

## Access to Justice for the Women Migrant Workers in Bangladesh: Trend and Analysis

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**Abstract:** Migration has become one of the primary concerns to create employment opportunity for growing economy of the government of Bangladesh. A large number of migrants worker in the international labour force from Bangladesh are women. Women workers contribute the economic development and reduce poverty of our country. They can change their economic status and help their family members. But women are sufferer of exploitation as well as violence in different stages of migration in home and abroad. They face various inequalities, discriminated, exploited and lower level of social protection which barriers to access their rights. Though different legislation and policies are enacted in and abroad but most of the case woman did not get their rights and privileges. This paper tries to find out to the extent of violence faced by women migrant workers in the destination country and identify the implications and obstacles in the existing justice system.

**Keywords:** Access, Justice, Woman, Migrant worker.

### 1. Introduction

Labour migration has become a certain phenomenon in global economy. Bangladesh is also one of the major manpower sending countries in the South and South East Asia. Bangladesh is a population near about 165.65 million and it is one of most densely populated country in the world. Though having development in different sectors, there is still high unemployment. However, the Government of Bangladesh is trying to provide suitable employment for all of these growing labour forces. The official recruitment of labour migrants in Bangladesh in overseas job started in 1976 with a modest number of 6,078, which has now over eight million spread across more than hundred countries. International migration of manpower has in recent years emerged as the most important issue for the economic development

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in Bangladesh. At present a large number of people are heading for overseas employment every year for a better livelihood and decent life. Though majority of the labour migrant are man but gradually women are emerging as major part of the migration. Moreover, women are contributing equally towards the economic development of the country. In our country migrant workers take place in more than 132 countries of the world mainly to Middle Eastern countries and some of the South East Asian countries every year but women migration is engaged in 51 countries only. However, Lebanon, UAE, Saudi Arabia, Jordan and Mauritius are the biggest recruiters of Bangladeshi women workers. Though the number of migrant workers is increasing but the recruitment system of migrant workers in Bangladesh is complex one. However, the Government of Bangladesh recruit migrant workers in different countries but the recruitment is mostly in the hands of the private recruiting agents and individuals. On the other hand, the whole process is regulated by a intermediaries called dalal and they are trying to convince women workers to go abroad for earning much money and others welfare facilities. As a result, women are migrating to fulfill their dreams and aspiration to give financial support their families. However, most of the cases the scenario is different when they migrant in different countries, they face lots of problem and didn't get their proper rights and welfare facilities as per required commitment of the recruiting agencies. Some of these women workers are coming back home from migrant countries in droves within a few months without any hopes. Most of the female migrant workers suffered torture including physical assault, mental agony, sexual violence, harassment as well as they remain underpayment or non-payment of wages. This paper is trying to focus to ensure justice for migrant workers, especially women as well as to find out some measures for necessary improvements to justice mechanisms to enable legal remedies for women migrant worker in Bangladesh.

## **2. Trends of Woman Migration Worker**

International migration from Bangladesh was commenced officially from 1976; women migration went to aboard from 1996. Though some restrictions were imposed by Government in 1981 on women migration from Bangladesh but after withdrawal of major bans on female migration, it is increasing. Up to 2008, more than 80,000 women migrated to overseas employment in 17 countries. Percentage of women migration in the international average is about 49%. But the percentage of women migration from Bangladesh is low in comparison to overall migration. Bangladeshi workers are occupied in more than 132 countries of the world but women migration takes place in 51 countries only.

