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The Permanent Mission of the People's Republic of Bangladesh to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to the latter's communication no. AL BGD 3/2024, dated 28 March 2024, has the honour to attach herewith Bangladesh's response to the reply of Joint Communication received from the UN Special Rapporteurs.

The Permanent Mission of the People's Republic of Bangladesh to the United Nations Office and Other International Organizations in Geneva presents avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

Geneva, 29 May 2024

Enclosure: as stated (07 pages)

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1. Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Email: ohchr-srslavery@un.org
2. The Working Group on the issue of human rights and transnational corporations and other business enterprises; Email: hrc-wg-business@un.org
3. Special Rapporteur on the human rights of migrants; Email: hrc-sr migrant@un.org
4. Special Rapporteur on trafficking in persons, especially women and children; Email: hrc-sr-trafficking@un.org

**Response by the Government of Bangladesh to the Joint Communication No. AL
BGD 3/2024; dated 28 March 2024 from the Special Rapporteur on contemporary
forms of slavery, including its causes and consequences; the Working Group on the
issue of human rights and transnational corporations and other business enterprises;
the Special Rapporteur on the human rights of migrants; and the Special Rapporteur
on trafficking in persons, especially women and children**

Bangladesh has always championed safe, orderly and regular migration and has consistently pursued the issue of migration as a top priority in its diplomatic engagements at bilateral, regional, and multilateral levels. A large number of workers from Bangladesh are employed in different countries around the world, including in Malaysia. The Government of Bangladesh remains committed to promote their wellbeing and duly acknowledges their contribution to economies of both sending and destination countries.

2. In order to regulate the issue of migration in an orderly manner, Bangladesh has enacted the *Overseas Employment and Migrants Act, 2013* (amended in 2023), and the *Overseas Employment and Migrants (License and Conduct) Rules, 2019*. Bangladesh has ratified the *International Covenant on Civil and Political Rights (ICCPR)*; the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*; the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)*; and the *United Nations Convention against Transnational Organization Crime (Palermo Convention)*. It has also played a major role in the formulation, adoption and implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM).

3. In a similar vein, the Government of Bangladesh remains committed to constructive engagement and cooperation with the United Nations human rights mechanisms. Accordingly, the concerned authorities of the government have reviewed the Joint Communication (JC) concerning the alleged fraudulent recruitment of Bangladeshi migrant workers in Malaysia, and would like to furnish the following observations, clarifications and information for consideration of the signatories of the JC:

**General framework of recruitment of Bangladeshi migrant workers into Malaysia:
Comments on the allegations of fraudulent recruitment**

4. The Government of Bangladesh and the Government of Malaysia signed a Memorandum of Understanding (MoU) on 19 December 2021 (*hereinafter referred to as 'MoU'*), for the employment of Bangladeshi workers in Malaysia with a view to establishing a framework to facilitate recruitment, employment and repatriation of workers as outlined in its preamble.

5. In pursuance of the MoU, the Hon'ble Minister of Human Resources of Malaysia addressed a letter to the Hon'ble Minister for Expatriates' Welfare and Overseas Employment of Bangladesh on 14 January 2022, regarding selection of 25 Bangladeshi Recruiting Agencies (*hereinafter referred to as 'BRAs'*). In response, the Hon'ble Minister for Expatriates' Welfare and Overseas Employment of Bangladesh requested the former, in a letter dated 18 January 2022, to keep the opportunity open for all the licensed BRAs. The Hon'ble Minister flagged that this open opportunity would ensure transparency and fairness



compatible with the relevant International Labour Organization (ILO) standards as well as the *Competition Commission Act, 2012* of Bangladesh.

6. According to the provisions of the MoU, the Government of Malaysia would select BRAs through an online system based on a list provided by the Government of Bangladesh. Bangladesh, therefore, stressed that the opportunity for recruitment be given to all 1,520 BRAs recognised by the government, as also reflected in the Record of Discussion (RoD) of the 2nd Joint Working Group (JWG) meeting held on 20 March 2023. In response, the Government of Malaysia increased the number of authorised BRAs from 25 to 101 as per their choice and mandate, including the sole government recruiting agency, i.e. *Bangladesh Overseas Employment Services Limited (BOESL)*.

