

1990 UN CONVENTION ON MIGRANTS' RIGHTS

The case for ratification by Bangladesh

TASNEEM SIDDIQUI

WE, as a nation, are delighted that in fiscal year 2006-2007 the country's foreign exchange earning from our migrant workers remittances will exceed \$6 billion. We are also very privileged that our migrants send 33 percent per capita more remittance than those of India, which is the second largest remittance receiving country in the world.

The Global Economic Perspective Report of 2006 by the World Bank found that remittance flow has helped Bangladesh to cut poverty by 6 percent. Eminent economist Prof. Wahiduddin Mahmud stressed that, since the 1980s, it has been the migrants' remittances that have sustained the economy of Bangladesh.

BGMEA and official statistical documents, however, lead us to believe that apparel manufacturing is the highest foreign exchange earning sector in Bangladesh. The fact remains that, once we deduct the cost of raw material import, remittance is the single largest source of foreign exchange income for the Bangladeshi economy.

Even after making such significant a contribution, why do migrant workers remain the most vulnerable section of our labour force? Why is it that Bangladeshi migrants continue to face hardship at home while getting their papers processed ? Why are unscrupulous recruitment practices still allowed to lead to

fraudulence, high cost and, in some cases, pauperisation of those who wish to migrate? Why are we unable to ensure that migrants enjoy decent work conditions in the receiving countries? Why do their sufferings not end upon their return?

The answers perhaps lie in the fact that our policy makers have mostly concentrated on the exploration of new labour markets and securing of remittance as a source of foreign exchange, rather than promotion of the rights of migrants at home and abroad.

Besides, over the years, due to operational realities in both the sending and the receiving countries, migration has become an extremely complex process. It is more or less understood now that better protection of migrants' rights at all stages of migration requires adoption of policies and actions at national, regional and global levels.

At the international level, the United Nations has shown its concern towards migrants since its inception. The burgeoning complexity in international migration governance in the 1970s and 1980s led the UN to negotiate a protection instrument specifically for the migrant workers.

In December 1990, the General Assembly of the UN adopted the International Convention on the Protection of Rights of all Migrant Workers and their Families. This Convention is the most important international instrument concerning the migrant workers. The

Convention came into force in June 2005 with the ratification by 20 countries.

Salient Features of 1990 Convention

For the first time this convention provides a comprehensive definition of migrant workers, including those who are to be engaged, are engaged, or have been engaged, in remunerative activity in a state of which they are not nationals. It recognizes the migrants as social beings, rather than looking at them as economic entities.

Also, this is the first international document to recognize women as migrant workers in their own right. It ensures full applicability of human rights to all workers, male and female, as well as their family members. The convention recognizes migrants of both regular and irregular status.

Bearing in mind the sensitivities of receiving states, this document grants only limited assurance to the rights of irregular migrants. These rights are basically rights enshrined in the Universal Declaration of Human Rights of 1948.

The regular migrants are provided rights which are almost at par with those of domestic workers, i.e. right to be temporarily absent (art 38), freedom of movement (art 39), right to participate in politics, public affairs and decision making processes (art 41 & 42), equality with nationals for access to educational, vocational and social services (art

43 & 45), right to reunification with family (art 44), tax and custom duty exemption (art 46 & 48), and right to choose remunerated activities (art 52).

What has Bangladesh done so far?

As a labour exporting country, it is very much in the interest of Bangladesh to ratify the convention. In 1997, the Ministry of Law and Parliamentary Affairs forwarded the text of the 1990 Convention to the Law Commission of Bangladesh.

The Law Commission scrutinized the document and observed that it had no provision that contradicted the legal system of Bangladesh, and therefore could be ratified. On the basis of the recommendation, on October 8, 1998, the Government of Bangladesh signed the Convention.

Bangladesh was the 11th country to sign the convention, and since then 51 countries have signed and 37 have already ratified the convention. Since signing, no significant development has taken place. From 1999 various civil society organizations have conducted advocacy with different government stakeholders for ratification. But not much progress has been made so far.

Perceived problems with ratification

Since 1999, the Refugee and Migratory Movements Research Unit (RMMRU), Welfare Association of Returnee Migrant Workers and Bangladesh Woman Migrants

Association have organized many advocacy campaigns. Policy makers, bureaucrats and human right's activists participated in those events. Following are some of the comments made by policy makers at these events:

"Currently there are demands from different international quarters for allowing trade unions in the factories of the Export Processing Zones, particularly in the garments factories. We have not been able to respond to that as it may effect foreign investment in Bangladesh. In this context, if we ask for rights of our workers abroad by ratifying the convention, we will be under more pressure to ensure similar rights for the domestic labour force (Legal Council, Ministry of Foreign Affairs, 2000)."

