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*Conference on  
the Temporary Migrant Workers of Bangladesh demands  
A National Plan of Action  
Upholding the Dignity of Migrant Workers*

The Refugee and Migratory Movements Research Unit (RMMRU) and Bangladesh National Women Lawyers' Association (BNWLA) in collaboration with the Solidarity Center and International Organization for Migration arranged a Conference on *Temporary Migrant Workers of Bangladesh Towards Developing a National Plan of Action* on April 26 & 27, 1999 in Dhaka. This was a follow up activity to RMMRU's earlier initiatives including a consultation on *National Responsibility towards the Migrant Workers* held in December 1997.

Speakers at the inaugural session stressed the need for increased cooperation among the labour sending countries and for a holistic approach in resolving the problems of migrant workers (MWs) in general and of the Temporary Migrant Workers (TMWs) of Bangladesh in particular. They argued that any National Plan of Action should encompass the whole range of problems facing the TMWs where all the parties concerned should act responsibly in mitigating the present state of suffering and confusion surrounding their (TMWs') job and ultimately their life.

The Chief Guest, Mr. Abul Hasan Chowdhury, Minister of State for Foreign Affairs, stated that a National Plan of Action necessitates national consensus. The minister stated that contribution of TMWs to the host country's economy should also be recognized and studies should be conducted at the practical level to highlight their contribution both in the host as well as in the home country. He also underscored the need for an appropriate national legislation to safeguard the rights and interests of the TMWs. Mr. Chowdhury further stated that globalization cannot be a phenomenon of one sector or issue area, rather it encompasses all the sectors including those of labour mobility and resource development and so on. In that sense, our (South in general and Bangladesh in particular) economic development is linked with the continued growth of the northern states and vice versa. The Minister also stressed that recruiting agencies involved in any kind of malpractice should be brought under a regulatory framework to make them accountable. Mr. Greg Schultze, Solidarity Center, Bangladesh and Mr. William Conklin, Solidarity Center, Sri Lanka welcomed the delegates while Dr. Tasneem Siddiqui of Refugee and Migratory Movements Research Unit (RMMRU), Advocate Fawzia Karim Firoze of Bangladesh National Women Lawyers Association (BNWLA), and Mr. David Whittlesey of International Organization for Migration (IOM) spoke on the Theme of the Conference elucidating the problems of TMWs and means to overcome such problems.

The *first Working Session on Flow of Remittance* was chaired by Mr. AMAH Siddiqui, Former Director General, Bureau of Manpower Employment and Training (BMET) and Consultant, ILO. He stated that if the labour receiving countries ratify the Conventions it will make the working environment more congenial for the workers and then only these legal instruments may become more effective. Dr. Nurul Islam of BMET presented a paper on 'Improving the Flow of Remittance'. In his paper Dr. Islam recommended (a) sufficient propaganda and awareness through motivation towards

the use and advantages in using the official / government channel for remittance; (b) creation of client-friendly banking facilities and official transaction system; (c) migrant workers to open a Foreign Currency Account before departure for overseas employment so that they can send their remittance easily; and (d) export of more skilled and professional personnel to increase the total flow of remittance. Among the discussants, Mr. Kamaluddin Chowdhury of the Islami Bank observed that Migrant Workers' rights are more important than export earning. He also noted that the labour attachés have a crucial role and in that context the role of foreign office should also be streamlined. Mr. Islam suggested measures, such as, motivational training before departure; providing special exchange rate to encourage workers to invest in the country; documentation of investment profile; exploration of new markets and improving competitive capacity for the existing market. Among others, Mr. Anwar Hossain former Director, BMET and Consultant, ILO and Mr. Victor Gomez of CCDB participated in the discussion. The speakers observed that as recruiting agencies are not in a position to bring large agencies, government must do the job. The government should also make the entire process of migration of workers more simplified and the banking system should be made accessible. Some speakers suggested that the success or failure of the organizations of the migrant workers in different countries like OCW in the Philippines, NRI in India and OPF of the Pakistanis living in Kuwait may also help us shape our policy. There has been a general consensus on the need for training. Even illiterate people can do very well with only 3/6 months training, speakers observed. They also suggested follow up activities following the recommendations of the conference.

*Working Session II on Protection and Welfare of Migrant Workers* was chaired by Advocate Sigma Huda of Bangladesh Society for Enforcement of Human Rights. The paper presenters included Ms. Irene Fernandez of Tenaganita, Malaysia and Dr. Nasra Shah, Kuwait University. Ms. Irene Fernandez mainly focused on the crisis of Bangladeshi workers in Malaysia. She recommended (a) development of an effective governmental policy for a one-stop agency to control recruitment and to ensure process of legalizing of workers with a comprehensive policy, (b) bilateral and multilateral cooperation and agreements between governments, (c) development of a comprehensive, holistic pre-departure programme, not just before the migrant leaves but at the community level, which will be followed up after recruitment; (d) development of a standardized contract prior to departure, (e) strengthening the foreign missions for more effective intervention, and (f) development of support services and programmes like shelters, social action programme, skill training, language classes etc; (g) evaluation of the use of the welfare fund and giving priority to reintegration programme which should include development of personnel for counseling and support services (h) critical evaluation of recruitment of workers into new sectors like women into domestic work in Malaysia, (i) enhancement and strengthening of training of labour attaché in receiving countries to meet demands of changing realities. Ms. Fernandez also suggested that measures like Central Bank working together with ministry of labor to work out mechanism for safe and effective channel of remittance would help Bangladesh go a long way in the promotion and protection of the MWs' rights and living.

