

## HUMAN RIGHTS analysis



# Rights and benefits of migration

BARRISTER HARUN UR RASHID

**B**ANGLADESH in the World Trade Organisation (WTO) has raised that not only foreign investment is a necessity for economic growth but also mobility of labour is imperative to accelerate development. Mobility of labour means migration of workers from Bangladesh. According to a report, 273,000 Bangladeshis are working abroad. The figure includes skilled, unskilled and workers and professionals.

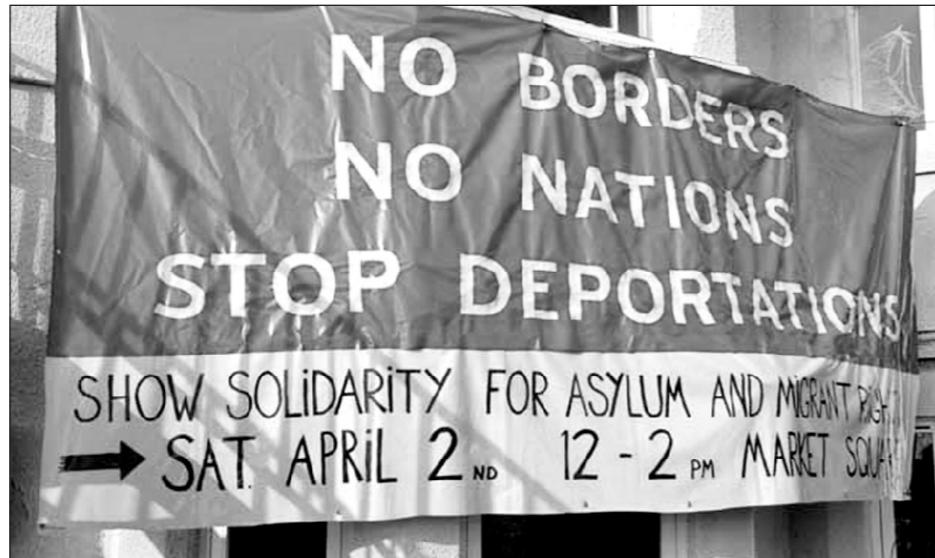
Migration has become a "dirty word" in the West, although migrants from Third World ordinarily undertake demanding, dirty and dangerous jobs in rich industrialised countries.

It has taken more than a decade for the world to get from proposing a global dialogue on international migration to actually having the discussion. In the middle of the last year, the UN highlighted the Global Migrant situation. The former Secretary General Kofi Annan stated that migrant workers had been a boon to both host and countries of origin but the system was to be managed to prevent from abuses of migrants or xenophobic reactions from population of host countries.

In a report to the UN General Assembly, he argued that "international migration, supported by the right policies, can be highly beneficial for the socio-economic development of nations they come from and of those where they arrive."

### Why migration?

Migration is a social process that is historically seen in a politico-economic context. From time immemorial human beings have moved from one country to another country. It is not a new phenomenon. During the 16th and 17th centuries, European people migrated in large numbers to



North America, Latin America and Australia. There are several reasons for international migration and some of them deserve mention:

- (a) economic and demographic factors
- (b) civil wars, harassment or discrimination in the country of origin
- (c) promoting entrepreneurship skills
- (d) opportunities thought to be available in rich countries

It is noted in this connection that people do not ordinarily from their home. It is not a bed of roses in rich countries for migrants. Most of the unskilled and semi-skilled migrants are given three-D jobs, meaning "Demanding, Dangerous and Dirty" jobs with low wages. They live far from their relatives and

as a result they suffer stress and psychological problems.

### Migration movement in continent-wise

The report pointed out that migrants numbered 191 million, compared with 155 million in 1990, including 115 million in the developed world. A large number of migrants are from Philippines, Serbia and Montenegro. Of the total legal migrants, 60% per cent are highly educated and three-fourths of them originate from developing countries. The break up of world's total migrants in 2005 is as follows:

- Europe hosted 34% per cent,
- Asia 28% per cent,
- North America 23% per cent,
- Africa 9% per cent,
- Latin America and Caribbean 3% per cent
- Oceania (Australia & New Zealand) 3% per cent

The report has been released against the background of social tension and concern in rich countries, particularly in North America and the European Union towards migrants. The EU has been coordinating a common platform migration policy from developing countries that will prevent the migrant workers to land in Europe. Spain, Italy and Malta have been advised to keep strict control on migration in their borders.

