



## Star LAW report

## INTERNATIONAL MIGRANTS DAY: 2009

## Ensure human rights of migrants

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On 4 December 2000, the UN General Assembly, taking into account the large and increasing number of migrants in the world, proclaimed 18 December International Migrants Day.

Member States, intergovernmental and non-governmental organisations observe International Migrants Day through the dissemination of information on the human rights and fundamental freedoms of migrants and of their protection.

Migrants from developing nations are keys to economic growth in industrialised countries. They are the backbone of economic development but they are often deprived of rights and 18th December is an awareness day of their rights across the world.

The UN has created a post of the Special Rapporteur on the Human Rights of Migrants.

## Why migrate

Migration involves people moving from one country to another. Cross-border migration is to be considered in the context of social-economic development. Historically migration occurred since the dawn of human civilisation. In present days, the issue of cross-border migration to foreign countries is largely linked to the integration of global labour markets and easy transportation.

However, 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, foreign 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.

There are several reasons for migration and some of them deserve mention:

- Economic and demographic factors in labour-sending countries
- Promotion of entrepreneurial skills in labour-receiving countries
- Employment opportunities thought or known to be available in labour-receiving countries
- Civil wars, harassment or discrimination in labour-sending countries from where migrants want to leave for personal reasons.

Migrants are largely 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.

## Demand for migrants

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

In March 2005, the European Union's Commissioner for Social Affairs presented a demographic study on the EU nations and stated that Europe would turn into an old, infertile continent with a shrinking workforce and a sagging economy.

Over the next 25 years, the EU countries would lose 20.8 million from its working-age population, while the population of elderly, those 65 years and older, would surge by half because of better health. 476 According to the UN report, labour force in Germany will shrink from 41 million to 21 million and Italy's 23 million to 11 million by 2050.

The report estimated that Japan, to keep its labour force constant during the next 100 years, would require an immigration programme 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.

The oil boom in the Middle East changed societal habits of people in those countries. They are reluctant to undertake manual work and a demand for foreign workers has grown. The flow of contract migrants from Asia commenced in mid-70s.

## Illegal migrants

Often illegal migrants are employed



in unattractive, demanding, dangerous and dirty jobs because of shortage of labour in labour-receiving countries for such types of jobs. Another advantage for companies in labour-receiving countries is they can employ illegal (undocumented) workers on very low wages. Furthermore, they cannot complain because they are in constant threat of being deported to their countries of nationality. Their working and living conditions are very poor.

It is reported that thousands of illegal (undocumented) migrants are working abroad. 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 labour-receiving countries through their hard work.

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 a UNESCAP report. According to the report, the estimated flow of illegal women migrants is about 35,000 to 50,000 a year.

## Rights 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 Rec-

ommendations 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 deal with social security entitlements. The fundamental human rights as enshrined in 1948 Universal Declaration of Human Rights and 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 illegal migrants who are employed in labour-receiving countries contribute to the economic productivity, they have no protection under laws of labour-receiving countries.

## UN International Convention of 1990

The provisions of the 1990 UN International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMR) break new ground by clarifying the full application of the human rights law to migrant workers and providing more detailed definition of who constitutes a migrant worker. The Convention provides a framework of state responsibility and accountability as to how to deal and treat illegal migrants.

protect and promote rights of migrants as human beings, (iii) empower migrants for collective action toward changing structures, policies and relationships that violate their rights and (iv) address roots of migration, promote social justice and sustainable alternatives. MFA's work has achieved some successes.

## Remittances from migrants

Remittances represent a lifeline for more than 700 million people in developing countries. The World Bank estimates that in 2008 remittances amounted to approximately \$444 billion, out of which \$338 billion went to developing countries. To put the matter into proper perspective, the total official development aid (ODA) from OECD countries in 2008 was approximately \$120 billion.

Remittances from migrant workers in Bangladesh have crossed US\$ 9.68 billion in 2008-09 contributing to over 10 per cent of the Gross Domestic Product (GDP) of the country (US\$90 billion).

It is the second foreign exchange earning for the country after the export earnings of the garment sector that contributes 12.7 per cent of the GDP. It is reported that 75 per cent of remittances comes from the Middle East and 25 per cent from the West. By 2015, the target is about \$ 30 billion dollars and right strategies must be put in place to meet the goal.

## Bangladeshi migrants

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 agencies were working in West Pakistan.

It is reported that about 6 million Bangladeshi workers are now abroad, spreading almost in 100 countries. The age and gender of Bangladeshi migrants are mostly young and male. It is reported that about 80 per cent had less than higher secondary school education. About 40 per cent appear to be unskilled. The unskilled group is the most vulnerable among other groups in labour-receiving countries.

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 to Saudi Arabia, Qatar, United Arab Emirates, Oman, Bahrain and Kuwait from 70s until this day.

As far as women workers, according to Bangladesh Manpower Employment and Training Bureau the number of women workers reportedly stood at 74,074 of August 2007. Of them 54,835 left the country in the last three and half years. It is reported that among total expatriate workers, six per cent constitute female workers.