7. In fact, the aforementioned MoU's implementation had started after the 1st JWG meeting between the Ministry of Expatriates' Welfare and Overseas Employment (MoEWOE) of Bangladesh and the Ministry of Human Resources of Malaysia, held in Dhaka on 2 June 2022. The recruitment process and procedures had been agreed upon centred on an entirely online-based system. As per the agreed procedures, the Malaysian government would approve the quotas of foreign workers, then allocate the quotas to BRAs for processing of e-VDR (*visa with reference*), and finally arrange e-visas for the selected aspirant workers through the Foreign Workers Centralized Management System (FWCMS). Accordingly, the whole process of recruitment is carried out through FWCMS which is developed and operated by the Government of Malaysia, and is also integrated with MoEWOE and the Bureau of Manpower, Employment and Training (BMET) of Bangladesh. As a result, there should be no scope for sending any Bangladeshi workers to Malaysia using false employment visas. As a matter of fact, all these measures were put in place to address anomalies in the recruitment process, enhance transparency and accountability, and curb irregular migration, including trafficking in persons. Upon completion of the necessary formalities, the first batch of workers was dispatched from Dhaka to Malaysia on 8 August 2022.

8. From 8 August 2022 to 22 April 2024, a total of 4,21,836 Bangladeshi workers migrated to Malaysia under employment visas. The overwhelming majority of them, barring a few thousand, have been well placed in terms of their employment. It may be noted that the minimum basic wage in Malaysia is RM 1500, which is almost double compared to that of some of the other regular employment destinations. The aforementioned bilateral MoU also includes provisions for coverage of flight costs, health examinations, visa fees, and employee insurance. It further ensures a day off per week, paid overtime, and compensation for workplace injuries, etc. keeping with the ILO standards. All these provisions have made Malaysia one of the most preferred destinations for unskilled/semi-skilled Bangladeshi workers, despite some unwarranted instances of non-placement on the agreed jobs.

9. The Bangladesh High Commission based in Kuala Lumpur gets in contact with the Department of Labour, Government of Malaysia, whenever there is a reported issue of non-placement of Bangladeshi workers on their agreed jobs by any local company. In the process, the High Commission managed to settle the non-placement of around 2,883 workers through consultation with the concerned Malaysian authorities and employers. Besides, the Malaysian Department of Labour transferred 612 Bangladeshi workers to other employers for job placements. According to information received from the High Commission, so far, a total of 5,190 migrant workers (1.23 per cent of total migrant workers) under employment visas have

not been placed on jobs that had been agreed upon by the concerned Malaysian employers. It is to be mentioned that, in the initial stage, the Bangladesh High Commission used to inspect the employer companies before attestation of the demand letters for workers. However, subsequently the High Commission suspended the process as the Ministry of Foreign Affairs, Government of Malaysia, officially requested the Mission not to conduct such company inspection since the matter fell under the jurisdiction of the competent Malaysian authorities. In the 2nd JWG meeting, the Bangladesh side raised the issue of non-placement of newly migrated Bangladeshi workers and requested the concerned Malaysian authorities to take necessary remedial actions. As per MoU, the Malaysian Employers bear the responsibilities for all recruitment activities, including entry and employment of workers, and the Government of Malaysia has the prerogative of ensuring compliance with employment contracts within its territories.

10. As far as migration fees are concerned, the assigned recruiting agencies are supposed to charge stipulated amounts approved by the Government of Bangladesh. However, it is reported by the media and other sources that the involvement of unlicensed sub-agents (middlemen) at both ends has led to the increase in migration costs at times. Accordingly, based on proven allegations, a number of administrative and legal measures have been and continue to be taken, such as: i) Locking license/s to suspend recruiting by the BRA/s in question; ii) Charging fines as per the Overseas Employment and Migrants Act, 2013; and iii) Recovering payments from the concerned BRA/s through recourse to Alternative Dispute Resolution (ADR). In 2023, the Government amended the *Overseas Employment and Migrants Act, 2013* with the aim of bringing the sub-agents (middlemen) under government supervision and making them accountable. Besides, in the 1st Meeting of the JWG, the Bangladesh side flagged the need for effective bilateral cooperation to eliminate the scope for unauthorized payments, including those charged by unlicensed sub-agents.

