

POLICY DIALOGUE ON SAFE MIGRATION AND REMITTANCES HELD ON 10 JUNE 2007

Reform Agenda-1990 UN Convention on Migrants' Rights

Mr. Mahfuz Anam, Editor, The Daily Star

Thank you all for being present here this morning.

This policy dialogue is being jointly organised by the Daily Star and the Refugee and Migratory Movements Research Unit of Dhaka University with the support of the Manusher Jonno Foundation. This policy dialogue has great importance from the angle of promoting human rights of our own citizens and also from the point of view of the economic interest of the country. With no tax breaks, with no subsidies, with no bank's special facilities that is given to the garments sector, our expatriate workers send nearly \$6 billion to our country without any hope of investment from anybody. Nobody makes any investment on migration; they are on their own and take all the risks themselves. It is our moral and legal obligation that we must uphold their rights. Our migrant workers face terrible hurdles that start from the very beginning at the village level, afterwards they are exploited by the dalals, and a section of the recruitment agencies. The government officials and the airlines are sometimes also part of the exploitation process and finally the receiving authority and employers are also in the list. We have to address this issue not only with our head but also with our heart. Bangladesh is one of the signatory countries that has still not ratified the 1990 UN Convention. The current Caretaker Government has spoken a lot about eliminating corruption from our society. This area has a lot of corruption that needs to be addressed. There is no more important area of cleaning up than the issue of migrant labour force through which the country earns nearly \$6 billion in a year. Civil society also needs to raise their voice in favour of migrant workers, to give migrants migrant workers a voice. They also do not get adequate representation in the media either. So, the Government, civil society, media all of us need to work together from the perspective of progressive self-interest, from the perspectives of building a future for Bangladesh. If we can ensure a minimum level of human rights for them, reduce the exploitation, I think this is likely to increase the growth of Bangladesh. With this understanding in mind, The Daily Star and RMMRU have come together. We would like to continue this collaboration, particularly from The Daily Star we would like to highlight the issue continuously till the fundamental reforms are bought in. Policy is very popular jargon, let's not be only confined with the policy, let's do it for the economy and particularly for the migrant workers.



Extracts of Speech by Chief Guest, Dr. Iftekhar Ahmed Chowdhury, the Hon'ble Adviser for the Ministry of Foreign Affairs, Ministry of Expatriate Welfare & Overseas Employment and the CHT Affairs.



Migration of labour is an extremely important issue in Bangladesh. Official remittance follows into Bangladesh reached US\$ 4.8 billion in fiscal year 2005-06, representing approximately 7.6% of GDP. Last year, remittance transfers were approximately four times higher than net aid flows to Bangladesh and more than nine times larger than Foreign Direct Investment. As of June 2007, 4.55 million Bangladeshis are working as migrant workers abroad. This figure excludes the large Bangladeshi Diaspora in the United Kingdom and North America. However, we must remember that over 90% of our temporary labor migrants live in eight countries of the Middle East and South East Asia. Saudi Arabia alone accounts for 49.8% of all our labor forces working abroad.

Remittances can have significant positive impacts on households and communities in source countries for migration. We have, however, no reason to believe that remittance is cost-free. In fact, the migrant workers and their families often pay a very large sum to secure an overseas employment opportunity. For them, the direct cost may involve giving up their current employment and incurring

large upfront costs, in terms of agency fees, affairs etc, to secure the job. It often takes several months, if not years, to recoup their cost of overseas employment. The families of the migrant workers can face severe deprivation during the transition phase. Therefore safe and cost-effective migration is very important.

The market for migrant workers is highly imperfect, characterized by high transaction costs, pervasive information gaps and misplaced expectations. The market imperfections are often evident in based and unfair labor contracts. Recruiting agents often reap abnormal profits, largely at the expense of the migrant workers' interests. Language barriers and a lack of understanding of the country's legal system can make it difficult for migrant workers to seek legal remedies against unfair labor practices. The unhealthy competition among recruiting agencies from different developing countries often exacerbates the situation.