Some say that the figure will be more because there are many unauthorized agencies in the country that send women workers abroad (only seven recruiting agencies are being authorized by the government for sending women workers). It is reported that among total expatriate workers, six per cent constitute female workers.

## Challenge for Bangladesh

Migration is a complex problem. It not only involves mobility of labour during the days of terrorism but also access to cheap labour resisted by trade unions in the labour-receiving countries.

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.

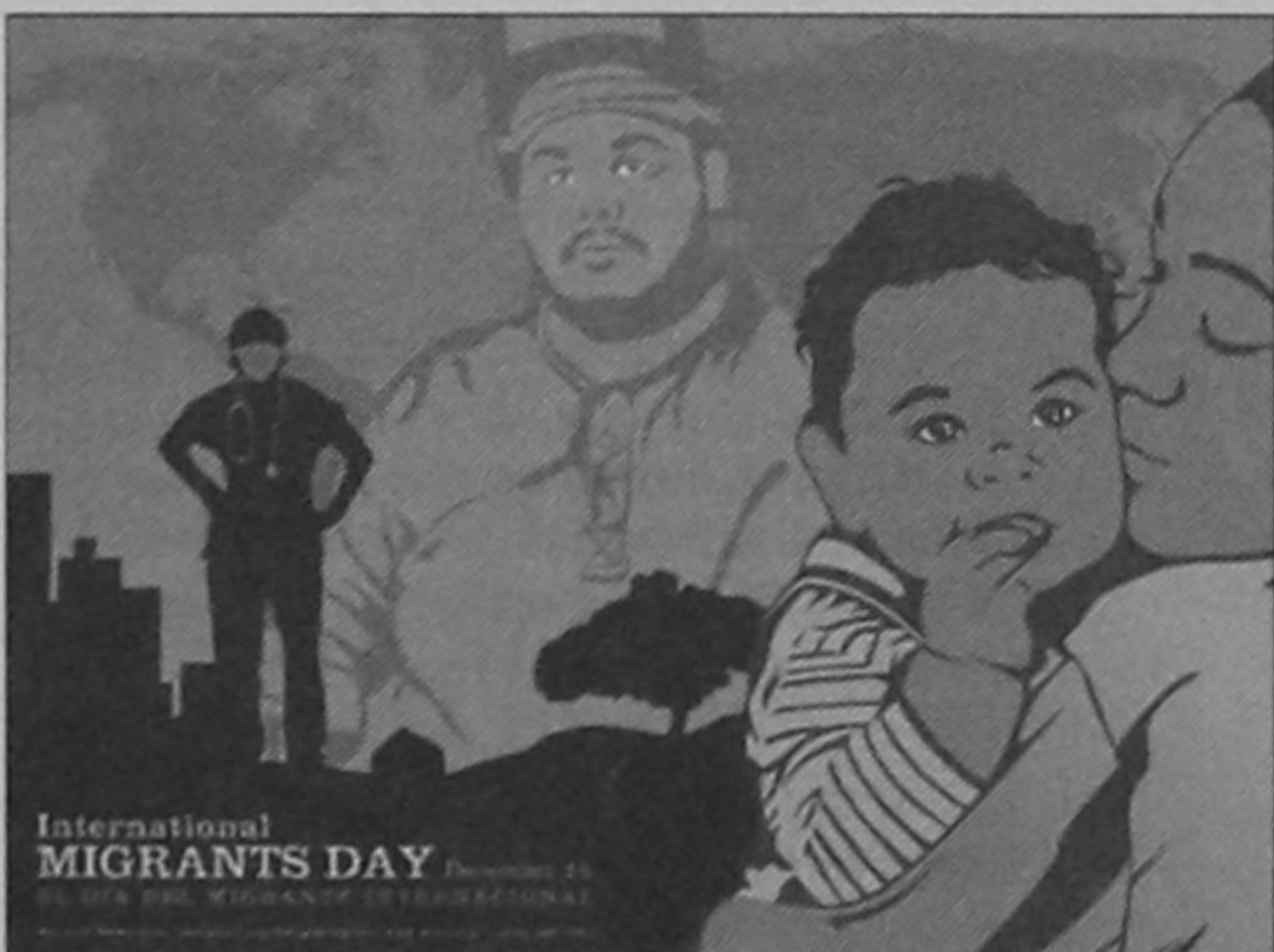
Bangladesh, being a labour-sending country, has articulated in many forums that one of the most important human rights is to protect illegal/ undocumented migrant workers in labour-receiving countries. Bangladesh has to mobilise with other labour-sending countries to canvass the view that while economic globalisation permits capital move freely from one country to the other, similar free movement of natural persons (labour mobility) should be allowed on contract basis.

Bangladesh has proposed a "Plan of Action" to the World Trade Organisation which included free movement of natural persons from low-income countries to the other for employment. The proposal needs to be pursued vigorously as part of Bangladesh's economic diplomacy.

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

## FOR YOUR information

## Rights of migrant workers and members of their families



THE UN and other Key Organizations have always been aware of the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the world.

Considering this and the situation of vulnerability, in which these migrants frequently find themselves on account of their employment states in foreign countries, the international community is convinced of the need to bring about international protection of the rights of all migrant workers and their families, reaffirming and establishing basic norms in a convention which could be applied universally.