Dr. Nasra Shah in her paper observed that protection of the MWs in the sending as well as in the receiving country should be given high priority. She suggested legislation to provide such protection in countries where certain categories of workers are not covered by the existing laws. Dr. Shah also recommended agreement between the sending and receiving countries about ensuring a minimum wage and living standard for MWs, and widening the job scope for the MWs so as to compensate the inadequacy in the legal framework. She alleged that the recruiting agencies are charging higher fees from the MWs and in the absence any regulatory mechanism this malpractice can not be checked. Dr. Shah stated that the only long term solution for improving the condition of MWs is development of the sending country so that MWs are not pushed out rather can choose the terms on which they are willing to migrate. Discussing on the issue Advocate Nizamul Huq Nasim observed that the families of the MWs should be taken care of by the government. The lawyer argued that the government should not view the problem as one between the employee and his/her employer. He suggested that living condition of the MWs in the receiving country should be improved significantly; and a fund should be created only for the MWs and their families. Ms. Farida Akhter of UBINIG stated that there should be a national law for the MWs and a day, such as the May Day, may be observed to promote the rights of the MWs. Ms. Akhter also demanded lifting of ban on the women migrant workers'

(WMWs) and people to people, activist to activist contact within the SAARC forums. Mr. S. Saiful Haque of Welfare Association of Repatriated Bangladeshi Employees (WARBE) and Mr. Ghulam Mustafa, Secretary General of Bangladesh Association of International Recruiting Agencies (BAIRA) participated in the discussion. Mr. Mustafa stated that the government should not impose advance income tax and travel tax on the MWs. Because firstly they are not earners as yet and secondly they are not tourists. The participants felt that efforts should be made by the Civil Aviation and Immigration Departments to monitor the arrival of MWs and deportees and create a directory containing information on them; that location of the MWs Welfare Desk should be also be at the arrival lounge at the airport so that volunteers can offer their services with proper information; that undocumented MWs should be taken into account for any Plan of Action, and that MWs and civil society involvement has to be ensured for the administration of Wage Earners' Welfare Fund.

*Working Session III on Women Migrant Workers* was chaired by Dr. Hameeda Hossain of *Ain O Shalish Kendra*. Two papers were presented in the session by Advocate Fawzia Karim Firoze of BNWLA, and Myrtle Perera of the Marga Institute of Sri Lanka. The papers described experiences through case studies and initiatives taken for welfare programmes in Bangladesh and Sri Lanka respectively. Ms. Salma Ali pointed out that problem lies with the mentality of our officials in the foreign missions. Explaining further, she said the Bangladesh Mission in Pakistan refused to provide support to the jailed Bangladeshi women who went to Pakistan illegally seeking job in the fear that it would dampen the image of the country. Ms. Nazma Akhter from BIGUF, resented the insensitivity of the government and the recruiting agencies concerning protection of the rights and interests of the MWs abroad. Dr. Rita Afsar of Bangladesh Institute of Development Studies underscored the need for initiating studies on what are their aspirations, their empowerment, their status in the society and satisfaction in job etc. She emphasised the need for a very strong policy lobby and the need of training for the women migrant workers. Dr. Nasra Shah commented that developing a National Action Plan of Action would see the whole problematique in totality not only in separate issues like abuse and protection. Irene Fernandez added that in respect of pregnancy, WMWs should have the right to choose and must not be deported in such condition at the will of the host country. Mr. Tomas Achacoso stated that there is a need for a *simple* research and documentation. It is a step by step process, he observed. Dr. Hameeda Hossain remarked that we have to form this Plan of Action bilaterally in consultation with the country involved. She added that training, education, network system, support system in the host country should be looked into and efforts should be made to enact the law.

On Day 2, 27<sup>th</sup> April 1999, the *Working Session IV on Capacity Building* was held. The Session was chaired by Mr. Muhammad Ahsan Ali Sarkar, Secretary, Ministry of Labour and Employment, Government of Bangladesh. Mr. A Rousselot of IOM, Dhaka, presented a paper on 'Strengthening the Labor Migration Process in Bangladesh: Technical Cooperation and Capacity Building Approach'. He highlighted some of the programmes undertaken by the IOM: advisory services on migration policy/law and administration for Government migration officials; inter-agency and international seminars on labour migration; policy-oriented research for governments and non-governmental institutions involved in labour migration; migration related training to labour attaches; facilitation of cooperation between sending and receiving countries; support and reintegration of returnee migrant workers; development of Migration Information Systems and training of their users; pre-departure language and cultural orientation for migrants; law enforcement against traffickers and others profiting from the unlawful exploitation of irregular migrants and trafficked women; capacity building of national NGOs to work in the activities mentioned above; assistance to governments of sending and receiving countries to establish bilateral agreements for minimum standards for worker protection, working conditions, standardized contracts, modes of conflict resolution and repatriation; reviewing legislation on law enforcement against exploitation of irregular and trafficked migrant women, and the related protection of victims of exploitation; exploration and definition of more modern and cost-effective approaches to medical screening of migrant populations; promoting international harmonization and standardization of the immigration and migration health legislation and practices; liaison and coordination of activities with regional and other international institutions in the domain of

international migration. Mr. Rouselot stated that IOM, attaches high priority to two issues, female migrants and human rights.

