sup>1</sup> as well as in the 1963 Vienna Convention on Consular Relations.<sup>2</sup> As Thiyagarajan (2013) notes,

Whatever responsibilities the government has to their nationals at home, must be equally fulfilled when these nationals are abroad, to the extent that is consistent with the law of the host country.

The principle of extra-territorial obligations obliges all COs to extend their responsibility to migrant workers, in accordance with the Universal Declaration of Human Rights and related conventions. Under the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, that both Sri Lanka and Bangladesh have ratified, COs must provide 'adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families' in the country of employment'.<sup>3</sup> It also obliges COs to 'take measures not less favourable than those applied to nationals' to ensure that the working and living conditions for migrant workers are upheld to 'standards of fitness, safety, health and principles of human dignity'.<sup>4</sup> Despite being a major labour sending country, India has not yet ratified this convention.

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<sup>1</sup> *Vienna Convention on Diplomatic Relations*, opened for signature 18 April 1961, 500 UNTS 95 (entered into force 24 April 1964) art 3(1)(b).

<sup>2</sup> *Vienna Convention on Consular Relations*, opened for signature 24 April 1963, 596 UNTS 261 (entered into force 19 March 1967) art 5.

<sup>3</sup> *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, opened for signature 18 December 1990, 2220 UNTS 3 (entered into force 1 July 2003) art 65(2).

<sup>4</sup> *Ibid*, art 70.

Thus LAs have an important role in extending protection and promoting dignity to their workforce deployed in CDs. It falls on the embassy, and more particularly the office of the LA, to fulfil the obligations of the home government in upholding the pledges of protection made in those countries' constitution and their laws, as well as in fulfilling international treaty obligations.

### **1.1 Purpose of the Study**

The Global Migration Report (IOM 2010) provides a rigorous analysis of existing research on core capacities of existing governance structures and identifies priority areas for capacity building in COs and CDs. While several studies examine the management and governance of migration at origin, few focus on governance and institutional capacities at destination, even though it is well recognised that many problems and violations of rights of workers take place in CDs.

In recent years, policy documents and training manuals for LAs have begun to appear (GoB and IOM 2013a, 2013b; Government of the Republic of the Philippines 2011; Government of Sri Lanka 2013), but little academic research on this issue has been done. A comparative analysis of the structures and functions of LAs of South Asian countries of origin is almost non-existent. It is in this context that this study has conducted a comparative analysis of the structures and functions of LAs of three South Asian countries: Bangladesh, India and Sri Lanka. Research was conducted in three destination countries, with LAs for India interviewed in United Arab Emirates (UAE) and Qatar, LAs from Sri Lanka interviewed in UAE and Malaysia, and LAs from Bangladesh interviewed in Qatar and Malaysia.

At present, the Gulf states are the most common destination for migrants from Bangladesh, Sri Lanka and India.<sup>5</sup> After Saudi Arabia, UAE was the second most important destination country for Sri Lankan workers in 2008 (SLBFE 2009), and the most important destination for Indian workers in 2005 (Kumar and Rajan 2014). With major infrastructure development projects being undertaken for the FIFA World Cup in 2022, Qatar has already begun attracting workers from all three countries, especially in the construction sector. Meanwhile, during 2009-10, Malaysia was the single most important destination country for Bangladeshi migrant workers. There has been a sharp drop in this flow since then, although efforts are now underway to access this market under a government-to-government (G2G) initiative. It is also a destination country for a growing number of Sri Lankan workers.

India is a middle-income country, and its migrant workers in the Gulf represent a small but regionally significant part of the diaspora. By comparison, both Bangladesh and Sri Lanka are more heavily dependent on remittances from the migrant workforce. The case of India worth of noting because the diaspora of India exists largely in developed countries like the US, Canada and Australia. Though a large portion of its workforce migrates to the Gulf in pursuit of better

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<sup>5</sup> The region accounted for 82.49 per cent of migrant outflow from Bangladesh in 2011 (BMET 2014). From 2004 to 2008, 93 per cent of Sri Lankan migrants went to the Gulf states (Annual Statistical Report, 2008, Sri Lanka Bureau for Foreign Employment), while about 80 per cent of the Indian migrant workers was posted in that region in 2010 (Irudaya Rajan, CDS, 2012, personal communication).

livelihoods, the Gulf is never a destination to settle down. Since the Gulf countries do not provide citizenship, there is no avenue for diaspora to become established in the region (Singh 2014). On the contrary, remittances flowing into the country are mostly comprised of money sent by the migrants in the Gulf, who have left their families behind in India (Kumar and Rajan 2014). It should also be noted that in spite of being a major sending country, remittances received are not equally distributed among Indian states. It is interesting to note that while remittances constitute only a mere 4 per cent of India's national income, it constitutes up to 31 per cent of the income in states like Kerala (Zachariah and Rajan 2012). Hence, the dependence on foreign remittances cannot be generalised on a national level like in the cases of Sri Lanka and Bangladesh. All three countries have recently taken pro-active measures around migrant workers' issues, providing an opportunity both to examine dynamic policy change and to recommend policy improvements.

## **1.2 Research Objectives and Scope**

The main objective of the research is to identify protection and services needs of migrant workers in CDs and recommend measures for strengthening the offices of LAs located in the those countries. This includes: an examination of existing capacity of offices of LAs of India, Bangladesh and Sri Lanka, including a comparative assessment of systems of recruitment, training methods, and modules and curricula used for such training. The study investigates measures adopted by the missions in:

- providing protection and welfare services;
- engaging with employers and recruiters;
- exploring the labour market;
- maintaining contacts with their counterpart offices of the CD;
- reporting and liaising with concerned ministries at home.

The relationship of missions with their counterpart government agencies, employers and recruiters, civil society organisations, and migrants in CDs was also assessed.

## **1.3 Methodology**

The study was based on a survey of existing information available, research monographs, government reports and publications of ILO and IOM, and interviews with key informants both at sending and destination ends. The research teams made every effort in the three study countries to interview migrant workers of respective countries of origin of all skill levels. They also interviewed officials of the ministries and line agencies of the government, heads of mission, labour attachés and their associates, academics, NGOs and migrant support groups, employers, agents and others. The three country teams conducted interviews with migrant workers following a semi-structured questionnaire. Except for the Indian team in UAE, in all countries the respective country teams interviewed 50 migrants. In UAE, the Indian team interviewed 97 migrants.

Detailed discussions were held with those involved in rendering services in the offices of LAs in each of the missions and in most cases with the LAs as well as with a few heads of concerned missions.<sup>6</sup> This was done with the full consent of the LAs. The study teams attempted to gain a good understanding of the constraints faced by LAs through these interviews. Interviews with individual migrants were held at a variety of locations, including cafes and shops, public spaces, and the camps of migrant workers. When interviews were conducted within, or in the vicinity of, labour attachés offices, the location was out of earshot. Particular care was taken to ensure the independence of the study. The study team also visited labour camps to gain insights into the needs and concerns of migrants. Representatives of civil society organisations who provide services to migrants were also interviewed.

The Bangladesh researcher's participation at the annual conference of the country's labour attachés, held in Dhaka from 1-5 September 2013, enriched the study. Although it was a closed event, special permission was secured from the ministry. Another important source of insight was the Bangladesh researcher's participation in the one-day Labour Attachés Conference in Doha in November 2013. Facilitated by the Migrant Forum in Asia, the event was attended by the heads of mission and labour attachés of eight countries posted in Qatar. On 4-6 June 2014, a meeting of the researchers was held in New Delhi. They discussed in detail the country findings for incorporation in the synthesis report and agreed on a set of recommendations.

#### **1.4 Structure of the Paper**

This paper has six substantive sections. Section 2 presents a brief overview of migration experiences of the three countries of origin: Bangladesh, Sri Lanka and India. It highlights the importance of labour migration for the economic development of those countries. The section also identifies major migrant destinations of the three study countries. Section 3 discusses the roles, functions and recruitment of labour attachés from Bangladesh, India and Sri Lanka. Section 4 focuses on training and capacity issues. Section 5 discusses various challenges that LAs face in rendering services to migrants and dealing with government officials, the private sector and civil society organisations, as well as migrants' perspectives of services provided by labour attachés in CDs. Section 6 highlights the lack of coordination and policy coherence issues within the mission as well between LAs and their reporting offices in the countries of origin. Some general conclusions and recommendations are made in Section 7.