On 18th December 1990, at

the United Nations, General Assembly "The International Convention on the Protection of the Rights of all migrant workers and members of their families" was adopted. This later entered into force on the 1st July, 2003.

This Convention firmly establishes the rights of all those persons (including families who accompany them) who are currently engaged or will engage in employment in a country of which they are not a national, (i.e. migrant).

Within the framework of employment or otherwise the convention states the migrants' and their family's economic, social, cultural, civil and political rights.

It also looks at the elimina-

tion of all forms of racial discrimination, against all migrants but in particular against women and the rights of children.

It clearly states the rights of migrants in abusive conditions and works towards the promotion of equality of opportunity and better treatment. It states the rights of migrants in situations of forced or compulsory labour and works towards its total abolition.

## Why is ratification of the convention necessary?

The need for stronger protection of the rights of migrants was felt throughout the world and this was the driving forces that lead to the adoption of the Convention by the UN. Now this convention must be implemented through national ratification and legislation.

For the convention to 'enter into force', twenty UN member states must ratify the convention and so far nineteen states have now acceded to the convention: Azerbaijan, Belize, Bolivia, Bosnia-Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, Ghana, Guinea, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay.

Eleven states have signed

the Convention, which is a step towards ratification: Bangladesh, Burkina Faso, Chile, Comoros, Guatemala, Guinea-Bissau, Paraguay, Sao Tome & Principe, Sierra Leone, Togo and Turkey.

Governments all over the world have to be convinced that ratification of the Convention is necessary. This secures the rights of migrants on an international base. Why support the Convention? The convention and its ratification is backed by the international community and key organizations that are working to ensure that migrants across the world have laws that protect them.

The articles stated in the convention, would have to be adopted as part of the country's national laws and practices, which means the change in the current discriminatory laws and practices. The migrants would have a system to support them in illegal or abusive employment and the state would provide them adequate and appropriate help.

Finally, the success of the campaign is grounded in its purpose being adopted and promoted by hundreds of organizations and people who may or may not be formally affiliated to the campaign.

Source: Migrant Rights.

## GOOD NEWS

## Good news for climate change migrants

AFTER months of negotiations, the UN climate change talks in Copenhagen have good news for countries that might see hundreds of thousands, if not millions, of people migrating or being displaced by climate change.

For the first time the text dealing exclusively with adaptation to climate change - one of several tracks up for negotiation - has included a substantive paragraph on the need to consider planned relocation for people displaced by climate change, with "interstate cooperation" to respond to their needs.

The text has yet to be adopted, but this paragraph had "no opposition from all the countries, and is most likely to go through," said Bruno Sekoli, chair of the Least Developed Countries (LDCs) group at the talks.

Koko Warner, head of the Environmental Migration, Social Vulnerability and Adaptation Section at the UN University, described the inclusion as "very significant". She and other academics and aid agencies have been lobbying and working with countries at the talks for the recognition of migration and displacement as part of adaptation action.

The term "climate refugees" was first mentioned in the adaptation text at talks in Bonn, Germany, in June. The term has been dropped, but the need to help people who "either cross an international border as a result of, or find themselves abroad and are

unable to return owing to, the effects of climate change" has gained prominence.

There was widespread consensus that the current legal definition of a refugee should not be tampered with to accommodate those affected by environmental factors, and researchers agreed that most countries would accept a new concept and a separate convention on people displaced by environmental changes.

Mizan Khan, a member of the Bangladesh delegation and part of the team working on migration in the adaptation text, said he was certain the issue would be endorsed by all countries, which would set in motion the process of considering an international legal framework for the status of people displaced by climate change.

"We are considering the term 'climate change-induced displaced'," said Khan, who teaches environmental science at the North South University in Bangladesh.

Among the other immediate steps taken, he suggested, should be setting up an international financing mechanism to fund the relocation of internally displaced people, and beginning a process to consider the status of countries such as Maldives, a group of low-lying islands in the Indian Ocean, whose entire population might have to be relocated because of the rising sea level.

Global meetings were marked by emotional appeals from island states,



such as the Maldives and Tuvalu, which could become largely uninhabitable by a one-metre rise in sea level. The Maldives has played a leading role in creating awareness of the issue for the past two decades.

The debate on "climate refugees" has been controversial because of the sheer numbers of people likely to be affected, but the UN University's Warner said research organizations and humanitarian agencies emphasized that most of the migration and displacement caused by climate change would be internal.

As the impact of climate change intensifies, estimates of the number of people displaced by natural disasters or rising sea levels have grown from 50 million in 2010, to hundreds of millions

or even one billion by 2050.

"Forced movements, both internal and transboundary, can partially be prevented by timely and adequate adaptation, including disaster risk reduction measures," Warner said. "This needs to be combined with measures to better manage and increase the positive impact of voluntary population movements."

In 2008 climate-related natural disasters like droughts, hurricanes and floods forced 20 million people out of their homes, while 4.6 million people were internally displaced by conflicts, according to a recent joint study by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Geneva-based Internal Displacement Monitoring Centre.

Source: December 18.