As you all know, Bangladesh is one of the first few countries to sign the 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families' as early as 1998 (7 October). Since then, 37 countries have ratified the Convention while 15 are Signatories to it. This is the most comprehensive instrument detailing the rights of migrant workers and their families.

I am fully aware that civil society organizations and various stakeholders are keen to see that Bangladesh also ratifies the Convention. Like many other important issues, the ratification issue also needs to be examined afresh. Let me assure you that this Government will definitely examine the issue of ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families with an open mind. If need be, we will engage the civil society and relevant authorities to discuss all possible ramifications. Today's dialogue is a good beginning towards that end. There is no reason why we should not be able to pursue this issue given the amount of public interest.

We basically have to weigh the various pros and cons of ratification. As far as I recall, none of the middle-eastern countries and also countries like Malaysia and Republic of Korea are party to the Convention. The US and the Western European countries are not parties to it either. These are very important destination countries for Bangladeshi workers and migrants. None of our immediate neighbors are also parties to the Convention. There are very important budgetary and internal market determinants issues as well as global labor market dynamics that need to be addressed before accepting all the obligations arising out of the Convention. I want you to appreciate some of the complexities of the issue at hand.

This Government is essentially a responsible and responsive Government accountable to the people of this land. We would like to set high standards in all vital areas of public interest. We would like to set standards which are comparable with global ones and which are enshrined in the UN and other international bodies. To ensure sustainability and irreversibility of the process of reform and institution building we have to move cautiously so that our achievements or steps must be able to withstand the test of rationality by the governments that will follow.

Justice Dr. Syed Refaat Ahmed, Supreme Court of Bangladesh

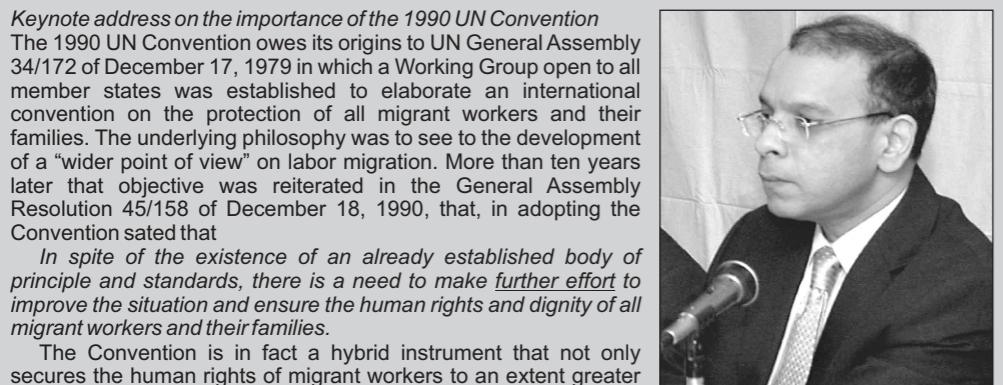
Keynote address on the importance of the 1990 UN Convention

The 1990 UN Convention owes its origins to UN General Assembly 34/172 of December 17, 1979 in which a Working Group open to all member states was established to elaborate an international convention on the protection of all migrant workers and their families. The underlying philosophy was to see to the development of a "wider point of view" on labor migration. More than ten years later that objective was reiterated in the General Assembly Resolution 45/158 of December 18, 1990, that, in adopting the Convention said that

In spite of the existence of an already established body of principle and standards, there is a need to make further effort to improve the situation and ensure the human rights and dignity of all migrant workers and their families.

The Convention is in fact a hybrid instrument that not only secures the human rights of migrant workers to an extent greater than ever before but also attempts at curbing undocumented migration. This is manifested clearly in the Part VI provisions of the Convention- which I see as the Convention's core provisions- pertaining to the promotion of sound, equitable, humane and lawful conditions of migration and which assert the importance of concerted action at state supervision of the entire gamut of the migratory process beginning with the dissemination of relevant information at the pre-migration stage, down to the availability of adequate consular services in the receiving state and orderly return to and effective reintegration in the states of origin. An all encompassing duty to "consult and co-operate" (Article 64) is imposed which effectively grants states the latitude to adapt policies as are considered to be in the best interest of migrant workers. Therein lies the intrinsic worth of the convention.