"Personally I am in favour of ratification. But I was advised by my ministry that if we signed the convention the countries which received our labour may not take this in a positive stride, and labour export from Bangladesh to those countries may be adversely affected (State Minister for Foreign Affairs, 2000)."

"Ratifying a convention does not achieve any significant development of rights. In the past, Bangladesh had signed many conventions. It did not enhance the rights of people" (A Director General of Mofa, 2001)."

"The Ministry of Expatriate's Welfare and Overseas Employment has no objection in ratifying the

convention, but it is the Foreign Ministry which is responsible for the ratification (Secretary, Ministry of Expatriates Welfare, 2002)."

"India and Pakistan did not sign it, then why should Bangladesh sign it (a senior official of legal affairs desk of the Ministry of Foreign Affairs, 2000)?"

"I do not see any hindrance in signing the convention, other than bureaucratic inertia (Justice Naimuddin Ahmed, the then member of Law Commission, 2001)."

Breaking the Perceptions:

In some areas we do appreciate the concerns of policy makers and government functionaries. However, one can see that global and national situations have changed since those statements were made.

Over the years we have seen that many labour exporting countries, including Sri Lanka and the Philippines, have ratified the Convention. Statements made by senior functionaries of those states in different international forums have reiterated that none of them faced adverse repercussions in labour export because of ratification.

In the recent past, substantial improvements had taken place in compliance of international labour standards in case of apparel manufacturing and other export processing industries. Therefore, we should not withhold the ratification.

Indian and Pakistani depend-



ence on remittance is not as high as Bangladesh's. Besides, if those countries do not want better protection of their migrant work force, Bangladesh does not need to follow them. Rather, Bangladesh should follow the lead of Sri Lanka, which has a high dependence on remittances and has ratified the treaty.

The current government has taken major steps against corruption, and streamlined the recruitment industry as well. The Convention provides state of the art techniques to ensure accountability of those recruiting agencies who commit fraud.

At the same time, it also suggests methods for rewarding recruiting agencies who are successful in negotiating job contracts

on better terms for the workers. In this context, we appeal to the government to ratify the 1990 UN Convention.

The first meeting of the Global Forum on Migration, set up by the UN, will take place on July 11-12 2007. A decision to ratify the instrument before that will be a major indication of the commitment of the current caretaker government to the adherence to UN standards on migrant rights.

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LAND RIGHTS DAY

An imperative for poverty alleviation

MD ABDUL KADER

FOR more than two decades now June 10 has been observed as "Land Rights Day" every year across the country. On this day in 1983, the struggle for government khas land by the landless poor added a significant chapter to the land rights movement of the country. Thousands of poor landless men and women were able to establish their rights on the khas land of Ghugudaha Beel under Santhia upazila of Pabna district.

They shed their blood on the land, some even embraced martyrdom, and hundreds of them suffered oppression but, undaunted, they led their struggle to success. The day has been observed since then, instilling inspiration in millions of the deprived, struggling poor.

June 10 is the most significant day, specially to the landless poor of the country. History tells us how the landless farmers, fishermen/women, adibashis, and marginal communities of the country always struggled for establishing their rights. The marginal communities' struggles and movements in different areas of the country during to British and the Pakistan period enriched our history of struggle for rights of the deprived.

During the decade of the eighties the deprived and oppressed landless poor of the society initiated the fight against the land-grabbers in Ghugudaha Beel area. The land-grabbers and terrorists occupied the khas land of Ghugudaha Beel, and exploited that only for their own benefit for years together.

The deprived landless around the Beel forged unity among themselves



and cried havoc against the illegal possessors, and they were victorious after a long struggle. In establishing their rights to the khas land of Ghugudaha Beel, landless Entaz, Lokman, Lalmoan, and Haider sacrificed their lives. Hundreds of others fell victim to the land-grabber's tyranny.

Oppressed Dulal Khan's twisted fingers still speak of that; the piercingly painful memory of abortion is still green in Aasia. There are so many victims of the day to tell their stories. But, through all this, they achieved an unprecedented victory.