### Women migrants

During the last two decades, the number of women migrants has increased exponentially. During the 70s, women migrants constituted only 15% per cent of total migrants and by 1987 the number has increased to 27% per cent. Most of the women migrants are absorbed in vulnerable, low-status jobs in domestic service under conditions described as "modern day slavery" and are exposed to exploitation from employers and suffer social isolation. Studies have revealed that most women migrants do not tell their relatives of the actual nature of work in host countries because of shame.

In 1988, 78% per cent of migrants in Indonesia were women and 60% per cent in Sri Lanka. Bangladesh is not far behind and most women are lured for jobs but ultimately they land themselves with human trafficking.

### Rights of migrants

Migrants, documented (legal) or undocumented (illegal) have their rights under ILO Conventions and the 1990 Convention on the Protection of the

Rights of all Migrant People. However many of the ILO Conventions are not strictly followed in the host countries.

The 1990 Convention promotes humane and lawful conditions of migrant workers. Article 70 of the Convention states that State-parties shall take measures not less favourable than those applied to their nationals to ensure that working and living conditions of migrant workers are in keeping with the standard of health, safety and principles of human dignity.

However the Convention is not a self-executing treaty and for its implementation, states need to be parties to it. Few Western countries have become parties to it.

Furthermore, during the current war on terrorism, migrant workers, especially from Islamic countries, are subject to various restrictions and surveillance in Western countries. Their entry and deportation or expulsion has been made easy by law from Western nations to their home countries. Mobility of labour is strictly discouraged in Western countries.

### Economic benefits of migration

Migration to developed countries is a key element of the world economy that does not get the attention it should get. Or when it does, it is more often seen as lose-lose proposition. But it can be a "win-win situation", if it is properly managed.

As for a sending country, total remittances from its nationals working abroad surpass its total amount of foreign aid two to three times, according to the Migration Policy Institute. It is reported that Bangladeshi workers abroad sent about US\$4.8 billion in 2005-06, according to Bangladesh Bank Statistics.

With the drastic decline of birth rates in many

European countries and in Japan, the flow of migrants from developing countries is likely to increase in coming decades because of requirement of workers for economic growth in rich countries.

One report says that during the next 40 years, the demand for young migrant workers will increase on a scale never contemplated before. As an illustration, the report estimates that for Japan to keep its labour force constant, during the next 100 years, would require an immigration programme peaking at about 900,000 a year in 30 years, falling to a longer term figure of about 700,000 a year.

As regards the 1990 Convention, it provides rights for all migrants and enjoins all host nations to abide by lawful wages for the migrants and ensure favourable working conditions.

### Conclusion

The usefulness of migration lies in the discussion and proper understanding on how migration can be a plus for both developed and developing countries. Migration does not just involve money but also a generator of ideas, development and an entrepreneurial spirit.

The flow of migrants is a necessity for economic survival of many rich countries in the coming decades as birth rate falls and accordingly immigration programme is required to be formulated in cooperation between rich and developing countries. The lopsided and negative policies of rich industrialised countries will not work because of the increasing demand for young workers in the rich industrialised countries.

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

## FOR YOUR information



## FACT file



# Salient features of RPO-1972 'Hidden apartheid' against dalits

KHAN FERDOUSOUR RAHMAN

THE Representation of the People Order (RPO), 1972 constitutes the promulgation of President's order number 155 of 1972 and its time-to-time amendments thereof for the conducts of elections to Parliament and matters connected to that in pursuance to the provisions of paragraph 3 of the Fourth Schedule of the Constitution of the People's Republic of Bangladesh. There are total seven chapters and 95 sections in the RPO.

Chapter I (Section 1-2) represents preliminary issues in which extend of the order is endorsed to the whole geographical location of Bangladesh and to be effective forthwith, and various terminologies are defined.

Chapter II (Section 3-6) deals with the Election Commission that is constituted as per Article 118 of the Constitution, its work procedures, requisition for manpower and vehicles or vessels, and authority for such requisition for conducting an election.