11. The Government of Bangladesh is also promoting the *employers pay model* which is commonly known as “*Zero Cost Migration*”. A total of 1,351 workers have so far migrated to Malaysia under the model since the launch of FWCMS.

Investigation, prosecution or criminal charges against government officials, employers or other actors

12. Bangladesh remains fully committed to combating trafficking in persons, migrant smuggling and other related trans-national crimes. Bangladesh lends her full support to the relevant regional mechanisms and international initiatives (including those under the UN) to prevent human trafficking, rescue and protect victims, and identify and prosecute traffickers. In line with its *zero-tolerance* approach, Bangladesh has enacted the *Prevention and Suppression of Human Trafficking Act, 2012* and adopted three rules, namely, the *Prevention and Suppression of Human Trafficking Rules, 2017*; the *National Anti-Human-Trafficking Authority Rules, 2017*; and the *Human Trafficking Prevention Fund Rules 2017*. The Government of Bangladesh has established seven Human Trafficking Crime Tribunals in seven divisional districts in the country. The Government has also adopted a *National Plan of Action for Prevention and Suppression of Human Trafficking* (extended for 2023-2025), aligned with the 2030 Agenda and its Sustainable Development Goals (SDGs).

13. In pursuance of the above, the Government has constituted *Counter Trafficking Committees (CTC)* in every District, Upazilla and Unions (local government tiers), established *Human Trafficking Prevention Monitoring Cell (TIP Cell)* at Bangladesh Police Headquarters, and strengthened surveillance, patrolling and operations along the border areas. Targeted social awareness and mobilization campaigns are being organized through collaboration with the media, civil society and community based organizations.

14. In addition, the law enforcement agencies take action on any information concerning unlawful activities against migrant workers by recruiting agencies, sub-agents and others as per the provisions of the *Overseas Employment and Migrants Act, 2013*. Till date, upon receipt of specific allegations, license of four BRAs has been locked leading to suspension of recruitment for overseas employment, irrespective of destinations, as per the same law.

15. There has, however, been no instance of criminal charges against any government officials of Bangladesh, as no specific and credible allegation in relation to the Malaysian market has been made.

16. The Government of Bangladesh also takes initiatives to settle certain complaints through Alternative Dispute Resolution (ADR) mechanisms. MoEWOE has authorized a number of officials of BMET for this purpose. Since the inception of FWCMS, BMET received 39 complaints in 2023 and 206 complaints in 2024 against BRAs involved in recruitment for Malaysia. Out of those, 30 cases have already been settled and an amount of Tk 17,47,000 (equivalent to 15,962.43 USD; 1 USD equals to 109.44 taka) has been realized as compensation from the concerned BRAs for 30 complainant migrant workers. Rests of the cases are under process of disposal.

17. On the other side, according to available information, the Department of Labour, Government of Malaysia has prohibited 48 local employers from recruitment of foreign workers, including from Bangladesh. The Bangladesh High Commission in Kuala Lumpur communicates with the concerned Malaysian authorities in writing regarding local employers failing to place workers on their agreed jobs. The Bangladesh High Commission also refrained from attesting 27 demand-letters involving 1,962 workers for 13 companies (even though those demand letters were approved by the Malaysian authorities) due to previous incidences of non-placement on agreed jobs. Moreover, four cases were lodged by Bangladeshi workers at the Labour Court/s of Malaysia, against which 903 workers found remedies through either job placements or compensations.

Measures to ensure compliance with the State's obligation of human rights due diligence to prevent trafficking of migrant workers: Awareness raising efforts

18. The Government of Bangladesh remains committed to promoting and protecting the human rights of all its citizens, including the Malaysian-bound migrant workers. It has undertaken a host of measures to prevent human trafficking and migrant smuggling from Bangladesh to Malaysia and other countries.