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<sup>6</sup> For the Sri Lankan study interviews were conducted with: Consul General of Sri Lanka Consulate in Dubai; Acting Head of Mission in SLHC/Malaysia and Second in Command there/Head of Chancery; LAs in Sri Lanka Consulate Dubai; LA in Sri Lanka Embassy in Abu Dhabi; and LA in SLHC, Malaysia. For the Bangladesh study interviews were conducted with: the Heads of Missions and the labour attaché in Malaysia; and the labour attaché in Qatar. Meetings were also held with other staff members of labour attaché offices in both countries. For the Indian study, in the absence of the Ambassadors in both Qatar and UAE, meetings were held with: the labour attachés and the immediate next officials at the embassies. In Dubai consulate meetings were held with the LA. In addition, the Community Welfare Officer and four lower level field officers were also interviewed in Abu Dhabi.

## 2. Labour Migration: An Overview for Bangladesh, Sri Lanka and India

### *Bangladesh*

Overseas employment plays a critical role in the economic development of Bangladesh. BMET figures show that as many as 8.67 million Bangladeshis have gone abroad for work since 1976 (BMET 2014). Migration to the UK from Bangladesh, particularly from the Sylhet district, has a long history (Siddiqui 2004). However, it is the migration of short-term contract workers to the Gulf states that began in the 1970s, and subsequently to East Asia in the 1980s, that has had a major impact on migrant households who remain behind, sending communities, and the national economy of Bangladesh (Maimbo and Ratha 2005). Remittances are now Bangladesh's single largest source of foreign exchange earnings (Siddiqui and Reza, 2014). Remittances thus play an important role in lightening Bangladesh's foreign exchange constraints and supporting its balance of payments, as well as enabling imports of capital goods and materials for industrial development (Mian, Khan and Rahman 2014). It is also a more stable source of external finance compared to the other flows, like official development assistance and direct foreign investment (Ratha 2008). At the household level, remittances lead to improvement in shelter, education, health and nutrition status, and also contribute to modernising agriculture through use of mechanised equipment, high quality seeds, insecticide and irrigation (Imai *et al.* 2012). Through their improved purchasing power, migrant households stimulate the local economy, thereby creating demands for goods and services (Siddiqui and Reza 2014; UNCTAD 2011).

### *Sri Lanka*

Migrant remittances have become the key foreign exchange earning source, surpassing traditional export income sources of tea, rubber, and garments. In 2012, Sri Lanka received US\$6 billion in remittances. The recent data of the World Bank show that remittances account for 10.1 per cent of Sri Lanka's GDP.<sup>7</sup> The estimated 1.7 million Sri Lankan migrant workers are nearly 23 per cent of the country's labour force (SLBFE 2012), and the number of direct dependents on migrant worker remittances is estimated to be one-third of the total population. Overseas migration is also generating and supporting a wide range of economic activities, such as commercialised recruitment processes, increased airline services, widening communication networks and banking, insurance, cargo handling, and enhancing technical and vocational training. Migration also substantially influences the country's unemployment and underemployment problem by absorbing annually an average 250,000 persons for foreign employment in different parts of the world, including 90 per cent to destinations in the Middle East.

The entry into the Middle Eastern labour market by Sri Lankan migrants in the 1970s can be considered a landmark development in Sri Lanka's history in relation to international migration, which has impacted heavily on the socio-economic life of the country, bringing a wide range of

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<sup>7</sup>'Migration and Remittances: Recent Developments and Outlook', *Migration and Development Brief 22*, Migration and Remittances Team, Development Prospects Group, The World Bank Washington DC, April 11, 2014.

positive as well as negative results. Migration to the Middle East has seen migrant workers tied to fixed term contracts before their departure. Job opportunities have not been limited to particular employment categories, but have ranged from professional to unskilled positions, including domestic labour. The latter has opened avenues for women to migrate for the first time in an organised way, under the label of 'housemaids', and later as nannies or caregivers.

Sri Lanka's vibrant garment industry, with factories located in a number of districts, also helped, inadvertently, boost the numbers of female migrant workers. Large numbers of women who were trained in these factories have found jobs in garment factories overseas. In addition to training for domestic workers, the SLBFE also provides training for sewing machine operators (in garment factories) for both men and women (Dias and Jayasundere 2002).

### *India*

The World Bank classifies India as one of the top emigration countries, with a migrant stock of 11.4 million across the globe in 2010 (World Bank 2011). Additionally, India figures in three of the top five migration corridors in the South Asia region: India-United States, India-Saudi Arabia, and India-United Arab Emirates.<sup>8</sup> India also ranks first in the list of top remittance receiving countries with US\$69.8 billion in 2012 (World Bank 2013). With a favourable demographic pattern, IOM (2010) predicts that India is likely to maintain its status as one of the largest migrant-sending countries in 2050, when its international migrant stock is expected to reach 405 million.

The importance of the India-GCC corridor cannot be over emphasised. Migration to the Gulf began in 1970s and gained momentum over the years, with a majority of Indians moving to UAE, Saudi Arabia and Kuwait, to work in the construction, oil and natural gas, trading and financial sectors. Although a clear majority are low and semi-skilled workers, the presence of professional emigrants is also considerable. The Indian expatriate population in the Gulf increased from 0.2 million in 1975 to 3.3 million in 2001 (Lal 2006), and is estimated at around 5 million in 2010 (Rajan and Narayana 2012) and 6 million in 2013. Moreover, the opportunities for skilled workers are poised to increase further as recruitment becomes open for nearly 300,000 jobs, with new refineries and power plants being set up in Saudi Arabia and Abu Dhabi in the course of the next five years (Khadria 2010; Khadria 2013).

## **2.1 Major countries of destination**

### *Bangladesh*

Six countries – Saudi Arabia, United Arab Emirates, Kuwait, Oman, Qatar and Bahrain – have accounted for 77 per cent of the total flow of Bangladeshis abroad since 1976 (BMET 2014). In the 1980s, the East Asian countries of Malaysia, Singapore, South Korea and Taiwan also became important destinations for Bangladeshi workers. There was a major rise in the flow of

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<sup>8</sup> The major destinations of migrants from India are: the United Arab Emirates, the United States of America, Saudi Arabia, Bangladesh, Nepal, the United Kingdom, Canada, Oman, Kuwait and Sri Lanka.

migrants to Malaysia (981,000) in the financial year 2007-8. Within three years the flow ebbed as Malaysian authorities imposed a ban on Bangladeshi workers. This ban was imposed following allegations that agents, including recruiting agencies, were charging high fees to facilitate migration. As a result, once they were in Malaysia, some Bangladeshi workers were moving on to jobs other than the ones they there were recruited for, lured by the promise of higher wages. The other reason was that Malaysian agents and outsourcing companies, in collusion with Bangladeshi recruiting agencies, recruited more workers than could be absorbed in the local labour market, creating a range of problems both for the unemployed workers and the Malaysian authorities. The ban was revoked following a government to government arrangement but only 2,400 Bangladeshis have gone over a period of one and half years under the new arrangement (BMET 2014). While the traditional markets of Saudi Arabia, UAE and Kuwait are now virtually closed, Oman, Singapore and Qatar have become important destinations for Bangladeshi workers. The host countries' policy of bringing about a balance among workers of various nationalities, the high migration cost that Bangladeshi workers have to endure, and the alleged involvement of Bangladeshi workers with criminal activities, led to an imposition of restrictions, albeit unofficial, on migration of Bangladeshi workers to various Gulf states.

### *India*

In 1988, around 95 per cent of labour outflows reached six key destinations: Saudi Arabia, UAE, Bahrain, Kuwait, Oman, and Qatar. In 1994, Saudi Arabia led with 65 per cent of annual labour outflows from India, followed by the UAE. The available labour outflow statistics show that, over the years, the Gulf countries have remained an important destination for Indian workers. In 2008, 96 per cent of migrants left Indian shores for the six countries in the Gulf. The UAE tops the list, receiving 41 per cent of the workers from India, followed by Saudi Arabia with 27 per cent (Rajan and Prabha 2008). Saudi Arabia recently re-emerged as the top destination, attracting 289,297 Indian workers in 2011 (Rajan and Narayana 2012). With 138,861 workers going to UAE in 2011, it is now the second most important destination.

### *Sri Lanka*

The SLBFE's data indicate the dominance of the Middle East in labour absorption from Sri Lanka during last decade. Nearly 90 per cent of Sri Lankan migrants went to the Middle East. While Saudi Arabia, Kuwait and UAE topped the list, Qatar has fast become a promising labour market for Sri Lankan migrants, with its share of recruitment (20 per cent) second only to Saudi Arabia (26.6 per cent) in 2010. Emergence of new markets such as South Korea, Israel and Libya can be cited as the results of successful attempts of the SLBFE to diversify the foreign job markets from traditional gulf countries to non-traditional regions.

