

HUMAN RIGHTS analysis

Legal status of illegal (undocumented) migrants

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MIGRATION is a social-economic process that historically occurred across the globe. There are several reasons for migration and some of them deserve mention:

- = economic and demographic factors
- = promotion of entrepreneurial skills
- = employment opportunities thought or known to be available in foreign countries
- = civil wars, harassment or discrimination in the country where intending migrants live

One thing must be made clear that ordinarily people do not move from their home country unless there are compelling reasons to do so. Migrants in foreign land face discrimination, alien culture, language and a different way of life. They live far away from their near and dear ones and their emotional strain is often stressful and deep.

Prior to independence in 1971, Bangladeshi people hardly knew that they could go overseas for jobs. During united Pakistan days there were no

recruitment agencies in Bangladesh, although 50 licensed agents were working in West Pakistan.

Demand for young workers

The oil-boom in the Middle East changed the societal habits of the people in those countries. They were reluctant to undertake manual work. A demand for foreign workers grew. The flow of contract migrants from Bangladesh commenced in mid-70s. Majority of Bangladesh contractual workers went to the Middle East as the oil-rich countries wanted cheap labour from South Asia.

It is believed that a few Arab countries gave preference to Muslim workers and as a result a steady increase continued in Saudi Arabia, Iraq, Qatar, United Arab Emirates, Oman, Bahrain and Kuwait from 70s until this day. It is estimated that the largest number of workers went to Saudi Arabia followed by UAE in the Middle East.

The UN Report prepared by the Population Division in early 2000 indicates that population in Japan and in most countries of the European Union (25 countries) will decline because of low birth-rate while the average person in those countries will get older.

The European Union countries account now for more than 450 million and this level will fall to about 400 million or less by 2050. According to the report, labour force in Germany will shrink from 41 million to 21 million and Italy's 23 million to 11 million.

The report estimated that for Japan to keep its labour force constant during the next 100 years would require an immigration program peaking at 900,000 a year in 30 years, falling to a longer term figure of about 700,000 a year.

It has been suggested in the report that substantial levels of immigration will be required to maintain the economy of industrialised countries. Young people from developing countries from Asia and Africa are likely to fill in the gap.

Kinds of migrants

Migrants are of three kinds:

- (a) contract workers,
- (b) permanent migrants and
- (c) illegal or undocumented migrants.

Migrants of (a) and (b) types possess proper documentation from foreign countries. The third (c) takes the risk of migrating to another country without proper documents. Most of them are semi-skilled or unskilled, either lured by recruiting agents or prompted by their personal knowledge of someone known to them who is earning a lot of money in a foreign country.

The age and gender of Bangladeshi migrants are mostly young and male population. About 80% per cent had less than higher secondary school education. About 40% per cent appear to be unskilled. A study of labour migration from Bangladesh to the Middle East was undertaken by the World Bank in 1981. It concluded that: "the net present value from migration is not only positive but also quite large.....We have not however taken into account certain cost elements, such as the psychological costs, costs of separation from family or the dislocation costs. But the statistical magnitude of such components would have to be large to reverse the findings of sizeable net social gain from emigration".

Illegal (undocumented) migrants

Illegal migrants travel without documents because there is an increasing demand from private sectors for young workers in industrialised countries, in particular in low-paid dirty or dangerous jobs. A few of unscrupulous agents continue to send Bangladeshi nationals to overseas without proper procedures and such migrant-workers fall into difficulties abroad as being "illegal immigrants".

Ordinarily a person is believed to spend at least Taka.100, 000 for his

travel abroad. Furthermore many take risks to travel to another country without proper working permits just because they heard some success stories of their friends in foreign countries. They do not have idea what kind of jobs is available for them. They just take a gamble in their lives and often their journey has been perilous, often without food or drink for days together.

Often they are employed in unattractive and demanding jobs because of shortage of labour in host countries for such types of jobs. Another advantage for companies in foreign countries is that they can employ them on very low wages. The illegal migrant workers are exploited by most employers as they work without legal permits. They are under-paid, are in constant threat of being deported to their countries of nationality. Their working conditions are very poor.

It is reported that thousands of Bangladeshi undocumented migrants are working abroad as illegal immigrants. They have been allowed to live without the dignity and worth of a human person just because they work without proper legal documents. It is noted that they contribute significantly to economy of the country through their hard work.