There is no denying that the 1990 UN Convention is designed to play a pivotal and crucial role in the development of human rights standards and the rules of state conduct and responsibility. There are two facets to this role. The first is absolute in nature and stems from the fact that the Convention is now identified as an instrument that is "concerned with standard-setting", and as a consequence of its elaboration of human rights standards is considered to operate to protect migrant workers "even in States which are not Parties to the Convention". The second is one manifested in the Convention itself and assigned in the context, for example, of the optional individual complaints procedure a devised under Article 77 allowing for the Convention Committee to consider complaints from individuals alleging violations of their rights and for states to respond by "explanations or statements clarifying the matter and the remedy, if any, that may have been taken....." Either way, it is evident that human security gets assigned a primacy over and above state sovereignty and in that regards, the question we should be asking ourselves as to ratification is not merely "when?" but additionally "how best to be in effective compliance?" In that regard, we appear to have taken cautious and gradual steps in the right direction, and there is no reason why we cannot see that exercise to its desired conclusion for the benefit of many who continue to be exploited at all stages of the migration process.



Prof Tasneem Siddiqui, RMMRU, University of Dhaka



Prof Tasneem Siddiqui, RMMRU, University of Dhaka,

Presentation of Key Reform Agenda: Ratification of the 1990 Convention

Almost all countries of the world now take part and benefit from migration as sending, receiving and transit countries. Over the last five years, on average, 300,000 people migrated from Bangladesh annually as short term contract workers. In 2006, the stock of short term contract migrants stood at 4.4 million; another 1 million more constitutes the Bangladeshi diaspora. In 2005-6 Bangladesh received US\$ 4.8 billion as remittance through the official channels. It is expected that this year the figure will exceed US\$ 6 billion. The importance of remittances to the Bangladeshi economy cannot be

overemphasised. Among the 70 developing countries who receive a sizeable portion of remittance, Bangladesh is the 7th largest; India being the second. Nonetheless, compared to India, per capita remittance earning of Bangladesh is 33% higher.

It is unfortunate that due to reasons operational both within Bangladesh and in receiving countries, Bangladeshi migrant workers have become one of the most vulnerable sections of our labour force. Migrants continue to face hardships at home and in destination countries. Unscrupulous recruitment practices have led to high costs, fraudulent practices and pauperisation of a section of migrant workers. In destination countries, due to the arbitrariness of the employers and discriminatory policies of receiving states many migrants face exploitation and loss of rights in the form of low and irregular wages, bad working conditions and restrictions on their movements. Upon return the migrants' plight continues in the absence of institutional opportunities for economic reintegration.

The current caretaker government has initiated reforms in various sectors of the economy. With regard to migration of workers it has undertaken a series of measures to curb the irregularities in the recruitment industry and has increased market access and better terms and conditions of Bangladeshi labour in UAE, Malaysia and more recently in the Republic of Korea.

The 1990 UN Convention on 'The Protection of the Rights of All Migrant Workers and Members of Their Families' is the most important international instrument concerning migrant workers. The Convention came into force in June 2005 with the ratification of 20 countries. 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 a 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. It recognizes 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.

As a labour sending 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 has no provision that contradicts the legal system of Bangladesh, and therefore could be ratified. On the basis of the recommendation on 8th October, 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.

Over the years we have witnessed major labour sending countries, most notably Sri Lanka and the Philippines, Egypt, Syria ratifying the Convention. Senior functionaries of these states have stated that none of them have faced any adverse repercussions with regards to labour export. In the recent past substantial improvements have taken place in compliance of international labour standards in the case of apparel manufacturing and other export processing industries. Therefore it should not withhold the ratification based on the fear that similar rights will be demanded by our workers in Bangladesh.