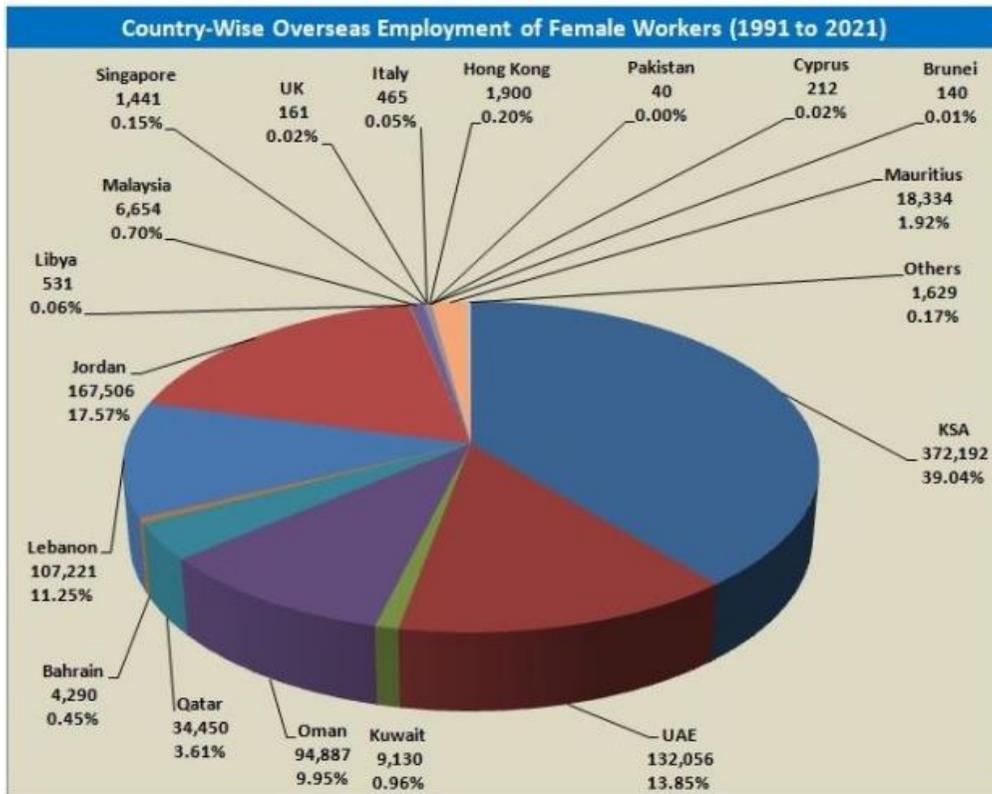
**Overseas Employment of Female Workers from 1991 to 2021**  
**Figure-1**

Year	Name of the Country and Highest number of women migrant workers	Total Female Employment	Monthly Increase (%)
1991	Malaysia (926)	2189	
1992	Malaysia (841)	1917	-12.88
1993	Malaysia (753)	1793	-5.98
1994	Malaysia (1032)	1995	11.27
1995	Malaysia (584)	1612	-19.20
1996	Malaysia (753)	1994	23.70
1997	Kuwait (942)	1762	-11.63
1998	UAE (410)	938	-46.71
1999	UAE (351)	366	61.02
2000	UAE (381)	454	24.04
2001	KSA (335)	659	45.15
2002	KSA (827)	1216	84.52
2003	KSA (808)	2383	93.50
2004	KSA (3133)	11259	378.50
2005	KSA (7358)	3576	20.53
2006	KSA (7341)	18045	32.98
2007	KSA (7348)	19094	5.81
2008	Lebanon (7948)	20842	9.15
2009	Lebanon (13062)	22224	6.63
2010	Lebanon (15116)	27706	24.67
2011	Lebanon (15610)	30579	10.37
2012	Lebanon (12496)	33202	8.58
2013	Jordan (21243)	56400	69.87
2014	Jordan (20134)	76007	34.76
2015	Jordan (21776)	103718	36.49
2016	Jordan (22689)	118088	13.85
2017	Jordan (19872)	121925	3.25
2018	KSA (73713)	1016957	-16.59
2019	KSA (62578)	104789	3.04
2020	KSA (19735)	21934	-79.07
2021	KSA (53301)	80143	265.38
<b>Total</b>	<b>383661</b>	<b>10,00,456</b>	

**Source: <http://www.bmet.org.bd>**

According to the Bureau of Manpower Employment and Training (BMET) that a total of 10,004456 Bangladeshi workers migrated to different countries of the world including the Gulf, other Arab and South East Asian countries in 2021. In 2021, the flow of migration has decreased by 79 percent in comparison to the proceeding years. In the context of the country-wise number of migrations during 1991 to 2021, the highest number of Bangladeshi workers migrated to KSA. During this period a total of 406,837 that constitute 39.04%-woman migrant worker went to this country on employment which is about of the total migration.