Chapter III (Section 7-44) itself is very important that deals with the election procedure. Here the provision for appointment of the Returning Officer (RO), Assistant Returning Officer (ARO) for each Constituency, number of polling centers, Presiding Officers (POs), Assistant Presiding Officers (APOs) and Polling Officers, electoral rolls to ROs for POs, call for nomination paper by ROs, qualification and disqualification for being MP, deposition of money with submission of nomination, scrutiny of nomination paper, publication of list, withdrawal of nomination including action on ground of sudden death of a valid candidate, scrutiny and withdrawal proceeding when delayed, uncontested election, distribution of symbol, election agent, polling agent, attendance of the polling agent, polling hours, polling deadline, use of secret ballot, provision of postal ballot, supply of election materials (ballot boxes, ballot papers etc) to the POs, fixation of number of voters in the polling centers or booth by the POs, arrest or expel of a voter or unwanted persons by POs, handing over of ballot paper to the voter by PO after being satisfied, impersonation or false voting, challenged ballot, inadvertently spoilt vote, no voting beyond fixed time, counting of vote, time and date given by RO if counting cannot be completed on

the same day, drawing of a lot at random in case of a tie, publication of result, retention of result sheet and other documents by RO, return of deposit, retention and destruction of election materials, keeping election documents open for people, and opening of packet on High Court order are covered in detail.

Chapter III A (Section 44A-44D) deals with election expenses. Here the meaning of election expenses, probable source of election fund and assets of the candidate, provision of receive and spend of money by the election agent for the candidate, separate bank account for election expenses, return of election expenses by the candidates to RO within 15 days after result, accounts maintained by political parties for incomes and expenditures and submission details of expenses for election within 60 days to Election Commission; and keeping returns, statements etc open for ROs for public inspection.

Chapter III B includes Section 44E that deals with administration and conduct during election period when District administration, judicial and general shall be at the disposal of the Election Commission. Chapter IV contains Section 45-48.

Chapter V (Section 49-72) deals with election disputes, election petition, stamp required for such petition, dispute with declared result, decision of the High Court and appeal, declaration of full or part election void or tie by the High Court, publication of such decision by the Commission, election petition with the permission of the court when the respondent dies or withdraws petition the court may decide expert, dismissal by the court in default, and determination of cost by the High Court while terminating the case.

Chapter VI (Section 73-90) deals with offenses, penalty and procedure including meaning and connotation of election offense, illegal practice in election, offence of bribery in election, offence of personation, offence of undue influence, restriction of election campaign, election offences of minor magnitude, gross offences by the votes, offences for using force or pressures on voters by the candidates or their supporters, offences at the time of counting by election officials or others, and offence and punishment for election conducting officers.

Chapter VI A (Section 90A-90B) deals with the registration of political parties with the

Election Commission.

Chapter VII (Section 91-95) deals with the miscellaneous aspects related with the election activities such as stopping of polls at any polling station at any stage of election if situation demands such, provision to make required orders for ensuring impartially, justly and fairly election, formation of committee to ensure prevention and control of pre-poll irregularities, provision for imposing fine on non-compliance, formulation of code of conduct, making rules by notification in official gazette for carrying out the purpose etc.

Though RPO 1972 is a unique document, but it cannot ensure a complete transparent election due to some weaknesses in few of the provisions. There are few recommendations as follows:

- Existing provision for election from five constituencies at the same time by a single candidate needs to be reduced.
- Provision of election expenditure with total amount of Tk. 5 lacs needs be reviewed.
- Polling hours to be fixed such a way that counting of votes is completed and result declared in the polling center before the sunset.
- Selection of POs/APOs to be made in a transparent way, people should not selected from any controversial organization, such as Islami Bank/PROSHIKA, for any such duty.
- Any election dispute to be solved within specific time may be three months.
- Declaration of source of income, value of fixed assets and educational background of the candidate to be made open for public information.
- Registration of political parties to be made compulsory otherwise would not be allowed to contest in the election.
- Political parties to be brought under tax payment and their submission of expenditure return to be ensured.

• It will be better if it can be ensured that no one can continue as head of the government for more than two terms.

It is expected that necessary steps to be taken by the competent authority to amend those provisions by replacing with the timely needed new provisions so that the elected members truly represent the mass poor people of Bangladesh.

The writer is a freelancer.