India and Pakistan's dependence on remittance is not as high as in Bangladesh. Besides, if those countries do not want better protection of their migrant work force, Bangladesh does not need to follow. Rather, Bangladesh should follow the lead of Sri Lanka who has a similar dependency on labour export and remittances to Bangladesh.

The current government has taken major steps against corruption as well as streamlining the recruitment industry. This instrument provides with state of the art technique to ensure accountability of those recruiting agencies who commit fraud. At the same time it also suggest methods for rewarding recruiting agencies who are successful in negotiating job contracts on better terms for the workers.

It is in the above context we appeal to the government through our Honourable Advisor for the Ministry of Foreign Affairs and Expatriates' Welfare and Overseas Employment to ratify the 1990 UN Convention. The first meeting of the Global Forum on Migration set up by the UN will take place on 11-12 July 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.

Ms. Shaheen Anam, Executive Director, Manusher Jonno Foundation

We as citizens of Bangladesh would like to see the 1990 UN Convention is ratified without any further delay. I would like to say in dealing with this whole area in terms of numbers of how many billions are coming and how many workers are going out, the person has been lost, the situation of these workers has been lost. Our interest actually has been raised by some of the newspaper reports that we have been receiving in the last few month. The people who have gone to the destination country came back because they have been defrauded not only in this country but when they went there they found that their contracts are false. Now, it's very difficult to understand why this is not followed up, who these people are who are defrauding these migrant workers. Why is there not anybody or any institution to monitor this problem?

I would like to state that while the migration sector is not ignored, the people who work in this sector are ignored and one of the reasons is that they don't have any bargaining capacity. Think what would happen if these people one day decided that they will not send money anymore. They are not aware enough, they are not mobilized enough, are not educated enough and even are not given the right information. In Bangladesh, migrants do not have a formal source of information about the international labour market, placement, recruiting procedure and about costs and benefits. That's why the aspirant migrant has to go to the informal sources that just abuse or exploit them. Why are they not black listed when a fraud is detected? They just have to pay some fine to the authorities and they again continue their business. How can they be made free just by given some fine? We need a very strong monitoring body or maybe a task force which will monitor all the different actions or policies and all the rules and regulations of the recruitment agencies.

Now, I would like to point out the sufferings at the airport, when they come back. We have all seen the way they are treated at the airport. Why we cannot make separate facilities for them. When they come back two or three flights comes at a time, and they are treated badly. This is really a loss of dignity for them and we have to emphasise that we should be treating them as our crown.

I just want to quote a newspaper today that 35 thousand workers are waiting to go to Malaysia and they are not being able to go because airlines could not manage and the people have spent their money, all the papers are ready they can not go because the planes are not ready. Let us have a change in our attitude regarding the migrant workers. The media should play a role building their image and keep on telling everybody about their contribution to our society, to our economy as well as the pain and sufferings of their families and trauma that they face at the time of leaving their families behind. At the end of the day I would like to say that they are the citizens of our country making huge contributions and definitely they deserve better.

Mr. Fayazuddin Ahmed, Advocate, Manusher Jonno Foundation

I would like to start with a quote by Kofi Annan, UN Secretary General, "It is time to take a more comprehensive look at the various dimensions of the migration issue, which now

involves hundreds of millions of people and affects countries of origin, transit and destination. We need to understand better the causes of international flows of people and their complex interrelationship with development".

The major objective of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is to foster respect for migrants' human rights. Migrants are not only workers, they are also human beings. The convention aims at guaranteeing the right of treatment and the same working conditions for migrants and nationals. The major points of the charter are: prevention of inhumane living and working conditions, physical and sexual abuse; rights to freedom of thought, expression and religion; access to information on their rights; right to legal equality; equal access to educational and social services; the right to participate in trade unions; right to remain connected to their country of origin.