Apart from the violence, they were trapped in so many false and baseless litigations. But morally, and to an extent materially, backed by civil society and NGO volunteers they fought and came out successful here too. Now the landless cultivate the khas lands of Ghugudaha. Optimum utilisation of land acts as a booster to national economy. A social change is visible around Ghugudaha caused by the economic emancipation of a

section of society.

Following the Ghugudaha success story, the marginal population including the landless farmers, fishermen/women, adibasis have become, or are becoming, active towards establishing their rights on khas land, water bodies, forest and char land in Beel Kumari of Rajshahi, Andharmanik of Gazipur, Beel Pakuria of Rajbari, Char Camation-Kashimpur of Faridpur, Bera-Sujanagar, Chatmohar of Pabna, Hijla-Bakerganj of Barisal, Modhupur of Tangail, Sreemangal of Moulvibazar, Rourami-Rajibpur of Kurigram, Dashmina of Patuakhali, Chakoria of Cox's Bazar, Avoyanagar of Jessore, Shibganj of Chapainawabganj, Bajitpur-Nikli of Kishoreganj, Kaliganj-Debhata of Satkhira, Batiaghata of Khulna, Bhaluka-Phulpur of Mymensingh, Durgapur of Netrakona, Begumganj of Noakhali, Shahjadpur of Sirajganj, and many other places.

We had observed in the past that the parties in power made so many

promises in this regard, but never implemented even a few of them. Thus, this continuous dillydallying in recovery, settlement, distribution and management of khas land. Officially it is declared that there are 50 lakh acres of khas land in Bangladesh now.

But no government in the past could clearly disclose where, and in what condition, these khas lands remained. Rather, a section of land-dacoits and land-grabbers occupied these resources under patronage of political parties and exploited them to their selfish interest, while the actual claimants to these khas lands and khas water bodies are none other than the genuine landless.

After the present caretaker government took over, it was found that many leaders of political parties, including BNP and Jamaat, had kept such khas land in their possession.

Today, a relentless struggle is on to alleviate poverty in the poor countries of the world. We are not lagging behind in the struggle, either. Many people have put forward many suggestions for poverty alleviation. But we have been saying for two decades that there is no alternative to land, agriculture, and water-bodies reform for poverty alleviation. We need an integrated land reform plan for the purpose. And, for this, we put up the following demands once again on this day:

- Immediately distribute all khas lands among the landless poor.
- Cancel the 1994 amendment to Allivion-Diluvion Act.
- Give settlement of water-bodies to bonafide professional fishermen/women.
- Stop anti-farmer and environ-

ment-destructive shrimp cultivation.

- Amend and implement the existing Inheritance Act on the basis of equal rights and recognition of women of all religions.
- Constitute Separate Land Commissions for the plains and adibashis, and make the Hill Tracts Land Commission effective.
- Recognise adibashis' traditional right to land.
- Stop adibashi eviction and persecution.
- Ensure fair price of sugarcane for the cultivators, and stop unfair means in weighing.
- Implement Share Cropping Act, and refix and implement farm labour wage as per market price.
- Give the marginal communities, including Dalits and Badyas, right to land for permanent domicile.
- Stop eviction of slum dwellers and the rural landless from khas land, and rehabilitate them quickly as promised.
- Strictly contain occupation and filling of khas land and khas water-bodies in the name of real estate business.
- Further increase cooperation and support of respective ministries in the khas land recovery and distribution activities of different development organisations.

It is believed that if such matters as stated above are brought into active consideration, then poverty alleviation in the country shall not be a fairy.

MD Abdul Kader is member-secretary of National Council for Observance of Land Rights Day.

MD. MATIUL ISLAM

THE budget presented is both optimistic and realistic -- optimistic resource mobilization targets and realistic estimates of expenditure. The optimism stems from the fact that the estimated revenue receipts of Tk. 57,301 crore calls for Tk. 8,000 crore of additional resource mobilization over the revised for 2006-2007.

The proposed non-development expenditure of Tk. 53,114 crore and the ADP of Tk. 26,500 crore are realistic, but have worrisome features in that there is a Tk. 8,610 crore increase in non-development expenditure compared to the revised of the current fiscal year, revenue surplus generated for financing ADP is only Tk. 3,700 crore and that 85% of the ADP resources must come from borrowings -- both local and foreign. The success of the budget will depend on the twin factors of resource mobilization and implementation.

Assumption of Tk. 7,523 crore of accumulated loss of BPC by the government is a practical move, but its financing through issue of government guaranteed bonds should not call for budgetary allocation of this amount in 2007-2008.