### 3. Role, Functions and Recruitment Practices of Labour Attachés

Labour attachés serve as a point of contact between workers deployed in countries of destination and the embassy of their respective governments. Due to their location in CDs, the responsibility falls on LAs to fulfil the responsibilities of COs to their nationals abroad:

As diplomatic representatives of their home governments in the receiving country where migrant workers are employed, labour attachés thus have a crucial role in promoting and ensuring respect for the human rights of their migrant workers (Thiyagarajan 2013: 4)

The Bangladesh Overseas Employment Policy of 2006 and the Sri Lanka National Labour Migration Policy of 2008 both underscore the need for development of LA services in host countries. The Sri Lankan document states that its

embassies in host countries shall have a well-defined system to be in contact with all migrant workers in each country. Officers in Sri Lankan diplomatic missions in host countries, particularly the Labour Sections, shall have the special capacity and ability to handle grievances of migrant workers and to work towards their protection and welfare in a proactive manner.

#### 3.1 Assigned Functions

The assigned functions of the missions of all three countries are quite similar. These include: (a) authentication and verification of employment contracts; (b) approval of documents pertaining to recruitment; (c) counselling and assistance to workers in settling disputes related to work contracts; (d) market exploration; (e) assistance to workers in claiming legal dues relating to termination benefits; (f) registration of death and assistance in follow up work with sponsors and local authorities, including local burial or transportation of the body; (g) assistance to family members in claiming death compensation due to accidental or other unnatural deaths; and (h) assistance in taking up problems of a personal nature faced by migrants or their kin in countries of origin.

In the context of protection and rights of migrant workers, LAs have been entrusted with the responsibility of dealing with host country authorities, employers and recruiting agencies. On a regular basis, they deal with complaints such as non- or underpayment of wages, forced labour, non-repatriation after contract completion, non-fulfilment of contracted employment, substitution of job agreement, overwork, and physical or sexual harassment. Providing legal assistance, medical assistance, counselling, and shelter facilities to destitute workers and runaways, and repatriation of stranded workers, are some other major tasks of LAs. Conducting welfare and community relations programmes for migrant workers is also an important function of LAs. Community activities and religious, cultural and national celebrations fall under this agenda.

Within the broad remit of their roles and responsibilities, LAs also have to carry out a range of welfare activities in specific country contexts. For example, a list provided by a Sri Lankan LA in

Kuala Lumpur includes: (a) ensuring provision of shelter for runaway female workers; (b) coordination with two Buddhist temples situated in Brickwall and Sentul in Kuala Lumpur for sheltering runaway male workers; (c) free provision of consumables such as food and medicine to inmates in sheltering houses; (d) provision of repatriation assistance to both legal and irregular Sri Lankan visitors/workers; (e) conducting religious programmes and national events with the participation of the Sri Lankan community; (f) settlement of employer/employee disputes via mediation; and (g) bringing concerns to Malaysian authorities for resolution. Without the LAs' involvement, irregular persons would need to pay a fine on the basis of the duration of their stay in Malaysia without legal status in order to be repatriated.

#### *Verification of employer documents*

An important function of the mission is to verify documents of employers and recruiters. Missions of all three countries have lists of employers, which include information on the past performance of employers. If LAs are dealing with a new company, then they undertake personal visits to its work and accommodation sites. In such cases, LAs or their representatives meet workers from their own countries and try to assess the pay, work and living conditions and general treatment of the workers. One of the key issues that missions need to take into account is whether a company has a human resources (HR) policy, as companies with such a policy are likely to treat workers better than those without one. In most instances, exploitation and abusive practices take place in small companies and individual employers.

On the issue of recruitment of workers, Sri Lanka has put in place principles that have led to improved surveillance of recruitment practices by the Sri Lankan LAs. The principles oblige the LAs to complete the following tasks:

- Registration of prospective recruitment agencies and establishments that require Sri Lankan manpower, after an assessment of their credibility. No agency or establishment can recruit Sri Lankans without such registration with the concerned Sri Lanka Mission.
- Approval of legal documents such as Job Order, Power of Attorney and Service Agreement entered into between the foreign party and its Sri Lankan counterpart for the purpose of recruitment of Sri Lankans.
- Approval of individual job contracts (employer-employee contracts) related to female domestic and factory workers. This is a special condition applied for screening and securing proper standards on recruitment of female workers who are more vulnerable to abuse.
- Blacklisting of errant employers or recruiters who are involved in abusive labour practices.
- Registration of Sri Lankan migrant workers who managed to obtain employment in the host country after arrival.<sup>9</sup>

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<sup>9</sup> It is mandatory that all departing contract workers must register with the SLBFE prior to departure from the country. Migrant workers benefit through this registration on the basis of qualifying for SLBFE's patronage for their security and other social interests, welfare, social insurance, and incentive programmes offered by the State for

### *Market exploration*

LAs are also tasked to know about growing sectors and new opportunities that may exist in the country of their deployment. They are encouraged to learn about development plans and to be in touch with major companies that recruit overseas workers. They are also advised to facilitate interaction between employers and recruiting agents. As one Bangladeshi LA pointed out, a major problem in this regard is that in many instances brokers of Bangladeshi origin dominate the labour recruitment process of destination countries and it is very difficult to bypass them.

In the absence of any formal projection of demand for labour in a particular country, the best option for LAs is to depend on the past trends. A rigorous assessment of demand for labour for specific sectors and trades over a five year period is one way LAs anticipate demand. A further problem associated with the reporting format that has been developed by Bangladesh is its focus on those who are recruited through companies and formal agencies. A large number of Bangladeshi migrants are recruited under individual contracts, and these migrants are excluded from the reporting system. In some countries this omission is magnified; for example, 95 percent of Bangladeshis appointed in Bahrain are under individual contract.

The labour market is constantly changing. Both Bangladesh and Sri Lanka have been largely sending low skilled workers, but there is a huge demand for skilled construction personnel, and emerging fast food chains in many countries have created a demand for young workers with a reasonably good command of English. Likewise, the demand for female workers as housemaids and also in the service sector has registered a major increase. The opening up of shopping centres and malls in all the Gulf States requires a range of service personnel, including female secretarial and sales staff. Beauty parlours have also attracted female make-up artists from other countries. Training centres in the countries of origin, particularly government run Technical Training Centres (TTCs), should take on board the new types of demand and try develop appropriate courses.

Promotion of employment opportunities of their nationals is thus within the scope of duty of the LAs. Dealing with factory owners, authorities and trade chambers for the purpose of gaining employment opportunities has been a common practice. Arranging marketing missions, promotional seminars, and road shows are among LAs' activities in this vein. Participation of selected recruiters can also be witnessed in these programmes, as a way of building partnership between recruitment agents at the supplying and receiving ends.

### *Welfare and protection*

This has been one of the most challenging tasks for LAs. However, regular monitoring of labour camps by the embassy can result in major improvement in the quality of services. Effective supervision of the embassy often leads to improved facilities to, and treatment of, workers.

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such registrant migrant workers and their dependents. However, despite this measure a large number of Sri Lankans migrate overseas through irregular channels.

Additionally, the Indian Embassy conducts monthly Open House programmes, to address urgent consular and labour issues/cases of Indian nationals in Qatar, where the ambassador and other officials meet all the complainants, discuss their problems, and then the embassy follows up their cases with the Qatari authorities concerned. Open Houses are also conducted by the Indian Cultural Centres on various issues pertaining to national and international relevance.<sup>10</sup> In short, the open houses are not only venues for grievance redress, but also an active platform that facilitates networking and social gathering. This gives migrants an opportunity to express their concerns to the embassy, and it also provides the embassy with a better understanding of the realities that migrants face. Another initiative of the Indian embassy has been the introduction of a 24-hour hotline number, on which the Indians can reach the embassy at any time of the day.

The Indian embassy has delegated its functions among several official bodies so that the ultimate aim of maximum accessibility is ensured. The Indian Cultural Centre (ICC) is the official body of the Indian expatriate community, functioning under the patronage of the Embassy of India for the purpose of advancement of sports, social, and cultural activities of the Indian Community in Qatar. The ICC is also the platform to serve the interest of the 600,000-plus Indians residing in Qatar. Moreover, the ICC has an after office-hours outlet of the embassy, where migrants can get their official work done without losing a workday. The Indian Overseas Workers Resource Centre and the Indian Community Benevolent Forum (ICBF) are also embassy-backed agencies, which are actively involved in taking the embassy's missions to the greater masses.