Different countries assign different reasons for not ratifying the convention. Some states maintain that their national legislation already protects migrant workers in a satisfactory way. This is notably the case with Western countries. They therefore argue that ratifying the Convention would be superfluous. Some states have only a small number of migrants on their territory and do not therefore see the need to legislate on this topic. Others state that the Convention is not well-known and is therefore not high on the political agenda. Some states lack the necessary infrastructure to apply the Convention and are therefore reluctant to ratify it. Some states do not wish international agreements to interfere with their migration policies, which they view as a strictly national issue. However, these reasons should not apply to Bangladesh under the Constitution and the recent Overseas Employment Act 2006, which states that the Government of Bangladesh will ensure the universal human rights of all its migrant workers. I therefore believe we should sign the Convention as our commitment to uphold the rights of our workers abroad.

Mr. Saiful Haque, Chairman, WARBE

The international Convention for 'The Protection of all Migrant Workers and Member of their Families' is the most extended and comprehensive instrument to protect the rights of migrants and member of their families. The convention seeks to play a role in preventing and eliminating all forms of exploitation, discrimination, abuse and harassment of migrant workers in countries of origin, transit and destination.

Bangladesh was elected as a member of Human Rights Council last year with a huge vote and pledged to ratify the core conventions to protect the human rights and uphold the dignity of its peoples. Therefore, it is obligatory for Bangladesh to ratify the convention for the protection of the fundamental rights of migrants' workers and members of their families at home and abroad, including those with undocumented status.

At the United Nations High Level Dialogue on Migration and Development in New York, Bangladesh in their statement mentioned "efforts needed to fully eliminate exploitation and discrimination to ensure fair treatment, decent work, minimum wage & status recognition to migrants". In the next month, Bangladesh will be participating in the 'Global Forum on Migration & Development' in July 2007, which is the follow up meeting after the UN High Level Dialogue. Bangladesh

should ratify the 1990 UN Convention before the GFMD to uphold their statement for the protection of the rights of their millions of migrants' working in different countries.

In South Asia, Bangladesh is the only country that adopted an Overseas Migration Policy. To implement this policy and streamlining the labour recruitment process with accountability and transparency and better governance of this vital sector for foreign currency earning, we need a comprehensive legal framework and the 1990 UN Convention would be an ideal instrument for formulation of the rights based legislations.

Ms. Sheik Rumana, Executive Director, BOMSA Seven or eight years ago when I was a migrant worker, I did not know the rights of migrant workers. Today, I am aware of some rights of migrant workers that I have learnt over time. I feel that it is very important to have all the rights as a migrant worker. As a member of migrant workers' community, today the only one demand from us to the audiences and to the government is to ratify the 1990 UN Convention. Ratification of the Convention is one way of recognizing the contribution of migrant workers by the State. Therefore, there is an urgent need to ratify the 1990 Convention.

Afsan Cowdhury, Director of Advocacy and Human Rights, BRAC

To me, the ratification of the 1990 UN Convention is not a unidimensional issue, rather it is a multidimensional issue. Bangladesh as a State has signed and ratified a huge number of UN Conventions and treaties. But the question is whether just signing or ratifying them has a real impact. Seen in that perspective, I am sceptical whether the ratification of the 1990 UN Convention could bring any significant impact for our migrant workers. However, still I think that we should ratify the 1990 UN Convention. The most important issue of concern for me is that we are losing our labour market. Therefore, our migration policies should concentrate on how to improve the access to the labour markets of foreign countries and how our people could be turned into skilled labour force for the competition in the global labour market. Therefore, we should take consider how the UN Convention could be supportive for us in this respect.

Nur Uddin Chowdhury

This dialogue may recommend the constitution of a taskforce to analyze and make an assessment of the ways through which Bangladesh as a country sending migrants may benefit. I think that is a very serious concern for us. Ratification cannot be a unilateral decision by the Government. At the end of the day the migration issues would be well benefited by the ratification of the Convention and it should be done as soon as possible.

Mr. Siddique Rahman, Islami Bank

We heard from Justice Refaat Ahmed that if we ratify the UN Convention, then as the signatory to the Convention, we have to check the irregular migration of our country. Many of our migrant workers go outside without any legal procedures. Therefore, if we ratify the Convention, I think that will have a negative impact on our manpower export and on the remittance.