Illegal female migration

One of the striking phenomena is the rise of women migration in the last two decades. High incidence of women migrants is from Philippines, Indonesia, Sri Lanka, Bangladesh and Thailand, according to an UNESCAP report. According to the report, the estimated flow of illegal women migrants is about 35,000 to 50,000 a year.

It is reported that rural illiterate girls from poverty-stricken families are often forced to migrate to earn money from Bangladesh. Women migrants are ordinarily found to be conscious of sending back regularly money to their families. Since they are unskilled, they suffer most in foreign countries. They are vulnerable to exploitation, ill-treatment and humiliation. Some of them are even subject to physical abuse. Their mental and physical existence is tough yet they endure it because of economic reasons. A researcher on women issues, Therese Blanchet, wrote many stories of women migrants of Bangladesh (DS/6 November, 2002).

Legal status of illegal migrants

Article 3 of the 1948 Declaration provides that "everyone has the right to life, liberty and security of person." The right to life leads migrants to work overseas since they can't get employment in the country. Furthermore there are several ILO Conventions and Recommendations that protect these migrant-workers from being treated unjustly.

The 1949 Convention Concerning Migration for Employment provides a safety valve for them. ILO Conventions of 1962 and 1982 deals with social security entitlements. The fundamental human rights as enshrined in 1948 Universal Declaration of Human Rights and the workers' right under ILO (International Labour Organisation) are flouted in their employment conditions.

Although the ILO Conventions provide in establishing minimum standards for the treatment of all workers, most states do not apply the ILO standards to illegal migrants. The irony is that while these illegal migrants who are employed by foreign companies contribute to the productivity of the



host countries, they have no protection under laws of host countries.

The provisions of the 1990 UN Convention on Protection of the Rights of All Migrant Workers and Members of their Families appear to be grossly violated. The Convention provides a framework of state responsibility and accountability as to how they deal and treat illegal migrants. However not a single European country, to my knowledge, has become parties to the Convention.

Attitude of Western countries

It appears that it is a great hypocrisy on the part of many Western countries. They are often loud in their criticism against violations of human rights but keep quiet on intolerable conditions of illegal migrants from developing countries who live and work in those countries.

They seem to be Janus-faced (double-faced) with respect to violation of human rights. The internationally oriented-face enjoy the status they receive by pointing out violation of human rights, while the nationally turned-face refuse to comply with the working conditions under the ILO laws and regulations. No one in that country wants to listen to illegal migrant workers as they are considered "flotsam" of the society, although they keep their economy running.

Despite the expected decline in population levels, it appears that industrialised countries are converting their territories into formidable fortresses for migrants. The governments of industrialised countries are tightening immigration laws in such manner that they want to be insular from the wave of migration, although private sectors are crying out for migrant workers in those countries.

Furthermore there appears to be veiled racial discrimination underpinning immigration laws. They believe that strict immigration laws would be able to stem the tide of the flow of persons from third world countries.

The affluent countries appear to look at the symptoms and not at the root of the issue of migration. Migration from developing countries will not go away and it has to be resolved in humanely fashion. Migration is a humanitarian issue and a new legal regime in association with the International Organisation of Migration, UNHCR and the UN Centre of the Human Rights may be established so that illegal migrants enjoy wages and quality of life in accordance with ILO and 1990 UN Convention standards.

The author is former Bangladesh Ambassador to the UN, Geneva.



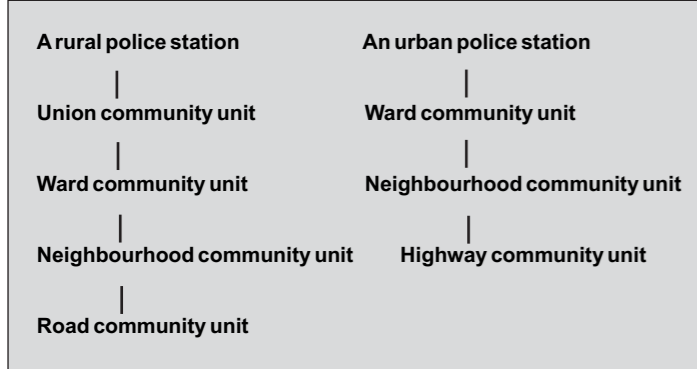
LAW alter views

Community policing: Some food for thought

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IN the background of poor record in human rights protection and deteriorating law and order situation in Bangladesh, community-policing strategy adopted in recent past in some selected districts by Bangladesh police was comparatively innovative. Although successfully applied in many countries in the world, in Bangladesh it was relatively new. Not as a new crime prevention unit, community policing was adopted, under a donor-funded project, by Bangladesh Police as transition from traditional or professional model of police service to a more community-involved one. In this strategy, the community is not simply viewed as a passive recipient of police service but as an active element in the decision-making process of local police units, which affects priorities, allocations and implementation of police services.