The Ministry of Labor and Employment, Government of Bangladesh presented a paper titled 'Developing an institutional Framework for the Protection of Migrant Workers'. This paper basically outlined the initiatives taken so far by the government for resolving the problems of MWs. Mr. Md. Abul Kalam Azad, Director General, Bureau of Manpower, Employment and Training (BMET), suggested following measures for further improvement. A system of compulsory registration of particulars of an overseas job seeker for foreign employment with the requirement that the recruiting agencies will have to recruit from the list of those registered. This, he argued, will minimize the presence of middlemen and the exorbitant migration cost. The DG suggested that the procurement of individual visa should also be brought under an accountable system and BMET may enhance the charge-free channel of recruitment of professional and skilled personnel. He suggested that Labour Wing' of the Bangladesh Missions abroad may be established in all labour exporting countries to look after the welfare of the migrant workers and to protect their interest. Mr. Azad stated that every financial dealing relating to the recruitment process may be made compulsory through bank to bring transparency in these transaction. He demanded that code of conduct for recruiting agencies be strictly followed. Through this, it will be ensured, stated Mr. Azad, that no person shall act as middlemen, sub agents or commission agent except that of the lawful authorized person to act on behalf of the recruiting agent. The officials suggested that welfare centres may be created in each embassy to provide legal assistance to the distressed and deprived migrants; and cases of cheating of money or mal-handling in processing of recruitment in which any job seeker suffers financially or in any other manner, should be dealt with proper legal bindings.

Mr. Sarkar, Secretary, Ministry of Labour and Employment observed that ILO and IOM can assist Bangladesh in capacity building measures in the issue of migration. He stated that the services of diplomats and labour migration officials are not enough. The skill of labour needs to be developed. Special training program should be undertaken by the BMET. He informed the floor that ratification of UN Convention is on the agenda of the government. And it is also thinking of developing housing units for the returnees. Mr. Ghulam Mostafa of BAIRA stated as labour market of early 1970s have changed a lot with technological innovations taking place at a great speed, qualitative aspects of manpower export and migration should be emphasized more. Accordingly, economic diplomacy should get priority over political diplomacy. Our embassies should develop our labour market more efficiently and the system loss should be minimized in the flow of remittance. He demanded that the system of attestation be abolished if the authority cannot take responsibility in crisis situation. He observed that recognition and appreciation of the recruiting agencies could make them more responsible. He expressed the hope that in the coming century with the increased globalization workers will be able to move freely like goods. Mr. Morshed, of SHISHUK stated that the experience of the returnee MWs could be used in the skill development, training and briefing programmes in and outside BMET. Mr. Azad added that there is a lack of scientific system of documentation in respect to the MWs and that his organization can develop this with the help of IOM and ILO.

*Working Session V* was on ***National Policies on Migrant Workers: Experiences from the Region.*** The Session was chaired by A. Roussetot of IOM. Tomas D. Achacoso in his paper 'The Development of Protection and Welfare Policies for Migrant Workers: The Philippine Experience and the Rise of A New Agenda', described the evolution of institutional and legal frameworks in the Philippines in the protection and welfare of the MWs there. He observed that there would always be enough poor to continue the process of migration and for good reasons there will always be massive irregular migration and illegal employment, especially in the bottom rung jobs. Therefore, he suggested that ILO should reorganize itself and become a full fledged regime in the issue of migration of labour, hence transforming itself into a de facto labour organization much the same way that the World Trade Organization has been transformed from its former shell of GATT. The ILO may also need to review its presumption that member states are necessarily welfare-maximizing entities when in fact countries develop policies in response to their domestic political/economic forces taking into account likely reactions of others. This will help them see things from a more realistic perspective.

Hence it should persuade the member states to ratify not just the migration related Conventions but all the Conventions recommended by the Annual International Labour Conference in order to stem the different causes of migration and increasing vulnerability of the labourers. In this session Ms. Upapla Banarjee from India, Ms. Nazish Brohi of Lawyers for Human Rights and Legal Aid, Pakistan, Mr. Adilur Rahman of Odhikar, Mr. Achacoso, Ms. Irene Fernandez, A. Rousselot and Mr. AMAH Siddiqui were among the discussants. They observed that MWs' welfare measures should not make them dependent and we should view the issue of welfare so that they are empowered; we should ground ourselves into their actual needs / demands and aspirations and then see what we can do for them; any National Plan of Action should be backed by alternative economic choices; a quantitative analysis would help us get a more concrete picture to start our study / work; recruiting agencies should be facilitated in making a choice in respect to recruiting workers; informal process in diplomacy may work better in having bilateral and multilateral understanding; national policies in the receiving country should be looked into so that politics does not bring in ad hocism unexpectedly; participants should keep contact with the organizers in the coming weeks to help formulate a National Plan of Action.

**Legal Framework** was the topic of *Working Session VI*. This Session was chaired by Ms. Irene Fernandez, Malaysia. Dr. Shahdeen Malik of RMMRU presented the Draft Law for the Protection and Welfare of Migrant Workers. It was stated that a team of four researchers comprised of Dr. Shahdeen Malik, Advocate Nizamul Huq Nasim, Dr. Tasneem Siddiqui and Dr. C R Abrar prepared the Draft Law. Dr. Malik described the Draft Law and explained its various sections. Among others Mr. Achacoso, Mr. Abul Bashir Bhuiya, Additional Secretary, (Drafting), Ministry of Law, Víctor Gomez of CCDB, members of WARBE discussed the Draft Law. While describing the specific relevant problems and the processes that South East Asia saw, Mr. Achacoso warned about the painstaking process of getting a bill passed from the parliament. Ms. Irene Fernandez stressed on the comprehensiveness of the Draft Law. Clauses dealing with emergency repatriation and effective mechanism for that purpose; lawfulness of a person as a migrant; the labour court; provision of compensation in the contract and bilateral understanding between the States to that end; provision of inspection to ensure implementation of the Treaty or Law; embassy role in welfare and protection of MWs; the concept of public interest; post arrival orientation; MWs' welfare fund; illegal recruitment; registration of MWs before departure were discussed and debated at length. A few recommendations were made to change or modify some of the clauses to clarify the conceptual base of those clauses. Need for provisions on specifying criteria of selection after medical examination and health care in abroad was underscored.