#### *Extending legal support*

Legal support is largely challenged by the absence of legal advisers and interpreters in LA offices. In the absence of interpreters, workers cannot explain facts to court or administrative bodies. LAs are responsible for speedy settlement of grievances brought by migrant workers. As most of the LAs aren't fluent in Arabic, they need the assistance of interpreters and legal advisers in the process of dealing with migrant worker issues with local authorities. For example, this is very much part of the functions of LAs of India in the study CDs, because every year there are a large number of Indian migrants imprisoned for petty crimes, ranging from traffic violations to moving without valid documents. Once a migrant is in prison, it becomes the duty of the embassy to take care of their needs and to protect them. In many instances, migrants' inability to communicate with the concerned officials is the reason why they get in trouble. Keeping this in the foreground, the Indian Community Welfare Fund has specifically included provisions pertaining to legal assistance for migrants in deserving cases.

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<sup>10</sup> For instance, the Qatari ICC conducted an Open House in connection with the 2014 General Elections in India, so that the Indian citizens, though outside the national territory, can actively take part in the discussions and feel the heat of the situation at their convenience.

## 4. Capacity Issues

### 4.1 Recruitment Processes

An assessment of the different methods of recruitment of the LA personnel is important, because the qualifications and experience of those staffing the posts in overseas missions is critical for the quality of services they render. There are some important differences in the recruitment practices of the three countries of origin. In Bangladesh, an open call among government officials of cadre and non-cadre services is made. A committee headed by the Joint Secretary of the Ministry of Expatriates' Welfare and Overseas Employment (EWOE) short-lists the applicants and another committee chaired by the Minister of EWOE<sup>11</sup> interviews short-listed candidates and recommends names to the Prime Minister's office for final selection. In contrast, in India the position of LA is a routine posting for civil servants. As the number of Indian expatriates has increased and their problems multiplied, the ministry tried to select people who knew the languages spoken by Indian expatriates and had previous experience in handling labour matters.

Among the three countries, it is Sri Lanka that has developed an elaborate recruitment system for LAs. Until the mid-1980s, consular and welfare activities relating to Sri Lankans abroad were handled by the Ministry of Foreign Affairs. However, due to the increased number of Sri Lankans employed abroad, necessity arose for appointment of a separate set of officers to safeguard the welfare of migrant workers. Accordingly, in 1986 the Ministry of Labour appointed a set of LAs to Sri Lankan Missions in the Middle East through the coordination of Ministry of Foreign Affairs. Subsequently, provision was made for direct involvement of SLBFE in appointing labour attachés. In 2002, a limited number of SLBFE cadre positions were upgraded from the rank of Labour Welfare Officer to the rank of Counsellor (Labour Welfare and Employment), to enable them to perform their duties more effectively. Higher ranks are accorded with special recognition and privileges, allowing LAs to coordinate with host country authorities in a more straightforward manner on issues involving migrant workers.

Indian LAs work with Indian migrants from all parts of the country and hence come across situations where their language skills are put to the test. Language requirements have changed with the changing demographics of Indian migrant workers. Earlier, when Kerala and other south Indian states accounted for nearly 85 per cent of Indian expatriates in most Gulf countries, an officer fluent in Malayalam, Tamil or Telugu would make a useful LA. Now, with Rajasthan and other Northern states accounting for a growing numbers of new migrants, Hindi, Oriya, Bengali and Assamese have become equally useful.

### 4.2 Training

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<sup>11</sup> The other members of the committee are: Secretaries of the ministries of EWOE, Foreign Affairs, and Public Administration. The Selection Committee identifies one principal candidate and one alternative candidate for each post, and the Committee then secures a Disciplinary Report of the nominated candidates from the concerned ministries.

For a long time there was no training or orientation programme organised for LAs after their selection in Bangladesh. In 2003, a few recruits took the initiative to secure attachment to concerned ministries and departments for two months. In 2010, a formal training programme of officers selected for LA posts began. Initially it was a 15-day course that was subsequently extended to 30 days in 2011 and later curtailed to 21 days.<sup>12</sup> No prescribed curriculum has yet been developed.<sup>13</sup> The training programme is mainly lecture based and involves visits to concerned agencies of the government, such as the Bureau of Manpower Employment and Training, Ministry of Foreign Affairs, and Immigration and offices of various intelligence services involved in immigration matters.

There is no systematic training that the LAs undergo in India either.<sup>14</sup> They are given time to familiarise themselves with the files from the mission of their posting, and on arrival in the country of destination they are briefed by their colleagues and by the Head of Mission. Indian labour attachés sometimes attend trainings organised by international agencies like ILO, aimed at strengthening the institutions that can contribute to effective labour management and welfare of migrants overseas. The Ministry of Overseas Affairs organises an annual meeting of Indian LAs working across the world to discuss the issues faced and to arrive at solutions to enhance efficiency. The use of retired senior LAs for training and development purposes would be beneficial, but is not effectively done. Moreover, reviews are necessary, both for maintaining standards and for implementing innovations. The performance of each LA is reviewed annually by their superior officer.

The study team noted that the most comprehensive training is offered to the Sri Lankan LAs by the SLBFE in collaboration with the Ministry of Foreign Affairs. With the ILO's assistance, a specially designed certificate course for LAs has been organised by the Diplomatic Training Center of the Ministry of Foreign Affairs. The Ministry of Foreign Employment Promotion has specified that a candidate is to pass the course as a requirement for selection as a LA.

Periodic meetings of LAs in the countries of destination are also organised by the SLBFE at different intervals, to evaluate the performance of LAs and to address any shortcomings as well as raise their awareness on day-to-day policy revisions on migration-related policies adopted by destination country authorities. It is with this end in view that the Ministry of Foreign Employment Promotion and Welfare and SLBFE launched the *Operational Manual for Labour Sections of Sri Lankan Diplomatic Missions in Labour Receiving Countries* in January 2013. The manual was prepared with the technical and financial assistance of ILO and Swiss Agency for Development and Cooperation (SDC) and is regarded as a landmark development of the policies on management of embassy affairs related to migrant workers. The manual was launched at a two-day workshop for labour attachés in April 2013, to familiarise them with the guidelines given.

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<sup>12</sup> The four-week programme was deemed to be longer than necessary.

<sup>13</sup> Quite a few LAs who had undergone the training stated that the absence of a formal training curriculum led to ad hoc selection of topics and may not include those essential for staffing such important posts (personal interview of Bangladesh researcher. These persons preferred not to be personally cited).

<sup>14</sup> Personal interview of the Indian researcher with the former Ambassador to Qatar.

Since 2010, the Ministry of Expatriates' Welfare and Overseas Employment of Bangladesh has been organising an annual conference of LAs. Usually a number of issues that are of interest to LAs are included in the programme, such as welfare and protection issues, preparation of budgets, and reporting. Also thematic issues such as new emigration laws, remittance management and migrants' health are covered. IOM has been instrumental in mobilising resources for this conference. In the absence of structured modules, the annual event of labour attachés has the tendency to become a forum to discuss personal benefits and to express grievances against other wings in the missions.<sup>15</sup> No such refreshers' course for LAs is organised in India.

## 5. Challenges: Perspectives of Labour Attachés and Migrants

This section first highlights the challenges faced by labour attachés, based on personal interviews with labour attachés as well as with migrant workers of all three countries (Bangladesh, India and Sri Lanka) who are based in three countries (Malaysia, Qatar and UAE). The section concludes with migrant perspectives on services rendered by LAs in receiving countries.

### 5.1 Rendering Services to Migrants: Overview of the Challenges

LAs from missions of all three sending countries highlighted major concerns regarding migrant workers' living and working conditions, including underpayment, unsuitable accommodation, food issues, and achieving difficult targets set by the management at garment factories. They said workers preferred to register their complaints in person rather than via embassy hotlines that are available for migrants. Most continued to prefer using the regular numbers of the mission.

#### *Language*

Rendering quality services to migrants necessitates speaking their language. While this has not been a problem for Bangladeshi or Sri Lankan LAs, it has been an issue for Indian LAs. The migrant population from India primarily belongs to six states. For many centuries, workers from Kerala dominated the group, thus the popular demand was to appoint LAs with southern origins. But eventually when migration spread to other states in the north, especially Uttar Pradesh and West Bengal, the need for Hindi speaking and Muslim LAs gained momentum. Generally, officials of Muslim origin are much preferred in the Middle East because of their familiarity with the Sharia laws and Arabic.