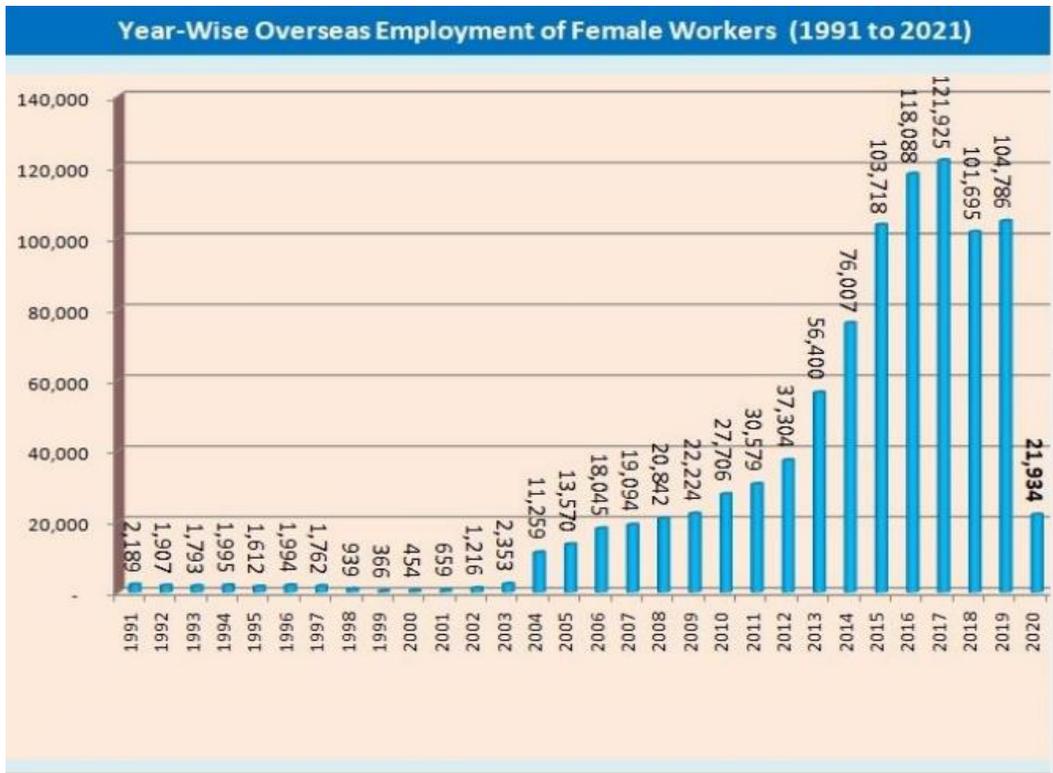
**Country-wise Female Migration from Bangladesh**  
**Figure-2**



**Source: <http://www.bmet.org.bd>**

Figure -2 shows that the second largest flow in 2021 is Jordan (1, 67,500) that constituted about 17.5% percent of the total flow. UAE is the third destination country of Bangladeshi women workers (13.85%), while Lebanon takes the 4th position (11.25%). By receiving 1, 07,221 woman workers (6%), Oman became the fifth largest destination country in 2021. It is mention that Iraq has stopped importing manpower from 1991 just after the Gulf War. Bangladeshi woman worker have migrated in Libya, Korea, Brunei, UK, Italy, Lebanon, Laos, Ireland.

**Year-wise Overseas Employment is depicted in the Figure – 3 in the Bar Chart**



**Source: <http://www.bmet.org.bd>**

Migration has dropped by 17 percent to 101,695 in 2018 and the number of migrated woman was decreased in 2020 and 2021 due to the pandemic situation. Though Bangladeshi workers mainly take part in temporary contract employment. For this reason, they have to return after fulfillment of their contracts. Women migrants felt discouraged to go abroad because the print and electronic media began focusing the news of returnee women migrants who are abused in destination country. However, the Ministry of Expatriates' Welfare and Overseas Employment (MEWOE) and BMET to be aware in the recruitment of women migrants. There is no specific mechanism to keep the record or data on returnee migrants. It is not possible to get actual number of returnee migrants currently working abroad. At present most of women migrant worker from Dhaka, Manikganj, Faridpur, Comilla, Narsingdi, Narayanganj, Gazipur (Survey on woman migration, Narul Islam). In a good number of cases, women migration occurs as a chain migration. The potential women migrant workers are collecting visas through their relatives those are already staying abroad. Day by day migration from these districts is increasing. However, the

employment opportunity for woman worker in the overseas labour market is mostly kept to some specific occupation like housekeeping trade, cleaner and garment workers. These workers usually come from the village and sub-urban areas with poor economic background. Almost 92% of the female workers are migrating as domestic area. But a good demand of women workers in some other occupations like nursing, care giving, cashiering, catering, electronics factory, etc. To avail the opportunity of this skilled migration, it is essential to take up a comprehensive program of skill development and enhancement of their communication skills.