19. As per the existing Standard Operating Procedures (SOP) followed by the Government of Bangladesh, the workers, once selected, undergo a mandatory Pre-Departure Orientation (PDO) training programme in order to enable them to acclimatize to their new workplace or environment. They also get acquainted with workers' rights and protection

issues in general, and particularly about their rights and responsibilities in the destination countries. MoEWOE and its agencies undertake various awareness programmes about both regular and irregular migration to prevent aspirant migrant workers from falling prey to traffickers or migrant smugglers. In the last couple of years, 20 TVCs (Television Commercial) on safe and regular migration have been broadcast for 63 hours on electronic media, and more than 18,00,000 leaflets were distributed among the aspirant migrants. Moreover, 694 awareness meetings/seminars and 419 awareness campaign events were arranged across the country. The Government is using social media platforms (*Facebook, YouTube, WhatsApp etc.*) for this purpose.

20. The Bangladesh High Commission in Kuala Lumpur is also conducting campaigns using social media to alert and sensitize expatriates as well as aspirant migrant workers about the risks of human trafficking and fraudulent practices by unscrupulous elements. On the Bangladesh side, the selected aspirant workers are allowed to migrate to Malaysia only after verification of their employment visas that are issued following the High Commission's attestation of the job offers/ demand letters provided through FWCMS.

21. In addition, the relevant UN agencies like IOM and ILO have long been extending support to the Government to run awareness campaigns through print, electronic and online media. In the last couple of years, they have arranged three round-table discussions, two job fairs, 503 sensitization workshop, 100 advisory dialogues and training for 1,415 government officials. The 24/7 hotline (*Probashbondhu Call Centre*) of the Wage Earners' Welfare Board (WEWB) was established in 2022 with the support of IOM.

Measures taken to strengthen cooperation between the Government of Bangladesh and the Government of Malaysia to effectively combat transnational exploitative networks: Consular protection and assistance to Bangladeshi migrants in Malaysia

22. With a view to implementing an ethical and fair recruitment process, the Government of Bangladesh signed the MoU with the Government of Malaysia incorporating clauses compatible with international human rights and decent work standards. The MoU provides for constituting a *Joint Working Group (JWG)* comprising senior officials from both sides for holding periodic discussions. The JWG has held two rounds of consultations so far and managed to address a number of issues and challenges on both sides in relation to implementing the MoU.

23. The Bangladesh High Commission in Kuala Lumpur remains engaged with concerned Malaysian authorities to address any allegation or outstanding issues through bilateral discussions and exchange of letters. Besides, the Mission works in close collaboration with international organizations, such as ILO and IOM, relevant local NGOs, Malaysian Employers Federation (MEF), Federation of Malaysian Manufacturers (FMM), and other Malaysian trade bodies.

24. The Mission periodically arranges interactive sessions with workers and employers across Malaysia using Mobile Consular Teams comprising officials of the Mission. In January 2024, the Mission established a dedicated 24x7 Call Centre, through an outsourcing company to receive complaints and facilitate regular dissemination of important information related to passports, visas and welfare issues. Furthermore, the Mission regularly organises

‘Public Hearings’ to listen to the needs and grievances of the migrant workers. The Mission also concluded an agreement with the Malaysian Post Office (Pos Malaysia) in March 2021 with a view to delivering passports among Bangladeshi citizens residing in various corners of Malaysia, through selected (50+) Pos Malaysia outlets across the country.

25. The Bangladesh High Commission has issued 1,503 Travel Passes (TP) since January 2023 to April 2024 after visiting 14 deportation camps. During this period, the High Commission has also addressed the problems of 796 migrant workers relating to salary, accommodation, overtime and other welfare issues. 61 workers received legal assistance of the High Commission in various courts and offices during the same period.

26. In general, the relevant agencies of the Government are rendering various kinds of welfare services for the migrant workers and their families, such as assistance for repatriation and burial of mortal remains, financial assistance for burial/ last rites, repatriation of stranded workers, financial assistance to distressed workers, scholarship for children of the migrant workers, financial assistance to physically challenged children of migrant workers, etc.