#### *Physical distance*

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<sup>15</sup> Personal interview with a senior official of the concerned ministry in Bangladesh.

One of the major problems faced by LAs serving in countries like Malaysia is physical distance. Workers of various nationalities are deployed in remote areas of many countries. The scarcity of human and physical resources constrains the LAs from rendering quality services to the migrant workforce in these areas. It may be noted that visiting work sites and labour camps fall within the responsibilities of the labour attachés of all three countries, and physical distance can make this difficult.

#### *Understaffed and under-resourced LA offices*

Many missions are understaffed and under-resourced and it becomes difficult for the LAs to render services to the migrants who are often dispersed in different parts of the country. Likewise, validation of documents submitted by new companies may also require personal visits to the companies concerned. Attending court cases and arranging repatriation of remains of deceased migrants is a time-consuming process, often involving several visits to many offices. All these also require resources, time and personnel. It is in this context that there is a need for greater allocation of resources to the missions. One mission head of Bangladesh candidly admitted, 'We do not have the capacity in the mission to give adequate service to the workers. We are constrained by resources, human, financial as well as technical'.

#### *Absence of law on domestic workers*

This is a major impediment in extending services to this vulnerable group of workers for LAs of all three sending countries. For example, it is very difficult to secure travel documents of workers who run away from abusive employers. Under the *Kafala* system that exists in the Gulf states, sponsors retain the right to keep the documents of domestic workers and to consent to their release. Thus, the *Kafala* system is a legal sponsorship that ties the employment and the residency of a migrant worker to a specific employer. The system requires all unskilled labourers to have an in-country sponsor (or *Kafeel*), usually their employer, who is responsible for their visa and legal status. The *Kafala* system provides the legal framework for the recruitment, stay, work, and exit of a migrant to and from GCC countries.<sup>16</sup> Even the courts do not have authority to ask sponsors to return passports. In such contexts, getting cooperation of the employer is essential in securing travel documents and release for workers. Since Sri Lanka has been a major provider of female domestic workers, its LAs often deal with such problems. Its experience in this area is more evident compared to India and Bangladesh. Many Sri Lanka diplomatic missions have been compelled to run safe houses to provide accommodation for runaways and destitute female workers who report for assistance. As the SLBFE's Annual Statistical Report for 2012 revealed, 83 per cent of the total migrant-related complaints reported were related to female domestic workers (8,320 out of 10,220 complaints). The SLBFE administrative records revealed that at any given time, an average of 750 female domestic workers can be found in the embassy's safe houses in Middle Eastern countries.

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<sup>16</sup> For more information see RMMRU Policy Brief no. 10, available at: <https://www.dropbox.com/s/wz62ob2xd8vpofj/Policy%20Brief%20-%202010.pdf> and Migrant Forum Asia (undated) 'Reform of the Kafala (Sponsorship) System', Policy Brief No. 2, Philippines.

In both UAE and Malaysia, about 50 per cent of the workers' grievances received by the Labour Section of the Sri Lankan mission appeared to be related to female domestic workers. The majority of these cases were related to medical issues that prevented them from working. Women with diabetes, blood pressure, or mental illness were among those seeking repatriation.<sup>17</sup> LAs in the UAE have proposed that SLBFE should establish its own medical centre. Other complaints of domestic females were related to issues such as non-payment and under payment of wages, excessive workload without adequate rest, and physical and sexual abuse.

Many Indian women respondents reported sexual harassment at worksites and by employers. Such issues are abundant and hence the relevance of the LAs' 24-hour hotline number. Women should be made aware of such facilities before they travel to the CDs, as part of pre-departure training. It has been reported that the embassy receives a minimum of 100 such calls every day, according to one Indian LA in UAE. The major grievances attributed to female domestic workers have been non-payment or under payment of wages, sexual harassment, excessive working hours, lack of opportunities for communication with family members, insufficient food, and medical problems.

As observed by the LAs during the interviews by both Bangladeshi and Sri Lankan researchers, the challenges LAs face in finding settlement to issues confronted by domestic workers are numerous. First, they need to find the sponsor and the recruitment agency responsible for the deployment of the worker and try for an amicable settlement. Since dealing with sponsors is not officially permitted in the Middle East countries, this process has to be done with care and sensitivity. If they fail, the case has to be reported to the concerned authorities and the worker has to come forward. If the employer has already made a complaint against the worker at a police station, then the worker has to appear there and sometimes the police may detain the worker. If the LA succeeds in obtaining repatriation clearance, then securing the worker's passport from the employer and organising an air ticket would be the next task.

#### *High cost of legal services*

The LAs feel that the costs of legal services in all the Gulf States as well as in Malaysia are quite high. It becomes prohibitively expensive to render legal assistance to all migrants. In addition, in many instances courts do not allow extending legal services, they only allow interpreter services. All these are constraining factors in providing legal services to migrant workers. However, some LAs hold the view that the embassy prefers mediation – rather than providing legal assistance – that in most cases does not work. In situations when mediation does not bring a result, there is a reluctance of the mission to go for litigation. One LA noted,

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<sup>17</sup> In response the LAs proposed to have a better monitoring mechanism process on medical reports by SLBFE or even organise a Medical Examination Division under SLBFE's wing. This mechanism will control unnecessary problems and financial waste and losses to employer, recruitment agent, mission, migrant workers and family members.

If twenty cases are properly fought, then it will likely... bring in major change in the system. The mission should engage a pool of lawyers to contest cases that they are likely to win.

However, the absence of adequate knowledge among LAs about labour laws and judicial and administrative practices pertaining to migrant workers can greatly compromise the quality of services available to migrant workers. Many missions do not keep records of litigation that migrants may be engaged in. This lack of institutional memory on legal matters also acts as a hindrance.

### *Irregular and undocumented migration*

Irregular migration is another issue that LAs have to deal with. There is movement of Bangladeshi women workers from Al Ain in UAE to Oman. In many instances corrupt agents induce these women, who have regular jobs in UAE, to move to Oman with offers of higher pay. Their status is then changed to irregular workers in the new country. In Malaysia, workers fall victim to lure of a difference of RM 50 in pay. In the process they become irregular. Human smugglers and labour trafficking syndicates are active in such situations, and LAs receive little policy guidance from the ministries to deal with migrants with irregular status.

Sri Lanka is also affected by irregular migration. The Acting Head of Mission in Malaysia observed that, 'Malaysia is a country to which foreign workers are smuggled on visit [sic] visas, on the pretext of providing employment by local and foreign (Malaysian) racketeers'. It is estimated that the stock of illegal foreign workers in Malaysia is 1.3 million. Sri Lanka is not an exemption to this practice, and it is assumed that the majority of Sri Lankan workers employed in Malaysia do not hold valid employment visas. Most of the workers do not have their travel documents in hand, as racketeers collect their passports on arrival. It has been revealed that agents who operate in Malaysia are not Malaysian nationals alone, but also include Sri Lankans.

The Acting High Commissioner of Sri Lanka stated that the Mission in Kuala Lumpur has made a special arrangement of registering irregular migrants at the Mission in order to refer them to Immigration for waivers of fines and repatriation permits. In this respect, a Mission Officer from the Consular Section accompanies a batch of returnees, consisting of around 25 persons, taking them to immigration on a weekly basis for exit clearance. Production of an air ticket and an overall fine of RM 500 irrespective of their period of stay are required to gain an exit permit, and the worker must also have no criminal record.<sup>18</sup>

The Acting High Commissioner proposed that a proper media campaign must be conducted by the SLBFE to prevent this human trafficking menace and bring those operators to book. He said

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<sup>18</sup> When the Sri Lankan researcher visited the High Commission to meet the officers, there were six stranded Sri Lankans, including a couple with a child, waiting for their turn in the Mission to enter their names to the list of the next batch of people to be produced to the immigration. They appreciated the effort of High Commission for making this special arrangement with the assistance of Malaysian authorities, for their smooth exit of the country. 'Unless such H/C assistance, the illegal person has to pay a minimum fine of RM3000 for his/her immigration clearance' commented the Acting High Commissioner.

that a team of Sri Lankan Police officers will soon visit Malaysia to collect evidence on this 'underground mafia' and to take possible action to arrest responsible parties in Sri Lanka.