The **Concluding Session** was chaired by Dr. Kamal Hossain. Dr. C R Abrar presented the summary and conclusions that came out of the deliberations and discussions in the Working Sessions of the two-day program. Ms. Sabnam, a returnee woman migrant worker, described her painful story of being abused and discriminated. Dr. A Moyeen Khan, MP and Mr. AH Sarkar, the Labour Secretary, were among the discussants. The Labour Secretary assured the floor that the government would change the Law if needed.

Dr. Moyeen Khan observed that the basic problem of this sector lies with the people who send them and who receive them abroad and it is appropriate for the MWs to go to the missions abroad only when they face problems. He stated that regionally we can work together to resolve the problems that MWs face. He further suggested that an institutional framework should be created to support the MW and law should be very simple so that it does not harass anyone.

Dr. Kamal Hossain in his concluding remarks stated that improvement in fund management is vital where representation can make a difference. He urged that the government and the civil society organisations should listen to the problems of migrant workers with sensitivity and observed that the government can always do better than what it is doing now. Dr. Hossain also felt that improvement of law is needed and the proposed Draft Law should be simplified, older techniques and terminology should be discarded to avoid investing arbitrary power to the authority. There should be clear criteria for giving license to the recruiting agencies. To promote this sector and its trade, he observed that

welfare and security agencies should anticipate the future and ensuing problems. Dr. Kamal Hossain also underscored the need for the foreign ministry to cooperate with the line ministries to address the multifaceted problems of the migrant workers.

## **REHABILITATION OF THE INTERNALLY DISPLACED TRIBAL PEOPLE: A DIMENSION OF THE CHT TREATY**

Sudha Sidhu Khisa, Khagrachary

### ***Brief Overview of the CHT Problem***

The Chittagong Hill Tracts (CHT) is home to the multi-lingual Jumma nation. In the British and Pakistani period they had no participation in the administrative process of this area. Whenever these rulers persecuted them they slowly moved elsewhere in search of a secured and better life. In the absence of any mechanism to ensure their human rights and democratic rights they had no alternative to fleeing.

The problem began in 1960 when with the completion of the Kaptai dam more than a 100,000 people were uprooted from their land and home. Earlier their rights as a separate minority were curtailed when the 1900 Hill Manual was violated through different administrative measures. The settlement of the non-tribal in CHT further complicated the scenario. No politician, party, intellectual, or group gave any serious attention to understand the magnitude and the changing nature of the problem until immediately after the independence of Bangladesh when the Jumma people took up arms to fight for their rights.

With increased violence, persecution and open hostilities against the Jumma people by the security forces, the more sensible segment of the Bengali population began to understand the deprivation and sufferings inflicted on the Jumma people. In the meantime many more had left their homeland for a better and secured life or living. Some had been displaced internally but the majority had to cross the border to become refugees for the next couple of decades. The magnitude of the problem was such that a meager 10% could live in their own place and land.

With complete disruption in livelihood the structure of the society in cultural, political, moral, and religious spheres were to be altered drastically and in this case it changed for the worse. In this context the Parbattya Chattagram Jana Sanghiti Samiti (PCJSS) included provisions in the CHT Treaty guaranteeing the rehabilitation of the returnee *Refugees* and the returnee *Internally Displaced Tribal People (IDTPs)*.

### ***The Task Force on Rehabilitation of the Returnees in the CHT:***

As per the Treaty between the Government of Bangladesh and PCJSS, a task force was constituted on the 8<sup>th</sup> of April 1997 to identify, coordinate and monitor the safe return and rehabilitation of the *Refugees* and the *IDTPs*. This task force was reconstituted through a government notification on the 20<sup>th</sup> January 1998.

Changes brought into the task force include an increase of membership from 7 to 9, mainly in the form of representation of the *contracting parties* like one of the Special affairs Division of the

government of Bangladesh and another of the PCJSS. Other than in number, this change did not alter the earlier nature of representation of the *involved parties*. Like the representation of the returnees was scaled down from 2 to 1 and areal coverage was widened with the inclusion of a representative of the local government council of Rangamati district which was earlier limited to the Khagrachori and Bandarban districts. Notably in line with the agreement between the parties to reduce the involvement of the security forces within the CHT region, the representative from the security forces was to come from the 24 Division in Chittagong rather than from the Brigade in Khagrachori. The Deputy Commissioner, Chittagong, retained the portfolio of secretary. Another local MP retained the Chair, while one local MP continued as a member.

#### *Role of the Task Force:*

The role of the reconstituted task force can be discerned from the decisions taken in the meetings held and its implementation.

In the very *first meeting* on 21<sup>st</sup> March 1998, Upenrda Lal Chakma, leader of the Jumma Refugee Welfare Association raised objections regarding several aspects of the resolution of the last meeting of the previous task force held on the 8<sup>th</sup> November 1997. There was a heated but inconclusive debate between him and the Chairman Diponkar Talukdar on these issues.

The *second meeting* held in 6<sup>th</sup> June 1998 was more substantive. The main topic of discussion was the problems faced by the refugees. The other important issue discussed was the IDTPs. The representative of the PCJSS raised the issue and read out a written proposal divided in three parts. The first part was the definition of the IDPs in CHT, which dealt only with the tribal people. The second part dealt with the procedures of enlisting the IDTPs. Part three dealt with rehabilitation and relief distribution.

The prominent feature of the proposal is the *definition of the IDTPs*. This is as follows:

“Those of the tribal people who left his/her own village, mauja, area and has gone to other places within the country or were forced to leave, due to the unnatural and uncongenial circumstances created by persistent instability and disturbances in the CHT (Khagrachori, Rangamati, Bandarban district); will be considered as the Internally Displaced Tribal People in the CHT. These people will include —

- a) those who have moved from his/her own village to another village or have established a new village and lives there,
- b) those who have gone to another mauja from his/her own mauja,
- c) those who have been forced to go to the Guchcha Gram by the government,
- d) those who have again come back to or near his/her own village after leaving it behind but could not come back to his/her own place or village and are suffering from poor economic conditions.”