### **3. Right to Access to Justice for Women Migrant Worker**

Access to justice means women migration get fair trial and effective remedies through formal and informal legal process. Access to justice refers the ability of migrant worker to appear before the formal court of country. It also includes legal awareness, legal aid and counsel and civil society. Access to justice is essential to reduce exploitation and free from discrimination in gender responsive manner. Women's migration is differed from men and they face particular challenges and vulnerabilities in the destination country. Migrant women who may have face marginalization at home and aboard. However, migrant women do not get legal recognition and protection due to lack of access to services. In addition, women often are suffering to sexual abuses and physical violence. Women's right to access justice is not only guaranteed in general human rights law, but there are provisions in our constitution ensuring access to justice for women. All women workers have access to information about their rights and privileges existing in different laws. Despite the equal access to justice of migrated women worker often face practical barriers. Woman migrant worker have access to interpret the language and other procedure regarding migration after receiving destination country. They have the right to legal support as well as essential for them dispute settlement mechanisms through mediation or arbitration for speedy solution. To ensure access to justice they also need legal counsel or representative without any fee. A gender-sensitive attitude can create obstacles for women's access to justice so that discrimination should be changed for ensuring justice for women migrant worker.

### **4. Legal Framework related to Women Migration**

The Government of Bangladesh has enacted different legislation that protect woman workers both at home and abroad. The government also ratified the UN Convention on the Protection of the Rights of All Migrant Worker and their Families in 2011. Different law provides the legal and regulatory frameworks that supervise migration related legal supports that exist for Bangladeshi woman migrant workers. The provisions of different legislation mention three sources of rights at work for

migrant which are international instruments; the laws of both the countries of destination and origin; and bilateral agreements between Bangladesh and the labour sending countries. At the national level, in order to ensure the protection and welfare of migrant workers, the Government adopted the Overseas Employment and Migrants Act in 2013 and the Expatriate Welfare and Overseas Employment Policy in 2016. They also enacted the Overseas Employment and Migration Management Rules in 2017, and the Wage Earners' Welfare Board Act in 2018. At the international level, the Government has signed two Bilateral Agreements with Qatar and Kuwait; 16 Memorandums of Understanding, with Cambodia, Bahrain, Brunei, China, Hong Kong SAR, Iraq, Jordan, Libya, Maldives, Malaysia, Oman, Saudi Arabia, Seychelles, Singapore, the Republic of Korea, and the United Arab Emirates. In addition, one Memorandum of Cooperation with Japan in order to regulate recruitment and improve the protection of migrant workers especially women. The Overseas Employment and Migrants Act of 2013 provides three legal aspects; rules and laws. The Act mentions the principle of equity in the labour recruitment and sending processes and to follow the principle of non-discrimination while giving migration related services. Under this act BMET is the authorized government body to decide the process recruitment and selection for migration in abroad. However, this act has allocated to recruiting agent to ensure safe migration for woman and liable to ensure employment contact. Migration Act provides the mechanism of sending workers in abroad, the regulatory frame work for the job contract and migration agreements. This Act is more essential because for the first time it mention the provisions on rights of migrant's woman worker. In addition to this, Act ensures the global community that Bangladesh is committed to follow international obligations. Another important point of the law is that it has incorporated migrants and their families' rights to lodge criminal cases against any deception and civil cases for seeking compensation. Moreover, the punishment for various offences regarding migration has been increased under this act. If anybody bring out advertisement for foreign recruitment without government knowledge it would be treated as an offence and that entails one year imprisonment and BDT 50,000 fine. Under this Act another provision if a person purchases or sells or engages in procuring demand letter or visa without previous permission of the appropriate government authority, he or she would be liable for 7 years of rigorous punishment and a fine of BDT 300,000 taka. If any person sends a migrant through channels which is not recognized by law, then he may face 10-years rigorous imprisonment and fine of BDT 500,000 taka. According to Bangladesh Ministry of Expatriates' Welfare, 2015 provides registration is needed for migrant workers including female worker. It also states about the recruitment agents to provide an