The Indian part of the research also noted that undocumented migration by Indian citizens to the Gulf countries occurs, mainly when corrupt agents entice migrants to travel on a 'free visa' – which does not exist. However, every citizen of a Gulf country, who has land, business or industry, can get permission from their government to recruit a fixed number of foreigners as employees. In many instances, instead of employing those who are brought under such visas, sponsors sell the permits to other employers. Through this process, the workers become irregular. In other instances, when a person escapes from his or her sponsor and moves on to work for some other employer, s/he becomes irregular.

### *Industrial action*

The South Asian political culture of expressing demands through agitation and violence by workers sometimes becomes a major problem for the LAs to address. Under the laws of all Gulf countries, and the Southeast Asian countries of Malaysia and Singapore, public protests and rallies are prohibited. Also there are no effective avenues for collective bargaining and social dialogue between the workers and management. In such conditions, if problems remain unaddressed for a long time, aggrieved workers are likely resort to protest and agitation, occasionally resulting in violence, which sometimes leads to the conviction and/or deportation of workers.

## **5.2 Engaging with government agencies of destination**

A major limitation of the LAs in dealing with their counterparts in the Gulf states is their inability to speak Arabic. This makes LAs dependent on interpreters and thus inhibits spontaneity of communication between the two parties. Inability to type in Arabic by the LA staff also hinders official communication. In most of the missions of the three sending countries, every Labour Section is provided with at least one Arabic-speaking officer/interpreter, who is usually selected from the host country. Often, many applications that are submitted by migrants to the courts in CDs are incomplete or inaccurate. In order to address the situation, the Bangladesh LA in Dubai developed a template based on court requirements. Migrants now only fill in their personal details, as the rest of the document is ready for submission.

In the Gulf states, personal contacts can help secure quick redress to many problems. 'Individual initiative in the Gulf States is more important than institutional measures', observed the Bangladeshi LA posted in Dubai. Building personal rapport with members of various departments and ministries of the CD is essential. Such rapport can be built through paying visits to the officials concerned, greeting them on special occasions, extending invitations to them, and by sending gifts.

The Sri Lankan mission in UAE reported that they enjoyed cordial relations with their counterpart offices in the host government, such as Immigration, Police, Courts, detention

centres (including prisons), hospitals, and airports. There are also variations in treatment of workers among the various Emirates. For example, Dubai immigration allows the Consulate to shelter runaway housemaids in its custody until they are deported by the Consulate, but Fujairah immigration officials insists that such maids should be handed over to them for arranging inquires and repatriations.

There were mixed reactions amongst the LAs with regard to their assessment of implementation of the Sharia law. Some labour attachés viewed it to be generally fair to the migrants and believed that the problem is its lack of implementation. Others felt that the courts and administrative bodies are generally biased toward the nationals, with the result that migrant workers do not receive fair hearings and trials.

### **5.3 Engaging with civil society organisations**

Hometown associations play a very important role in extending protection to migrants. This can include arranging shelter and work and providing counselling and loans. These associations play a crucial role when migrants face distress (such as sudden termination from work, or accident without insurance cover), as well as in covering the costs of repatriation of bodies of deceased workers when the worker's sponsor is not found or s/he refuses to pay for repatriation of the body.

However civil society organisations in Kuala Lumpur believe that the Bangladesh mission is restricted by the notion that the Malaysian authorities may get upset if the embassy reaches out to the other stakeholders, including opposition parties, trade union, NGOs etc. It is this concern that precludes LAs from building relationships with civil society bodies. However, The Philippines, and even Nepal, which is a late entrant in the scene, have regular interaction with civil society organisations and has thus far had no problem with the authorities. As one civil society member in Kuala Lumpur noted:

Good relationship with civil society would allow delegation of certain services to them and thus would have increased the scope of providing service to larger stock of migrants. In the past proactive Bangladeshi labour attachés who felt the benefit of collaborating with CSOs even took leave to attend civil society initiated meetings and conferences and developed rapport with them.<sup>19</sup>

The Sri Lankan missions in both Dubai and Abu-Dhabi are involved with different types of welfare and community programmes aimed at migrant workers and their family members, including children. Running a Friday School at the Mission premises with the administration of Sri Lanka Welfare Associations is one such activity, with the Friday School in Dubai attended by more than 150 students, and the Friday School in Abu-Dhabi by around 100. Traditional annual commemoration of Sri Lanka's independence is a big event directly organised by the Missions with community participation. Missions also coordinate and assist in conducting cultural and

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<sup>19</sup> Coordinator, Caram Asia, Kuala Lumpur, 29 October 2013.

religious programmes organised by Sri Lanka Civil Societies at both stations, including Sinhala-Hindu New Year festival, and *Wesak* programmes (an important religious observance of Buddhists). The Head of Mission becomes the main patron in most of the Sri Lanka Associations and maintains a good coordination with these associations, giving official coverage to most of their programmes. Embassy/Consulate premises are used for conducting religious programmes for non-Muslims, using the diplomatic immunity accorded to a diplomatic mission under the Vienna Convention.

#### **5.4 Other challenges faced by Labour Attachés**

The LAs interviewed for the study have also identified a number of other challenges. Some of those challenges were generic in nature, i.e. affecting the South Asian migrant community as a whole, whilst others were country specific. Labour migrants often approach LAs with problems faced by their left behind families and seek help with interventions. Such problems include land disputes or physical security and safety issues. In such situations, a forwarding letter from the LA to the concerned District Commissioner may address the concerns of the workers.

A disproportionate amount of the LAs' time is spent on processing repatriation of the bodies of deceased workers. This involves completion of a number of formalities with *kafeel* and various administrative bodies, such as hospitals and immigration authorities. The task becomes difficult if it's an unnatural death, as that would involve police, forensic department and courts. If the person dies in irregular status then LAs face an even greater challenge. In nearly 40 per cent of cases of deceased Bangladeshis in Malaysia, the absence of proper documents makes it difficult for missions to repatriate bodies of workers.<sup>20</sup> Each CD has a specified time limit within which claims for compensation, including injury or death, should be filed. In some instances, there is a long delay in processing the compensation claims. Such delays can occur because of disagreements among the members of the migrant's family and also because of slow processing of documents by counterpart institutions at home.

The Bangladesh LAs cited a few other challenges specific to the country. An issue of grave concern for many LAs is meeting the deadline for issuance of Machine Readable Passports (MRPs). Many LAs felt that, given the facilities made available in the respective missions, it may not be possible to meet the demand for MRP of the workers deployed in the country concerned. That would mean that many workers would not be able to renew their work permit or visa and thus would have to leave the country. In countries that host large numbers of Bangladeshi workers, outsourcing arrangements could be a solution for expediting the process. The LA of Malaysia said that they had major difficulty in addressing the challenge posed in regularising Bangladeshi workers when Malaysian authorities granted such an opportunity. 'As the task has to be completed by the 15<sup>th</sup> March 2015, the issuance of MRP is even more an intense challenge', he noted. A few LAs stated that their engagement with the MRP issue has distracted them from attending to regular tasks of migrants' protection and welfare. Lack of proper planning in MRP matters is evident in the following observation of one head of mission:

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<sup>20</sup> Bangladesh LA in Malaysia in personal interview with the researcher.

‘We have more than required number of people to sign the document but do not have the technical hand to run the MRP facility’.

Another major problem of Bangladeshi communities abroad, the workers included, is that they are divided along party political lines. Even at work and campsites, debates between two contending party loyalists can lead to tension and violence. There has also been growing concern among the LAs that Bangladeshis are getting involved in criminal activities in many destination countries. In many instances the inability of the *kafeels* to provide them work leads them to engage in illegal activities. Often these workers have paid high migration costs and for them returning home without recouping these costs is untenable. Under such circumstances, they may become engaged in work such as selling labour or goods at the market (which under the law are illegal acts),<sup>21</sup> as well as in gambling, theft and robbery, and even in serious crimes such as murder and human trafficking. There has also been a rise in disputes over the buying and selling of visas among the migrant workers. This often leads to physical assaults and other forms of violence. One LA posted in one of UAE noted that, ‘the legal system of the Emirate has bogged down due to Bangladeshis’. This may also have been a contributing factor to the non-issuance of Emirates visa to the Bangladeshis.

### **5.5 Migrants’ concerns about services**

The general opinion of the Indian migrants in Qatar is that the embassy assistance is not particularly impressive, but that they get things done for the sake of it. The major issue the migrants raised was the late opening hours (9:00 am) of the mission, which is unlike the rest of the Qatari institutions that start functioning by 7.00 am. They also felt that the Embassy remaining shut during Indian festivals such as Gandhi Jayanthi and Dasara was inconvenient. They felt that that it should follow Qatari timings and holidays for the convenience of people working there. By contrast, Sri Lankan missions in UAE are kept open on Fridays, the country’s weekend public holiday, to facilitate services for migrants during their rest day. Unlike the Sri Lankan mission, the Bangladeshi missions, both in Malaysia and Qatar, keep closed on the weekly holidays of those countries and thus workers have little option but to take a leave of absence from their work to visit the embassy.