The second part was about the *procedures of enlisting the IDTPs*.

- a) The Headman of the concerned Mauja and the Chairman of the Union Parishad will prepare the list of the IDTPs and submit it to the Chairman of the task force.
- b) If due to any reason the Headman or the Chairman are unwilling to or cannot prepare the list the PCJSS will prepare the list and submit it to the Chairman of the task force.

The third part dealt with the Rehabilitation and distribution of relief. The issues were like:

- a) Returning land and landed property including Homestead land;
- b) Providing 2 rolls of corrugated iron sheet and other goods with 15,000 taka for construction of houses;
- c) Providing one time grant 10,000 taka;
- d) Ration with oil, pulse and salt for one year.
- e) 15,000 taka for buying bullock for plough and 4,000 taka to the land less for buying cow;
- f) Land for the land less;

- g) Facilitating drinking water;
- h) Loan in easy terms;
- i) Reinstating them in the previous job with seniority;
- j) Reinstating the Headmen;
- k) Exemption from loan and tax;
- l) Withdrawing cases against the IDTPs.

In response to these proposals DC, Rangamati observed that there are IDPs among both tribal and non-tribal people. They all should be rehabilitated. But the representative from PCJSS opined that as the whole purpose of the Shanti Bahini movement was against the settlement of non-tribal people in the CHT, there could be no question of rehabilitating them. It will be against and a breach of the Treaty. The DC, Chittagong, Member Secretary of the task force stated that there should be a clear decision from the Special Affairs Division on the definition of the IDPs in the CHT.

During the *third meeting* held on 27<sup>th</sup> June 1998, Mr. Md. Zulfikar Ali of the Special Affairs Division said that Special Affairs Division cannot give any decision on who will be the IDPs in the CHT. But he opined that as per the terms of reference of the task force only they could give a decision on this issue. In the open discussion DC, Rangamati again raised his question whether the non-tribal people affected by the long-standing instability can be included in the category of IDPs in the CHT. Some from the government tried to argue that ‘Internally Displaced’ is mentioned in the Treaty but tribal is not mentioned, hence non-tribal people should also be rehabilitated. In reply the PCJSS representative said that the spirit of the Treaty is rehabilitation of the tribal people not of the non-tribal people. Secondly, there is a clear mentioning of “Internally Displaced Tribal” in the Section D Clause 2 of the Treaty. The Member Secretary of the Task Force expressed solidarity with the opinion of PCJSS. After more discussion the task force adopted a new definition of the IDPs in the CHT according to the proposal of the Chairman of the task force. The new and final definition was as follows:

“Those of the tribal people who left his/her own village, mauja, area and has gone to other places within the country or were forced to leave, due to the unnatural and uncongenial circumstances created by persistent instability and disturbances during the period from 15<sup>th</sup> August of 1975 to 10<sup>th</sup> August of 1992 (the day of cease fire) in the CHT (Khagrachori, Rangamati, Bandarban district); will be considered as the Internally Displaced Tribal People in the CHT.”

They also decided on the constitution of the committees at the Union and Thana level. It was decided further that the committee at the Union Parishad level will complete identification and enlistment of the IDTPs in the CHT within 31<sup>st</sup> August '98 as per the definition set by the task force and submit the list to the committee at the Thana level. The Thana committee will submit it to the concerned DC and the DC will submit it in the meeting of the task force after resolving any objection or dispute regarding the list.

Other disagreements centered around the issue of inclusion of the security forces in the committee at the Thana level, which was discussed in the *fourth meeting* held on 20<sup>th</sup> July, '98. The issue of inclusion was temporarily suspended.

During the fifth, sixth and seventh meetings the government tried to push forward their agenda of including the non-tribal people within the category of the IDPs in the CHT. It issued a directive for the task force through the Special Affairs Division, entrusting the three DCs of the CHT with the responsibility of making a format for the non-tribal IDPs in the CHT. PCJSS strongly opposed this and said that it was not within the mandate of the task force to decide upon the rehabilitation of the non-tribal IDPs and that it was not in keeping with the spirit of the Treaty, which was aimed at the rehabilitation of the IDTPs. They sent a memorandum to the Prime Minister's Office and relevant government agencies protesting the decision. As the government did not clarify its position in successive meetings the PCJSS stated that this particular agenda of the government was tantamount to breach of the Treaty and in such case they would be compelled to withdraw representative from the

task force. They argued that it was also in violation of the definition of the IDTPs in the CHT set by the task force itself. The PCJSS demanded that the formation of a land commission can only resolve the issue after looking into the documents of the claimants. Until the seventh meeting held on 19<sup>th</sup> April, '99 the government remained silent regarding this matter.

PCJSS noted that without any consent and decision on the matter government is going ahead with enlisting the non-tribal IDPs in the CHT and simultaneously trying to push forward its agenda of inclusion of the non-tribal IDPs in the category of IDPs in the CHT within the mandate of the task force. They allege that the local government officials are trying to intimidate the local Headmen of the Maujas and Chairmen of the Union Parishad in various ways, like:

- As most of the local Headmen of the Maujas and Chairmen of the Union Parishad are illiterate and ignorant the government officials are pressurizing them to sign the non-tribal forms using various methods of intimidation and threat of legal action.
- Since the Chairmen of the Union Parishad are bound to go to the government officials for funds for different development projects they remain under the influence of these officials. As a result they are failing to perform effectively in identifying the IDTPs.
- During the period of instability places/houses were given to the non-tribal people, which was left by the tribal people. In these areas Headmen and Chairmen were appointed from the fold of the non-tribal people. These public representatives are refusing to sign the form of the tribal people saying that there are no tribal people in their area.
- The local tribal Headmen and Chairmen are refusing to sign the form of the non-tribal people following the defined criteria of being an IDTP. As a result the government officials are pressurizing them. In the meantime tribal people are being excluded from the list of the IDPs with various excuses.