**The UN Committee on the Elimination of Racial Discrimination (CERD)** is a body of independent experts responsible for monitoring states' compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by India in 1968. It guarantees rights of non-discrimination on the basis of "race, colour, descent, or national or ethnic origin." In 1996 CERD concluded that the plight of Dalits falls squarely under the prohibition of descent-based discrimination. As a state party to ICERD, India is obligated to submit periodic reports detailing its implementation of rights guaranteed under the convention. During the review session CERD examines these reports and engages in constructive dialogue with the state party, addressing its concerns and offering recommendations. CERD uses supplementary information contained in non-governmental organization "shadow reports" to evaluate states' reports. India's report to CERD, eight years overdue, covers compliance with the convention from 1996 to 2006 yet does not contain a single mention of abuses against Dalits abuses that India's own governmental agencies have documented and verified.

and economic segregation."

Dalits endure segregation in housing, schools, and access to public services. They are denied access to land, forced to work in degrading conditions, and routinely abused at the hands of the police and upper-caste community members who enjoy the state's protection. Entrenched discrimination violates Dalits' rights to education, health, housing, property, freedom of religion, free choice of employment, and equal treatment before the law. Dalits also suffer routine violations of their right to life and security of person through state-sponsored or -sanctioned acts of violence, including their caste.

The 113-page report, "Hidden Apartheid: Caste Discrimination against India's Untouchables," was produced as a "shadow report" in response to India's submission to the United Nations Committee on the Elimination of Racial Discrimination (CERD), which monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The committee will review India's compliance with the convention during hearings in Geneva on February 23 and 24.

On December 27, 2006 Mamnoon Singh became the first sitting Indian prime minister to openly acknowledge the parallel between the practice of "untouchability" and the crime of apartheid. Singh described "untouchability" as a "blot on humanity" adding that "even after 60 years of constitutional and legal protection and state support, there is still social discrimination against Dalits in many parts of our country."

"Prime Minister Singh has rightly compared 'untouchability' to apartheid, and he should now turn his words into action to protect the rights of Dalits," said Professor Smita Narula, faculty director of the Centre for Human Rights and Global Justice (CHRGJ) at New York University School of Law, and co-author of the report. "The Indian government can no longer deny its collusion in maintaining a system of entrenched social

injustices against Dalits. The report includes recommendations for the Indian government to take steps to end caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,

to protect Dalits from caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,

to protect Dalits from caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,

to protect Dalits from caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,

to protect Dalits from caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,

to protect Dalits from caste-based discrimination in the workplace, to combat caste-based segregation in residential areas and schools, and to improve access to public services; and,



"polluting" or degrading for non-Dalits to carry out. According to unconfirmed estimates, more than 1.3 million Dalits mostly women are employed as manual scavengers to clear human waste from dry pit latrines. In several cities, Dalits are lowered into manholes without protection to clear sewage blockages, resulting in more than 100 deaths each year from inhalation of toxic gases or from drowning in excrement. Dalits comprise the majority of agricultural, bonded, and child laborers in the country. Many survive on less than US\$1 per day.

In January 2007 the UN Committee on the Elimination of Discrimination against Women concluded that Dalit women in India suffer from "deeply rooted structural discrimination." "Hidden Apartheid" records the plight of Dalit women and the multiple forms of discrimination they face. Abuses documented in the report include sexual abuse by the police and upper-caste men, forced prostitution, and discrimination in employment and the payment of wages.

Dalit children face consistent hurdles in access to education. They are made to sit in the back of classrooms and endure verbal and physical harassment from teachers and students. The effect of such abuses is borne out by the low literacy and high

drop-out rates for Dalits. The Centre for Human Rights and Global Justice and Human Rights Watch call on CERD to scrutinise the gap between India's human rights commitments and the daily reality faced by Dalits. In particular, CERD should request that the Indian government:

Identify measures taken to ensure appropriate reforms to eliminate police abuses against Dalits and other marginalised communities;

Provide concrete plans to implement laws and government policies to protect Dalits, and Dalit women in particular, from physical and sexual violence;

Identify steps taken to eradicate caste-based segregation in residential areas and schools, and in access to public services; and,

Outline plans to ensure the effective eradication of exploitative labor arrangements and effective implementation of rehabilitation schemes for Dalit bonded and child laborers, manual scavengers, and for Dalit women forced into prostitution.

"International outrage over the treatment of Dalits is matched by growing national discontent," Smita Narula said. "India can't ignore the voices of 165 million citizens."

Source: Human Rights Watch.