Speeding up processes and simplifying procedures for securing passports can make a difference to the efficiency and the functioning of the embassies from migrants’ perspective. In this context, they highlighted the after-hours embassy counters at the Indian Cultural Centre in Qatar, where they can get their work done without having to lose a working day. The respondents noted that their major involvement with the embassy was pertaining to certifications, police verifications, passport renewal, etc. Validation of migrant workers’ documents is now done in India, which is a time and effort consuming process. Indian migrants thus felt that the growth of agencies that charge high amounts for helping them get their attestations done is also a cause of worry. Advertisements of such agencies even appear in local

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<sup>21</sup> In UAE, Bangladeshi migrants are engaged in transfer of balance from one cell phone to another. This apparently innocuous act violates the law of the land of the country concerned.

newspapers, making them completely legal and fair. Inefficiency of the embassies leaves migrants with no other option but to pay these agencies if they need their documents quickly.

Many unskilled migrants complained of the attitude of the embassy staff towards them. According to an Indian professional based in Doha, differential treatment, ill-behaviour and reluctance to help are perceived as an

insult to the community that toils in soils abroad to make the Indian economy what it is. Most times the petty diplomats' politics also cause difficulties to the migrants.

Migrants felt that good initiatives often do not yield expected results, as details are not planned properly. Open days for the migrant workers in destination countries aim at providing them an opportunity to communicate their grievances to the authorities and facilitate a platform where they can express their concerns and meet their fellow migrants. Unfortunately, even these open days are conducted on weekdays, making it difficult for the workers to attend. It is also worth mentioning that the embassies of Pakistan and Nepal in Qatar have already begun organising their open days during the holidays, so that most migrants are able to attend without missing work.

Moreover, there is a general impression among Bangladeshi workers in UAE, Qatar and Malaysia that their missions are not as visible as the Thai, Myanmar and Nepal embassies are. As one worker in Kuala Lumpur stated:

Bangladeshi embassy staff hardly visits workers' sites. Such visits provide the mental satisfaction (to the workers) that someone is looking after our interest. No open houses take place for workers on victory or independence days.<sup>22</sup>

A section of migrants complained that the Indian embassy in Qatar does not offer its citizens the option of booking appointments online. 'Where time is money, spending hours and days at those never ending queues at the embassy is nothing less than a torture', observed a young professional working in the hospitality sector in Doha. In short, migrants felt that the embassy should be more considerate of the migrants and understand their issues.

The migrants of Bangladesh, India and Sri Lanka all felt that there is a need for establishing a better database on employers and recruiters. All forms of ill treatment (physical and psychological) as well as violations of contracts should be recorded in the database with names and addresses of agents, recruiters and employers/sponsors. This will allow embassy officials to check the performance of the recruiters/employers before attesting their documents to bring in additional workers.

Many female respondents have reported sexual harassment at the worksites by the employers or supervisors. Women should be made aware of the 24-hour hotline facility before they travel to the destination countries, and be duly informed during their pre-departure trainings. The suggestion was floated that the embassy should encourage civil society organisations to provide

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<sup>22</sup> Bangladesh plantation worker, personal interview, Kota Raya, 29 October 2013.

information and, if possible, services to all categories workers in the CDs. The funds allocated to these kinds of collaborative activities are quite insufficient.

## 6. Policy Coherence

LAs noted that there often exists a communication gap between the concerned ministries in the country of origin and the missions, as well between the labour wing and other wings of the missions themselves. In the Indian scenario, for a long time there existed a gap between the functions of various ministries and the embassies abroad. While the embassies fell under the direct jurisdiction of the Ministry of External Affairs, the much younger Ministry of Overseas Indian Affairs was held responsible for many other offices pertaining to international labour movements. In short, three ministries, the Ministry of External Affairs, Ministry of Overseas Indian Affairs and the Home Ministry, jointly controlled migration-related offices, which created miscommunications. But currently all migration related functions are under the direct control of the Ministry of External Affairs, under the ministerial guidance.

In the past there was no binding requirement on Bangladeshi LAs to send annual reports to their reporting ministry. Under the new law, LAs are obligated to send such reports. In addition, LAs are asked to provide monthly reports as well. A senior official stated that a major problem for the Bangladeshi Ministry of EWOE is that it does not have any mechanism to monitor or scrutinise the performance of LAs, or validate the reports sent by them. Under such conditions, LAs remain unaccountable for their performance, at least to a degree. Moreover, personnel at the Ministry of EWOE may not have the necessary field experience to appreciate and assess the performance of the LAs.

Disbursement of compensation money was an issue of major concern for LAs. The process of verifying nominees of deceased migrants sometimes takes a disproportionate amount of time at the Bangladesh end. In this regard, an LA posted in Malaysia said that the Malaysia government makes the worker sign an H Form, under which the worker names his/her nominee, and therefore there is hardly any problem in disbursing compensation money. The LAs felt that systems should be updated so that compensation money can be sent electronically. There have been instances where documents pertaining to compensation claims were sent to mission without attestation. This puts LAs in a difficult situation, as the paperwork needs to be re-done and the process gets delayed.

A major problem in the case of Bangladesh has been that the LA office is under the overall leadership of the Ambassador representing the Ministry of Foreign Affairs. It becomes a problem for the LA if other wings and the head of mission do not acknowledge the importance of the role of the LA and extend necessary support in this regard. The LAs attending the 2013 Conference in Dhaka (mentioned in Section 1.3) identified the lack of coordination between their office and the rest of the mission to be a major problem. The LAs reported that in many instances the Head of Mission did not consult them in preparing the budget of the labour wing,

resulting in improper allocation of resources. As one participant noted, 'At least we should be allowed to prepare our own budget that can be scrutinised by the Head of Mission'.

The LAs from Bangladesh also raised the issue of discrimination in benefits between the diplomatic wing and the labour wing, in terms of house rent (including rates of increased allowance), salary level of ancillary staff, and medical allowance. The dependence of LAs on accounts and audit officers who are in the payroll of the Ministry of Foreign Affairs also presents a problem for them. They expressed the need for appointment of an account and audit person reporting to them directly. One participant of the 2013 LA conference provided an interesting narrative of arbitrariness of the mission head:

I went on leave for a month. Upon return to my post I found that the mission spent my travel allowance for an entire year and the amount allocated for furniture (for the labour wing) to celebrate National Day.

There is a strong feeling among a section of the LAs, as well as among permanent residents at the country of destination, that the labour wing needs to be separated from the consular wing. This has been done in the case of the Filipino, Indonesian and the Vietnamese embassies in Kuala Lumpur. The LAs stated that, although it is the labour wing that brings in resources to the embassy, it is not adequately resourced. As one long term resident with interest in workers matters in Malaysia stated, 'The consular wing considers it to be Brahmin, and treats the labour wing as Namasudra [low caste]'.

## 7. Conclusions and Policy Recommendations

This report began by highlighting the growing importance of labour migration in the overall development of Bangladesh, Sri Lanka and India. While Bangladesh and Sri Lanka are the later entrants to the labour supply regime in the Gulf, India has a long history of migration to the region. Southeast Asia is also an important destination for South Asian labour migrants. It is the responsibility of labour attachés in the overseas diplomatic missions of countries of origin to provide protection and services to labour migrants at destination.

There is increased realisation among the sending states of the critical role that LAs can play in protecting migrants. Recent legislations such as the Overseas Employment Policy (2006) of Bangladesh and the National Labour Migration Policy (2008) of Sri Lanka list the various responsibilities of LAs. The study noted very little difference in the assigned role and mandates of the labour attachés of the three countries. As the most important point of contact between migrants and the sending and destination countries, the LAs have a huge role. Protecting and promoting rights of migrants as accorded under the laws of the countries of destination and addressing disputes between workers and employers are other important areas of their engagement. The need for a proactive role to make the employers and recruiters respect the rights accorded to migrant workers, including the female workers, was highlighted.

The study also made a comparative assessment of the recruitment practices of labour attachés pursued by the three countries. There is a marked difference in the recruitment practice of the three countries. In India the position of LA is treated as a matter of routine posting for officials, whereas in Bangladesh the post is openly advertised among cadre and non-cadre officials of various ministries. In sharp contrast, Sri Lanka pursues a policy that allows only those who work in the Ministry of Labour or in the concerned line agency – the SLBFE – to serve in the foreign missions. The advantages of the Sri Lankan practice are that those employed are more experienced with the issues related to migrant workers and familiar with the rules and procedures to be adopted in dealing with such issues.