employment contract between the woman worker and the employer about specific wages, residential facilities, duration of employment, compensation in case of death or Injury and costs of emigration and returning from destination country .In addition to this, woman migrant worker also have the right to information, the right to file a civil suit, and the right to return home as well as provides penalties for sending migrant workers overseas in illegal way. They can impose fine for unlawful excess fees; using unfair means of collecting demand notes, visas or work permits related documents. On the other hand, the Expatriates Welfare and Overseas Employment Policy, 2016 provides international laws on migration which related to the National Skills Development Policy 2011 and the Government's Seventh Five-year Plan 2016-2020 requires which ensure safe migration. This policy also ensures the welfare of migrant workers and connects migration with national development and demonstrate suitable plan for migration. This policy is remarkable because it provides a specific provision on female workers who migrate for particular types of work and suggest that the Government establish a special unit for female migrants for promoting skills development and appoint trained female officials in embassies to provide legal advice to female migrant. It also recommends these measures for international woman migrant workers for ensuring access to legal and social protection strictly monitoring their employment contracts, and requires adequate outreach, follow-up and support, such as legal and psychological counseling. These plans are necessary to eliminate fraudulent recruitment activities, and ensure standard and ethical services. The provisions on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action are ensured in the Constitution OF Bangladesh. Bilateral memorandums of understanding strengthen the rights of migrant worker between Bangladesh and different migrated countries. They constitute proper channels and plans for managing migration that they can implement jointly. This ensures that female migrant workers are covered under the labour laws (UN Women, 2013). Bilateral labour mobility agreements between the sending and receiving countries are giving consent to regulate migrant worker. These agreements are based on collaboration as well as share their responsibility. However, only a few agreements say about female migrant workers. Bureau of Manpower Employment and Training (BMET) in collaboration with RMMRU, UNIFEM, International Organization for Migration (IOM) and International Labour Organization (ILO) arrange mass awareness raising for the women migrant workers including all stakeholders on safe women migration from Bangladesh and establish Women Migrant Resource Centre at BMET head office, Dhaka to provide all kinds of information for ensuring their rights.

## **5. Barriers or Obstacle to Access to Justice**

Though there are exits different legislation and bilateral agreements for the protection of woman migrant worker but they face lots of problem in every step of migration. The Migration Act was passed in 2013, but adequate number of prosecutions for violations of the provisions of the law is not taking place. Most of the migrant women workers are illiterate; they have no knowledge about legal provisions and rights of the migrant worker. For this reason, during pre-departure to returning from destination country they face lots of problem. Even they do not know how to overcome their problem through legal procedure. Moreover, lack of proper knowledge about laws and financial problem are the main barriers in ensuring justice. Though some cases are filed for the violation of laws but only few cases may be solved. The Migration act required that complain should be disposed of within three months and investigation procedure must be completed within 30 days but most of the time investigation officer cannot complete their investigation within stipulated time. The reason is that the recruiting agencies do not respond timely and sufficient document cannot be found as evidence to prove the fraudulent incidents. As a result, victim and their families suffered and did not get legal remedy. On the other hand, when the incidents of fraudulence happen women worker are often worried about pursuing legal action because they think it will deter them from going destination country during pre-departure stage. Despite the number of complaints have given to the proper authority, most of the complaints remained unsolved. Though the provision has to constitute a separate women wing for their training and assistance from pre-departure to post departure stages but practically it is not implemented. Under the rules and policy regarding is not gender-responsive and documentation related regulations are not gender-related. Most of the migrant worker are from different district, they don not contact directly the Bureau of Manpower and Training so that they depended on the middlemen or dalal. This is the drawback for getting information about legal channel of migration and they are not aware about the rules and regulations. Government along with different NGO, s arranges orientation program to make aware about adverse situation as well as how to overcome that in the destination country but it is not sufficient. Though Women worker contact with dalal for migration they see the different terms and conditions at work place in the destination country which was not similar conditions and wages before departure from origin country. A little number of migrant workers knows about the Ministry of Expatriates' Welfare & Overseas Employment and the Bureau of Manpower Employment and Training (BMET) which is the sole authority to regulate overseas employment and looks after the welfare of the expatriate workers. Another drawback is that along with first class judicial magistrates and metropolitan