The market is starving for good investment securities. Government guaranteed 10 year tax-free redeemable bonds at 11% interest, issued by BPC, should attract investments from the banking and non-banking

institutions, insurance companies, corporate bodies and private individuals.

The target of Tk. 13,451 crore of non-tax revenue can be achieved only if the caretaker government decides to privatize Agrani Bank and BSRs. Conservatively, these two institutions should fetch around Tk. 2,500 crore.

The 45% tax-rate for non-listed mobile phone companies is welcome, but the government should consider a rider that at least 40% of the total equity would have to be divested through IPO and private placement with financial institutions.

Foreign banks operating branches in Bangladesh should similarly be given tax incentives for local incorporation and public listing -- 55% tax for non-listed banks as against 45% for the listed ones.

The 55% and 45% tax-rates respectively for un-listed and listed mobile phone companies may also be considered. Mobile phone companies and branches of foreign banks together accounted for 46% of the total net outflow of FDI between 2001 and 2005.

Raising of the ceiling of tax-exempt income from Tk.1.20 lacs to Tk. 1.50 lacs will result in substantial loss of revenue as thousands of existing taxpayers will go out of the tax-net, and those remaining will pay reduced taxes.

It is interesting to note that while presenting the budget for 2006-2007, the then finance minister proposed "to keep the

ceiling of tax-exempt income, income slabs and the tax rates at the same level for the income year 2007-2008, as was the case for the assessment year 2006-2007 for the individual assessee."

Tax incentives for energy conservation are absent in the budget. To encourage corporate executives to use automobiles of lower horsepower, 10% and 15% should be added to the basic pay for using official automobiles above 1600 CC and 2000 CC, respectively. For vehicles running on CNG, nothing should be added to the basic pay.

Re-introduction of judicial members in the Taxes Appellate Tribunal will instill confidence among the taxpayers that they will receive fair treatment of their genuine grievances, and references to the High Court will be substantially reduced.

Similarly, the Tax Ombudsman Act should be amended to make the ombudsman an effective institution. His Lordship does not even enjoy the powers of a 3rd class Magistrate.

Nevertheless, the finance advisor deserves congratulations and our full support for his valiant effort to come up with a budget generally acceptable to all the political parties.

MD. Matiul Islam is a Former Finance Secretary.

Today's Iraqi refugees key to tomorrow's stability

TWO political processes, underway now for almost 20 years, provide a valuable rear-view mirror with which to navigate foreign policy in years ahead. One is the development of China since the 1989 Tiananmen Square killings and the other is that of Iraq after its 1990 invasion of Kuwait. Those actions by non-democratic governments sparked international outrage and a demand by many for regime change in both countries.

In Iraq, invasion eventually eliminated the regime. For China, from where tens of thousands of students sought asylum in the West, military intervention was and still is unthinkable.

The two narratives are far from over, but when 2 million mainly middle-class, educated Iraqis flee a democracy to find sanctuary with neighboring authoritarian regimes, the debate on how reform should be managed in developing societies changes in many pragmatic ways.

A dictatorial glue kept Iraq's religious and ethnic patchwork together and dissolving that glue too fast unleashed a wave of violence. Iraq's woes raise the question of what might happen in Syria or Saudi Arabia, if invasion, revolution or economic disruption dismantled

their institutions overnight.

The question introduces the dangerous concept of removing intervention from the table of political options and giving monstrous regimes the freedom in which to prosper. Yet history has shown that the choice facing Iraqis was between two types of brutality: one caused by a dictator and the other as an unintended consequence of democracy.

The flight of Iraq's refugees dramatically worsened after the February 2006 bombing of the Shia Al Askari shrine in Samara by Sunni insurgents, causing retaliation by Shia militia.

More than 2 million Iraqis have now fled the country, with 1 million finding sanctuary in Syria, 750,000 in Jordan and up to 150,000 in Egypt. Interestingly, none of these safe-haven countries is a functioning democracy. By March 2007, the US had taken in less than 500, and agreed to accept only 7,000 over the next year, a fraction of those who have fled.

One Iraqi, who wanted only to be known as Mohammad, waits to join his family in Jordan, and his circumstances are replicated throughout Iraq's middle classes in the hundreds of thousands.

He earns a living taking wedding

photographs and saves for the bribe money needed to escape. "I have relatives in Jordan, Egypt, Sweden, Australia and I think the last one reached Canada," he said. "Last year was bad for all of us. Everyone in my family was behind the idea of democracy. We started off by taking a stand against the insurgents. But we found there was no one to protect us, so we chose to save our lives and the lives of our family."