27. During the last three years, the Wage Earners Welfare Board (WEWB) under MoEWOE has spent Tk 8,78,46,33,533 (equivalent to 8,00,28,656 USD) for various welfare activities of migrant workers and their families. During the COVID-19 period, the Government spent Tk 11,09,77,530 (equivalent to 10,11,480 USD) for quarantine of 4,439 migrant workers and Tk 22,70,48,000 (equivalent to 20,69,378 USD) for RT-PCR tests of 1,41,905 migrant workers. Besides providing counselling service to 66,864 returnee migrant workers, WEWB has distributed Tk 12,24,85,500 (equivalent to 11,16,367 USD) as financial support to the registered returnee migrants during the same period. The Government has introduced a mandatory life and disability insurance having five-year tenure for outgoing migrant workers, which covers up to Tk 10,00,000 (equivalent to 9,111 USD) for death and different types of injuries as compensation. In the last three years WEWB has settled 147 insurance claims with Tk 5,69,45,030 (equivalent to 5,18,570 USD).

Policies, legislation and regulations to uphold obligations to protect human rights

28. The Government of Bangladesh has introduced a *Grievance Redress System (GRS)* in all public offices, which is widely recognized as a useful tool for promoting good governance and accountable conduct. The online-based GRS has become a dynamic platform for people including migrant workers to voice their grievances and suggestions.

29. Under the *Right to Information Act, 2009*, any person including migrant workers can request for information, including from the NGOs. If the requested information or document is not furnished to the applicant, the Information Commission can intervene and decide on the complaints from information seekers like a Civil Court.

30. Besides, the National Human Rights Commission (NHRC) of Bangladesh, as a national watchdog and advocacy institution for promotion and protection of human rights, works on diverse human rights issues including the rights of migrant workers and their families. The NHRC regularly enquires about incidents of alleged human rights violation, including those involving migrant workers.

Regulation of the recruiting agencies and measures to address the exploitative networks

31. The recruiting agencies are duty-bound to exercise due diligence in their migration related activities as per the *Overseas Employment and Migrants Act, 2013* (amended in 2023), and the *Overseas Employment and Migrants (License and Conduct) Rules, 2019*. As stipulated in Section 15 of the Act, it is the duty of the recruiting agents to protect the interest of migrant workers and to maintain continuous communication with the employers to ensure the employment of the migrant workers in their agreed jobs, to ensure a congenial working environment, and to secure wages and other benefits in accordance with the terms and conditions of the employment contracts.

32. The Government takes various punitive measures according to the laws against private recruiting agencies if they are found to be involved in illegal, unauthorised or unscrupulous practices. The punitive measures include suspension or cancellation of their licenses, imposition of fines etc. (as stated above). In appropriate cases, the Government lodges criminal cases against the concerned recruiting agencies.

33. In 2023, recruitment licenses of 58 recruiting agencies were either suspended or cancelled. More than Tk 4,75,000 (equivalent to 4,340 USD) was realized from seven recruiting agencies as fine. So far, 54 criminal cases have been lodged against recruiting agencies for their wrongdoings, of which four cases concerned Malaysia. To effectively address irregular migration, the Government regularly conducts onsite summary trials by deploying Mobile Courts. In 2023, 57 Mobile Courts were conducted against different recruiting agencies and Tk 12,49,000 (equivalent to 11,412.18 USD) was realized as fines.

34. In addition, the Bangladesh High Commission in Kuala Lumpur remains pro-actively engaged with the Malaysian authorities to identify the companies or unscrupulous elements allegedly involved in abuse or exploitation of expatriate Bangladeshis.

Concluding remarks

35. The Government of Bangladesh remains committed to deploying all possible efforts, including through the Bangladesh Missions abroad, for the purpose of protecting and promoting the rights of the migrant workers. Regrettably, a portion of Bangladeshi workers are sometimes found to be deprived of their rights in the countries of destination/employment. Bangladesh expects that the rights and protection of migrant workers and their families would be upheld in the host countries through the combined efforts by all concerned stakeholders. To that effect, the government would continue to work in close coordination with both Bangladeshi workers and recruiting agencies with a view to having informed dialogues and engagements with the concerned authorities of the host countries towards promoting safe, orderly and regular migration for all.