With increased publicity of rehabilitation of the non-tribal people in the CHT, fresh arrivals of non-tribal people have become a common phenomena. Even some people are coming back years after leaving the CHT.

The slow progress in implementing the Treaty and the unauthorized measures taken by the task force is making the situation in the CHT more complicated and confusing. For peace and stability in the CHT the Treaty should be implemented carefully and rapidly and the rehabilitation of the Internally Displaced Tribal People should be hastened to make the progress more secure.

## **ROOT CAUSES OF REFUGEE FLOW FROM BHUTAN**

Nandi K S Neopaney, Bhutan

Wedged between the two Asian giants, Tibet (China) in the North and India in the East, West and South, Bhutan is truly a multi-racial, multi-cultural, multi-lingual and multi-religious Himalayan nation. Its population figures at 6,00,000 plus in an area of 48,000-sq. km., roughly the size of Switzerland. Politically, Bhutan is an absolute feudal monarchy; economically, it is one of the least developed countries of the world.

### ***Bhutan - the land of immigrants***

The country has as many as fourteen different ethnic groups. In the foreword of the book, Bhutan – Himalayan Kingdom, His Majesty Jigme Singye Wangchuk, the present King of Bhutan, states that “Bhutan’s people fall into three broad ethnic groups. The first, the Sarchhops, are believed to have been the earliest inhabitants of the country. Apparently Indo-Mongoloid in origin, the question of where they come from, or exactly when they reached Bhutan, remains unsolved. Today, the Sarchhops live largely in the eastern regions. The second group, known as Ngalongs is the descendants of Tibetan immigrants who started coming to Bhutan from around ninth century, settling primarily in the West. The third section of the population are the Nepalese who began to settle in the

South towards the end of the last century.” Hence, in a sense the present day citizens of Bhutan are all descendants of immigrants.

### ***Tracing the root causes:***

The evolving ethnic composition, citizenship laws and the political inputs in the form of government policies will help trace the *root causes* of the impending refugee problem.

### ***Discrimination through legal measures: the Citizenship Laws***

The Southern ethnic Nepalese of Bhutan faced discrimination when abruptly the citizenship law was changed in 1985. Earlier laws like the 1958 Nationality Law, the 1977 Citizenship Act accepted these people as legitimate Bhutanese. The Bhutanese refugees in camps of eastern Nepal are bona fide Citizens by the Article 4 (1) a and b of the 1958 law, which says a person may be enrolled as a Bhutanese National if the person is a resident of the Kingdom of Bhutan for more than ten years and owns agricultural land within the Kingdom. It may be noted that these refugees have been living in Bhutan for generations and they own agricultural land and properties. Besides they have valid documents to prove their Bhutanese citizenship like the land tax receipts, citizenship identity cards with the enactment of the 1985 Citizenship Act on 10 June 1985 the earlier laws were overruled. This Act arbitrarily and retroactively revoked the citizenship of tens of thousands of southern Bhutanese citizens. The Act provides three major provisions to this end, viz. Citizenship by Birth, by Registration and by Naturalization. The provisions that have been extensively used by the Royal Government to revoke the citizenship of the Southern Bhutanese are Citizenship by Birth and Registration, i.e. Article 2 and 3 of the 1985 Citizenship Act. With the implementation of the 1985 Citizenship Act through the census in 1988, the Royal Government categorized the Southern Bhutanese into seven types, viz.:

- F1 - Genuine Bhutanese
- F2 - Returned Migrants (those who had left Bhutan but returned)
- F3 - Drop-outs (those who were not available during the time of census)
- F4 - A non-national woman married to Bhutanese man
- F5 - A non-national man married to a Bhutanese woman
- F6 - Adoption Cases (Children legally adopted)
- F7 - Non-national (Migrant and illegal settlers)

Using Article 2 of the 1985 Citizenship Act, the Census team retroactively categorized southern Bhutanese children as F4 and F5. In the process thousands of children became stateless. This is a blatant violation of Article 7 and 8 of the International Convention of the Rights of the Child, ratified by the Royal Government in 1990, and of Article 15 of the UN Universal Declaration of Human Rights. Again, using Article 3 of 1985 Citizenship Act both arbitrarily and retroactively, the Census Teams categorized tens of thousands of Southern Bhutanese as F7 as they could not produce the evidence of residence in Bhutan on or before 31 December 1958, during the 1988 census. The required document of residence was a 30-year old land tax receipt of 1958.

### ***One Nation One People Policy***

After ousting Royal Advisory Counsellor, Mr. Tek Nath Rizal, for his suggestion of bringing amendment in the '58 Nationality Law, the Royal Government implemented the policy of One Nation One People in 1989. In this land of cultural diversity cultural pluralism was banned and the language, dress and culture of the western Bhutanese ruling elite was made mandatory and imposed on all ethnic Bhutanese.

### ***Violations of Human Rights and the Movement***

Deposed Mr. Tek Nath Rizal went into exile to work for the attainment of human rights of the Bhutanese people. Under his chairmanship the *Peoples Forum for Human Rights, Bhutan*, was formed in exile, in Nepal. But Mr. Rizal along with his fellow activists, were abducted and incarcerated. Since November 17, 1989, Mr. Rizal continues to languish in the Bhutanese prison. He was sentenced to life

imprisonment by the High Court on charges of violating the National Security Act adopted in 1992, which was later repealed by the King. Amnesty International has declared Mr. Rizal a "Prisoner of Conscience" since 1990.