For months his cousin, a prominent Iraqi surgeon, and others worked to keep a Baghdad hospital open, despite threats to stop work. When gunmen opened fire on her car, she escaped to the Jordanian capital, Amman. She lives in a cheap apartment and works for little money at a job far below her qualifications. Whatever happens in Iraq, she has no plans to return, evidence that her country is being drained of the very elements that make up a functioning society.

At a basic level, finding a neighborhood doctor let alone a surgeon is now near impossible. Some 12,000 physicians have fled. From turning on a water tap to banking money to educating children, Iraq is a collapsed society. Yet, even many moderate politicians, elected on a religious plat-

form, hesitate to condemn outright the violence generated within their own communities.

Alaa Makki Abdalrazak, a Sunni member of parliament and doctor, fled to a safer part of Baghdad after Shia militia ransacked his home and clinic. He maintains that the conflict's victims are mostly Sunnis, while his parliamentary colleague, Layla J Alkhafaji, argues that her Shia community reacts to Sunni attacks.

"If the killing continues," she warns, "we can't control the people on the streets because it is human nature to defend themselves."

Many suspect that religious communalism has infiltrated the government, thus eroding public trust. While the Shia and Sunni militias might have the muscle to take law into their own hand, minorities such as the Turkoman, Yazidi and Christians are vulnerable, likely to join the diaspora if they can.

Iraq's conflict is becoming neither ideological nor nationalistic, but communal, with centuries of grievance flaring up into slaughter. Its comparisons lie not in one of America's other defining military missions, Vietnam, but in Sri Lanka, the Balkans and Northern Ireland.

The Sri Lankan civil war has raged since 1983. The Balkans are

held together with per-capita international troop numbers far higher than those in Iraq. And in Northern Ireland a workable peace was delivered in May this year, after more than 30 years of conflict and then only by two extremist leaders from the Protestant and Catholic power blocks.

Given those scenarios, either Iraq's war will continue unchecked, international troops will remain in large numbers for decades or extremists will join the mainstream political process and renounce violence, which may not be possible for years.

The country's long-term hope may lie in the eventual return of its diaspora bringing back skills and funds. Money from the Chinese diaspora, for example, makes up a large part of the billions of dollars being invested into China.

Although post-Tiananmen China and post-invasion Iraq do not compare in many ways, youth in both countries could play a role in reform.

In 1989, when Western democracies mourned the lives of massacred students in Beijing, the Chinese leadership was plugging a power vacuum. Uncontrolled forces with competing allegiances were on the brink of causing war, famine and



an unprecedented outflow of refugees that would have destabilized the Asia Pacific region.

Far from apologizing for the Tiananmen Square killings, China took sanctions on its chin, ruled rebellious regions like Buddhist Tibet and Muslim Xinjiang with iron hand, concentrated on its economy and remains convinced that its path was the right one. Yet, beneath public differences over Tiananmen, China and the US did agree in one area. Both nations allowed young Chinese access to an American education.

Some half million Chinese have

studied abroad, mostly in the US, where 60,000 a year pursue post-graduate studies alone. While millions of Iraqis beg for sanctuary in the US, tens of thousands of Chinese obtain US visas for studies, business and holiday travel.

Far from clambering for asylum, most return home with ideas of globalization, wealth creation and reform, the exact skills needed to run new institutions in a modernizing society.

For almost 20 years, the US has denied Iraqis such a chance. From 1990, sanctions restricted travel and education, and now, a myriad

of bureaucratic hurdles, partly created by the post-9/11 security measures, stop Iraqi students going to America.

If China's reform is coming about partly because America is educating its younger generation, then this policy should be vigorously extended to other one-party states functioning with oppression and violence. It could start with North Korea, Myanmar, Zimbabwe and off the Florida shoreline Cuba, where Castro's regime strikes an emotional chord across America.

But most immediately, it should start by sending a clear message of alliance to Iraqi refugees now camped around the Middle East, knocking on America's door for sanctuary. Tiananmen was of China's own making as is its lingering authoritarian rule. Yet America takes in those refugees who then return to help reform China.

Iraqi refugees are fleeing from the mayhem that the US intervention unleashed. They, too, must be looked after because one day they may offer the bricks to build a peaceful and democratic Iraq.

Humphrey Hawksley, a former BBC Beijing correspondent, is the author of *The History Book*.

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