While there is no institutionalised training of newly recruited LAs in India, in Bangladesh there is an effort to streamline the process. In this regard the Sri Lankan experience is more organised and advanced as it involves the concerned Bureau and the Ministry of Foreign Affairs. The Sri Lankan example of organising and training LAs in various sub-regions at destination, with the technical support of the ILO, is a good example for others.

The challenges faced by the labour attachés of all three sending countries in rendering services to migrants are quite similar. Physical distance in large countries such as Malaysia, lack of qualified personnel and resources, absence of laws pertaining to domestic workers in the Gulf states, high cost of legal assistance, presence of migrants with irregular status, and propensity of some workers to opt for industrial action that violates local laws, are some of the major challenges identified by LAs. The study also documented the problems that LAs face in dealing with the government officials, the private sector, and civil society institutions. It identified a few more challenges that include migrants' demand for safety and security of their family and property in the origin areas, and disproportionate time required to address death and compensation cases. Moreover, migrants interviewed as part of the study also pointed to a perceived lack of capacity among LAs' offices, differential treatment for low-skilled migrants, and limited opening times, which made accessing the services of LAs difficult.

The research examined the relationship between the LAs and their points of contact in countries of origin. It also dealt with the relationship of the labour wing with other wings of the mission concerned. The LAs' performance in countries of destination is often hampered by delays on decisions and actions by those in charge in the relevant line agency or ministry at home. In a few cases, the monitoring and evaluation mechanisms of the performance of LA were found to be weak. Tension between the labour wing and other wings was found to be a problem in most cases.

## **7.1 Recommendations**

### *Recruitment and training*

The current system of recruitment in Bangladesh allows any civil servant to apply for the post of labour attaché, provided they meet necessary conditions laid out in the Cabinet Circular. Similarly, Indian LAs may be appointed with minimal relevant experience. A review of these systems are necessary. The study recommends that any person applying for the post of LA

should have at least two years of experience in serving at the district level or dealing with labour matters – using the recruitment system adopted by Sri Lanka as a basic model. As in the Sri Lanka case, the labour attaché training course offered by the Diplomatic Training Institute may be integrated into the training curriculum of other Foreign Service officers. Additionally, an adequate number of female officers need to be posted in countries that host large numbers of female migrant workers. They need to be appropriately trained to provide required services to all migrants, including female migrants, particularly those serving as domestic workers.

The current training for Bangladeshi and Indian LAs is not properly structured – although, as discussed earlier, Sri Lanka has made strides in their training programme for LAs in recent years. A properly structured generic training module for a three-month course for LAs needs to be developed for Bangladesh and India through a consultative process of all stakeholders. A week-long orientation training should be imparted by the mission when a new officer joins a mission. There should be an overlapping of tenure for at least two weeks between the outgoing and incoming LAs. The current method of training does not include any country specific component. Along with a generic module, the LAs appointed for a specific country should be provided with country specific training. It should include cultural practices and norms, administrative set up (particularly those related to migrant labour management), labour laws, and basic language skills. For postings to the GCC, the training should include information about Sharia Law and the *Kafala* system.

### *Capacity issues*

LA offices are often understaffed and under-resourced. Many times, the physical movement of the LAs is constrained due to lack of vehicles or fuel. Considering the importance of the sector, adequate human and financial resources are to be allocated to these offices. Where they do not exist, 24-hour hotlines should be established so that workers in emergency situations can report to the embassy. Effective mechanisms need to be put in place so that mission heads can monitor progress on the complaints lodged with LAs. Other countries may take up the Indian Embassy's practice of holding an Open House every month. This is one way to render services to migrants as well as to have better appreciation of the problems that migrants encounter in the CDs.

Simple mistakes in the applications made by workers may delay responses from the authorities of the CD. In that context, the missions can develop a *proforma* of applications that migrant workers may be required to submit. This would facilitate migrants securing more timely services from officials at destination.

There is a burgeoning demand for domestic workers, particularly housemaids, in all Gulf states. The initial two-year contract job is covered by insurance. Despite training now being imparted on women before their departure, there is still room for improvement. Therefore, before deployment female migrants should be imparted with proper training in skills, to meet the demands of the job, as well as counselling, so that they can cope in an alien environment.

### *Linking with employers and the private sector*

The labour attachés have to identify companies and government departments that employ sizeable numbers of migrant workers of the gender and skill composition that Bangladesh, India and Sri Lanka can offer. Visits by LAs to the human resource division of those establishments are likely to create personal interest in recruiting workers from the country. Long term plans and investments need to be undertaken so that the LAs can launch promotional activities. Market exploration for labour is a complex task requiring specialised skills. There is an urgent need to develop a market exploration wing at the relevant line ministries of sending countries, to coordinate with the missions and conduct research on labour market issues. This wing can play a lead role with adequate resources and qualified personnel. This condition generally applies to all three countries. In addition, Sri Lanka conducts periodical ‘Road shows’, which serve as campaigns of its manpower in host countries. This may be a good example for other LAs to follow.

### *Coordination and coherence*

In view of the contribution of labour migrants to the national economy of all the study countries, there is a strong case for major increase in resource allocation to the office of LAs. The LAs and mission heads interviewed in all the six posts of UAE, Qatar and Malaysia underscored that they needed higher amounts of financial resources to serve migrants better. They also emphasised the need for improved training for those appointed to the office and refresher courses for those already staffing the offices of LAs. Under the circumstances, the study proposes that concerned government ministries (Labour, Expatriates’ Welfare and Overseas Employment and Finance) make adequate budgetary allocations for the office of the labour attaché of their respective countries, particularly those where there are large concentrations of migrant workers.

The study also recommends enhanced coordination between the labour wing and other wings of overseas diplomatic missions. The head of mission needs to provide leadership and motivate their team so that labour protection and welfare issues receive high priority, particularly those located in the Gulf states and Malaysia. In order to develop a team spirit, discrepancies in pay and other benefits among various wings need to be addressed. The needs of the labour wing are to be respected in preparing the annual budget, and LAs are to be given necessary authority and autonomy to discharge their functions effectively. The personnel and resources of the labour wing should be utilised as much as possible for rendering protection and welfare services to the labour migrants.

Sometimes governments initiate new policies and want their immediate implementation.<sup>23</sup> While the LAs are asked to implement them they may not be given adequate understanding and training on what those policies entail and how to implement them. Therefore, LAs need to be kept informed and if possible involved when new policies and measures pertaining to the migrant workers are framed. The offices of the labour attachés need to be made stronger,

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<sup>23</sup> For example, the current emphasis of Bangladesh government on Government to Government recruitment or recruitment from database prepared by the BMET.

independent and evaluated periodically. Enriching LA's with better training, utilising the services of retired officials, conducting more open days and communicative programmes are very much recommended.

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## About the Migrating out of Poverty Research Programme Consortium

**Migrating out of Poverty** is a research programme consortium (RPC) funded by the UK's Department for International Development (DFID). It focuses on the relationship between migration and poverty – especially migration within countries and regions - and is located in five regions across Asia and Africa. The main goal of **Migrating out of Poverty** is to provide robust evidence on the drivers and impacts of migration in order to contribute to improving policies affecting the lives and well-being of impoverished migrants, their communities and countries, through a programme of innovative research, capacity building and policy engagement. The RPC will also conduct analysis in order to understand the migration policy process in developing regions and will supplement the world renowned migration databases at the University of Sussex with data on internal migration.

The **Migrating out of Poverty** consortium is coordinated by the University of Sussex, and led by CEO Professor L. Alan Winters with Dr Priya Deshingkar as the Research Director. Core partners are: the Refugee and Migratory Movements Research Unit (RMMRU) in Bangladesh; the Centre for Migration Studies (CMS) at the University of Ghana; the Asia Research Institute (ARI) at the National University of Singapore; the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in South Africa; and the African Migration and Development Policy Centre (AMADPOC) in Kenya.

Migrating out of Poverty

University of Sussex

Falmer, Brighton BN1 9QN, United Kingdom

tel: +44 (0)1273 873535

email: [migrationrpc@sussex.ac.uk](mailto:migrationrpc@sussex.ac.uk)

web: <http://migratingoutofpoverty.dfid.gov.uk/>

Twitter: @migrationrpc