#### *Curbing the Democratic Movement of 1990*

After the incarceration of many human rights activists, the human rights problem in Bhutan intensified further. On June 2, 1990 the Bhutan Peoples Party was formed in exile in India to work for political reforms in Bhutan. The party submitted its demand to His Majesty the King Jigme Singye Wangchuk on August 26, 1990, demanding Constitutional Monarchy with multi-party democracy and many other reforms. In an interview in October 1990 the King said in principle he was ready to sit for dialogue on these issues only if it does not affect the national security and wellbeing of Bhutan. But within a year southern Bhutan was to be transferred under the control of the Royal Bhutan Army (RBA) and an absolute curb on the Democratic Movement was imposed. The human cost of these measures prompted former Justice of the Supreme Court of India, Krishna Iyer, to term it as *state terrorism*.

#### *Policy of coercion*

During the 70<sup>th</sup> session of the National Assembly in 1991, the Royal Government of Bhutan (RGB) resolved to evict anyone involved in the peaceful demonstration or anyone related to a supporter of the movement. In legitimizing eviction, the RGB introduced 'Voluntary Migration Forms' (VMF) and systematically began to evict its citizens. Implementing this plan, the RGB rounded up prominent citizens into the schools turned detention cum torture centers and coerced them to leave the country. They were subjected to extreme inhuman torture until they succumbed to signing the so-called VMF. Once the prominent citizens were taken in, the general population fell easy prey to this design of the RGB. Today, the majority of the Bhutanese refugees in Nepal and India are those who have been forced to sign the VMF either under duress or torture and forced into exile. The Bhutanese refugees primarily comprise:

- Human rights and political activists and their supporters who have fled the country fearing persecution.
- Threatened and evicted or evicted after being forced to sign the VMF
- Ex-prisoners who have been released on the condition that they leave the country
- Victims of torture and rape who fled to escape further atrocities.

#### ***Observations on the Root Causes and Refugee Scenario***

Eris Sottas, Director of SOS/Torture, Development and Human Rights, observed Bhutanese people do not enjoy human rights as their rights by Bhutan's constitution and law. They have no right to speech and expression, no right to dissent or to express dissent, no right to publish or to a free press, no right to form associations or organizations, no civil and political rights, no right to equality and freedom from discrimination, no cultural rights, no economic and social rights. Admittedly, he added, before 1989-90 these economic, social and even cultural rights existed, to some extent, but as a privilege granted by the monarch rather than as a moral and legal right. A sample survey conducted by the Home Ministry of Nepal in February 1995 showed that of the (approx.) 12,500 heads of family in the refugee camps, 85% possess citizenship identity cards, 10% have land tax receipts, and 3% school certificates or other official documents. Only 25% have no certification and many of these claim that it was confiscated by the authorities before leaving Bhutan. These can be identified as the root causes of the current refugee problem faced by Bhutan and the region at large.

### **A TALK ON**

#### ***GLOBALIZATION, INTERNATIONAL MIGRATION AND HUMAN DEVELOPMENT***

Increasing flow of remittance sent by the migrant workers and the effective use of the money in the productive sector for the development of the country is not enough. Besides this there is the necessity for providing training for filling up the gap created due to labour migration. This view was expressed

in a seminar on Globalization, International Migration and Human Development, organized by the Refugee and Migratory Movements Research Unit (RMMRU) on 8 April, 1999, at University of Dhaka. The keynote speaker of the seminar was Dr. Raisul Awal Mahmood, Senior Research Fellow (on leave) of Bangladesh Institute of Development Studies (BIDS).

Dr. Mahmood divided his presentation in two sections—first the increasing rate of global population movement, i.e. global labour migration, and second the impact of international migration on the human development in both the sending and receiving states. He mentioned the rapid growth of all sorts of population movements beyond the state boundaries during the last decades of this century. In 1965, the number of the migrant population was about 75 million. In 1990 it increased to 120 million and in 1998, it was around 150 million, which was 3% of the global population. Asia, Europe and North America have 80% of the total migrant population. 60% of the migrants is in the developing countries. There are five countries including UAE, Kuwait and Monaco where migrants comprise about 50% of the countries' population. Historically, the major migrant receiving countries had been the US, Canada, Australia and New Zealand due to their liberal immigrant policies. There had been significant flow of migrants to the European countries after the Second World War, the Middle Eastern countries during the mid-1970s, and the Far Eastern countries in the late 1980s and early 1990s. The composition of the international migrants comprises of immigrants, labour migrants, asylum seekers, economic migrants, refugees and illegal migrants. The common trend is that the migrant receiving countries tend to exploit the labour flow for the countries' development. Another contemporary issue is the increase of undocumented migrants in different developing and developed states raising the debate whether they should be regarded as illegal migrants or not. Another important issue is the sex composition of international migrants. A high percentage of all kinds of migrants is females which reflects the trend of 'feminization of international migration'. All the migrants are traditionally been involved in various forms of activities ranging from agriculture, mining, construction and manufacturing works, plantations and other services like small-scale business in the host countries.

The second part of Dr. Mahmood's talk focused on the impact of international migration on human development worldwide. Human development, here, is defined as the process of enlarging the opportunities - opportunities in terms of employment, trade, higher living standards and so forth. The foremost positive impact of cross-border migration on human development in the home countries is income generation through employment in the host states. This generates the flow of remittance to the home countries. In 1995 the total remittance sent worldwide was worth US \$34 billion. The trend in using remittance indicates the nature of human development in the home country, depending on whether it is used in foreign or domestic currency. In case of Bangladesh the huge remittance sent from abroad constitutes a large part of the country's total export.