magistrates, allowed the Mobile Courts to dispense justice under the law. This provision weakened the strength of the provisions of punishments stipulated are beyond the jurisdiction of the mobile courts. Members of BAIRA feel that the law passed on all the responsibilities to the recruiting agencies. The government functionaries who attest the documents are not made liable for their actions. In some cases, while the agencies maintain all formalities, the employer may not honour the agreement. The government functionaries should take more responsibility in ensuring that employers adhere to the contracts. However, different organizations regarding migrant's worker do not take them to court as sufficient documents are not available that support the claims of the aggrieved migrants. They only bring a paper signed by a local agent which may not be accepted by the court as evidence. Moreover, although at the last stage recruiting agencies are involved in facilitating migration, they cannot produce any document that can identify the concerned recruiting agency. Therefore, sometimes it is impossible to file cases against recruiting agencies or local level Dalals. Though the provisions of legal aid are mentioned in the act but there is no specific authority to bear the expense of the case. Moreover, Government and other related NGOs do not fulfill their responsibility to arrange the dissemination of information and massive awareness campaign. One of the major drawbacks of the grievance management mechanism is that the middlemen. Though regularization of the middlemen to ensure a transparent and accountable recruitment process by the concerning authority but they are most of the time they violate the rules. One the other hand the Act did not outlaw to open branch offices which indiscriminately misused to hire sub-agents or middlemen who in most cases involve in false promising and unethical recruitment. The Act does not have any safeguard to control these intermediaries. Though the purpose of migration Act and policies to promote opportunities for overseas employment and to establish a safe and fair system of migration to ensure rights and welfare of migrant workers and members of their families, but in practice it is not implemented. Moreover, Migration Act 2013 is clearly inconsistent with the policy document. Though Migration policy allows technical assistance seeking from experts & organizations and provision for legal, psychological and financial assistance but authority and accountability is not ensured practically.

## **6. Recommendations**

Women migration is increasing day by day and a good demand of women workers in the overseas employment market. For ensuring access to justice at home and aboard some recommendations as below:

- ❖ To arrange pre-departure training and briefing regarding the actual situation in the destination country so that women migration may prepare mentally for any adverse situation in the destination country.
- ❖ To provide orientation program at grass root level about the working environment, living condition, food habit and the weather of the country of destination before departure for migration so that they can overcome the problem of the destination country.
- ❖ To take initiative to strengthen and community level grievance management system to deal the migration related problem in gender responsive manner.
- ❖ To take appropriate measure for the implementation of the act, rules and policies from national as well as international level and to strengthen the monitoring for such implementation.
- ❖ To sensitize the law enforcement agencies to give punishment of to fraud recruiters and deal the fraudulent case with gender sensitive.
- ❖ To regulate the mobile court for speedy trial for protecting the migrants against exploitation. For this reason, it is needed the sufficient resources for strengthen institutional capacity.
- ❖ To establish international quasi legal body to adjudicative claim and provide legal remedy for the women migration in the destination country.
- ❖ To improve the capacity of officials through training regarding ADR mechanism for solving their legal problem by mediation and arbitration process to reduce time and money.
- ❖ In order to process migration in the grassroots the migrants require various services. Grassroots level informal dalals are filling the vacuum of such service providers which should be institutionalized and increase monitoring system in this regard.
- ❖ To allow migrant workers full freedom of association and collective bargaining rights in destination countries would also allow for the creation of workplace grievance mechanisms that are easier and quicker to access.
- ❖ The Migration Act must be amended to ensure offences of fraud against migrant worker are treated as cognizable, compoundable and non-bailable.
- ❖ To develop electronic tracking system to document complaints this will be helpful for ensuring effective management system. In this regard monitoring system should be develop in order to improve understanding of complaints filed by woman migrant's worker and ensure arbitration officials are held to be accountable.
- ❖ Government should promote more awareness raising program among woman migrant workers and their families on the relevant laws and policies which

protect themselves. Public awareness may be increase through electronic and print media.

- ❖ To establish justice access centers which include legal and social services for gaining access to justice. Such centers could provide legal advice and aid, begin the legal proceedings and coordinate support services for women to the destination country. Such centers must be accessible to all women, including those living in poverty and/or in rural and remote areas.
- ❖ To extent legal aid for migrant workers to allow representation in arbitration and court cases. Civil Society Organization, NGO, s and pro-bono legal professional should be engaged to support this work.

## **7. Conclusion**

Female migrants are the most depressing socioeconomic background among all the groups of migrants. Migration is gradually being considered as the development to the family status. Most of women workers are illiterate and in-skilled workforce than that of male migrants. A gendered perspective is essential to understanding both the causes and consequences of international migration. The proportion of the widowed, separated, divorced and abandoned women is the highest among the international migrants. An effective access to justice is an essential prerequisite for woman migrants for getting safe migration. International and regional human rights norms and standards provide for legal framework and assurance access to justice for migrants, which is a necessary precondition to the protection and fulfillment of the other rights of migrants. National legislation as well as NGO, s and Civil society organization should come forward to take step for irregular migration and arrange adequate legal remedy in order to protect migrants' rights and make their access to justice.

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