Bangladesh is a densely populated country and it has limited resources for which it cannot increase number of police personnel. This has been the reason for developing community policing in Bangladesh. Community police units were set up in selected urban and rural areas. The structures of community police unit are as follows:



Clients/associated bodies of community police units are local educational institutions, business associations, private organisations, bank, insurance, NGO, village police, village defence party (VDP), voluntary organisations, journalists, interested community members.

The objectives of community policing in Bangladesh are:

- = To establish rule of law in society
- = To establish a society free of crimes
- = To prevent misuse of narcotics substances
- = To prevent anti-social activities
- = To create local people's awareness and participation in maintaining law and order
- = To assist law enforcement forces in maintaining law and order by providing information on crimes and criminals

- = To develop good relations between police administration and people
- = To perform social services

How community police units are formed

There is an advisory council at district level. It consists of District Police Superintendent, additional District Police Superintendent and Assistant District Police Superintendents. This council can co-opt important and interested persons in the committee. This council sits at least once a month to review law and order situation of the district and to take necessary steps. The thana (local government administrative unit) consists of one convener, one treasurer and six members. The union or ward unit consists of one convener, one treasurer and six members. This unit provides decision/instruction after reviewing law and order situation at thana level. This unit also decides requirement of patrol police and how patrol police perform their functions.

The number of members of highway/road units is to be decided by thana unit.

At the very grassroots neighbourhood level, a patrol team of 12 persons consisting of members from ansar, village police, village defence party, village security guards is formed. This number may be more or less depending on requirement. This team basically patrols in neighbourhood and provide information to police to stop illegal activities.

Responsibility of local police station

A police sub-inspector in particular police station, under supervision of the officer-in-charge of the station, usually forms relevant committees, maintains records and involves community patrol units in maintaining law and order. He organises meetings of various units, interacts with community people, motivates and co-ordinates. The officer-in-charge of the police station monitors law and order situation and maintains liaison with district advisory council as well as among units. He also takes immediate necessary step as soon as he gets any information on law and order from community people.

Finance/budget

Patrol and information activities of community units are financed by community people by voluntary contribution. The budget is usually decided by concerned unit. Money is generally required for purchasing small equipment, allowances for patrol groups or for incentive for good performance.

Activities of community police units

- Area/locality patrol
- Inspection of office/residential areas
- Motivation and awareness raising
- Community watch/monitoring
- Questioning outsiders/people of suspicious behaviour
- Providing information/reporting to local police stations about identified criminals, drug addicts, anti-social elements, extortionists, warranted persons
- Taking instant measures in crime/law and order situations before regular police intervenes
- Providing caution to law violators and petty offenders
- Helping pedestrians in following traffic rules and discipline



=Summoning notice/orders issued from courts in the locality

How community policing is different

In traditional policing in Bangladesh, police acts on reactive approach after getting complaints/information from people. But in community policing, police works with community people in maintaining law and order and preventing crimes in proactive approach. In reactive policing, the relation between police and people is sort of patron-client relationship while in community policing, the relation is of involvement, co-operation and participation. As a result, community people participate in policing spontaneously. In traditional policing, police is treated as law enforcement agency while in community policing, they are treated as service-provider. In traditional policing, police acts through incident response while in community policing, police acts through identification and preventive measures. Traditional policing is run by State resources while community policing is run by community voluntary resources. In traditional policing, the scope for getting information from people is very limited while in community policing, members of community are expected to come forward voluntarily to provide

information to police.

Development perspective

In socio-development indicators like enrolment in primary schools, immunisation, maternal mortality, sanitary awareness, malnutrition, family planning etc., Bangladesh has made considerable progress in last more than two decades. It was largely because of government and NGO efforts for involving people and communities at the very grassroots delivery level. The Asia Foundation, in collaboration with some local NGOs, has recently introduced a project on community policing in some selected areas of the country. In the perspective of deteriorating law and order situation and human rights violations, policymakers should think of community policing as a potential effective tool for improving the quality of police service and mainstream it in governance strategies.

The author is a human rights activist.