In the case of Bangladesh the remittance is used at the household level, mainly for the cost financing of migration process, i.e., paying back the loans taken for going abroad, or construction of houses. A significant proportion of the remittance is used for medication and education for other members of the family. Another positive impact of international migration is better income distribution in the developing states through the remittance. In case of female migrants the process of migration gives them better position at the family level enabling them to participate in the decision making.

But there are also some negative impacts occur in the migrants' household sphere. It has been observed that in most cases there are adverse affects on the child of a female migrant worker. The process of proper education, care, nutrition is hampered. Most often the female returnee migrant is not well respected due to her non-reputed job abroad. There are also increased divorce rates among the migrant workers. Apart from these, at the national level, there is the question of 'brain drain' from the developing world to the developed world due to the latter's immigration policies. The developed countries like the US, Canada or Australia develop policies to encourage technical and educated people to emigrate which adversely affects the local sectors like education, planning, research and development sectors.

There are also some positive and negative impacts over the migrant receiving countries. On one hand, the host countries enjoy the cheaper labour supply to contribute to the countries' economy. On the other hand, the host country faces problems like higher concentration of migrants in the urban areas, unemployment and social problems regarding integration. There are also some issues like the wage decline, urban problems, exploitation and denial of rights of migrants, various kinds of violation of worker's rights, denial of basic human rights like equality, family re-union, political and social discriminations on the migrant workers' part faced in the host country.

According to Dr. Mahmood, all these have a long-term impact on both the home and host countries. Both these groups of countries suffer; from the shortage of skilled local labour due to the export of labour for the home countries and the dependency on foreign labour for the labour receiving countries. In order to meet the challenge of globalization and human resource development, all these states should concentrate more on developing skilled labour. He emphasised the effective use of remittance in the home country, proper welfare and effective use of the skills and experience of the returnee migrants, appropriate immigration policy and protection of basic human rights in the receiving states. Prof. M A Taslim of the Dept. of Economics, Dr. Tasneem Siddiqui of RMMRU and Regional Representative of IOM Mr. David Whittlesey participated in the discussion that followed the presentation.

Reporter: Shahzada M. Akram

### **CALL FOR THE REPATRIATION OF STRANDED MIGRANT WORKERS OF BANGLADESH IN MALAYSIA**

On June 6, 1999, a news item on the plight of fifty Bangladeshi migrant workers in Malaysia was published in the Bengali Daily Ittefaque. The news item stated that those migrant workers are living in a subhuman condition at a mosque in the Kuching area in Malaysia. They have run out of money and are surviving with the support of the local population. They have already asked for help from the Bangladeshi mission at Kuala Lumpur, but failed to get it. In response to this news a few non-governmental organizations and research institutions working in the field of migration and related issues have sent a memorandum to the Prime Minister of Bangladesh on June 10, 1999. The memorandum highlighted the inactivity and failure of Bangladesh mission in Malaysia to respond to the needs of Bangladeshi migrant workers in distress. The signatories also demanded following actions to be promptly taken:

- publishing the name and address of the responsible recruiting agency (so that a show cause notice may be served or the public can be made aware of the agency);
- the above mentioned fifty migrant workers should be reimbursed and compensated financially, and
- ensuring collective measures in responding to such conditions by the Bureau of manpower, Employment and Training (BMET), Foreign Ministry, and Ministry of Labour and Employment.

The letter was jointly signed by HIV/AIDS and Mobility Programme of CCDB, *Ain-o-Salish Kendra* (ASK), *Naripakkha*, Bangladesh National Women Lawyers' Association (BNWLA), Refugee and Migratory Movements Research Unit (RMMRU), Welfare Association of Repatriated Bangladesh Employees (WARBE), *Shikkha Sasthya Unnayan Karjakram* (SHISHUK), and *Odhikar*.

### **ACTIVITIES OF THE UNIT: April-June, 1999.**

**Conference:** A two day national conference on *Temporary Migrant Workers of Bangladesh: Towards Developing a National Plan of Action* was jointly organized by RMMRU and Bangladesh National Women Lawyers' Association (BNWLA) at the CIRDAP auditorium, Dhaka, on 26-27 April, 1999.

**Seminar:** A talk on *Globalization, International Migration and Human Development* was organized at the Meeting Room of the Dean's Office, Faculty of Arts of Dhaka University on 8 April, 1999. Dr. Raisul Awal Mahmood, Senior Research Fellow (on leave) of BIDS gave the talk which followed a lively discussion. The seminar was attended by faculty and students of different disciplines of Dhaka University and by Mr. David G Whittlesey, Regional Representative of IOM and Mr. Armand Rousselot, his deputy.

**Publication:** The April-June, 1999 issue of the Unit newsletter, Udbastu (the uprooted) was published in April, 1999.

**Meetings:** Two monthly meetings with the associates were held on the first Thursdays of April and May at the Unit office.

**Visitor:** Mr. Tomas Achacoso, former head of the Philippines Overseas Employment Agency came to visit RMMRU on 25 June, 1999. He participated in the follow up meetings on the model national law for migrant workers of Bangladesh drafted by RMMRU.

**Field Work:** A number of field visits were organized for the study on *The Female Migrant Workers of Bangladesh* in several areas of Dhaka city, Comilla, Manikgonj, Dohar, Nawabgonj, and Rupgonj. This study is coordinated by Dr. Tasneem Siddiqui, Associate Professor, Department of Political Science, University of Dhaka with five associates in the team. The team has so far interviewed more than 200 female migrant workers and their families, government officials, NGOs working in the field of labour migration, and recruiting agencies and their association. The interviews of the female workers were focused on the issues of reason for migration, pre and post migration condition, the process of migration, experience in the host country, the impact of their migration on their respective families and economic condition, and their future options and intention.